

T-10473

T-10473

ASSIGNED

Name The Broadmead Trust

Address 8603 Dixie Highway #205
Miami, FL 33143
971-237-3602 cell

Change in POU POU
Date Filed 10-19-2007
Initial notice date 10-30-07
DPD issued date _____
PD issued date _____
PD notice date _____
Date of FO 11-23-09 Vol 79 Page 243

C-Date _____
COBU due date _____
COBU Received date 9/24/2012
Certificate issued March 12, 2013 87954

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Walker-Van Otten Reservoir

Trib. of Salt Creek

Use FR County POLK

Quantity of water (CFS) _____ No. of Acres _____

Name of ditch _____

App # S 20140 Per # S 50853 Cert # 79992 PR Date 1989

App # _____ Per # _____ Cert # _____ PR Date _____

App # _____ Per # _____ Cert # _____ PR Date _____

App # _____ Per # _____ Cert # _____ PR Date _____

App # _____ Per # _____ Cert # _____ PR Date _____

Date	FEES PAID	
	Amount	Receipt #
<u>10/19/07</u>	<u>800.00</u>	<u>90247</u>
<u>10-2-12</u>	<u>125.00</u>	<u>107028</u>

Date	FEES REFUNDED	
	Amount	Receipt#

Assignments: Broadmead, LLC : 11120 McCann Rd. Amity, OR. 97101

Irrigation District N/A

Agent Jeanne or Corby Boatwright 2613 12th St SE Salem, OR 97302
503 363-9225 503 363-1061 fax

CWRE Same as Agent

CC's list Polk County 850 Main St. Dallas, OR 97338

CEO: Ken & Deborah Eichler, Trustees 8250 Tucker Rd Amity OR 97101

- Oversized map - Location

STATE OF OREGON
WATER RESOURCES DEPARTMENT

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

RECEIPT # **90247**

INVOICE # _____

RECEIVED FROM: James D Harper JR

APPLICATION	
PERMIT	
TRANSFER	<u>T-10473</u>

BY: _____

CASH: CHECK:# 1454 OTHER: (IDENTIFY)

TOTAL REC'D \$ 800.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	<u>PLA 4611</u>	\$
	OTHER:	(IDENTIFY)	\$
0243	I/S Lease		
0244	Muni Water Mgmt. Plan		
0245	Cons. Water		

4270 WRD OPERATING ACCT

MISCELLANEOUS		RECEIVED OVER THE COUNTER	
0407	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)		\$
TC162	DEPOSIT LIAB. (IDENTIFY)		\$
0240	EXTENSION OF TIME		\$
WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$	0202 \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$ <u>800.00</u>	
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$
	OTHER (IDENTIFY)		

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE	
OBJ. CODE	VENDOR #	
DESCRIPTION		\$

RECEIPT: **90247** DATED: 10/19/07 BY: [Signature]

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BROADMEAD LLC
 11120 MCCANN ROAD
 AMITY OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT R-1405, tributary to SALT CREEK, for IRRIGATION of 13.31 ACRES.

This right was perfected under permit 50853. The date of priority is DECEMBER 13, 1989. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 28.0 ACRE FEET, or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
6 S	5 W	WM	14	NW NE	3		WALKER-VAN OTTEN RESERVOIR DAM
6 S	5 W	WM	11	SE SW		47	RE-DIVERSION: 2228 FEET NORTH & 1405 FEET EAST FROM SW CORNER, JOHN EADES DLC 47

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 not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

A description of the place of use is as follows:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	5 W	WM	11	SW NE		47	0.73
6 S	5 W	WM	11	NE NW		67	1.82
6 S	5 W	WM	11	NW NW		67	0.52
6 S	5 W	WM	11	SE NW		47	1.23
6 S	5 W	WM	11	SE NW		67	0.19
6 S	5 W	WM	11	SW SW		47	0.88
6 S	5 W	WM	11	NW SE	4		0.17
6 S	5 W	WM	11	NW SE		47	0.58
6 S	5 W	WM	14	NW NW		47	7.19

NOTICE OF RIGHT TO RECONSIDERATION OR JUDICIAL REVIEW

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

The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available from the original point of diversion.

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Measurement, recording and reporting conditions:

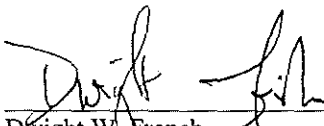
- A. The water user shall maintain, in good working order, a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall maintain and operate fish screening as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

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

This certificate is issued to confirm a change in POINT OF DIVERSION AND PLACE OF USE approved by an order of the Water Resources Director entered November 23, 2009, at Special Order Volume 79, Page 243, approving Transfer Application T-10473, and, supersedes Certificate 79992, State record of Water Right Certificates.

Issued MAR 12 2013

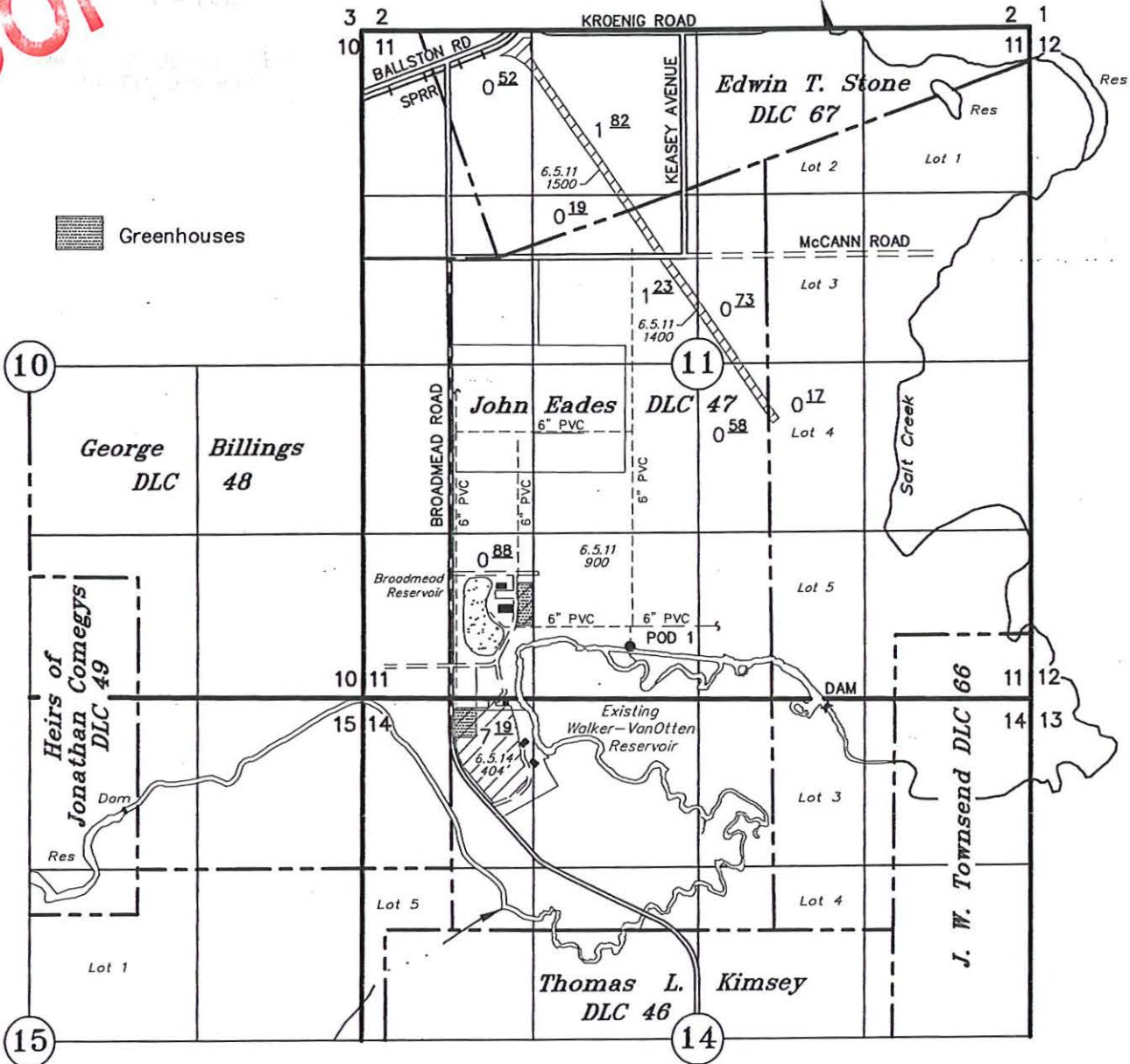


 Dwight W. French
 Water Right Services Administrator, for
 Phillip C. Ward, Director

COPY

T.6S. R.5W. W.M.

POLK COUNTY, OREGON



POD 1: 2228' NORTH AND 1405' EAST OF SW COR JOHN EADES DLC 47
with approved fish screen on end of foot valve and meter at pump

- TAX LOTS
 6 5 11 900
 6 5 11 1400
 6 5 11 1500
 6 5 14 404

CLAIM OF BENEFICIAL USE

UNDER

Application No. T-10473

BROADMEAD, LLC

August 27, 2010
SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.



Renewal Date: 12-31-2013



Oregon

John A. Kitzhaber, MD, Governor

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

Date Mailed: March 11, 2013

NOTICE OF CERTIFICATE ISSUANCE

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

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

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

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

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

RA Mailing List for Transfer Certificate

Mailing Date:

Application: T- 10473

Certificate: 87954

Certificate/Transfer Holder: (include copy of map)

BROADMEAD LLC
11120 MCCANN ROAD
AMITY OR 97101

Copies Mailed

By *Connie Vance*
(SUPPORT STAFF)

on: *3/12/2013*
(DATE)

Copies of final Certificate to be sent to:

1. Data Center
2. Water Availability
3. Vault
4. File

Persons to receive via e-mail draft/proposed copies (completed by RA staff)

- 1.

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

1. Mike McCord, Watermaster #16
2. Corby Boatwright, CWRE

Record Marking(s) :

1. Original Application# S-70140
2. Old Certificate# 79992

S:\groups\wr\certs\Resource Center\Forms_Checklists_Mailing
Instructions\Transfer_CertMailingList for RA.doc



Oregon

Theodore R. Kulongoski, Governor

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

December 10, 2009

BROADMEAD LLC
11120 MCCANN RD
AMITY OR 97101

REFERENCE: Transfer Application T-10473

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

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

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

You are required to hire a Certified Water Rights Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized in the transfer final order, whichever occurs first.

If you have any questions related to the approval of this transfer, you may contact me by telephone at (503) 986-0883 or by e-mail at Sarah.A.Henderson@ wrd.state.or.us.

Sincerely,

Sarah Henderson
Executive Support
Field Services Division

cc: Watermaster Dist. #16
Jeanne Boatwright, Agent
Ken & Deborah Eichler, Trustees

Enclosure



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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A CHANGE
T-10473, Polk County)	IN POINT OF REDIVERSION, PLACE OF
)	USE AND PARTIAL CANCELLATION OF
)	A WATER RIGHT

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

BROADMEAD, LLC
11120 McCANN ROAD
AMITY, OR 97101

Agent

JEANNE BOATWRIGHT
2613 12TH STREET
SALEM, OREGON 97302

Findings of Fact

Background

1. On October 19, 2007, The Broadmead Trust filed an application to change the point of diversion and the place of use under Certificate 79992. The Department assigned the application number T-10473. Transfer Application was assigned to Broadmead, LLC on September 14, 2009
2. The portion of the right to be transferred is as follows:
 - Certificate:** 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust, perfected under Permit S-50853
 - Use:** Irrigation of 13.31 acres

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.

Priority Date: December 13, 1989

Rate: 28.0 acre feet

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 not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	WALKER – VAN OTTEN RESERVOIR DAM
6 S	5 W	WM	14	NW NE	3	REDIVERSION POINT: 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NE NE	2	3.1
6 S	5 W	WM	14	NW NE	3	1.01
6 S	5 W	WM	14	SW NE	4	7.2
6 S	5 W	WM	14	SE NE	1	2.0

3. Transfer Application T-10473 proposes to change the authorized point of redirection to Rediversion Points B and C listed below, being 235.0 feet upstream and 2.0 miles downstream, respectively:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	11	SE SW	47	REDIVERSION POINT B: 3138 FEET SOUTH AND 1420 FEET EAST FROM THE NW CORNER OF JOHN EADES DLC 47
6 S	5 W	WM	11	SE NE	47	REDIVERSION POINT C: 400 FEET SOUTH AND 3750 FEET EAST FROM THE NE CORNER OF GEORGE BILLINGS DLC 48

4. Application T-10473 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	5 W	WM	11	SW NE		47	0.73
6 S	5 W	WM	11	NE NW		67	1.82
6 S	5 W	WM	11	NW NW		67	0.52
6 S	5 W	WM	11	SE NW		47	1.23
6 S	5 W	WM	11	SE NW		67	0.19
6 S	5 W	WM	11	SW SW		47	0.88
6 S	5 W	WM	11	NW SE		47	0.58
6 S	5 W	WM	11	NW SE	4		0.17
6 S	5 W	WM	14	NE NW		47	0.01
6 S	5 W	WM	14	NW NW		47	7.18

5. Notice of the application for transfer was published on October 30, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On August 10, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10473 to the applicants. The draft Preliminary Determination set forth a deadline of September 9, 2009, for the applicants to respond. The applicants requested 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.
7. On September 11, 2009, a Request for Assignment was received assigning Transfer Application T-10473 from The Broadmead Trust to Broadmead, LLC.
8. On September 29, 2009, the Department issued a Preliminary Determination proposing to approve Transfer T-10473 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 29, 2009, and in the Polk County Itemizer-Observer on October 7, 14, and 21, 2009. No protests were received.
9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new points of diversion to prevent fish from entering the diversions and/or safely transport fish back to the body of water from which the fish were diverted and that the diversions are not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

10. The right was used under Temporary Transfer T-9322 during the 2003 through 2007 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10473.
12. The proposed changes would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights.

Partial Cancellation of a Water Right

14. On September 9, 2009, an affidavit requesting cancellation of a portion of the right was received from Broadmead, LLC. The cancellation, which only affects acreage, will allow the applicant to apply 2.10 acre-feet of water per acre to the non-cancelled lands under this right. The portion of the right to be cancelled is as follows:

Certificate: 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust), perfected under Permit S-50853
Use: Irrigation of 14.69 acres
Priority Date: December 13, 1989
Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NW NE	3	14.69

Conclusions of Law

The change in point of diversion and change in place of use proposed in Transfer Application T-10473 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000, and a portion of the right should be cancelled.

Now, therefore, it is ORDERED:

1. The changes in point of diversion and place of use proposed in application T-10473 are approved. The portion of the right that has been abandoned is cancelled.
2. Water right certificate 79992 is cancelled.
3. The right to the use of the water is restricted to beneficial use at the place of use described; and is subject to all other conditions and limitations contained in Certificate 79992 and any related decree.
4. The quantity of water diverted at the new diversion points shall not exceed the quantity of water lawfully available at the original point of diversion.
5. 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 point of diversion.
 - 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.

6. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at each new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass devices meet ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass devices were installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass devices, as appropriate, at the points of diversion consistent with ODFW's operational and maintenance standards.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 23rd day of November 2009.


Phillip C. Ward, Director *pc*

Mailing date: DEC 11 2009

Application # Permit # Transfer # T-
 10473

Applicant's Name: RA#
 Broadmead LLC R11993-11

**Reimbursement Authority Process
 Itemized Estimate Sheet
 for
 Certificates**

	Est. Time (hr)	Individual	Est. Cost	Date	Act. Time (hr)
1. Review Claim of Beneficial Use report and map	1.00	Craig	\$92	2-8	1hr
2. Conflict Check		Craig	\$0		
3. Preparation of deficiency letter		Craig	\$0		
4. Preparation of proposed certificates	1.00	Craig	\$92	2-8 2-11	0.3hr 0.5hr
5a. Peer review		Jon	\$0		
5b. Peer review	0.10	Dwight	\$12	3-11	0.1hr
5c. Peer review	0.50	Gerry	\$46	2-21 0.4	
6. Project Management	2.50	Craig	\$229	10-22 0.4hrs - 2-28 0.3hrs 2-11 0.5hrs - 3-4 0.3hrs 3-11 0.2hrs	3-8 0.4hrs 3-12 0.2hrs
7a. Water right data record update	0.20	Connie	\$12	3-11	0.2hr
7b. Water right data record update	0.75	Data Tech	\$44	3-6	1.25hrs
8. Pump test (if applicable)		Mike Z	\$0		
Total	6.05		\$525		

\$92⁰⁰

\$73⁶⁰

\$36⁸⁰

\$12⁰⁰

\$193⁰⁰

\$12⁰⁰

\$73⁷⁵

\$493³⁵

Notes: 7, 8, 9 are identified in the COBU report as being in section 11 and should be section 14 MWD.

\$31.65

Craig Kohanek

From: jeanne@boatwrightengr.com
Sent: Friday, March 01, 2013 1:43 PM
To: Craig Kohanek
Cc: Jim Harper
Subject: Re: Proposed certificates for Broadmead LLC for RA projects R11993-11 for transfer T-10473, R11994-11 for application S-81522, and R11995-11 for application R-81521

Craig,

I have had a chance to review the 3 proposed certificates that you sent yesterday and suggest the following corrections or additions.

T-10473 - None

R-81521 – page 2 of 3 – First paragraph after item C. –

“Notwithstanding . . . that a fishway of by-pass device is . . . ”

should read

“Notwithstanding . . . that a fishway or by-pass device is . . . ”

S-81522 – page 1 of 2

First paragraph, first line

“confirms the right to use the waters of SALT CREEK and A RESERVOIR, tributaries . . . ”

should read

“confirms the right to use the waters of SALT CREEK and A RESERVOIR constructed under Permit R-12635, tributaries . . . ”

Second paragraph, second line

“which this right is entitled . . . shall not exceed 1.0 CUBIC FOOT PER SECOND AND 17.5 ACRE FEET, or . . . ”

should read

"which this right is entitled . . . shall not exceed 1.0 CUBIC FOOT PER SECOND from SALT CREEK, or its equivalent in case of rotation, AND 17.5 ACRE FEET from THE RESERVOIR, measured at the point of diversion."

Jeanne

Boatwright Engineering, Inc.
2613 12th Street SE
Salem, Oregon 97302
ph: 503-363-9225
FAX: 503-363-1051

From: Craig Kohanek
Sent: Thursday, February 28, 2013 11:43 AM
To: Jeanne Boatwright
Subject: Proposed certificates for Broadmead LLC for RA projects R11993-11 for transfer T-10473, R11994-11 for application S-81522, and R11995-11 for application R-81521

Jeanne,

Attached for your review, edits, and comments are the proposed certificates for Broadmead LLC for RA projects R11993-11 for transfer T-10473, R11994-11 for application S-81522, and R11995-11 for application R-81521. If you are ok with these documents, please reply to this email to that affect and I will continue the processing of these documents toward certification.

Please forgive the tardiness of these documents, but I was out the past week-and-a-half recovering from carpal tunnel surgery that I had performed on 2/18.

R. Craig Kohanek

Water Rights Specialist

Reimbursement Authority

Oregon Water Resources Department

Phone: 503-986-0823

Fax: 503-986-0901

Ron.C.Kohanek@wrp.state.or.us

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BROADMEAD LLC
11120 MCCANN ROAD
AMITY OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT R-1405, tributary to SALT CREEK, for IRRIGATION of 13.31 ACRES.

This right was perfected under permit 50853. The date of priority is DECEMBER 13, 1989. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 28.0 ACRE FEET, or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
6 S	5 W	WM	14	NW NE	3		WALKER-VAN OTTEN RESERVOIR DAM
6 S	5 W	WM	11	SE SW		47	RE-DIVERSION: 2228 FEET NORTH & 1405 FEET EAST FROM SW CORNER, JOHN EADES DLC 47

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 not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

A description of the place of use is as follows:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	5 W	WM	11	SW NE		47	0.73
6 S	5 W	WM	11	NE NW		67	1.82
6 S	5 W	WM	11	NW NW		67	0.52
6 S	5 W	WM	11	SE NW		47	1.23
6 S	5 W	WM	11	SE NW		67	0.19
6 S	5 W	WM	11	SW SW		47	0.88
6 S	5 W	WM	11	NW SE	4		0.17
6 S	5 W	WM	11	NW SE		47	0.58
6 S	5 W	WM	14	NW NW		47	7.19

NOTICE OF RIGHT TO RECONSIDERATION OR JUDICIAL REVIEW

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

The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available from the original point of diversion.

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Measurement, recording and reporting conditions:

- A. The water user shall maintain, in good working order, a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall maintain and operate fish screening as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

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

This certificate is issued to confirm a change in POINT OF DIVERSION AND PLACE OF USE approved by an order of the Water Resources Director entered November 23, 2009, at Special Order Volume 79, Page 243, approving Transfer Application T-10473, and, supersedes Certificate 79992, State record of Water Right Certificates.

Issued _____.

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

RA Mailing List for Transfer Certificate

Mailing Date:

Application: T- 10473

Certificate:

Certificate/Transfer Holder: (include copy of map)

BROADMEAD LLC
11120 MCCANN ROAD
AMITY OR 97101

Copies of final Certificate to be sent to:

1. Data Center
2. Water Availability
3. Vault
4. File

Persons to receive via e-mail draft/proposed copies (completed by RA staff)

- 1.

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

1. Mike McCord, Watermaster #16
2. Corby Boatwright, CWRE

Record Marking(s) :

1. Original Application# S-70140
2. Old Certificate# 79992

S:\groups\wr\certs\Resource Center\Forms_Checklists_Mailing
Instructions\Transfer_CertMailingList for RA.doc

Copies Mailed

By:
(SUPPORT STAFF)

on:
(DATE)

Craig Kohanek

From: Craig Kohanek
Sent: Thursday, February 28, 2013 11:44 AM
To: jeanne@boatwrightengr.com
Subject: Proposed certificates for Broadmead LLC for RA projects R11993-11 for transfer T-10473, R11994-11 for application S-81522, and R11995-11 for application R-81521
Attachments: 10473-or-prop.pdf; 81522-or-prop.pdf; 81521-or-prop.pdf

Jeanne,

Attached for your review, edits, and comments are the proposed certificates for Broadmead LLC for RA projects R11993-11 for transfer T-10473, R11994-11 for application S-81522, and R11995-11 for application R-81521. If you are ok with these documents, please reply to this email to that affect and I will continue the processing of these documents toward certification.

Please forgive the tardiness of these documents, but I was out the past week-and-a-half recovering from carpal tunnel surgery that I had performed on 2/18.

R. Craig Kohanek
Water Rights Specialist
Reimbursement Authority
Oregon Water Resources Department
Phone: 503-986-0823
Fax: 503-986-0901
Ron.C.Kohanek@wrд.state.or.us



**OREGON WATER RESOURCES DEPARTMENT
CERTIFICATE REIMBURSEMENT AUTHORITY
APPLICANT'S AGREEMENT**

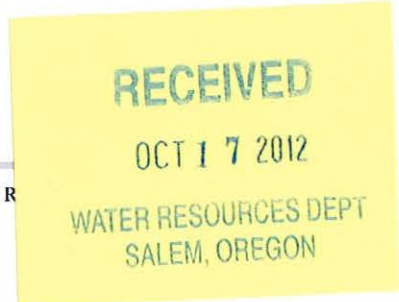


Contract Number: **R11993-11**

This Agreement is between the **Oregon Water Resources Department**, hereafter OWRD, and **Broadmead LLC** hereafter Applicants, hereafter known together as the parties.

OWRD Information	Applicant's Information	Applicant's Representative
Project Contact: R. Craig Kohanek	Name: Jim Harper Heidi Harper	Name: Jeanne Boatwright
Reimbursement Authority	Title:	Title: Representative
Oregon Water Resources Department	Company: Broadmead LLC	Company: Boatwright Engineering, Inc.
725 Summer Street, NE	Address: 11120 McCann Road	Address: 2613 12th St SE
Salem, OR 97301-1271	Amity, OR 97101	Salem, OR 97302
Phone: 503-986-0823	Phone: 503-843-2155	Phone: 503-363-9225
Email: Ron.c.kohanek@state.or.us	Email: broadmead@macnet.com	Email: jeanne@boatwrightengr.com

- Purpose.** The purpose of this Agreement is to expedite the processing of the **Claim of Beneficial Use**. (Transfer Number: T-10473)
- Authority.** ORS 536.055 authorizes the OWRD to enter into a voluntary agreement with any applicant, permittee or regulated entity (collectively Applicant) for expediting or enhancing a regulatory process. In making this agreement, OWRD shall require the applicant to pay the full cost of expedited process.
- Restrictions.** Broadmead LLC and OWRD agree that this Agreement shall not be construed to restrict in any way the decisions and actions by OWRD. OWRD shall be free to exercise independent judgment consistent with existing laws and regulations.
- Effective Date and Duration.** Unless otherwise terminated by non-deposit of funds by the Applicant, this Agreement shall become effective on the date on which both parties have signed the Agreement and the full deposit of the estimated cost of the proposed service has been received by OWRD.
- Consideration.** Broadmead LLC shall pay OWRD in advance for actual costs incurred by OWRD. Broadmead LLC agrees to pay the full amount of **\$525** to OWRD prior to commencement of any work stated in this Agreement. This payment will be placed in an account administered by OWRD and drawn upon as costs are actually incurred. If the actual cost of performing the work is less than payments received, OWRD will refund the unspent balance. If the actual cost of processing exceeds the estimate, the Applicant can either elect to terminate this Agreement or amend the Agreement to reflect the increase in cost. The costs stated in this Agreement do not include the statutory application processing and filing fees.
- Confidentiality.** Broadmead LLC agrees that any information provided to or acquired by OWRD under this Agreement will be subject to the Oregon Public Records Law and shall be considered public records.
- Indemnity.** Applicant shall defend, save, hold harmless, and indemnify the State of Oregon, OWRD, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities of Applicant or its representatives, officers, employees, contractors, or agents under this Agreement or with respect to the expedited service. The Applicant acknowledges that the Oregon Water Resources Department cannot and does not guarantee a favorable review under the subject regulatory process.



8. **Termination.** Applicant may request to terminate this agreement only in writing at anytime during the process. The Applicant agrees to pay for the work done by the Reimbursement Authority personnel up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance after paying the Reimbursement Authority personnel for the work done.
9. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certifies that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
10. **Duration of Estimate.** The Estimate of Time to complete the work is no later than one hundred and twenty days (120) days once this Agreement has been fully executed and payment of the estimated cost deposited. However, this estimate is contingent on the Applicant's expeditious resolution of any deficiency and may be affected by the Department's work load. This Estimate of Time may become null and void after thirty (30) days from the date the Applicant's Agreement is mailed. If the Applicant's Agreement is not received by the Department within thirty (30) days of mailing the Agreement, the Applicant may need to re-apply for a new estimate.
11. **Completion Date.** OWRD, by the execution of this Agreement does not guarantee the completion date indicated in this Agreement. Completion date is only an estimate and may be affected by the Department's workload, issues arising from the processing of the requested services and Applicant's timely response to requests for additional information.
12. **Captions.** The captions or headings in this Agreement are for the convenience only and in no way define limit or describe the scope or intent of any provision of this Agreement.
13. **Amendment and Merger.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written instrument signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.
14. **Signatures.** All parties, by the authorized representative's signature below, hereby acknowledge that they have read this Agreement, understand it and agree to be bound by its terms and conditions.

Applicant: Heidi Harper
 Name: ~~Jim Harper~~ Heidi Harper
 Title:
 Company: Broadmead LLC
 Date: Oct. 16, 2012

For OWRD: R. Craig Kohanek
 Name: R. Craig Kohanek
 Water Rights and Adjudication Division
 Date: Oct 22, 2012

Mail signed Agreement to:

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

STATE OF OREGON

WATER RESOURCES DEPARTMENT

725 Summer St. N.E. Ste. A

SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 107132

INVOICE #

RECEIVED FROM: Broadmead LLC

APPLICATION See Below

BY:

PERMIT
TRANSFER

CASH: CHECK:# 1614 OTHER: (IDENTIFY)

TOTAL REC'D \$1645.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47126 R 11-994-11 \$600.00
0408 OTHER: (IDENTIFY) R-11-995-11/R-81521 \$520.00
0243 I/S Lease 0244 Muni Water Mgmt. Plan 0245 Cons. Water Authority Fee 3-815ZZ

4270 WRD OPERATING ACCT

MISCELLANEOUS R-11-995-11/R-81521 \$520.00
0407 COPY & TAPE FEES \$
0410 RESEARCH FEES R-11-993-11/T10473 \$520.00
0408 MISC REVENUE: (IDENTIFY) \$
TC162 DEPOSIT LIAB. (IDENTIFY) (3) RAs \$
0240 EXTENSION OF TIME \$
WATER RIGHTS: EXAM FEE RECORD FEE
0201 SURFACE WATER \$ 0202 \$
0203 GROUND WATER \$ 0204 \$
0205 TRANSFER \$
WELL CONSTRUCTION EXAM FEE LICENSE FEE
0218 WELL DRILL CONSTRUCTOR \$ 0219 \$
LANDOWNER'S PERMIT 0220 \$
OTHER (IDENTIFY)

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND TITLE RECEIVED
OBJ. CODE VENDOR # OVER THE COUNTER
DESCRIPTION \$

RECEIPT: 107132

DATED: 10-17-12 BY: [Signature]

Craig Kohanek

From: Craig Kohanek
Sent: Monday, October 08, 2012 9:05 AM
To: 'broadmead@macnet.com'
Cc: jeanne@boatwrightengr.com
Subject: RA Certificate Estimates for Braodmead R11993-11, involving T-10473, R11994-11 involving application S-81522, and R11995-11 involving application R-81521
Attachments: RA Certificate Contract.pdf; RA Certificate Contract.pdf; RA Certificate Contract.pdf

Jim & Jeanne,

Please find the attached estimates and agreements to process your transfer and permits into certificates. If the proposed agreements are acceptable to you, please return a signed copy of each to our office along with the payments of the estimated cost to process these transfers into certificates.

If you have any questions, please call me.

R. Craig Kohanek
Water Rights Specialist
Reimbursement Authority
Oregon Water Resources Department
Phone: 503-986-0823
Fax: 503-986-0901
Ron.c.kohanek@wrд.state.or.us



**OREGON WATER RESOURCES DEPARTMENT
CERTIFICATE REIMBURSEMENT AUTHORITY
ESTIMATE APPLICATION**

ORS 536.055 authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement.

The purpose of this application is to obtain estimates of the cost and time required to process a Certificate Request. A separate estimate application is required for each application and/or transfer number. There is a non-refundable application fee of \$125.00 per request.

<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
<input checked="" type="checkbox"/>	Certificate Request	Application Number _____ Permit Number _____ Transfer Number/Permit Amendment (if applicable) <u>T-10473</u>

	<u>Applicant Information</u>	<u>Applicant's Representative/Contact</u>
Name:	Broadmead, LLC Jim Harper	Jeanne Boatwright, Boatwright Engineering, Inc
Address:	11120 McCann Road	2613 12th St SE
	Amity, OR 97101	Salem, OR 97302
Phone:	503-843-2155	503-363-9225
Fax:		503-363-1051
E-Mail Address:	broadmead@macnet.com	jeanne@boatwrightengr.com

I certify that I (check one):

- have previously filed a Claim of Beneficial Use
 am attaching the Claim of Beneficial Use with this request and have included the appropriate claim fee.

I understand the following:

- That upon receipt of my non-refundable application fee in the amount of **\$ 125.00**, OWRD will, within fourteen (14) days, notify me in writing of the estimates of cost and time frame for the expedited service.
- That this fee covers the reimbursement authority staff to evaluate and provide the estimate for processing of the request.
- That upon receiving the estimate I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate Claim of Beneficial Use may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to:
**Oregon Water Resources Department
 Certificate Reimbursement Authority Program
 725 Summer St. NE, Suite A
 Salem, OR 97301-1271**

I certify that I am the (check one):

- Applicant Applicant's Representative Other (Please specify) _____

Name: Jim Harper, member, Broadmead, LLC

Signature: _____

OWRD-USE ONLY: Reimbursement Authority Number: R11 993 11

STATE OF OREGON
WATER RESOURCES DEPARTMENT

725 Summer St. N.E. Ste. A
 SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **107028**

INVOICE # _____

RECEIVED FROM: <u>James D. Harpold, Jr.</u>	APPLICATION <u>See Below</u>
BY: _____	PERMIT _____
	TRANSFER _____

CASH: CHECK:# 1494 OTHER: (IDENTIFY) TOTAL REC'D \$ 375.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES <u>47126 R 11-993-11 / T-10473</u>	\$
<u>0408</u> OTHER: (IDENTIFY) <u>Reimbursement Authority</u>	\$ <u>125.00</u>
0243 I/S Lease _____	
0244 Muni Water Mgmt. Plan _____	
0245 Cons. Water _____	

4270 WRD OPERATING ACCT

MISCELLANEOUS			
0407 COPY & TAPE FEES <u>11-994-11 / S-81522</u>	\$		
0410 RESEARCH FEES <u>11-995-11 / R81521</u>	\$		
0408 MISC REVENUE: (IDENTIFY) <u>@ \$125.00 each</u>	\$		
TC162 DEPOSIT LIAB. (IDENTIFY) _____	\$		
0240 EXTENSION OF TIME _____	\$		
WATER RIGHTS:		EXAM FEE	RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$
OTHER (IDENTIFY) _____			

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

**RECEIVED
 OVER THE COUNTER**

RECEIPT: **107028** DATED: 10-2-12 BY: AK

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

Craig Kohanek

From: Lorraine Ramsey
Sent: Tuesday, October 02, 2012 2:19 PM
To: Sandra Todd
Cc: Craig Kohanek; Dave Nelson; Salem Opeifa
Subject: CERTIFICATE RA #'S

Hello,

Applicant: Broadmead, LLC Jim Harper

Related to Applications T-10473, R81521, & S-81522

RA #'s given by phone in order of Applications above: 47126/ R11-993-11, R11-995-11 & R11994-11.

Thanks,

Lorraine Ramsey
Office Specialist 1
Oregon Water Resources Department
725 Summer St. NE Ste A
Salem, OR 97301

Tel: 503-986-0800

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KEN EICHLER
8250 TUCKER ROAD
AMITY, OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT R-1405, a tributary of SALT CREEK, for IRRIGATION OF 28.0 ACRES.

This right was perfected under Permit 50853. The date of priority is DECEMBER 13, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 28.0 ACRE-FEET OF STORED WATER ONLY, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

WALKER-VAN OTTEN RESERVOIR DAM - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; AND

RE-DIVERSION - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF J. EADES DLC NO 47.

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 not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

LOT 2 (NE 1/4 NE 1/4)	3.1 ACRES
LOT 3 (NW 1/4 NE 1/4)	15.7 ACRES
LOT 4 (SW 1/4 NE 1/4)	7.2 ACRES
LOT 1 (SE 1/4 NE 1/4)	2.0 ACRES

SECTION 14
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M. 280

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

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

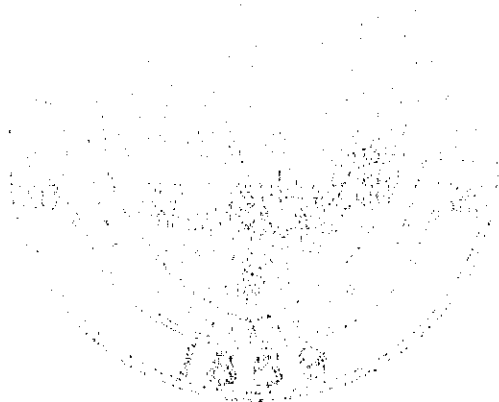
The right to the use of the water for the above purpose is restricted to beneficial use without waste on the lands or place of use described. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APRIL 10, 2003.


Paul R. Cleary

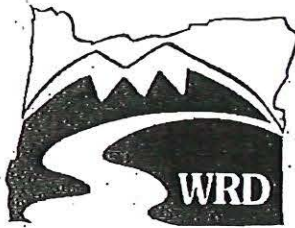


Recorded in State Record of Water Right Certificate Number 79992.

70140.SB

Completion Checklist for CWRE Claims of Beneficial Use

Application # T-10473

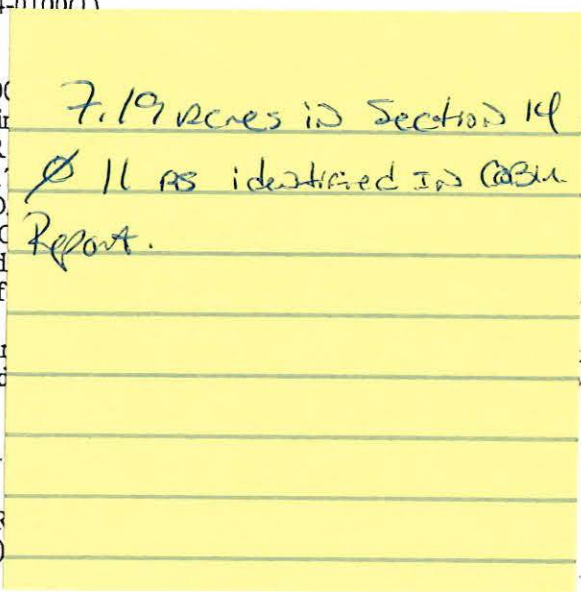


Date Received 9/24/2012
 CWRE Name Boatwright Claim Logged
 File Marked
 Oversized Map # _____
 Read the file and attach a copy of the permit or transfer final order. _____

"C" Date: 10-1-2012

Map Review:

- Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
- Application & permit #; or transfer # (OAR 690-014-0100(1))
- Disclaimer (OAR 690-014-0170(5))
- North arrow (OAR 690-310-0050(2)(c))
- CWRE stamp and signature (OAR 690-014 & 310-0050(1)(b))
- Appropriate scale (1" = 1320', 1" = 400', or the original)
- Township, range, section, and tax lot numbers (OAR 690-014-0100(1))
- Source illustrated if surface water (OAR 690-014-0100(1))
- Point(s) of diversion or appropriation (illustrated) (OAR 690-014-0100(1))
- Point(s) of diversion or appropriation (coordinates) (OAR 690-014-0100(1))
- Conveyance structures illustrated (pump, pipelines, ditches)
- Description of the location, in relation to the point of diversion and measuring devices required (OAR 690-014(4))
- Place of use (1/4 1/4, or projected 1/4 1/4 lines within the section if for domestic or human consumption, location of devices, subdivision; -380-



*7.19 acres in Section 14
 11 as identified in COBU Report.*

Report Review:

- On form or format provided by the Department (OAR 690-014-0100(1))
- Application & permit #; or transfer # (OAR 690-014-0100(1))
- Ownership information (OAR 690-014-0100(1))
- Date of survey (OAR 690-014-0100(1))
- Person interviewed (OAR 690-014-0100(1))
- County (OAR 690-014-0100(1))
- Tax lot information (OAR 690-014-0100(1))
- Description of conveyances system (from POD to POU) (OAR 690-014-0100(1))
- Source(s) of water (OAR 690-014-0100(1))
- Point of diversion/appropriation location (OAR 690-014-0100(1)) ** Key Sta*
- Use, period of use, and rate for use (OAR 690-014-0100(1)) *- March 1 - Oct 31 - 28 AF - 13.31 acres -*
- Place of use location (OAR 690-014-0100(1)) *7.19 Acres in NW 1/4 Section 14 & section 11 as ID'd in COBU Report.*
- Type of use (OAR 690-014-0100(1))
- Extent of use (OAR 690-014-0100(1))
- Rate and Duty (OAR 690-014-0100(1))
- Diversion rate for each use (OAR 690-014-0100(1))
- Diversion works description (pump make, serial model, capacity, and description) (OAR 690-014-0100(1))
- System capacity (OAR 690-014-0100(1))
 - Calculated capacity of system (required)
 - Measured amount of use (optional)
- Permit/Transfer Final Order Conditions (OAR 690-014-0100(1))
 - Time limits
 - Initial water level measurements
 - Annual static water level measurements
 - Measurement, recording, and reporting
 - Meter/measuring device
 - Water use reporting
 - Fish screening and/or by-pass *letters -*
 - Pump test (ground water)
 - Other conditions
- CWRE stamp and signature (OAR 690-014-0100(1))
- Signature(s) of permittee or transfer holder (OAR 690-014-0100(1))

DEF = deficient
 N/A = Not Applicable

Certificate Issuance Processing Checklist

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

Staff Recommendations:

- Proof to the Satisfaction has been established to the full extent as described in the permit or transfer order.
- Proof to the Satisfaction has been not been established to the full extent as described in the permit or transfer order and the right should be limited as follows: _____
- Proof to the Satisfaction has not been established for the following reasons: _____
Proposed Actions:
Send letter requesting the following items/information: _____
Send letter recommending extension to cure deficiencies: _____

Can certificate be processed further?

Yes

If "Yes":

Proposed *ONLY as a courtesy.*
 Final Certificate # _____

Mailing list:

Proposed:

Final:

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



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

RECEIVED

SEP 24 2012

No fee is required for submitting this form for a transfer. WATER RESOURCES DEPT
SALEM, OREGON

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

A separate form shall be completed for each permit.

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

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

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

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

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

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

SECTION 1

GENERAL INFORMATION

1. File Information

APPLICATION # (G, R, S or T) T-10473	PERMIT # (IF APPLICABLE)	PERMIT AMENDMENT # (IF APPLICABLE)
--	--------------------------	------------------------------------

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Broadmead LLC		PHONE NO. 503-363-9225	ADDITIONAL CONTACT NO.	
ADDRESS 11120 McCann Road				
CITY Amity	STATE OR	ZIP 97101	CITY Amity	

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

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

PERMIT OR TRANSFER HOLDER OF RECORD Broadmead, LLC		
ADDRESS 11120 McCann Road		
CITY Amity	STATE OR	ZIP 97101

ADDITIONAL PERMIT OR TRANSFER HOLDER OF RECORD NA		
ADDRESS		
CITY	STATE	ZIP

4. Date of Site Inspection:

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

NAME	DATE	ASSOCIATION WITH THE PROJECT
John Castle	08-27-2010	General Manager
Jose Juarez	08-27-2010	Production Manager

6. County:

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

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

OWNER OF RECORD NA		
ADDRESS		
CITY	STATE	ZIP

ADDITIONAL OWNER OF RECORD NA		
ADDRESS		
CITY	STATE	ZIP

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WATER RESOURCES DEPT
SALEM, OREGON

SECTION 2
SYSTEM DESCRIPTION

A. Points of Diversion/Appropriation

1. Point of diversion/appropriation name or number:

POINT OF DIVERSION/APPROPRIATION (POD/POA) NAME OR NUMBER (CORRESPOND TO MAP)	WELL LOG ID # FOR ALL WORK PERFORMED ON THE WELL (IF APPLICABLE)	WELL TAG # (IF APPLICABLE)
POD 1	NA	NA

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

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

POD/POA NAME OR NUMBER	SOURCE	TRIBUTARY
POD 1	Walker-Van Otten Reservoir	Salt Creek

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

POD/POA NAME OR NUMBER	USES	IF IRRIGATION, LIST CROP TYPE	SEASON OR MONTHS WHEN WATER WAS USED	RATE OR VOLUME FOR USE (CFS, GPM, OR AF)
POD 1	IR	Nursery & Pasture	Mar 1- Oct 31	28.0 AF
Total Quantity of Water Used				28.0

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

Water is withdrawn from Salt Creek through an 8-inch screened intake by a 60 hp pump located on the north side of the Walker-VanOtten Reservoir on Salt Creek. The flow meter is mounted on the portable electric pump. Due to the potential for yearly flooding, the pump can be removed. There is a dedicated electrical supply at the pump site. This appropriation point also serves other water rights. The water is transported north and west through a 6-inch buried PVC main. The area to the west and southwest are nursery stock; the area to the north is pasture for sheep. Application to the nursery stock is by impact sprinklers and mist applicators. Application to the pasture is by a big gun. Water for the nursery area is run through the off-channel reservoir (file R-81521) as a bulge in the system.

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SALEM, OREGON

SECTION 2

SYSTEM DESCRIPTION (B through H)

Are there multiple PODs or POAs?

NO

If "YES" you will need to copy and complete Sections 2B through 2H for each POD/POA.

POD/POA Name or Number this section describes (only needed if there is more than one):

POD 1

B. Place of Use

1. Is the right for municipal use?

NO

If "YES" the table below may be deleted.

TWP	RNG	MER	SEC	QQ	GLot	DLC	USE	IF IRRIGATION, # PRIMARY ACRES	IF IRRIGATION, # SUPPLEMENTAL ACRES
6S	5W	WM	11	SW NE		47	irrigation	0.73	0
6S	5W	WM	11	NE NW		67	irrigation	1.82	0
6S	5W	WM	11	NW NW		67	irrigation	0.52	0
6S	5W	WM	11	SE NW		47	irrigation	1.23	0
6S	5W	WM	11	SE NW		67	irrigation	0.19	0
6S	5W	WM	11	SW SW		47	irrigation	0.88	0
6S	5W	WM	11	NW SE		47	irrigation	0.58	0
6S	5W	WM	11	NW SE	4		irrigation	0.17	0
6S	5W	WM	11	NW NW		47	irrigation	7.19	0
Total Acres Irrigated								13.31	0

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

C. Diversion and Delivery System Information

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

1. Is a pump used?

YES

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

2. Pump Information

MANUFACTURER	MODEL	SERIAL NUMBER	TYPE (CENTRIFUGAL, TURBINE OR SUBMERSIBLE)	INTAKE SIZE	DISCHARGE SIZE
CORNELL	4YB-75-2	86863 8.88	CENTRIFUGAL	6"	4"

3. Motor Information

MANUFACTURER	HORSEPOWER
BALDOR	60

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SALEM, OREGON

4. Theoretical Pump Capacity

HORSEPOWER	OPERATING PSI	LIFT FROM SOURCE TO PUMP *IF A WELL, THE WATER LEVEL DURING PUMPING	LIFT FROM PUMP TO PLACE OF USE	TOTAL PUMP OUTPUT (IN CFS)
60	50	10'	15'	2.61

5. Provide pump calculations:

$$\frac{(60 \text{ hp})(6.61)}{2.5 + \frac{50(1.1)}{.433}} = 2.61 = 1171 \text{ gpm}$$

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

INITIAL METER READING	ENDING METER READING	DURATION OF TIME OBSERVED	TOTAL PUMP OUTPUT (IN CFS)
14069000	14073000	3 min 30 sec	2.55 (1144 gpm)

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

7. Is the distribution system piped? YES

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

8. Mainline Information

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
6"	8100'	PVC	Buried

9. Lateral or Handline Information

LATERAL OR HANDLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
3"	4620'	Aluminum	Above Ground
2"	13,275	PVC	Buried

10. Sprinkler Information

SIZE	OPERATING PSI	SPRINKLER OUTPUT (GPM)	TOTAL NUMBER OF SPRINKLERS	MAXIMUM NUMBER USED	TOTAL SPRINKLER OUTPUT (CFS)
3/16	50	7.2	286	160	2.57
Hunter #5	30	0.47	175	175	0.18
Big Gun 1.08	80	210	1	1	0.47

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

11. Pivot Information

MANUFACTURER	MAXIMUM WETTED RADIUS	OPERATING PSI	TOTAL PIVOT OUTPUT (GPM)	TOTAL PIVOT OUTPUT (CFS)
None				

12. Additional notes or comments related to the system:

The green house sprinklers are old and in the process of being replaced. Hunter #5 nozzles are being installed. I could not read the information on the older heads.

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D. Groundwater Source Information (Well and Sump)

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

E. Storage

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

F. Gravity Flow Pipe

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

1. Does the system involve a gravity flow pipe? NO

G. Gravity Flow Canal or Ditch

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

1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system? NO

H. Reservoir

1. Does the claim involve a reservoir modified through a transfer? NO

**SECTION 3
CONDITIONS**

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

1. Time Limits:

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

	DATE FROM PERMIT OR TRANSFER	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	11-23-2009		
BEGIN CONSTRUCTION (A)	None	Prior to Transfer Order (1950's)	Pump and Distribution System Constructed for Older Water Rights
COMPLETE CONSTRUCTION (B)	None	7-29-2001	Fish Screen Installed
COMPLETE APPLICATION OF WATER (C)	Oct 1, 2012	August 27, 2010	Transferred Water from Walker-VanOttens Reservoir applied to all lands

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

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WATER RESOURCES DEPT
SALEM, OREGON

4. Initial Water Level Measurements:

a. Was the water user required to submit an initial static water level measurement? **NO**

5. Annual Static Water Level Measurements:

a. Was the water user required to submit annual static water level measurements? **NO**

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

a. Did the permit require the submittal of a pump test? **NO**

7. Measurement Conditions:

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

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

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

b. Has a meter been installed? **YES**

c. Meter Information

POD/POA NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
POD 1	McCrometer	02-04946-8	working	14073000	March 1999

8. Recording and reporting conditions

a. Is the water user required to report the water use to the Department? **NO**

9. Fish Screening

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

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

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

b. Has the fish screening been installed? **YES**

c. When was the fish screening installed?

DATE	BY WHOM
An Existing Fish Screen replaced 7-29-2001	Owner

Reminder: If the permit or transfer final order was issued on or after February 1, 2011, the fish screen is required to be approved by the Oregon Department of Fish and Wildlife regardless of the rate of diversion.

d. If the diversion **involves a pump** *and* the **total** diversion rate of all rights at the point of diversion is less than 225 gpm (0.5 cfs) and the permit was issued prior to February 1, 2011:

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

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

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

- Has the ODFW approval been previously submitted? NO
- If not, contact and work with ODFW to ensure compliance. To demonstrate compliance, provide signed documentation from ODFW. A form is available at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>

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

10. By-pass Devices

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

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

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

b. Have by-pass devices been installed? NO

c. Describe the diversion works as related to whether a by-pass device is installed or unnecessary:

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

DESCRIPTION (E.G. "ODFW HAS APPROVED THE BY-PASS DEVICE" OR "NO BY-PASS DEVICE IS NECESSARY BECAUSE THERE IS A DIRECT DIVERSION FROM THE STREAM VIA A PUMP ON RIVER LEFT STREAM BANK WITH FOOT VALVE DESCENDING DIRECTLY INTO NATURAL POOL.") IN ADDITION, YOU MAY ATTACH PHOTOS TO THIS CLAIM.	IF INSTALLED (DATE)	IF INSTALLED, BY WHOM
ODFW has approved the fish screen, no by-pass needed	---	----

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

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

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

SECTION 4 VARIATIONS

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

The Transfer Order authorized 2 rediversion points (B & C). Diversion point C located farther north, along Salt Creek, was not developed. Diversion point B (now called POD 1 to maintain its identification used under other permits) was developed as authorized.

SECTION 5 ATTACHMENTS

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

ATTACHMENT NAME	DESCRIPTION
Claim of Beneficial Use	map
ODFW	Fish Screen Inspection form

SECTION 6 CLAIM SUMMARY

POD / POA NAME OR #	MAXIMUM RATE AUTHORIZED	CALCULATED THEORETICAL RATE BASED ON SYSTEM	AMOUNT OF WATER MEASURED	USE	# OF ACRES ALLOWED	# OF ACRES DEVELOPED
POD 1	28.0 AF	28.0 AF	28.0 AF	IR	13.31	13.31

SECTION 7 CLAIM OF BENEFICIAL USE MAP

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

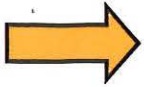
Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification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

Field measurements were made with GPS unit and location of property monuments, Polk County Survey 13002, Google Earth aerial photos from 2010.

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SALEM, OREGON



Map Checklist

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

(Reminder: Incomplete maps and/or claims may be returned.)

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

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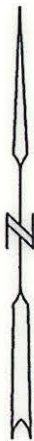
WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED T.6S. R.5W. W.M.

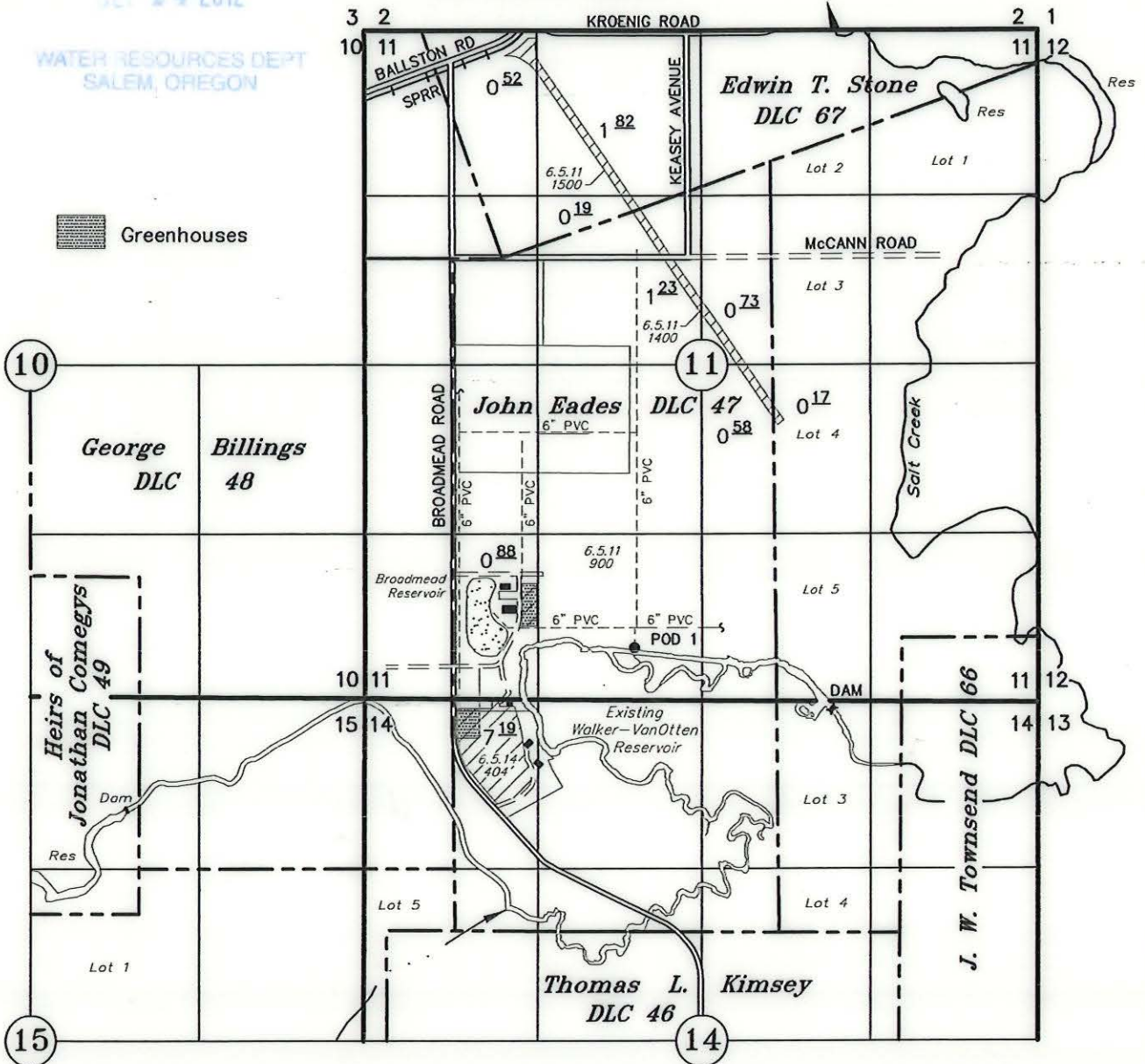
SEP 24 2012

POLK COUNTY, OREGON

WATER RESOURCES DEPT
SALEM, OREGON



Greenhouses



POD 1: 2228' NORTH AND 1405' EAST OF SW COR JOHN EADES DLC 47
with approved fish screen on end of foot valve and meter at pump

TAX LOTS
6 5 11 900
6 5 11 1400
6 5 11 1500
6 5 14 404

CLAIM OF BENEFICIAL USE

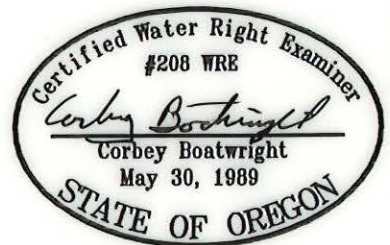
UNDER

Application No. T-10473

BROADMEAD, LLC

August 27, 2010

SCALE 1" = 1320'



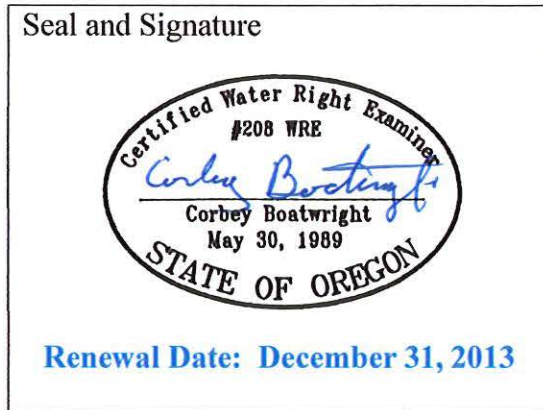
NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

Renewal Date: 12-31-2013

**SECTION 8
SIGNATURES**

CWRE Statement, Seal and Signature

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



CWRE NAME Corbey Boatwright		PHONE NO. 503-363-9225	ADDITIONAL CONTACT NO.
ADDRESS Boatwright Engineering, Inc. 2613 12th Street SE			
CITY Salem	STATE OREGON	ZIP 97302	E-MAIL corbey@boatwrightengr.com

Permit or Transfer Holder's of Record Signature or Acknowledgement

This Claim of Beneficial Use must be signed by each permit or transfer holder of record.

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

SIGNATURE	PRINT OR TYPE NAME	DATE
	James Harper, member Broadmead LLC	9-21-12

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**WATER RESOURCES DEPT
SALEM, OREGON**



OREGON DEPARTMENT OF FISH AND WILDLIFE
OREGON WATER RESOURCES DEPARTMENT

FISH SCREEN INSPECTION FORM

APPLICANT

Name: BROADMEAD NURSERY
Address: 8610 BROADMEAD RD. Phone 503-843-2155
AMITY, ORE. 97101
Application Number: _____ Permit Number: 50853
Water Right Amount (cfs) 1.75

DIVERSION

Stream: SALT CR Tributary to: HAMMILL RIVER

Address (if different than applicants): _____

Diversion Type: PUMP Location: T _____, R _____, Sec. _____

GPS Coordinates: 45.05833°N 123.26759°W SATS: _____

PUMP INFORMATION

Brand: CORNELL Horsepower: 40 Intake Size: 8"

SCREEN INFORMATION

Type: SURE-FLD Installed by: LANDOWNER Date Installed: 7-29-2001

SCS B
Date of Inspection: 8-11-01 Inspected by: BOB HAIR Agency: ODFW

Comments: _____

- Screen meets current state criteria for fish protection.
- Screen does not meet current state criteria for fish protection.
- Another screen inspection should be done before water use begins.

Return this form to: Brenda Lee S. Wilson, Water Rights Division, OR Water Resources Dept., 158 12th Street NE
Salem, OR 97310 / 1-800-624-3199 ext: 276 / Fax: 503-378-6202 / e-mail: brenda.lee.s.wilson@wrdd.state.or.us

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WATER RESOURCES DEPT
SALEM, OREGON



Oregon

John A. Kitzhaber, MD, Governor

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

September 28, 2012

BROADMEAD LLC
11120 MC CANN RD
AMITY OR 97101

On September 24, 2012, the Water Resources Department received the Claim of Beneficial Use (COBU) for the following file(s):

T-10473

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

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

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

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

Cc: file



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

September 14, 2009

James D. Harper Jr.
11120 McCann Road
Amity, Oregon 97101

Reference: Application S- 81522, Permit S-53555, Application R-81521, Permit R-12635
Transfer T-7814, Transfer T-10473

The assignment from The Broadmead Trust to Broadmead, LLC has been recorded in the records of the Water Resources Department.

Our records have been changed accordingly and the original request is enclosed. Receipt number 97784 covering the recording fee of \$300 is also enclosed.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure: Receipt 97784

cc: Watermaster 16

Jeanne or Corbey Boatwright - Agent

Data Center, OWRD (Complete Copy of Assignment Request)

Hydrographics

Sarah Henderson - for Transfers

File





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

September 14, 2009

James D. Harper Jr.
11120 McCann Road
Amity, Oregon 97101

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Jerry Sauter
Water Rights Program Analyst

Enclosure: Receipt 97784

cc: Watermaster 16

Jeanne or Corbey Boatwright - Agent
Data Center, OWRD (Complete Copy of Assignment Request)
Hydrographics
Sarah Henderson - for Transfers
File



**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

RECEIPT # **97784**

INVOICE # _____

RECEIVED FROM: James D. Harper, Jr.
BY: _____

APPLICATION	<u>see below</u>
PERMIT	
TRANSFER	

CASH: CHECK:# 1089 OTHER: (IDENTIFY)

TOTAL REC'D \$ 300⁰⁰

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

0407 MISCELLANEOUS	<u>T10473 = \$75⁰⁰</u>	\$
0410 COPY & TAPE FEES	<u>S81522 = \$75⁰⁰</u>	\$
0410 RESEARCH FEES		\$
0408 MISC REVENUE: (IDENTIFY)	<u>Assignment</u>	\$ <u>300⁰⁰</u>
TC162 DEPOSIT LIAB. (IDENTIFY)		\$
0240 EXTENSION OF TIME	<u>R81521 = \$75⁰⁰</u>	\$

WATER RIGHTS:		EXAM FEE	RECORD FEE
0201 SURFACE WATER	<u>T7814 = \$75⁰⁰</u>	\$	0202 \$
0203 GROUND WATER		\$	0204 \$
0205 TRANSFER		\$	

WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218 WELL DRILL CONSTRUCTOR		\$	0219 \$
LANDOWNER'S PERMIT		\$	\$
OTHER (IDENTIFY)			

**RECEIVED
OVER THE COUNTER**

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: **97784** DATED: 9.11.09 BY: [Signature]

September 4, 2009

Kenneth & Deborah Eichler
8250 Tucker Road
Amity, Oregon 97101

Re: **Water Right Transfer T-10473**

Dear Mr. & Mrs. Eichler,

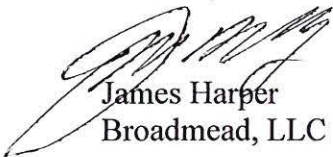
This letter is notice to you, as trustees of the Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust dated 11-12-2002. The Trust owns those lands described as Parcel II in Attachment A of a Reservoir Water Storage Encroachment Easement, recorded October 3, 2007 in the Polk County Deed Records as instrument 2007-015377.

The Water Right associated with the Mutual Release and Settlement Agreement, made a part of the above referenced Reservoir Water Storage Encroachment Easement is the subject of Application for Water Right Transfer T-10473, on file with the Oregon Water Resources Department.

The applicant for the Transfer, The Broadmead Trust, is filing a Request for Assignment of said Transfer to Broadmead, LLC.

This notice to you is required by the Oregon Water Resources Department. No action is necessary on your part.

Sincerely,



James Harper
Broadmead, LLC

CC: Jeanne Boatwright, Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

John N. McKeegan
PO Box 480
McMinnville, OR 97128

Martha Pagel, Schwabe, Williamson & Wyatt
530 Center Street, Suite 400
Salem, OR 97301

Jerry Sauter, Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

RECEIVED
OVER THE COUNTER

RECEIVED

SEP 11 2009

WATER RESOURCES DEPT
SALEM, OREGON

Water Right Transfer Checklist

Transfer T-10473

Transfer Specialist: NW Region Drawer

Transfer Type: Regular

Applicant Name/Address: The Broadmead Trust, 8603 Dixie Highway #205, Miami, FL 33143

Agent Name/Address: Jeanne or Corby Boatwright, 2613 12th Street SE Salem, OR 97302

CWRE Name/Number: Same as Agent

Rec Landowner Name/Address: CLO: Ken & Deborah Eichler, Trustees, 8250 Tucker Road, Amity, OR 97101

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: NONE

Commentors: Name/Address: NONE

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>S 70140</u>	<u>S 50853</u>	79992	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions

Rec'd: <u>10/19/07</u>	Proposed Action(s): <u>POU POD HST APOD USE OTHER: POU/POD</u>	
Fees Pd: <u>800.00</u>	WM District: <u>16</u>	ODFW District: <u>Karen hans</u>
Initial Notice: <u>10/30/07</u>	WM Review sent: <u>10/29/07</u>	ODFW Review sent: <u>10/29/07</u>
Acknowledgement Letter Sent <input checked="" type="checkbox"/>		GW Review sent: <u>NONE</u>

Processing Dates & Actions

Deficiency Contacts: _____

Newspaper Pub Affid Due: _____

not required

DPD Mailed: 8/10/09

Affid of Pub Rec'd: _____

ODFW contact sheet sent with DPD, or N/A

Last Day Published: _____

PD Mailed: 9/30/09

Affidavit Reminder Sent: _____

PD Weekly Notice: _____

Reminder Deadline: _____

Preliminary Determination

Electronic Files uploaded

Preliminary Determination

PD Cover letter

Fee Refund Due

PD Notice

Remaining Rights

File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: _____	Reviewer: _____
Date: _____	Date: _____	Date: _____
Coordinator: <u>DDP</u>	Coordinator: <u>DDP</u>	Coordinator: <u>DDP</u>
Date: <u>9/2/09</u>	Date: <u>9/24/09</u>	Date: <u>11/20/09</u>
Comments/Special Issues:		

Special Order Volume: Vol 79 Pages 243 Final Order Signature Date: 11-23-09

Notice of FO email'd to processors Keri

Review Checklist

T-10473

Processor: NW Region Drawer

Application

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

Water right subject to transfer

- Certificated right or Proof accepted "to the satisfaction..."
- The right been exercised according to terms & conditions of certificate.
- Delivery system has the capacity to fully divert the rate/duty of the right. *? wrote "n/a" - see T-9300*
- No information in record that suggests forfeiture.
- No conflicts identified on the plat cards and plat card reports printed. *S-53555 - NURSERY*
- Affidavits prepared for rights that need to be canceled or diminished. *NEEDED*

Application Map

- The map has an original CWRE signature.
- The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- All authorized and proposed POD's/POA's and POU's shown and clearly labeled. *- to totals off 13.31 vs 13.23*
- Metes and bounds for the POD's/POA's are properly described on the map. *- typo div. d location (from)*
- The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.
- Map acres match the tabulation on the certificate.
- Have final proof maps/deed maps for the rights. Application map matches certificate FPS.
- Have necessary aerial photos. *n/a*

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

- Only the authorized POD's/POA's and POU's to be transferred are listed.
- Application & certificate tabulations match. *(Mark on appl. and cert. copies and note corrections needed)*
- Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4. *no 22 (all lands transferred)*

Ownership @ PP

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

Evaluation (materials needed for peer reviewer in bold)

- | | | | | |
|---|--|---|---|--|
| <input checked="" type="checkbox"/> application complete | <input checked="" type="checkbox"/> map | <input type="checkbox"/> FPS | <input checked="" type="checkbox"/> evidence of use | <input checked="" type="checkbox"/> land-use form |
| <input type="checkbox"/> deed/ROLI | <input checked="" type="checkbox"/> certificate | <input checked="" type="checkbox"/> fees paid | <input type="checkbox"/> well logs | <input checked="" type="checkbox"/> plat card |
| <input type="checkbox"/> audit | <input checked="" type="checkbox"/> dpd | | | |

- Reviews/comments/conditions received? Watermaster ODFW GW
- Headgate When in the judgment Prior to diverting Existing and maintain
- Measuring Devices When in the judgment Prior to diverting Existing and maintain
- Fish Screen Devices *yes*

Injury: Y N Enlargement: Y N

Conditions to avoid enlargement/injury -

NW Reg



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

Watermaster Review Form:
Water Right Transfer

Transfer Application: T-10473

Review Due Date: 11/27/07

Applicant Name: Broadmead Trust

Proposed Changes: [X] POU [X] POD [] POA [] USE [] OTHER

Reviewer(s): Mlm

Date of Review: 12/17/07

- 1. Do you have information suggesting that the water rights may be subject to forfeiture?
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights?
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right?
4. Are there upstream water rights that would be affected by the proposed change?
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach?
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
7. For POU changes, would the original place of use continue to receive water from the same source?
8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?
9. Are there other issues not identified through the above questions?
10. What alternatives may be available for addressing any issues identified above?

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

Measurement Devices	<input type="checkbox"/> Present and should be maintained.	<input checked="" type="checkbox"/> Should be required prior to diverting water.	<input type="checkbox"/> May be required in the future.
Headgates	<input type="checkbox"/> Present and should be maintained.	<input type="checkbox"/> Should be required prior to diverting water.	<input type="checkbox"/> May be required in the future.

AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A WATER RIGHT CERTIFICATE

RECEIVED

SEP 09 2009

WATER RESOURCES DEPT SALEM, OREGON

State of Oregon)
County of Polk MARION) ss

I/We (or authorized agent), BROADMEAD, LLC, residing at 1120 MCCANN ROAD AMITY, OREGON 97101, telephone 971-237-3602, being first duly sworn depose and say:

1. I/We are the holders of interest in water right Certificate 79992, issued to Ken Eichler, with a priority date of December 13, 1989 using water from Walker-Van Otten Reservoir for the purpose of irrigation. Interest in this water right was conveyed to The Broadmead Trust through the Mutual Release and Settlement Agreement dated August 14, 2007, recorded as document 2007-015377 with Polk County on October 3, 2007.

2. The appurtenant water right is(is not) located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (if the right is located within a district or reclamation project, name it here)

3. I/We have abandoned use of the right on 14.69 acres as located below. The land area to which stored water is applied will be reduced by 14.69 acres; however the total quantity of water authorized for irrigation will remain unchanged.

NW 1/4 NE 1/4 14.69 Acres
Section 14
Township 6 South, Range 5 West, W.M.

4. I/We request that only the acreage, described above be canceled.

Signature of legal owner

SEPT 3, 2009
Date

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

Date

Subscribed and Sworn to Before Me this 3RD day of SEPTEMBER, 2009.

Kim R. Vincent
Notary Public for Oregon



My Commission Expires 6/26/10

Affidavit Of Publication

RECEIVED

OCT 23 2009

WATER RESOURCES DEPT
SALEM, OREGON

STATE OF Oregon
County of Polk

ss.

**Notice of Preliminary
Determination for
Water Right Transfer T-10473**

T-10473 filed by BROADMEAD LLC, 11120 MCCANN ROAD, AMITY OR 97101 proposes a change in point of rediversion, an additional point of rediversion, and a change in place of use under Certificate 79992. The right allows the use of 28.0 ACRE FEET (priority date DECEMBER 13, 1989) from WALKER-VAN OTTEN RESERVOIR in THE NWNE, Sec. 14, T 6 S, R 5 W, W.M. for IRRIGATION of 13.31 acres in Sec.11 and 14, T 6 S, R 5 W, W.M. The applicant proposes to move one point of rediversion approximately 235.0 feet upstream (SESW, T 6 S, R 5 W, W.M. Sec. 11) and add a point of rediversion 2.0 miles downstream (SENE, T 6 S, R 5 W, W.M. Sec. 11) and to change the place of use to lands within Sections 11 and 14, T 6 S, R 5 W, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-08883. The last date of newspaper publication is October 21, 2009. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

(Oct. 7, 14, 21, 2009)

I, Nancy Adams, being

first duly sworn, depose and say I am the PUBLISHER

of the Polk County Itemizer-Observer, a newspaper of general circulation as defined by ORS 193.010 and 193.020, printed and published at Dallas in the aforesaid county and state; that the Water Transfer T-10473

_____, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for _____ successive and consecutive weeks in the following issues: _____
10/07/09, 10/14/09, 10/21/09

Nancy Adams

Subscribed and sworn to before me this 21st day of Oct 2009.

Patricia S Letsch

Notary Public for Oregon

(My Commission Expires 1-19-2010)





Oregon

Theodore R. Kulongoski, Governor

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

September 30, 2009

BROADMEAD LLC
11120 MCCANN RD
AMITY OR 97101

*Pd Noticed
9-29-09*

SUBJECT: Transfer Application T-10473

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10473. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

Because the new points of diversion are more than ¼ mile from the authorized point of diversion, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place.

After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Please have the newspaper prepare and mail an original affidavit of publication to me at the address shown in the letterhead, by **November 13, 2009**.

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 503-986-0881 or Teri.K.Hranac@wrdd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson

Jr
Teri Hranac
Transfer Specialist
Field Services Division

Enclosures

cc: District 16 Watermaster
Corvey Boatright (CWRE #208)



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-10473, Polk County)	PROPOSING APPROVAL OF A CHANGE
)	IN POINT OF REDIVERSION, PLACE OF
)	USE AND PARTIAL CANCELLATION OF
)	A WATER RIGHT

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

BROADMEAD, LLC
11120 McCANN ROAD
AMITY, OR 97101

Agent

JEANNE BOATWRIGHT
2613 12TH STREET
SALEM, OREGON 97302

Findings of Fact

Background

1. On October 19, 2007, The Broadmead Trust filed an application to change the point of diversion and the place of use under Certificate 79992. The Department assigned the application number T-10473. Transfer Application was assigned to Broadmead, LLC on September 14, 2009

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

Certificate: 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust, perfected under Permit S-50853
Use: Irrigation of 13.31 acres
Priority Date: December 13, 1989
Rate: 28.0 acre feet

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

Limit/Duty: 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 not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	WALKER – VAN OTTEN RESERVOIR DAM
6 S	5 W	WM	14	NW NE	3	REDIVERSION POINT: 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NE NE	2	3.1
6 S	5 W	WM	14	NW NE	3	1.01
6 S	5 W	WM	14	SW NE	4	7.2
6 S	5 W	WM	14	SE NE	1	2.0

3. Transfer Application T-10473 proposes to change the authorized point of rediversion to Rediversion Points B and C listed below, being 235.0 feet upstream and 2.0 miles downstream, respectively:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	11	SE SW	47	REDIVERSION POINT B: 3138 FEET SOUTH AND 1420 FEET EAST FROM THE NW CORNER OF JOHN EADES DLC 47
6 S	5 W	WM	11	SE NE	47	REDIVERSION POINT C: 400 FEET SOUTH AND 3750 FEET EAST FROM THE NE CORNER OF GEORGE BILLINGS DLC 48

4. Application T-10473 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	5 W	WM	11	SW NE		47	0.73
6 S	5 W	WM	11	NE NW		67	1.82
6 S	5 W	WM	11	NW NW		67	0.52
6 S	5 W	WM	11	SE NW		47	1.23
6 S	5 W	WM	11	SE NW		67	0.19
6 S	5 W	WM	11	SW SW		47	0.88
6 S	5 W	WM	11	NW SE		47	0.58
6 S	5 W	WM	11	NW SE	4		0.17
6 S	5 W	WM	14	NE NW		47	0.01
6 S	5 W	WM	14	NW NW		47	7.18

5. Notice of the application for transfer was published on October 30, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On August 10, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10473 to the applicants. The draft Preliminary Determination set forth a deadline of September 9, 2009, for the applicants to respond. The applicants requested 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.
7. On September 11, 2009, a Request for Assignment was received assigning Transfer Application T-10473 from The Broadmead Trust to Broadmead, LLC.
8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new points of diversion to prevent fish from entering the diversions and/or safely transport fish back to the body of water from which the fish were diverted and that the diversions are not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

9. The right was used under Temporary Transfer T-9322 during the 2003 through 2007 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10473.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.

Partial Cancellation of a Water Right

13. On September 9, 2009, an affidavit requesting cancellation of a portion of the right was received from Broadmead, LLC. The cancellation, which only affects acreage, will allow the applicant to apply 2.10 acre-feet of water per acre to the non-cancelled lands under this right. The portion of the right to be cancelled is as follows:

Certificate: 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust), perfected under Permit S-50853
Use: Irrigation of 14.69 acres
Priority Date: December 13, 1989
Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHN EADES DLC 47

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NW NE	3	14.69

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-10473 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and a portion of the right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and a portion of the right will be cancelled.


If application T-10473 is approved, the final order will include the following:

1. *The changes in point of diversion and place of use proposed in application T-10473 are approved. The portion of the right that has been abandoned is cancelled.*
2. *Water right certificate 79992 is cancelled.*
3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 79992 and any related decree.*
4. *The quantity of water diverted at the new diversion points shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *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 point of diversion.*
 - 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.*
6. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at each new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass devices meet ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water*

user must obtain written approval from ODFW that the required screening and/or by-pass devices were installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass devices, as appropriate, at the points of diversion consistent with ODFW's operational and maintenance standards.

7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
9. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

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


Phillip C. Ward, Director *ph*

This Preliminary Determination was prepared by Teri Hranac Alyssa Mucken. If you have questions about the information in this document, you may reach me at 503-986-0899 or Alyssa.M.Mucken@wrdd.state.or.us

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

**Notice of Preliminary Determination for
Water Right Transfer T-10473**

T-10473 filed by BROADMEAD LLC, 11120 MCCANN ROAD, AMITY OR 97101 proposes a change in point of diversion, an additional point of diversion, and a change in place of use under Certificate 79992 . The right allows the use of 28.0 ACRE FEET (priority date DECEMBER 13, 1989) from WALKER-VAN OTTEN RESERVOIR in THE NWNE, Sec. 14, T 6 S, R 5 W, W.M. for IRRIGATION of 13.31 acres in Sec. 11 and 14, T 6 S, R 5 W, W.M. The applicant proposes to move one point of diversion approximately 235.0 feet upstream (SESW, T 6 S, R 5 W, W.M, Sec. 11) and add a point of diversion 2.0 miles downstream (SENE, T 6 S, R 5 W, W.M. Sec. 11) and to change the place of use to lands within Sections 11 and 14, T 6 S, R 5 W, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0883. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

3. CURRENT WATER RIGHT INFORMATION

Name on Permit, Certificate, or Decree: DAN VAN OTTEN

Decree: _____
 Not applicable]

Permit Number: 50853 Certificate Number: SEE FINAL PROOF
 Not applicable] Not applicable]

Priority Date: Dec. 13, 1989 Authorized Use: IRRIGATION

Source of Water: RESERVOIR County: FOLK

Are there other sources listed on the water right? Yes No

Location of Authorized Point of Diversion or Point of Appropriation:

Coordinates (from recognized survey corner)	1/4 1/4 Section	Section	Township	Range
1800' N & 170' E	NWNE	14	6S	5W
From the SE cor. DCL 47				

Location of Authorized Place of Use:

Township	Range	Section	Government Lot or DIC	1/4 1/4 Section	Tax Lot Number	Acres (if appropriate)
6S	5W	14		NENE	30A	3 1/2
				NWNE		15 7/8
				SWNE		7 3/8
				SENE		2 0

Are there other lands described in the water right? Yes No

Are there other water rights or permits associated with this land? Yes No
 If yes, include a copy of all rights or permits.

RECEIVED

JAN 13 2003

WATER RESOURCES DEPT
SALEM, OREGON

Description of general delivery system (ditch measurements, pump size, number of sprinklers, etc.):

WATER IS PUMPED INTO PIPE LINES AND APPLIED TO THE FIELD BY SPRINKLERS. THE PUMP IS A 25 HP, RUNNING ONE WHEEL LINE @ APPROXIMATELY 250 GPM.

System capacity (in cfs): MORE THAN 0.35 cfs

duration = $9,123,828 \text{ g} / 157 \text{ gpm} / 60 \text{ min} / 24 \text{ hrs} = 40 \text{ days}$ to use 20 AF @ 24hr pumping
 Transfer Application/ 2

T 9322

note: added from T-9322
 to demonstrate system
 capacity

IMPORTANT
This Map for Assessment
and Taxation Purposes
ONLY

SEC.11 T6S R5W WM -
POLK COUNTY

Scale 1" = 400'

6.5.11

3 | 2
10 | 11

See Map 6.5.2

See Map 6.5.2

See Map 6.5.1

2 | 1
11 | 12

1800
1900 M1
1.43 AC

500

See Map 6.5.11BA

501
25.16 AC.

302

300
58.62 AC

200
22.35 AC

Canceled No.

100
400

501
25.16 AC

N.E. CORNER
JOHN EADS
DLC NO. 47

LOT 1
22.80 AC

LOT 2
6.36 AC

600
9.50 AC.

SOUTHWEST CORNER
EDWIN T. STONE
DLC NO. 67

N.E. CORNER
GEORGE BILLINGS
DLC NO. 48

S.E. CORNER
M.B. BURKS
DLC NO. 68

N.W. CORNER
JOHN EADS
DLC NO. 47

900
131.51 AC

1300
36.06 AC.

LOT 3
23.28 AC

1200
59.50 AC

700
9.44 AC.

1400
5.72 AC



See Map 6.5.10

45-1

See Map 6.5.12

800
29.85 AC.

1000
53.58 AC

21-2

LOT 4
23.28 AC

1000

1100
37.80 AC.

1100
LOT 6 - 26.82 AC

LOT 5 - 23.28 AC

21-2

POD B

904
2.96 AC

902
11.07 AC

903

901
3.48 AC

NORTHWEST CORNER
JOHN W. TOWNSEND
DLC NO. 66

10 | 11
15 | 14

See Map 6.5.14

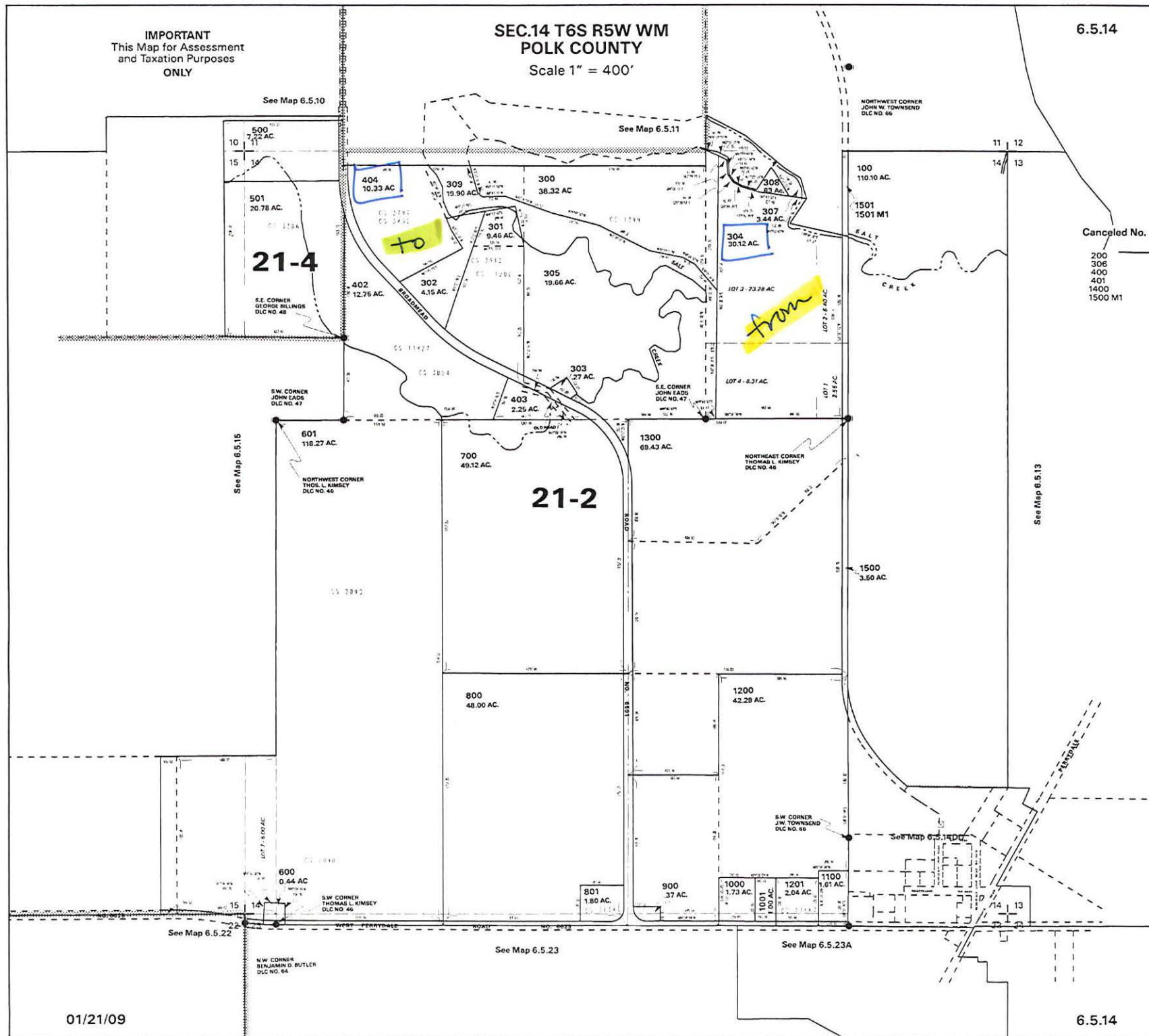
See Map 6.5.14

IMPORTANT
This Map for Assessment
and Taxation Purposes
ONLY

SEC.14 T6S R5W WM
POLK COUNTY

Scale 1" = 400'

6.5.14



*No conflict on
From lands From lands.*

Place of Use Conflict Report

The following rights have acreage in the same quarter-quarter as Cert:79992 OR * *(NW1/4)*

Right	Name	Decree	App	Permit	Cert	Priority	Status	Use	T-R-S-QQ	DLC Gov't Lot	Acre
<u>CERT:60020 OR *</u>	SPOKANE BANK FOR COOPERATIVES	6-6717	6-6352	60020	11/8/1974	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SENE	☐		
								06.005-05.00W-14-SWNE	☐		
<u>PERMIT:G 10908 *</u>	SPOKANE BANK FOR COOPERATIVES	6-11825	6-10908		6/22/1988	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>PERMIT:G 10986 *</u>	PERRYDALE DOMESTIC WATER ASSOCIATION	6-11913	6-10986		4/24/1989	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>PERMIT:G 10987 *</u>	PERRYDALE DOMESTIC WATER ASSOCIATION	6-11935	6-10987		6/16/1989	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>PERMIT:G 12721 *</u>	PERRYDALE DOMESTIC WATER ASSOCIATION	6-13929	6-12721		12/28/1994	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>APP:G 17130 *</u>	RAY HOBSON	6-17130			10/28/2008	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>APP:LL 1233 *</u>	RAY HOBSON	LL-1233			7/27/2009	NC	QM	06.005-05.00W-14-NENE	☐		
								06.005-05.00W-14-NWNE	☐		
								06.005-05.00W-14-SWNE	☐		
								06.005-05.00W-14-SENE	☐		
<u>APP:P 77483 *</u>	CALVIN HAIGHT	P-77483			12/30/1994	NC	LV	06.005-05.00W-14-	☐		
								06.005-05.00W-14-	☐		
								06.005-05.00W-14-	☐		
								06.005-05.00W-14-	☐		
<u>CERT:30028 OR *</u>	R L WALKER	R-24551	R-1405	30028	3/28/1950	NC	ST	06.005-05.00W-14-NWNE	☐	3	
								06.005-05.00W-14-NWNE	☐	47	
								06.005-05.00W-14-SWNE	☐	47	
<u>INCHOATE T 7814 CF (RES) *</u>	THE BROADMEAD TRUST, HARPER, HEIDI	5-24552	5-21652		3/28/1950	NC	IR	06.005-05.00W-14-NENE	☐	2	2.0000
								06.005-05.00W-14-NWNE	☐	3	1.2000
<u>CERT 46498 OR *</u>	DAN VAN OTTEN	5-52998	5-40005	46498	4/16/1975	NC	IR	06.005-05.00W-14-SWNE	☐	47	0.8000
<u>PERMIT S 54066 *</u>	KEN EICHLER	S-85753	S-54066		8/26/2003	NC	IR	06.005-05.00W-14-NENE	☐		32.0000
								06.005-05.00W-14-NWNE	☐		9.0000
								06.005-05.00W-14-SENE	☐		33.1000
<u>PERMIT S 54505 *</u>	DAN VAN OTTEN	S-87270	S-54505		8/4/2008	NC	IR	06.005-05.00W-14-NWNE	☐		2.0000
								06.005-05.00W-14-SWNE	☐		4.0000

n. of river ✓

north of river NCR

NCR

E of From Pou

DLC 46 almost str.

To lands in 14

Water Rights Platcard Report

Meridian: Township: South Range: West Section: Records per Page: Search

New Platcards Maps! Learn about * Mapped by Type * Mapped by Use

Water Right	Changing Acre	Priority	Use	Use Status	DLC	Gov't Loc	QQ(40) Q(100)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Permit: S 51476 CN Additional Info: KEITH SPENCER App: S70963 Permit: S51476	12/3/1990		GREENHOUSE	CN											*									
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652	3/28/1950		IRRIGATION		2			(2)																
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652	3/28/1950		IRRIGATION		3			(1.2)																
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652	3/28/1950		IRRIGATION		47																			
Select Permit: S 51476 CN Additional Info: KEITH SPENCER App: S70963 Permit: S51476	12/3/1990		IRRIGATION	CN																				
Select Permit: S 53659 * Additional Info: SCHARF BROTHERS FARMS; SCHARF, JOHN E App: S84168 Permit: S53659	6/9/1999		IRRIGATION												12.5				6.7	1.1				
Select Cert: 14401 OR * Additional Info: KARL BRUINSMA App: S16938 Permit: S12688 Cert: 14401			IRRIGATION		46											16.4			4.8					
Select Cert: 29446 OR * Additional Info: JACOB BAKKER App: S32160 Permit: S25372 Cert: 29446	3/5/1958		IRRIGATION		46										12				0.9					
Select Cert: 30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029	3/28/1950		IRRIGATION	CN	2			2																
Select Cert: 30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029	3/28/1950		IRRIGATION	CN	3			1-2																

10% North
X 2-2 5-2

1 2 3 4

Acreage Legend: 12.25 Regular acreage 4-25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate) [12.25] Acreage has been suspended * Acreage is not specified

Water Rights Platcard Report

Meridian: Willamette Township: 6 South Range: 5 West Section: 14 Records per Page: 10 Search New Platcards Maps! [Learn about](#) * [Mapped by Type](#) * [Mapped by Use](#)

Water Right	Changing Meters	Priority	Use	Use Status	DLC	Gov't Lot	Q(40)	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown	QQ		
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION	CN	47																														
Select Cert:32695 OR * Additional Info: JACOB BAKKER App: S39332 Permit: S29285 Cert: 32695		12/27/1963	IRRIGATION		46									9.5				1																	
Select Cert:39204 OR * Additional Info: JACOB BAKKER App: S47483 Permit: S35555 Cert: 39204		8/27/1970	IRRIGATION		47									4.8																					
Select Cert:46498 OR * Additional Info: DAN VAN OTTEN App: S52998 Permit: S40005 Cert: 46498		4/16/1975	IRRIGATION		46									0.4																					
Select Cert:46498 OR * Additional Info: DAN VAN OTTEN App: S52998 Permit: S40005 Cert: 46498		4/16/1975	IRRIGATION		47				0.8					0.7																					
Select Cert:61973 OR * Additional Info: ROBERT TRACEY App: S65574 Permit: S47671 Cert: 61973		8/17/1983	IRRIGATION		47									3.7	0.1																				
Select Inchoate: T 9321 CF (REG) WD Additional Info: KEN EICHLER App: S70140 Permit: S50853		12/13/1989	IRRIGATION	WD					(20-2)																										
Select Permit:S 54066 * Additional Info: KEN EICHLER App: S85753 Permit: S54066		8/26/2003	IRRIGATION					32	9					33.1	8.3														33			9.3			
Select Permit:S 54505 * Additional Info: DAN VAN OTTEN App: S87270 Permit: S54505		8/4/2008	IRRIGATION						2	4																									
Select Cert:79992 OR * Additional Info: LEROY GILSON App: S70140 Permit: S50853 Cert: 79992		12/13/1989	IRRIGATION		1						2																								

1234

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

Water Rights Platcard Report

Meridian: Township: South Range: West Section: Records per Page: Search

New Platcards Maps! Learn about * Mapped by Type * Mapped by Use

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Govt Lot	QQ(40) Q(160)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NW SE	SW SE	SE SE	Unknown QQ
Select Cert:79992 OR * Additional Info: LEROY GILSON App: 570140 Permit: S50853 Cert: 79992		12/13/1989	IRRIGATION				2	3.1															
Select Cert:79992 OR * Additional Info: LEROY GILSON App: 570140 Permit: S50853 Cert: 79992		12/13/1989	IRRIGATION				3	15.7															
Select Cert:79992 OR * Additional Info: LEROY GILSON App: 570140 Permit: S50853 Cert: 79992		12/13/1989	IRRIGATION				4	7.2															
Select App:P 77483 * Additional Info: CALVIN HAIGHT App: P77483		12/30/1994	LIVESTOCK																				
Select Cert:61973 OR * Additional Info: ROBERT TRACEY App: S65574 Permit: S47671 Cert: 61973		8/17/1983	LIVESTOCK				47																
Select Permit:S 53555 * Additional Info: BROADMEAD TRUST; HARPER, HEIDI App: S81522 Permit: S53555		9/10/1996	NURSERY USES																				
Select Permit:G 10908 * Additional Info: SPOKANE BANK FOR COOPERATIVES App: G11825 Permit: G10908		6/22/1988	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Select Permit:G 10986 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G11913 Permit: G10986		4/24/1989	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Select Permit:G 10987 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G11935 Permit: G10987		6/16/1989	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Select Permit:G 12721 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G13929 Permit: G12721		12/28/1994	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

7.5 on same land (chursey use)

1234

Acreege Legend: 12.25 Regular acreege 42.25 Acreege is on a canceled right (12.25) Acreege is part of a transfer and has not been proven up on yet (inchoate) [12.25] Acreege has been suspended * Acreege is not specified

Water Rights Platcard Report

Meridian: Township: South Range: West Section: Records per Page: Search New Platcards Mapped by Type * Mapped by Use

Water Right	Changing Xref	Priority	Use	Use Status	DLC	Govt Tot	QQ(40) Q(169)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Cert:60020 OR * Additional Info: SPOKANE BANK FOR COOPERATIVES App: G6717 Permit: G6352 Cert: 60020		11/8/1974	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select App:G 17130 * Additional Info: RAY HOBSON App: G17130		10/28/2008	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select App:LL 1233 * Additional Info: RAY HOBSON App: LL1233		7/27/2009	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Cert:14357 OR * Additional Info: KARL BRUINSMA App: R18021 Permit: R729 Cert: 14357		5/11/1939	STORAGE		46									*										
Select Cert:30028 OR * Additional Info: R L WALKER App: R24551 Permit: R1405 Cert: 30028		3/28/1950	STORAGE		3			*																
Select Cert:30028 OR * Additional Info: R L WALKER App: R24551 Permit: R1405 Cert: 30028		3/28/1950	STORAGE		46									*										
Select Cert:30028 OR * Additional Info: R L WALKER App: R24551 Permit: R1405 Cert: 30028		3/28/1950	STORAGE		47			*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Cert:30028 OR * Additional Info: R L WALKER App: R24551 Permit: R1405 Cert: 30028		3/28/1950	STORAGE		48							*												

1234

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

to lands - in (11)

Water Rights Platcard Report

Meridian: Willamette Township: 6 South Range: 5 West Section: 11 Records per Page: 10 Search New Platcards Maps! [Learn about](#) * [Mapped by Type](#) * [Mapped by Use](#)

Water Right	Changing Meters	Priority	Use	Use Status	DLC	Govt Lts	Q3(40)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown
Select App: 5 72458 RJ Additional Info: EVERGREEN AGRICULTURAL ENTERPRISES INC. App: S24552		6/16/1992	IRRIGATION	RJ																				
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION																				(2)	
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION							(14.5)														
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION																				(23.9)	
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION																				(21.7)	
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION																				(3.2)	
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION					(0.2)	(10)					(10.2)	(31.5)	(40)	(18.2)	(7.3)	(26.1)			(16.6)	(13.2)	
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION					(13.4)		(7.2)	(35.9)	(17.2)	(3.2)	(5.6)										
Select Inchoate: T 7814 CF (REG) * Additional Info: THE BROADMEAD TRUST; HARPER, HEIDI App: S24552 Permit: S21652		3/28/1950	IRRIGATION										(2.8)	(3.6)										
Select Cert: 30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION	CN																			2	

1 2 3 4
 Acreage Legend: 12.25 Regular acreage 12.25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate) [12.25] Acreage has been suspended * Acreage is not specified

Water Rights Platcard Report

Meridian: Willamette Township: 6 South Range: 5 West Section: 11 Records per Page: 10 Search New Platcards Maps! [Learn about](#) * [Mapped by Type](#) * [Mapped by Use](#)

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40) Q(160)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unkown QQ
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN							44.5														
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN																			22.9		
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN																			21.6		
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN																				3.2	
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN				47	0.2	10			2.2	40	18.2	16	26.8	16.6	13.2						
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN				67	13.4		7.2	35.9	13.2	3.2	5.6										
Select Cert:30029 OR CN Additional Info: R L WALKER App: S24552 Permit: S21652 Cert: 30029		3/28/1950	IRRIGATION CN				68					2.6	3.6											
Select Cert:66586 OR * Additional Info: ROBERT T WALKER App: S60789 Permit: S45352 Cert: 66586		9/23/1980	IRRIGATION				67					0.1												
Select Cert:66586 OR * Additional Info: ROBERT T WALKER App: S60789 Permit: S45352 Cert: 66586		9/23/1980	IRRIGATION				68					16.4	2.4											
Select Cert:66607 RR * Additional Info: R L WALKER FARMS INC. App: S20653 Permit: S18862 Cert: 66607		7/23/1945	IRRIGATION				67					1.7												

1 2 3 4

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

Water Rights Platcard Report

Meridian: Township: South Range: West Section: Records per Page: Search New Platcards Maps! [Learn about](#) * [Mapped by Type](#) * [Mapped by Use](#)

Water Right	Changing Years	Priority	Use	Use Status	DLC	Gov't Let	QQ(10): Q(100)	NE NE	NW NE	SW NE	SE NE	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Permit: S 54066 * Additional Info: KEN BICHLER App: S85753 Permit: S54066		8/26/2003	IRRIGATION															0.1					
Select Permit: S 53555 * Additional Info: BROADMEAD TRUST; HARPER, HEIDI App: S81522 Permit: S53555		9/10/1996	NURSERY USES												19.5	9.5	7.3	23.2		1.5	1.5		
Select Permit: G 10908 * Additional Info: SPOKANE BANK FOR COOPERATIVES App: G11825 Permit: G10908		6/22/1988	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Permit: G 10986 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G11913 Permit: G10986		4/24/1989	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Permit: G 10987 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G11935 Permit: G10987		6/16/1989	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Permit: G 12721 * Additional Info: PERRYDALE DOMESTIC WATER ASSOCIATION App: G13929 Permit: G12721		12/28/1994	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Cert: 60020 OR * Additional Info: SPOKANE BANK FOR COOPERATIVES App: G6717 Permit: G6352 Cert: 60020		11/8/1974	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select App: G 17130 * Additional Info: RAY HOBSON App: G17130		10/28/2008	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select App: LL 1233 * Additional Info: RAY HOBSON App: LL1233		7/27/2009	QUASI-MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Select Cert: 71636 OR * Additional Info: ARVEY NELSON App: R79865 Cert: 71636		1/1/1993	RECREATION					*															

nonmap online

1 2 3 4

Acreage Legend: 12.25 Regular acreage \$2.25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate) [12.25] Acreage has been suspended * Acreage is not specified



Oregon

Theodore R. Kulongoski, Governor

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

August 10, 2009

THE BROADMEAD TRUST
8603 DIXIE HIGHWAY #205
MIAMI FL 33143

SUBJECT: Water Right Transfer Application T-10473

Please find the enclosed draft of the Preliminary Determination regarding Transfer Application T-10473. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and respond as to whether you agree with the proposed action.

At this time, you must submit a report of land ownership for the lands to which the water right is appurtenant (the FROM lands). The report must be prepared by a title company. The title company's report must either be: 1) prepared within three months of this draft Preliminary Determination, or 2) reflect ownership information within three months of the recording of any water right conveyance agreements for the property in the county deed records. The ownership report shall include:

- Date reflected by the ownership information
- List of owners at that time
- Legal description of the property to which the water right involved in the transfer is currently appurtenant.

You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the transfer application, or other information such as a water right conveyance agreement, if applicable.

A fish screening and/or by-pass device and water measurement devices are required at the new diversion points. Enclosed are contact information sheets to assist you in pursuing additional information or approval of these requirements.

The Department understands that the intent is to transfer only 13.31 acres of 28.0 acres authorized, which will allow the use of water not to exceed 28.0 acre feet, being 2.10 acre-feet of water per acre on the "to" lands. For record keeping purposes, please complete an Affidavit to cancel the remaining 14.69 acres that will no longer be irrigated. A suggested form is enclosed for your use.

Because Diversion Point C is more than ¼ mile from the authorized point of diversion, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership information. If we do not receive the report by **Wednesday, September 9th, 2009** a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-986-0899 or Alyssa.M.Mucken@wrp.state.or.us if I may be of assistance.

Sincerely,

Alyssa Mucken
Transfer Specialist
Field Services Division

cc: T-10473, WM #16, J. Boatwright
enc: Contact Sheets (2); Cancellation Affidavit



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

In the Matter of Transfer Application)
T-10473, Polk County)

D R A F T

) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A CHANGE
) IN POINT OF DIVERSION, PLACE OF
) USE AND PARTIAL CANCELLATION OF
) A WATER RIGHT

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

THE BROADMEAD TRUST
8603 DIXIE HIGHWAY #205
MIAMI, FLORIDA 33143

Agent

JEANNE BOATWRIGHT
2613 12TH STREET
SALEM, OREGON 97302

Findings of Fact

Background

1. On October 19, 2007, The Broadmead Trust filed an application to change the point of diversion and the place of use under Certificate 79992. The Department assigned the application number T-10473.

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

Certificate: 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust), perfected under Permit S-50853

Use: Irrigation of 13.31 acres

Priority Date: December 13, 1989

Rate: 28.0 acre feet

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

not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	DIV PT D: 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF J EADES DLC 47

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NE NE	2	3.1
6 S	5 W	WM	14	NW NE	3	1.01
6 S	5 W	WM	14	SW NE	4	7.2
6 S	5 W	WM	14	SE NE	1	2.0

- Transfer Application T-10473 proposes to change the authorized point of diversion from Division Point D to Diversion Points B and C listed below, being 235.0 feet upstream and 2.0 miles downstream, respectively:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	11	SE SW	47	DIV PT B: 3138 FEET SOUTH AND 1420 FEET EAST FROM THE NW CORNER OF JOHN EADES DLC 47
6 S	5 W	WM	11	SE NE	47	DIV PT C: 400 FEET SOUTH AND 3750 FEET EAST FROM THE NE CORNER OF GEORGE BILLINGS DLC 48

- Application T-10473 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	5 W	WM	11	SW NE		47	0.73
6 S	5 W	WM	11	NE NW		67	1.82
6 S	5 W	WM	11	NW NW		67	0.52
6 S	5 W	WM	11	SE NW		47	1.23
6 S	5 W	WM	11	SE NW		67	0.19
6 S	5 W	WM	11	SW SW		47	0.88
6 S	5 W	WM	11	NW SE		47	0.58
6 S	5 W	WM	11	NW SE	4		0.17
6 S	5 W	WM	14	NE NW		47	0.01
6 S	5 W	WM	14	NW NW		47	7.18

- Notice of the application for transfer was published on October 30, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new points of diversion to prevent fish from

entering the diversions and/or safely transport fish back to the body of water from which the fish were diverted and that the diversions are not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

- 7. The right was used under Temporary Transfer T-9322 during the 2003 through 2007 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10473.
- 9. The proposed changes would not result in enlargement of the right.
- 10. The proposed changes would not result in injury to other water rights.

Partial Cancellation of a Water Right

- 11. On _____, 2009, an affidavit requesting cancellation of a portion of the right was received from _____. The cancellation, which only affects acreage, will allow the applicant to apply 2.10 acre-feet of water per acre under this right. The portion of the right to be cancelled is as follows:

Certificate: 79992 in the name of Ken Eichler (updated on August 14, 2007 to The Broadmead Trust), perfected under Permit S-50853
Use: Irrigation of 14.69 acres
Priority Date: December 13, 1989
Source: Walker Van-Otten Reservoir, perfected under Certificate 30028, tributary to Salt Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	14	NW NE	3	1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF JOHNE EADES DLC 47

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	14	NW NE	3	14.69

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-10473 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and a portion of the right should be cancelled. If protests are not filed pursuant to

OAR 690-380-4030, the transfer application will be approved and a portion of the right will be cancelled.

If application T-10473 is approved, the final order will include the following:

1. *The changes in point of diversion and place of use proposed in application T-10473 are approved. The portion of the right that has been abandoned is cancelled.*
2. *Water right certificate 79992 is cancelled.*
3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 79992 and any related decree.*
4. *The quantity of water diverted at the new diversion points, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *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 point of diversion.*
 - 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.*
6. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change(s) and full beneficial use of the water.*

9. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

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

D R A F T

Phillip C. Ward, Director

This draft Preliminary Determination was prepared by Alyssa Mucken. If you have questions about the information in this document, you may reach me at 503-986-0899 or Alyssa.M.Mucken@vrd.state.or.us



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

September 14, 2009

James D. Harper Jr.
11120 McCann Road
Amity, Oregon 97101

Reference: Application S- 81522, Permit S-53555, Application R-81521, Permit R-12635
Transfer T-7814, **Transfer T-10473**

The assignment from The Broadmead Trust to Broadmead, LLC has been recorded in the records of the Water Resources Department.

Our records have been changed accordingly and the original request is enclosed. Receipt number 97784 covering the recording fee of \$300 is also enclosed.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure: Receipt 97784

cc: Watermaster 16
Jeanne or Corbey Boatwright - Agent
Data Center, OWRD (Complete Copy of Assignment Request)
Hydrographics
Sarah Henderson - for Transfers
File



Alyssa Mucken

From: BOATWRIGHT ENGINEERING [boatwrightengr@yahoo.com]
Sent: Wednesday, August 05, 2009 3:12 PM
To: Alyssa Mucken
Subject: Re: T-10473 (The Broadmead Trust)

Hi Alyssa-

You are right, all of those corrections need to be made. The 13.31 acres matches up with the map, which then changes the duty. The 170' should have come directly from the previous Proof Survey without any extra 0's. I have noted the changes on my maps and forms.

Thanks for the sharp eye!

Jeanne

Boatwright Engineering, Inc
2613 12th Street SE
Salem, Oregon 97302
Tele: 503.363.9225

--- On Wed, 8/5/09, Alyssa Mucken <muckenam@wrd.state.or.us>

From: Alyssa Mucken <muckenam@wrd.state.or.us>
Subject: T-10473 (The Broadmead Trust)
To: "boatwrightengr@yahoo.com" <boatwrightengr@yahoo.com>
Date: Wednesday, August 5, 2009, 10:16 AM

Hi Jeanne -

I'm working on the Draft Preliminary Determination for transfer T-10473 (The Broadmead Trust) and noticed that the "total" listed on Page 6, Supplemental Form A is off slightly (13.31 vs. 13.23). Because of the slight difference, this will also adjust the duty to 2.10'/AC.

Before I proceed forward, I wanted to clarify the total acreage to be transferred.

Also, there is a small typo on the map for the POD location of Diversion D (the "from" POD). It should be 170', rather than 1700'.

note: should be
fix the 1700'
on Jeanne's
behalf - from
her email it
didn't seem like
she was going
to send us a
new map

Could you take a look at these items, and make any adjustments that are needed? Once I hear back from you, it shouldn't take me long to get the DPD issued.

Thanks Jeanne -

Alyssa

Alyssa Mucken

Transfer Specialist

Oregon Water Resources Department

725 Summer Street, Suite A

Salem, Oregon 97301

503-986-0899



Oregon

Theodore R. Kulongoski, Governor

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

October 29, 2007

The Broadmead Trust
8603 Dixie Highway #205
Miami, Florida 33143

Reference: Transfer 10473

On October 19, 2007 we received your water right transfer application. The application was accompanied by \$800.00. Our receipt 90247 is enclosed.

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

Your application will be examined to determine if additional information is needed. You will be contacted following this examination. A number of other transfer applications are also awaiting review. As a result, it may be some time before we are able to process your application. If you wish to have your application processed more quickly, you may want to consider use of the Department's reimbursement authority. Under this authority an applicant may receive expedited review by paying the full cost for a pre-qualified contractor to process the applications. For more information on the Reimbursement Authority program, see our website at http://www.wrd.state.or.us/OWRD/mgmt_reimbursement.shtml or call the transfer section.

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

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

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

cc: Watermaster #16
Jeanne or Corby Boatwright, Agent
Ken & Deborah Eichler, Trustees, Landowner
Karen Hans, ODFW

enclosure



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

Notice of Application for Water Right Transfer, Temporary Transfer, or Permit Amendment 10/30/07

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

County: POLK
Transfer: 10473
Water Right: CERT 79992
Priority Date: 1989
Name: THE BROADMEAD TRUST
Address: 8603 DIXIE HIGHWAY #205, MIAMI, FL 33143
Change: POU/POD
Source: WALKER-VAN OTTEN RESERVOIR
Authorized POD: T6S R5W 14
Proposed POD: T6S R5W 11
Authorized POU: T6S R5W 14
Proposed POU: T6S R5W 11, 14

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

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

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

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

Please Return by 11-27-07

NW

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

Reference Transfer #: 10473

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

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

(Please attach any available supporting information.)

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

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

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

Note: This option will yield the following:

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

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

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

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

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

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

T-10473

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

Note: This option will yield the following:

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

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

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

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

Note: This option will yield the following:

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

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

T-10473

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

Note: This option will yield the following:

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

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

Danette Ehlers

Signature

Danette L. Ehlers

Printed Name

Asst. District Fish Biologist

Title

(971) 673-6013

Phone

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

Transfer # 10473

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

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

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

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

ODFW staff name: Bob Hair, Field Coordinator
Address: 3561 Klindt Dr.
City/State/Zip: The Dalles, OR 97058
Phone: (541) 296-8026

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

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



First American

First American Title Insurance Company of Oregon
PO Box 451 Dallas, OR 97338
807 Main St, Dallas, OR 97338
Phn - (503)623-5513
Fax - (866)712-4648

RECEIVED

SEP 16 2009

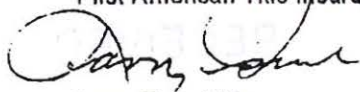
**WATER RESOURCES DEPT
SALEM, OREGON**

Boatwright Engineering
2613 12th Street S.E.
Salem, Oregon 97302

To whom it may concern regarding our report number 1466460

I hereby certify that the land that is the subject of the above numbered report was owned on **October 3, 2007** by Kenneth W. Eichler and Deborah L. Eichler, Trustees, and the Successor Trustees of the Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002

First American Title Insurance Company of Oregon


Larry Bick VP

related to
Broadmead
Trust File
(ANSSA) T-10473



First American

First American Title Insurance Company of Oregon
PO Box 451 Dallas, OR 97338
807 Main St, Dallas, OR 97338
Phn - (503)623-5513
Fax - (866)712-4648

POLK COUNTY TITLE UNIT

FAX (866)712-4648

Title Officer: **Larry A. Bick**
(503)623-5513
lbick@firstam.com

LOT BOOK REPORT

Jim Harper
11120 McCann Rd
Amity, OR 97101

Order No.: 7129-1466460
September 15, 2009

Attn:
Phone No.: - Fax No.:
Email:

Re:

Fee: \$275.00

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

The land referred to in this report is described in Exhibit A attached hereto.

and as of August 31, 2009 at 8:00 a.m.

We find that the last deed of record runs to

Kenneth W. Eichler and Deborah L. Eichler, Trustees and the Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002

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

1. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
2. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
3. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of Salt Creek.

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4. Any adverse claim based upon the assertion that some portion of said land has been removed from or brought within the boundaries thereof by an avulsive movement of the Salt Creek or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.
5. Easement, Including terms and provisions contained therein:
Recording Information: February 05, 1934 Book 95 and Page 489, Deed Records for Polk County,
For: Road purposes
6. Easement, including terms and provisions contained therein:
Recording Information: August 11, 1958 Book 167 and Page 526, Book of Records for Polk County
In Favor of: Portland General Electric Company, a corporation of Oregon
7. An easement reserved in a deed, including the terms and provisions thereof;
Recorded: February 02, 1990 Book 230 and Page 114, Book of Records for Polk County Oregon and November 24, 1997 Book 344 and Page 1969, Book of Records for Polk County, Oregon
For: Reservation of easement
Affects: 20 feet in width
8. An easement reserved in a deed, including the terms and provisions thereof;
Recorded: May 18, 1998 in Book 355, Page 71 Book of Records
From: Daniel Van Otten and Anne Van Otten
To: The Broadmead Trust, Heidi L. Harper, Trustee
For: Ingress and Egress
Affects: See survey map for exact location
9. An easement reserved in a deed, including the terms and provisions thereof;
Recorded: February 02, 1999 Book 372 and Page 330, Book of Records for Polk County, Oregon
10. Deed of Trust and the terms and conditions thereof.
Grantor/Trustor: Ken Eichler
Grantee/Beneficiary: Leroy Gilson
Trustee: First American Title Insurance Co. of Oregon
Amount: \$700,000.00
Recorded: June 05, 2002
Recording Information: 2002-008702
(Covers additional property)
11. Reservoir Water Storage Encroachment Easement, including terms and provisions thereof.
Recorded: October 03, 2007 as Document No. 2007-015377, Book of Records
12. Unrecorded leases or periodic tenancies, if any.

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NOTE: This Lot Book Report does not include a search for Financing Statements filed in the Office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a Financing Statement is filed in the Office of the County Clerk covering Crops on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

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

NONE

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

1. Taxes for the fiscal year 2009-2010 a lien due, but not yet payable.

NOTE: Taxes for the year 2008-2009 PAID IN FULL

Tax Amount:	\$307.11
Map No.:	06514-00-00304
Property ID:	474360
Tax Code No.:	2102

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

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Exhibit "A"

Real property in the County of Polk, State of Oregon, described as follows:

Beginning at an iron pipe on the North line of the Thomas Kimsey Donation Land Claim No. 46 in Section 14, Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said iron pipe being North 89° 56' 39" East 81.10 feet from an iron pipe marking the Southeast corner of the John Eades Donation Land Claim No. 47 in said Township and Range; and running thence North 0° 38' 36" East 1827.67 feet to an iron pipe; thence South 62° 59' 16" East 63.44 feet to an iron pipe; thence South 4° 06' 12" East 105.38 feet to an iron pipe; thence South 35° 30' 53" East 64.34 feet to an iron pipe; thence South 60° 49' 26" East 62.87 feet to an iron pipe; thence South 73° 26' 35" East 129.37 feet to an iron pipe; thence South 81° 43' 52" East 327.60 feet to a point on the Northerly line of a tract of land conveyed to Daniel A. and Anne Van Otten by deed recorded in Volume 142, Page 185, Deed Records for Marion County, Oregon; thence South 32° 02' West along said Northerly line, 200.00 feet to an angle point in said line; thence South 78° 48' 30" East continuing along said Northerly line, 371.37 feet to a point on the West line of the Southern Pacific Railroad right-of-way; thence South 0° 07' West along said West right-of-way line, 1281.14 feet to an iron pipe on the North line of the aforesaid Thomas Kimsey Donation Land Claim No. 46; thence South 89° 56' 39" West along said Claim line, 880.66 feet to the point of beginning.

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

Tax Parcel Number: 474360

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After recording, return to:
Walter R. Gowell, Attorney
P.O. Box 480
McMinnville, OR 97128
Send Tax Statements to:
No Change



\$96.00

00187835200700153770140142 10/03/2007 11:52:00 AM

EXHIBIT C

REC-EAS Cnt=1 Sln=1 K. WILLIAMS
\$70.00 \$10.00 \$11.00 \$5.00

RESERVOIR WATER STORAGE
ENCROACHMENT EASEMENT

THIS ENCROACHMENT EASEMENT for the storage of reservoir waters, made this 14th day of August, 2007 by Kenneth W. Eichler and Deborah L. Eichler, Trustees, and the Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002, hereinafter called the Grantors, in favor of The Broadmead Trust, hereinafter called the Grantee;

WITNESSETH:

WHEREAS: Grantors are the record owners of the following described real estate in Polk County, State of Oregon, to-wit:

see Attachments A and B, incorporated herein by this reference

and have the unrestricted right to grant the reservoir encroachment easement hereinafter described over, under and upon:

All those portions of the Grantors' above-described real property located in Sections 11, 14 or 15 of Township 6 South, Range 5 West of the Willamette Meridian lying below an elevation level of one hundred fifty-one feet (151') above mean sea level and contiguous with that certain Walker Van-Olden Dam reservoir identified in State of Oregon Certificate of Water Right No. 30228, hereinafter described as the "Easement Area".

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged; including the performance of that certain Mutual Release and Settlement Agreement dated 8/14 2007, which is attached hereto and incorporated by reference; Grantors do hereby grant and convey unto Grantee a perpetual non-exclusive easement for encroachment of stored reservoir waters on, over, under and upon the confines of the Easement Area.

This perpetual reservoir water storage encroachment easement is for the benefit of, runs with the land, and shall hereafter be appurtenant to the following described real estate, more particularly described as follows, to-wit:

All of Grantee's real property now or hereafter owned in Sections 2, 10, 11, 14 and 15 of Township 6 South, Range 5 West of the Willamette Meridian, in Polk County, Oregon.

This encroachment easement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto, but also their respective heirs, executors, administrators, successors and assigns.

In construing this encroachment easement and where the context so requires, words in the singular include the plural; the masculine includes the feminine and the neuter; and generally, all changes shall be made or implied so that this instrument shall apply both to individuals and to corporations.

IN WITNESS WHEREOF, the parties hereto have subscribed this instrument on this, the day and year first hereinabove written.

Kenneth W. Eichler, Grantor

Deborah L. Eichler, Grantor

STATE OF OREGON)

County of Polk)

) ss

8-14-07-2007

Personally appeared the above named Kenneth W. Eichler and Deborah L. Eichler, as Trustees and Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, who acknowledged the within instrument as their true and voluntary act and deed.

Before me:



Notary Public for Oregon
My Commission Expires: 1-6-11

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ATTACHMENT "A"

PARCEL I

At that portion of the following described property lying South of the Section line common to Sections 11, 12, 13 and 14, to-wit: Beginning at an iron pipe on the Westerly boundary of the County Road, said iron pipe being located North 832.91 feet and East 1216.38 feet and South 23° 05' West 29.7 feet and South 63° 00' East 81.50 feet from the Southeast corner of the Thomas Kinsey Donation Land Claim No. 46 in Township 6 South, Range 5 West of the Willamette Meridian, Polk County, Oregon; thence North 83° 00' West 81.50 feet to an iron pipe; thence North 23° 05' East 121.63 feet to an iron pipe; thence West 852.9 feet to an iron pipe on the Easterly boundary of the Southern Pacific Railroad right-of-way; thence Northerly along said Easterly Railroad boundary to a point which is the most Southerly corner of the most Northerly parcel of that certain tract of land conveyed to Daniel A. Van Otten, et al, in Volume 142, Page 181, Deed Records of Polk County, Oregon; thence Easterly to a point which is West 16.35 chains and South 10° 30' West 23.94 chains from the one quarter corner common to Sections 11 and 12 in said Township and Range; thence South 35° 30' East 1.48 chains; thence East 3.43 chains; thence North 66° 00' East 2.54 chains; thence North 64° 00' East 7.40 chains; thence North 77° 00' East 5.44 chains; thence South 10° 00' East 11.20 chains to a point on the North boundary of the John Townsend Donation Land Claim No. 66 in said Township and Range, which point is West 20.12 chains from the Northeast corner of said Claim; thence South 14° 30' East 3.58 chains; thence South 32° 00' East 9.20 chains; thence South 40° 00' East 4.77 chains; thence South 0° 30' East 1.50 chains; thence South 21° 15' West 3.14 chains; thence East to a point on the Westerly boundary of said County Road, Perrydale to Arnlly; thence Southwesterly along said Road boundary to the place of beginning.

PARCEL II

Beginning at an iron pipe on the North line of the Thomas Kinsey Donation Land Claim No. 46 in Section 14, Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said iron pipe being North 69° 56' 39" East 61.10 feet from an iron pipe marking the Southwest corner of the John Eades Donation Land Claim No. 47 in said Township and Range; and running thence North 0° 38' 33" East 1827.67 feet to an iron pipe; thence South 62° 58' 16" East 63.44 feet to an iron pipe; thence South 4° 08' 12" East 105.28 feet to an iron pipe; thence South 35° 30' 53" East 64.34 feet to an iron pipe; thence South 60° 49' 26" East 62.67 feet to an iron pipe; thence South 73° 26' 35" East 129.37 feet to an iron pipe; thence South 61° 43' 52" East 327.60 feet to a point on the Northerly line of a tract of land conveyed to Daniel A. and Anna Van Otten by deed recorded in Volume 142, Page 185, Deed Records for Marion County, Oregon; thence South 32° 02' West along said Northerly line, 200.00 feet to an angle point in said line; thence South 78° 48' 30" East continuing along said Northerly line, 371.37 feet to a point on the West line of the Southern Pacific Railroad right-of-way; thence South 0° 07' West along said West right-of-way line, 1281.14 feet to an iron pipe on the North line of the aforesaid Thomas Kinsey Donation Land Claim No. 46; thence South 69° 56' 39" West along said Claim line, 863.66 feet to the point of beginning.

PARCEL III

Beginning at an iron pipe which is 81.10 feet North 89° 48' 42" East and 878.52 feet North 00° 30' 35" East from the Southeast corner of the John Eades Donation Land Claim No. 47 in Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said pipe being on the West line of that tract of land conveyed to Leroy Gilson by that deed recorded November 24, 1997, in Book 344, Page 1809, Book of Records for Polk County, Oregon; thence North 39° 05' 39" West, 252.48 feet to an iron rod; thence North 69° 24' 52" West, 96.28 feet to an iron rod; thence North 78° 10' 11" West, 236.47 feet to an iron rod; thence North 63° 00' 07" West, 348.30 feet to an iron rod; thence North 76° 07' 53" West, 338.50 feet to an iron rod; thence North 70° 25' 51" West, 341.62 feet to an iron rod; thence South 88° 41' 11" West, 169.88 feet to an iron rod; thence North 80° 49' 50" West, 42.80 feet to an iron rod; thence North 16° 23' 35" West, 282.06 feet to an iron rod; thence North 14° 50' 08" East, 90.39 feet to an iron rod; thence North 69° 29' 51" East, 57.36 feet to an iron rod at a point on the Southerly line of that tract of land conveyed to The Broadmead Trust by that deed recorded in Book 304, Page 1504, Book of Records for Polk County, Oregon; thence South 83° 15' 25" East, 165.44 feet to an iron rod; thence South 66° 13' 02" East, 122.23 feet to an iron rod; thence South 71° 07' 04" East, 123.13 feet to an iron rod; thence South 78° 65' 14" East, 119.63 feet to an iron rod; thence South 67° 55' 34" East, 120.20 feet to an iron rod; thence North 65° 05' 33" East, 136.56 feet to an iron rod; thence North 78° 48' 30" East, 40.63 feet to an iron rod; thence South 80° 32' 31" East, 290.51 feet to an iron rod; thence North 71° 04' 35" East, 149.26 feet to an iron rod; thence South 89° 28' 43" East, 209.70 feet to an iron rod; thence North 63° 47' 31" East 111.67 feet to an iron rod; thence South 66° 42' 48" East 158.63 feet to an iron rod at the Northwest corner of the aforesaid Gilson tract of land; thence South 00° 30' 35" West, 949.30 feet more or less to the point of beginning.

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ATTACHMENT "B"

TRACT 1: Beginning at the Southeast corner of the Jonathan Comegy Donation Land Claim No. 49 (referred to as "Donation Land Claim No. 40" in the Deed recorded on December 13, 2002, in Book 2002, Page 018926 of the Deed Records of Polk County, Oregon) in Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; running thence North 40.25 chains; thence West 31.70 chains; thence South 40.25 chains; thence East 31.70 chains to the place of beginning.

TRACT 2: Lots Numbered One (1) and Two (2) of Section 15 in Township 6 South Range 5 West of the Willamette Meridian in Polk County, Oregon.

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MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Recitals

This Mutual Release and Settlement Agreement (the "Agreement") is entered into this 14th day of August 2007, by and between The Broadmead Trust ("Broadmead") and Kenneth W. Eichler ("Eichler") and their respective trusts, trustees, beneficiaries, spouses, family members, heirs and assigns (collectively, the "Parties").

Broadmead filed a civil action in the Circuit Court for the State of Oregon for the County of Polk (the "Action"), seeking recovery of money damages and injunctive relief from and against Eichler. Eichler filed an Answer and Counterclaim in the Action, seeking recovery of money damages from Broadmead. The Action was filed under the following caption:

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

Heidi L. Harper, as Trustee of THE)
BROADMEAD TRUST,)
) No. 03 P1295
Plaintiff,)
)
v.)
)
KENNETH W. EICHLER,))
)
Defendant.

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The Parties have entered into an Agreement, dated November 16, 2004, a copy of which is attached hereto as Exhibit A, as supplemented by terms agreed to on December 1, 2006, attached hereto as Exhibit B (collectively, the "Settlement Agreement"). The Parties desire to more clearly document their Settlement Agreement, but wish at all times for the Settlement Agreement to control their settlement of this matter.

Covenants

Now, therefore, it is hereby agreed between the parties that:

1. Easement to Broadmead. Eichler agrees to execute and be bound by an easement in the form attached as Exhibit C, and to support any application filed by Broadmead with the Oregon Water Resources Department (OWRD) seeking an increase in the authorized storage capacity of the Walker-VanOttten reservoir up to an elevation of 151' USGS on the upstream face of the Walker-VanOttten dam, subject only to the provisions of Paragraph 3, below. The 151' elevation shall be reflected in the Easement and in any water right application by Broadmead.

2. Assignment. Eichler agrees to assign to Broadmead his ownership of his water right to use water in the Walker-VanOttten reservoir as specified in Oregon Water Rights Certificate 79992 (Application No. 70140, Permit No. 50853) pursuant to the documents attached as Exhibit D.

3. Easement to Eichler. Broadmead agrees to execute and be bound by an Easement to Eichler in the form attached as Exhibit E, and to support any application filed by Eichler with OWRD seeking an increase in the authorized storage capacity of the Eichler Lower Reservoir authorized under OWRD Permit R-13835 ("Eichler Lower Reservoir") up to an elevation of 150' USGS on the downstream face of the Walker-VanOttten dam. Broadmead further agrees that to the extent of 30 acre feet, the Eichler Lower Reservoir has priority over any application by Broadmead seeking to expand the Walker-VanOttten reservoir over 47 acre feet, should OWRD determine that limited water is available for storage.

4. Stipulation to Dismissal. The Parties agree to dismiss the Action with prejudice and without costs or fees to any party.

5. Binding Arbitration of All Disputes. The Parties agree that Michael J. Scott of Scott Hookland, LLP shall act as the sole arbitrator of any disputes and/or claims arising from or related to this Agreement or any of its Exhibits. Mr. Scott's decision on any such matter shall be final and

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

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binding on the Parties and the Parties agree that any such decision may be filed and entered in the Polk County Circuit Court for the State of Oregon and have the full force and effect of a General Judgment. If Mr. Scott is unwilling or unable to act as the sole arbitrator, the Parties shall mutually agree upon a qualified arbitrator to replace Mr. Scott. If the Parties cannot agree on a qualified arbitrator to replace Mr. Scott, either or both parties shall apply to the Circuit Court of Polk County for a designation of an arbitrator after notice and a summary hearing on the matter.

6. Passthrough. Up to four times per year, water stored by Eichler in the Tucker Road reservoir ("Eichler Upper Reservoir"), located on Salt Creek above the Walker-VanOtten reservoir, shall be passed through the Walker-VanOtten reservoir to Eichler Lower Reservoir. On each occasion, Eichler shall measure the amount of water released, in turn, from the Walker-VanOtten reservoir. Each Party shall pay the cost of purchasing, installing, and maintaining an appropriate measuring device of the type typically approved by the OWRD for similar purposes. The Parties shall cooperate in ensuring that the measuring devices are compatible and provide comparable data. The Parties agree to designate a neutral third party to serve as an intermediary between them in implementing the provisions of this paragraph, including receiving notice from Eichler, and taking and maintaining the required measurements from both reservoirs. The cost of such third party services on each Party's property, if any, shall be borne by that Party. Until the Parties provide otherwise, by signed agreement, Mr. Bob Walker (12215 Ballston Road, Amity, Oregon 97101, Ph. 503-843-2035) shall serve as the neutral third party; in the event Mr. Walker is unavailable to serve due to either poor health or absence, Boatwright Engineering, Inc. (2613 12th Street SE, Salem, Oregon 97302, Ph. 503-363-9225) shall serve as the neutral third party. Eichler shall provide at least 24 hours notice to the designated third party and to counsel for Broadmead of an intended release from storage, including the approximate amount of water to be released (in acre-feet) and the approximate time required to accomplish the release and conveyance. Such notice shall be provided

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

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by speaking in person or by telephone with, or by delivering written notice to the designated third party and to counsel for Broadmead. The provisions of this paragraph are based on the Parties' mutual understanding and agreement that water released by Eichler and delivered to the Walker-VanOttens Reservoir must reasonably flow through the Reservoir, and will not puddle or evaporate within the Reservoir. If Broadmead does not timely comply with the release of water requirement of this pass-through provision, Eichler shall be entitled to liquidated damages of \$1,000 per day of non-compliance.

7. Payment to Eichler. In exchange for the rights granted to Broadmead under paragraphs 1 and 2 herein, Broadmead agrees to pay \$30,000 to the client trust account of Schwabe Williamson & Wyatt, upon execution of this Agreement and all its Exhibits.

8. Mutual Release. In consideration of the mutual promises and payment of money as set forth herein, and the various attachments hereto, the Parties hereby release and forever discharge each other, their trustees, insurance companies, beneficiaries, heirs, successors, assigns, agents, attorneys and servants of and from any and all claims and demands of every kind, name, nature or description, arising out of or related to, or in any way caused by the facts, circumstances and conduct alleged by any party to the Action, or based upon any facts occurring at any time before the date on which this Agreement is executed, and for any damages known or unknown. The Parties intend this to be a full, final and complete settlement, adjustment, and compromise of any and all claims based upon the allegations by any of the Parties, or which could have been brought under the facts and conduct alleged herein, including all claims and counterclaims.

9. No Admission of Liability. The Parties specifically acknowledge that this Agreement is a resolution of disputed claims. The Parties agree that the making of this Agreement is not and shall not be considered as an admission of liability on the part of any of the Parties, by whom liability

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is expressly denied.

10. Future Conduct. The Parties agree to mutually cooperate with each other and third-parties, including the Oregon Water Resources Department, to accomplish the objectives of this Agreement, including obtaining any permits and exchanging easements where necessary relating to either increasing the authorized storage capacity of the Walker-VanOttens reservoir to the elevation of 151' or increasing the authorized storage capacity of the Eichler Lower Reservoir to the elevation of 150'.

11. Notice of Water Storage. Prior to filling the Walker-VanOttens reservoir, Broadmead shall give Eichler 24 hours' notice so as to permit Eichler to put boards in the Eichler Upper Reservoir. For purposes of this paragraph, notice shall be provided by telephone call (including leaving a voice-mail message for Eichler), by delivery of written notice to Eichler at that address shown in Paragraph 16, or by other actual notice provided 24 hours in advance.

12. Entire Agreement. This Agreement and its Exhibits constitute the entire agreement among the Parties, which supersede any prior oral or written agreements or communications on the subject matter addressed herein. The Parties acknowledge that other than as contained in this Agreement and its Exhibits, no representations or promises of any kind have been made by or on behalf of the Parties or on which the Parties have relied in the slightest to execute this agreement.

13. Binding Effect. This Agreement shall be binding on and inure to the benefit to the Parties and their respective trustees, beneficiaries, legal representatives, heirs, successors, agents and assigns.

14. Severability. In the event that any provision, or any portion thereof, becomes or is declared by either Mr. Scott or a qualified replacement arbitrator as provided herein to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision

or portion of said provision.

15. Governing Law. This Agreement shall be construed, interpreted and enforced pursuant to the laws of the State of Oregon.

16. Notices. Except as provided in Paragraphs 6 and 11, any notice required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, and by first-class mail addressed to the parties and their counsel as follows:

Mr. Kenneth Eichler
8250 Tucker Road
Amity, Oregon 97101-9520

Schwabe Williamson & Wyatt, P.C.
Ms. Martha Pagel
Attorney at Law
1600-1900 Pacwest Center
12111 SW Fifth Avenue
Portland, Oregon 97204

The Broadmead Trust
c/o Mrs. Heidi Harper, Trustee
11120 McCann Road
Amity, Oregon 97101

Mr. John N. McKeegan
Attorney at Law
P.O. Box 480
McMinnville, Oregon 97128

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All notices and other communications shall be deemed to be given three (3) days after mailing as required above. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided above.

17. Modification. Any modifications to this Agreement must be made in writing and signed by all of the parties.

18. Certification. The Parties have executed this Agreement only after full and ample

opportunity to carefully consider it, reflect at length, and after consultation with experienced attorneys of their own choosing. The Parties recognize this Agreement contains a full and final mutual release. The Parties likewise recognize this instrument as a binding contractual commitment, not a mere recital. The undersigned hereby certify that they have the authority to enter into this agreement on behalf of all of the Parties.

19. Counterparts. This instrument may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties.

20. Recording. This Agreement, including its Exhibits, shall be attached to and/or recorded concurrently with the recordation of any Easement contemplated herein.

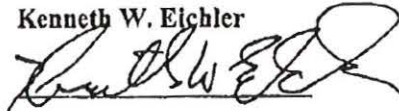
The Broadmead Trust

By _____

Its _____

Date: _____

Kenneth W. Eichler



Date: 8/4/07

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opportunity to carefully consider it, reflect at length, and after consultation with experienced attorneys of their own choosing. The Parties recognize this Agreement contains a full and final mutual release. The Parties likewise recognize this instrument as a binding contractual commitment, not a mere recital. The undersigned hereby certify that they have the authority to enter into this agreement on behalf of all of the Parties.

19. Counterparts. This instrument may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties.

20. Recording. This Agreement, including its Exhibits, shall be attached to and/or recorded concurrently with the recordation of any Easement contemplated herein.

The Broadmead Trust

Kenneth W. Eichler

By Heidi L. Harper

Its Trustee

Date: _____

Date: Aug. 8, 2007

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THE PARTIES AGREE AS FOLLOWS,

page 1

- ① WATER ELEVATION ON "NEW" LOWER RES. UP TO 150 FT. LEVEL.
- ② MJS ACTING AS SCRIBNER ONLY ADVISES PARTIES TO SEEK INDEPENDENT LEGAL COUNSEL. MJS TO ACT AS SOLE ARBITRATOR OF TERMS OF SUPPLEMENTAL DOCUMENTS AND AGREEMENTS AS WELL AS CLAIMS UNDER THIS AGREEMENT AND HIS DECISION SHALL BE FINAL AND BINDING.
- ③ A FLOW METER OR SIMILAR DEVICE (OR PUMP WITH A FLOW METER) SHALL ~~BE~~ BE INSTALLED ON TUCKER RD. RES. DAM AT EICHLER'S EXPENSE, AND A FLOW METER OR SIMILAR DEVICE (OR PUMP WITH A FLOW METER) ~~SHALL~~ SHALL BE INSTALLED ON WALKER DAM AT HAROLD'S EXPENSE. THE ~~MEASUREMENT~~ READINGS SHALL BE ON CUBIC FEET OR IDENTICAL STANDARDS TO MEASURED VOLUME. EICHLER MAY FLOW WATER THROUGH THE WALKER RES. UPON 24 HOURS PRIOR WRITTEN NOTICE ~~AND~~ WITH THE UNDERSTANDING THAT WATER MUST REASONABLY FLOW THROUGH THE WALKER RES. AND NOT Puddle OR EVAPORATE. SUCH RIGHT SHALL NOT BE EXERCISED MORE THAN FOUR TIMES PER CALENDAR YEAR. THE TERMS OF SUCH RIGHT SHALL BE PERMIT THE PARTIES TO REASONABLY ASSIST EACH OTHER IN CONFIRMING THE

Handwritten note:
 THIS SHALL BE ADMINISTERED BY A THIRD PARTY WHOSE COST SHALL BE EQUALLY SHARED BY THE PARTIES

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WATER PLACED IN AND THE WATER REMOVED FROM THE WALKER RES.

PAGE 2

- ④ CLAIMS BY AND BETWEEN THE PARTIES TO BE DISMISSED WITH PREJUDICE AND WITHOUT MONETARY AWARD, COSTS OR DISBURSEMENTS FOR OR AGAINST ANY PARTY, AND AS PROVIDED HEREIN ALL CLAIMS HOWEVER.
- ⑤ ~~THE PARTIES TO MUTUALLY COOPERATE WITH THE OTHER AND TANK PARTIES (INCLUDING GOVERNMENTAL ENTITIES) TO THE DEVELOPMENT OF THE AGREEMENT.~~
 - MEET REPTED EXTENSIVE AND FREQUENT
- ⑥ EXECUTOR AGREES ELEVATION OF WALKER RES. IS AGREABLE TO ~~DO SO ONLY IF IT DOES NOT~~ ~~PREVENT~~ ~~DEVELOPMENT~~ ~~OF~~ ~~WALKER~~ ~~RES.~~
 - AGREEMENT CONDITIONED UPON OTHERS AGREEMENT TO THIS AGREEMENT
- ⑦ HARPER SHALL GIVE EICHLER 24 HOURS NOTICE BEFORE BEGIN FILLING THE RES. ~~EXCEPT~~ SO AS TO PERMIT EICHLER PUT THE TUCKER DD DAM IN.
 - TO THE EXTENT OF 30 ACRES FEET
- ⑧ HARPER'S DAM HAS PRIORITY OVER EXPANSION OF WALKER RES. OVER 47 ACRES FEET, STATE DETERMINE LIMITED WATER AVAILABLE FOR STORAGE.
- ⑨ HARPER TO PAY EICHLER \$30,000 UPON EXECUTOR OF FINAL DOCUMENT OR WITHIN 60 DAYS DETERMINES IT IS DUE WITHOUT SHALL NOT BE BEFORE DEC. 15 2004.
 - WHICH SHALL BE FOR CLAIMS MADE IN THE WALKER RES.
 - EXISTING AND
- ⑩ THIS IS AN AGREEMENT WITH SUFFICIENT UNBROKEN TERMS
- ⑪ EICHLER'S AGREEMENT IS CONDITIONED UPON WRS. EICHLER'S AGREEMENT WHICH SHALL BE DEMAND GIVEN IF BUT DOES NOT EXCEED BEFORE 5.P.M. 11/10/04.
 - RIGHT TO COUNTERCLAIM
 - IPC

Lester

RECEIVED

SEP 16 2009

WATER RESOURCES DEPT SALEM, OREGON

13/14 Exhibit A Page 2 of 2

December 1, 2006

The parties agree as follows:

1. The handwritten terms of the prior agreement between the parties remain in full force and effect except as may be expressly modified by this Agreement.
2. Mike Scott is acting as scrivener only advises parties to seek independent legal counsel.
3. The ~~historical~~ water level ^{for para. 6 of Settlement agreement} is agreed to be 151.00 feet on the upstream side of Walker dam. *KWE*
4. If the release of water requirement of the pass-through provisions of the agreement are not timely complied with Eichler shall be entitled to liquidated damages of \$1,000 per day for non-compliance.
5. Mike Scott shall act as the arbitrator on any and all issues related to this matter and his decision shall be final and binding.
6. The parties shall complete the written settlement agreement and execute the same by December 15, 2006 or present any remaining issue to Mike Scott for his determination by such date.

KWE *John W. Eichler* Dec 1 06

James A. Hayes Jr.

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SEP 16 2009

WATER RESOURCES DEPT
SALEM, OREGON

Exhibit B

14/14 Page 1 of 1

STATE OF OREGON

COUNTY OF POLK

ORDER APPROVING A CHANGE IN PLACE OF USE
AND AN ADDITIONAL POINT OF DIVERSION

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7814 submitted by

THE BROADMEAD TRUST
HEIDI HARPER, TRUSTEE
3250 MARY STREET, SUITE 206.
COCONUT GROVE, FLORIDA 33133-5232

The right to be modified, as evidenced by a portion of Certificate 30029, was perfected under Permit 21652 with a date of priority of MARCH 28, 1950. The right allows the use of SALT CREEK AND RESERVOIR CONSTRUCTED UNDER APPLICATION R-24551, PERMIT R-1405, a tributary of the SOUTH YAMHILL RIVER, for IRRIGATION OF 327.2 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.65 cubic feet per second, if available at the authorized point of diversion: LOT 3 (NW¼ NE¼), SECTION 14, T 6 S, R 5 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2½ acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-1405.

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

The authorized place of use is located as follows:

	CHANGE IN POU AND AN APOD	APOD ONLY
	NW¼ NE¼	13.4 ACRES
	AS PROJECTED WITHIN E. STONE DLC 67	
	NW¼ NE¼	0.2 ACRE
	SW¼ NE¼	10.0 ACRES
	BOTH AS PROJECTED WITHIN J. EADES DLC 47	
LOT 3	(SW¼ NE¼)	14.5 ACRES
	SE¼ NE¼	7.2 ACRES
	NE¼ NW¼	35.9 ACRES
	AS PROJECTED WITHIN E. STONE DLC 67	
	NW¼ NW¼	13.2 ACRES
	AS PROJECTED WITHIN E. STONE DLC 67	
	NW¼ NW¼	2.6 ACRES
	SW¼ NW¼	3.6 ACRES
	BOTH AS PROJECTED WITHIN M. BURKS DLC 68	
	SW¼ NW¼	3.2 ACRES
	AS PROJECTED WITHIN E. STONE DLC 67	
	SW¼ NW¼	2.2 ACRES
	SE¼ NW¼	31.5 ACRES
	BOTH AS PROJECTED WITHIN J. EADES DLC 47	
	SE¼ NW¼	5.6 ACRES
	AS PROJECTED WITHIN E. STONE DLC 67	
	NE¼ SW¼	40.0 ACRES
	NW¼ SW¼	18.2 ACRES
	SW¼ SW¼ 8.7 ACRES	7.3 ACRES
	SE¼ SW¼ 0.7 ACRE	26.1 ACRES
	ALL AS PROJECTED WITHIN J. EADES DLC 47	
	NE¼ SE¼	2.0 ACRES
LOT 4	(NW¼ SE¼)	22.9 ACRES
	NW¼ SE¼	16.6 ACRES
	SW¼ SE¼	13.2 ACRES
	BOTH AS PROJECTED WITHIN J. EADES DLC 47	
LOT 5	(SW¼ SE¼)	21.6 ACRES
LOT 6	(SE¼ SE¼)	3.2 ACRES

SECTION 11

LOT 2 (NE¼ NE¼) 2.0 ACRES
LOT 3 (NW¼ NE¼) 1.2 ACRES
NW¼ NW¼ 0.4 ACRE
AS PROJECTED WITHIN J. EADES DLC 47
SECTION 14

TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

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

The applicant proposes to change the place of use of 9.4 acres to:

SW¼ NW¼ 8.0 ACRES
NW¼ SE¼ 0.3 ACRE
BOTH AS PROJECTED WITHIN DLC 47
LOT 4 (NW¼ SE¼) 1.0 ACRES
LOT 5 (SW¼ SE¼) 0.1 ACRES
SECTION 11

TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

The applicant proposes to add an additional point of diversion to:

SE¼ NE¼, SECTION 11, T 6 S, R 5 W, W.M.; 400 FEET SOUTH AND 3750 FEET EAST FROM THE NE CORNER OF BILLING DLC 48.

THESE CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2000.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

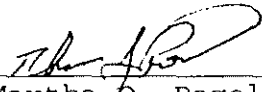
3. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. The former place of use shall no longer be irrigated as a part of this water right.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Certificate 30029 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed MAY 26 1999 .



for Martha O. Pagel, Director

Under the provisions of OAR 137-004-0080, the applicant may petition for reconsideration of this order. The petition shall set forth specific grounds for reconsideration. The petition for reconsideration must be filled within 60 days after the date this order is served.

Teri Hranac

From: Mike Mccord
Sent: Thursday, October 22, 2009 9:33 AM
To: Teri Hranac
Cc: Bill Ferber
Subject: T-10473

Teri, I met with Kenny Eichler yesterday to go over his concerns. His main concern is that he does not feel that he is responsible for opening up his reservoir to allow the released stored water from Broadmead to pass through his reservoir. I agree in that we can't obligate him to do that. What he does have to do is pass live flow through his reservoir after May 31 of each year. His claim is that there is no live flow to pass after that date so his permit is self regulating. While I can't say for certain there is no live flow in Salt Creek, I can say it would be very difficult to determine due to the series of reservoirs that have been constructed in Salt Creek. Essentially, one reservoir starts where the previous one stops. They are not always mapped that way so perhaps there is a different problem that I need to address.

As for moving forward on this transfer, we have already approved T-7814 which for the most part did the same thing as this transfer proposes to do. The difference is that T-7814 added an additional POD whereas T-10473 is asking for a new one at the same location as the POD added in T-7814. While I know there have been issues between the property owners over the management of reservoirs above these properties, I am not aware of any issues caused by the approval of T-7814.

Potential options:

- 1) Amend T-10473 to request an APOD as opposed to a new POD. This would allow the "to" lands to be irrigated directly from Walker – Van Otten Reservoir and the POD below the Eichler Reservoir. Making the action proposed in this transfer consistent with T-7814. When the creek reaches a point that live flow has diminished to the point that it is undetectable the "to" land could be irrigated without some expectation that released water would have to pass through Eichler. Short of dropping the lower POD, this would be my preferred alternative.
- 2) Let it go through the process and see if Eichler and potentially McKee protest the transfer. If it is protested then maybe they could work out some agreement similar to the one in place for the reservoirs above this location (see file T-10473). This would be time consuming and difficult to manage for both the affected parties and the Department.
- 3) Approve it making it clear to the applicant that the Department has not authority to require Eichler to participate in the shepherding of the released water to the lower POD. The only authority the Department has is to require that live flow is passed through Eichler Reservoir after May 31st of each year.

The bottom line is that the applicant has identified a piece of property that does not have a water right and from a management standpoint is impossible to not irrigate. This transfer needs to be approved to rectify that situation.

A side note is that in reviewing this transfer I realized that there are buildings and houses built on the POU identified in the FPS for T-7814. I guess we will have to address that at a later date.

Call or stop by if you want to talk about this. I told Mr. Eichler that I would call him prior to the protest deadline to let him know where we are at on this.

Teri Hranac

From: Mike Mccord
Sent: Wednesday, October 28, 2009 4:13 PM
To: Teri Hranac; Greg Nelson
Subject: FW: Harper / Eichler

Teri and Greg, I spoke with Eichler again today. I told him that his permits require an outlet pipe to pass live flow after the storage season and pass water for senior rights. Based on those conditions he can be required to pass water through to the lower POD. He does not have an outlet pipe. Water has to pass over the flashboards and that will not work in the summer. I also told him that he has passed his date for submitting a CBU/FPS for his permit. I do not think he is happy. If I understood him correctly he is going to contact a lawyer and a CWRE. Not necessarily in that order I presume. I expect that he will protest the transfer. I expect him to become even more upset when he discovers he can't get an extension to comply with his permit conditions because one of them is fish passage approved by ODFW prior to storing water. According to the AG, since fish may have been harmed we should not issue an extension. If we don't give him an extension he can never prove up on the res. permit and our only recourse is to ultimately cancel it. Then he can start over.

From: Mike Mccord
Sent: Tuesday, October 13, 2009 8:59 AM
To: Teri Hranac
Subject: Harper / Eichler

Teri, I am going to meet with Kenny next week out at the site. If you have some time this week could we sit down and go over this whole situation. I know we talked but I want to have everything covered before going out there. There is a whole sidebar to this situation that kinda deals with water rights and kinda not. Anyway, there have been some court rulings over who can use some of these reservoirs (Walker/ Van Otten in particular). Those court settlements address dumping of water and obviously deal with passing water through other reservoirs. In the past most anything dealing with Walker / Van Otten has been a painful thing to sort out. I would like to review my file, then meet with you to go over the specifics of this transfer and then get to a point where I can get the answers you need to take the next step on this transfer.

Water Rights Information Query Results

	<u>Contacts</u>	<u>Application</u>	<u>Permit</u>	<u>Certificate</u>	<u>Claim</u>	<u>Decree</u>	<u>Transfers</u>	<u>Status</u>
Select	OWNER: WALTER EICHLER 3085 NE GARDEN AVE CORVALLIS, OR 97330	G14755	G13587					NC
Select	OWNER: ADVANTA SEEDS PACIFIC WALTER EICHLER 3085 NE GARDEN AVE CORVALLIS, OR 97330	G15590	G15121					NC
Select	OWNER: PHILIP EICHLER RT 2 BOX 92 DAYTON, OR 97114	R45141	R5153	39580				NC
Select	OWNER: PHILIP/LAVANNE EICHLER RT 2 BOX 92 DAYTON, OR 97114	S45142	S33206	39581				NC
Select	OWNER: KEN EICHLER 8250 TUCKER RD AMITY, OR 97101	R85754	R13836					NC
Select	OWNER: KEN EICHLER 8250 TUCKER RD AMITY, OR 97101	R85752	R13835					NC
Select	OWNER: KEN EICHLER 8250 TUCKER RD AMITY, OR 97101	S85753	S54066					NC
Select	OWNER: RICHARD DEICHLER PO BOX 488 GLIDE, OR 97443	S87303	S54571					NC

[Help understanding and working with the Water Rights Information System](#)

Download: [Point of diversion data](#), [Place of use data](#), [Stakeholder data](#)

[Return to WRIS Query](#)

Alyssa Mucken

From: Alyssa Mucken
Sent: Tuesday, August 11, 2009 1:42 PM
To: 'BOATWRIGHT ENGINEERING'
Subject: Broadmead, DPD #4 and #7, report of landownership, affidavit

After talking with Dorothy, I'll modify #4 (on Page 4) to remove "together with that diverted at the original point of diversion". This was simply something I didn't catch and should be removed knowing that Diversion D will not be used anymore.

Also, I'll modify #7 in such a way to make it clear that the former place of use *and* Diversion Pt D shall no longer receive water under this right.

Lastly, your question regarding the report of landownership requirement: Since we have a copy of the water right conveyance agreement (aka Mutual Release and Settlement Agreement), which was recorded with the county on 10/3/2007, we need a report of ownership prepared by a Title Company within three months of 10/3/2007 for the from lands, likely related to Eichler's lands (assuming he's was the owner within that window). I think the important piece of this requirement is that it's prepared by the Title Company. If this isn't clear, let me know.

The affidavit: I'm going to ask Greg Nelson tomorrow (assuming he's here) if I can modify the Affidavit to better fit the situation.

Thanks for your good questions; you're helping me learn quite a bit on this one!

-Alyssa

Alyssa Mucken
Transfer Specialist
Oregon Water Resources Department
725 Summer Street, Suite A
Salem, Oregon 97301
503-986-0899

8/11/2009

Alyssa Mucken

From: Alyssa Mucken
Sent: Wednesday, August 19, 2009 1:56 PM
To: 'BOATWRIGHT ENGINEERING'
Subject: RE: Broadmead, DPD #4 and #7, report of landownership, affidavit
Attachments: cancel.part.aff.2009.doc

Hi Jeanne -

I've modified the affidavit to better fit this situation. It's attached as a word document and you should be able to edit it, if need be.

As for the report of ownership - you have two options, here's what the rule says:

(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.

So, if you obtain what you have suggested below, that should meet the criteria in (b).

~~~~~  
Alyssa Mucken  
OWRD  
503-986-0899

---

**From:** BOATWRIGHT ENGINEERING [mailto:boatwrightengr@yahoo.com]  
**Sent:** Tuesday, August 18, 2009 1:52 PM  
**To:** Alyssa Mucken  
**Subject:** Re: Broadmead, DPD #4 and #7, report of landownership, affidavit

Alyssa-

Do you have any information on the Affidavit for me? Also, I'm assuming that we need a title report, prepared now, but which verifies who the owner was on 10-3-07. Is that correct?

Jeanne

*Boatwright Engineering, Inc*  
*2613 12th Street SE*  
*Salem, Oregon 97302*  
*Tele: 503.363.9225*

--- On Tue, 8/11/09, Alyssa Mucken <muckenam@wrd.state.or.us> wrote:

From: Alyssa Mucken <muckenam@wrd.state.or.us>  
Subject: Broadmead, DPD #4 and #7, report of landownership, affidavit  
To: "BOATWRIGHT ENGINEERING" <boatwrightengr@yahoo.com>

8/19/2009

Date: Tuesday, August 11, 2009, 1:41 PM

After talking with Dorothy, I'll modify #4 (on Page 4) to remove "together with that diverted at the original point of diversion". This was simply something I didn't catch and should be removed knowing that Diversion D will not be used anymore.

Also, I'll modify #7 in such a way to make it clear that the former place of use *and* Diversion Pt D shall no longer receive water under this right.

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The affidavit: I'm going to ask Greg Nelson tomorrow (assuming he's here) if I can modify the Affidavit to better fit the situation.

Thanks for your good questions; you're helping me learn quite a bit on this one!

-Alyssa

---

Alyssa Mucken  
Transfer Specialist  
Oregon Water Resources Department  
725 Summer Street, Suite A  
Salem, Oregon 97301  
503-986-0899

8/19/2009

# ORIGINALS

Transfer Application and Map ✓

Amendments/Revisions to Appl & Map n/a

Receipt ✓

Deed or Lot Book Report

Notarized Consent

Evidence of Use Affidavit ✓

Land Use Information Form ✓

Lien Holder Notification *(if applicable)*

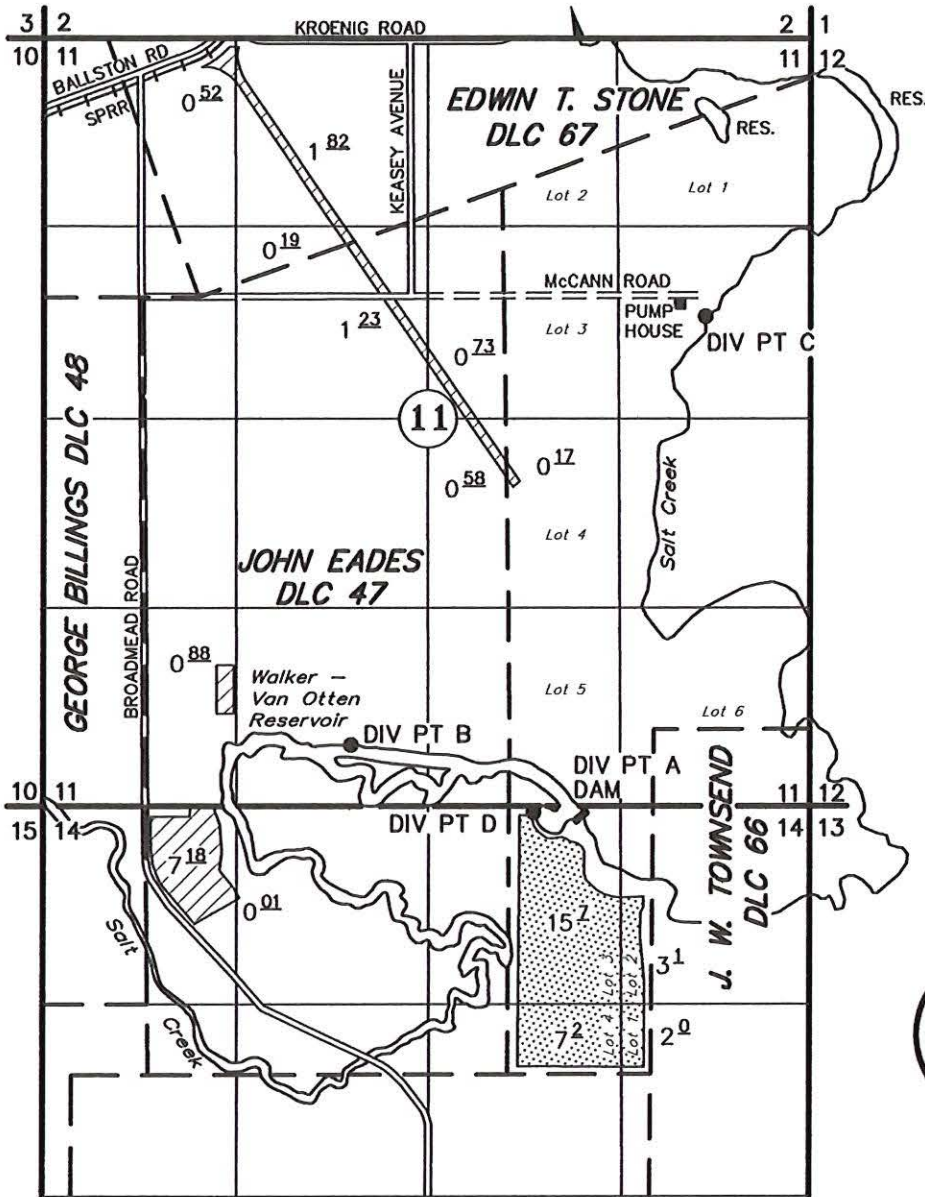
Report of Ownership and Lien Info *(if applicable)*

&

Other Supporting Documentation

# T.6S. R.5W. W.M.

POLK COUNTY, OREGON



**TAX LOTS:**

- 6 5 11 900
- 6 5 11 1400
- 6 5 11 1500
- 6 5 14 304
- 6 5 14 404



"FROM" LANDS



"TO" LANDS



Renewal Date: 12-31-2007

- DIV PT A: EXIST DAM: LOT 3 (NW 1/4, NE 1/4) SECTION 14, T6S, R5W, WM (not affected)
- DIV PT B: 3138' SOUTH AND 1420' EAST OF NW COR JOHN EADES DLC 47 (to)
- DIV PT C: 400' SOUTH AND 3750' EAST OF NE COR GEORGE BILLINGS DLC 48 (to)
- DIV PT D: 1800' NORTH AND 1700' EAST OF SE COR JOHN EADES DLC 47 (from)

## APPLICATION TO TRANSFER WATER RIGHT

(Place of Use and Point of Diversion)

UNDER

Application No. 70140 Permit No. 50853 Certificate No. 79992

**THE BROADMEAD TRUST**

Heidi Harper, Trustee

OCTOBER 19, 2007

SCALE 1" = 1320'

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OCT 19 2007

WATER RESOURCES DEPT  
SALEM, OREGON

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

T 10473



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

# Application for Water Right Transfer

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

## 1. TYPE OF TRANSFER APPLICATION

| Please check one                                       |                                            |
|--------------------------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/> Permanent Transfer | <input type="checkbox"/> Instream Transfer |
| <input type="checkbox"/> Temporary Transfer            | <input type="checkbox"/> Permanent         |
| • total number of years: _____                         | <input type="checkbox"/> Time-Limited      |
| (begin year: _____)                                    | <input type="checkbox"/> Drought Transfer  |
| (end year: _____)                                      | <input type="checkbox"/> Other             |

## 2. APPLICANT INFORMATION

Name: THE BROADMEAD TRUST  
First Last

Address: 8603 DIXIE HIGHWAY #205  
MIAMI FLORIDA 33143  
City State Zip

Phone: 971-237-3602 (cell)  
Home Work Other

Fax: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

## 3. AGENT INFORMATION

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

Name: JEANNE OR CORBEY BOATWRIGHT  
First Last

Address: 2613 12TH STREET SE  
SALEM OREGON 97302  
City State Zip

Phone: N/A 503-363-9225 -  
Home Work Other

Fax: 503-363-1051 E-Mail address: boatwrightengr@yahoo.com

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

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OCT 19 2007  
 Last revised: 1/4/2007  
 WATER RESOURCES DEPT  
 SALEM, OREGON

Transfer Application/1

T 10473 FS

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

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

|    | Application / Decree | Permit / Previous Transfer | Certificate |
|----|----------------------|----------------------------|-------------|
| 1. | S-70140              | S-50853                    | 7999Z       |
| 2. |                      |                            |             |
| 3. |                      |                            |             |
| 4. |                      |                            |             |
| 5. |                      |                            |             |
| 6. |                      |                            |             |

- Attach a **separate Supplemental Form A** (Description of Proposed Change(s) to a Water Right) for **each** water right listed above.
- Check **all** proposed change(s) included in this transfer application:
  - Place of Use       Point of Diversion       Additional Point of Diversion
  - Character of Use       Point of Appropriation       Additional Point of Appropriation
  - Instream Transfer       Surface Water source to Ground Water source
- Reason(s) for change(s): ACQUIRING WATER RIGHT FROM  
NEIGHBORING PROPERTY OWNER

**5. WATER DELIVERY SYSTEM**

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

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

PTO ON TRACTOR TO ALUM MAIN TO  
WHEEL LINE WITH RAINBIRD SPRINKLERS

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

RIGHT IS LIMITED TO 28.0 AC/FT WITH

NO RATE LIMITS

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OCT 19 2007

**6. EVIDENCE OF BENEFICIAL WATER USE**

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

**7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS**

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

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

---



---



---

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

POLK COUNTY

850 MAIN STREET

DALLAS, OR 97338

**RECEIVED**

**OCT 19 2007**

**8. LAND OWNERSHIP**

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

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

KENNETH W. EICHLER AND DEBORAH L. EICHLER REVOCABLE LIVING TRUST DATED 11-12-2002

Names of Current Landowner(s): KEN & DEBORAH EICHLER, TRUSTEES  
First Last

Address: 8250 TUCKER ROAD

AMITY OREGON 97101  
City State Zip

- Does the applicant own the lands **TO** which the right is being transferred?  
 Yes  No  N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

If "No", provide the following information:

Names of Receiving Landowner(s): \_\_\_\_\_  
First Last

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

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

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Last revised: 1/4/2007

Transfer Application/4

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**9. ATTACHMENTS**

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

**Supplemental Form A –**

**Description of Proposed Change(s) to a Water Right**

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

**Supplemental Form B –**

**Evidence of Use Affidavit(s)**

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

**Map**

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

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

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

**Land Use Information Form:**

- Enclosed; *or*
- Not Required if all of the following are met:
  - ① In EFU zone or irrigation district,
  - ② Change in place of use only,
  - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
  - ④ Irrigation only.

**Fees:**

- Amount enclosed: \$ 800.00  
See the Department's Fee Schedule at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

**Instream Water Right Transfers, also include:**

**Supplemental Form C –**

**Instream Water Right Transfer**

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

**Temporary Transfers, also include:**

**Recorded Deed:**

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

**Affidavit of Consent:**

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

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

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

**10. SIGNATURES**

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

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

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

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

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

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

|                                                 |                 |          |
|-------------------------------------------------|-----------------|----------|
| The Broadmead Trust<br>Heidi L. Harper, Trustee | HEIDI L. HARPER | 10-18-07 |
| applicant signature                             | name (print)    | date     |
| _____                                           | _____           | _____    |
| applicant signature                             | name (print)    | date     |

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SALEM, OREGON

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Transfer Application/6

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

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

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

▪ Certificate Number or other identifying number: 79992

**1. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

| Point of Diversion or Appropriation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Place of Use                                                                                                                                                                                                                                                                                                                                                                                 | Character of Use                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.)<br><input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.)<br><input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.)<br><input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.)<br><input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.)<br><input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.) | <input checked="" type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)<br><input type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) | Proposed new use:<br><input type="checkbox"/> <b>Irrigation</b><br><input type="checkbox"/> <b>Municipal</b><br><input type="checkbox"/> <b>Quasi-municipal</b><br><input type="checkbox"/> <b>Commercial</b><br><input type="checkbox"/> <b>Industrial</b><br><input type="checkbox"/> <b>Instream</b> (complete and attach <i>Supplemental Form C</i> )<br><input type="checkbox"/> <b>Domestic</b> (indicate number of households) _____<br><input type="checkbox"/> <b>Other</b> _____<br><br><input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.)<br><br><input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)<br><br><div style="text-align: right;">T 10473</div> |

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**2. CURRENT WATER RIGHT INFORMATION**

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

|                                                                           |                                    |                                                 |
|---------------------------------------------------------------------------|------------------------------------|-------------------------------------------------|
| <input checked="" type="checkbox"/> Certificated Right                    | <u>79992</u><br>Certificate Number | <u>S-50853</u><br>Permit Number or Decree Name  |
| <input type="checkbox"/> Adjudicated, Non-certificated Right              | _____<br>Name of Decree            | _____<br>Page Number                            |
| <input type="checkbox"/> Permit for which Proof has been Approved         | _____<br>Permit Number             | _____<br>Date Claim of Beneficial Use Submitted |
| <input type="checkbox"/> Transferred Right for which Proof has been Filed | _____<br>Previous Transfer Number  | _____<br>Date Claim of Beneficial Use Submitted |

Appl. 5-70140

- Name on Permit, Certificate, or Decree: KEN EICHLER
- County: POLK
- Authorized Use(s) to be Affected by Transfer: IRRIGATION OF 28 ACRES
- Priority Date(s): DECEMBER 13, 1989

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

- Source(s) of Water to be Affected by Transfer: \_\_\_\_\_  
WALKER - VAN OTTEN RESERVOIR

Tributary to: SALT CREEK

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

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

- Are there **Other Water Rights, Permits or Ground Water Registrations** associated with this land?
  - Yes     No     N/A – No Change in Place of Use or Character of Use

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

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

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SALEM, OREGON

1 10473

▪ Certificate Number or other identifying number: 7999Z

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

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

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**  
(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

| If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-____) | Source and Priority Date            | Township | Range | Mer | Sec | ¼ ¼    | Tax Lot, DLC or Gov't Lot | Survey Coordinates (coordinates from a recognized survey corner) |
|-------------------------------------------------------------------|-------------------------------------|----------|-------|-----|-----|--------|---------------------------|------------------------------------------------------------------|
| N/A                                                               | WALKER - VANOTTEN Rsv<br>12-13-1989 | 6S       | 5W    | WM  | 14  | NW, NE | Lot 3                     | 1800' N & 170' E SE COR J. EADES DLC47                           |
| (THIS IS A RE-DIVERSION POINT)                                    |                                     |          |       |     |     |        |                           |                                                                  |
|                                                                   |                                     |          |       |     |     |        |                           |                                                                  |

- Does the water right being transferred involve a ground water source(s)?  
 Yes       No (Surface water source only.)

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

- A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)
- or
- B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**  
Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

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

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▪ Certificate Number or other identifying number: 7999Z

**3. PROPOSED CHANGES TO THE WATER RIGHT**

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

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

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

N/A – Instream Water Right Transfer

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

| Source                | Township | Range | Mer | Sec | ¼ ¼ Section | Tax Lot, DLC or Gov't Lot | Survey Coordinates (coordinates from a recognized survey corner) |
|-----------------------|----------|-------|-----|-----|-------------|---------------------------|------------------------------------------------------------------|
| WALKER-VAN OTTEN RESV | 6S       | 5W    | WM  | 11  | SE,SW       | 900<br>DLC 47             | 3138'S & 1420'E NW<br>COR JOHN EADES DLC 47                      |
| WALKER-VAN OTTEN RESV | 6S       | 5W    | WM  | 11  | SE,NE       | 1300<br>DLC 47            | 3750'E & 400'S NE<br>COR GEORGE BILLINGS DLC48                   |
|                       |          |       |     |     |             |                           |                                                                  |
|                       |          |       |     |     |             |                           |                                                                  |

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

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

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

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

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

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

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▪ Certificate Number or other identifying number: 79992

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

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

| Source                | Township | Range | Mer | Sec | ¼ ¼ Section | Tax Lot, DLC or Gov't Lot | Acres (if applicable) |
|-----------------------|----------|-------|-----|-----|-------------|---------------------------|-----------------------|
| WALKER-VAN OTTEN RESV | 6S       | 5W    | WM  | 11  | SW, NE      | 1400<br>DLC 47            | 0.73                  |
|                       | 6S       | 5W    | WM  | 11  | NE, NW      | 1400+1500<br>DLC 67       | 1.82                  |
|                       |          |       |     | 11  | NW, NW      | 1400/1500<br>DLC 67       | 0.52                  |
|                       |          |       |     | 11  | SE, NW      | 1400<br>DLC 47            | 0.19                  |
|                       |          |       |     | 11  | SE, NW      | 1500<br>DLC 67            | 1.23                  |
|                       |          |       |     | 11  | NW, SE      | 1500<br>DLC 47            | 0.58                  |
|                       |          |       |     | 11  | NW, SE      | 1500<br>Lot 4             | 0.17                  |
|                       |          |       |     | 11  | SW, SW      | 900<br>DLC 47             | 0.88                  |
|                       |          |       |     | 14  | NE, NW      | 404<br>DLC 47             | 0.01                  |
|                       |          |       |     | 14  | NW, NW      | 404<br>DLC 47             | 7.18                  |
|                       |          |       |     |     |             |                           |                       |

Remarks: ORIGINAL WATER RIGHT IS FOR 28AF ON 28ACRES (1 ft/AC duty) WE ARE TRANSFERRING TO SMALLER AREA TO INCREASE THE DUTY TO 2.12'/AC

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 SALEM, OREGON

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KEN EICHLER  
8250 TUCKER ROAD  
AMITY, OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT R-1405, a tributary of SALT CREEK, for IRRIGATION OF 28.0 ACRES.

This right was perfected under Permit 50853. The date of priority is DECEMBER 13, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 28.0 ACRE-FEET OF STORED WATER ONLY, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

WALKER-VAN OTTEN RESERVOIR DAM - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; AND

RE-DIVERSION - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF J. EADES DLC NO 47.

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 not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

|                                      |            |
|--------------------------------------|------------|
| LOT 2 (NE 1/4 NE 1/4)                | 3.1 ACRES  |
| LOT 3 (NW 1/4 NE 1/4)                | 15.7 ACRES |
| LOT 4 (SW 1/4 NE 1/4)                | 7.2 ACRES  |
| LOT 1 (SE 1/4 NE 1/4)                | 2.0 ACRES  |
| SECTION 14                           |            |
| TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M. |            |

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

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Certificate Number 79992

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Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

The right to the use of the water for the above purpose is restricted to beneficial use without waste on the lands or place of use described. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APRIL 10, 2003.

  
Paul R. Cleary



Recorded in State Record of Water Right Certificate Number 79992.

70140.SB

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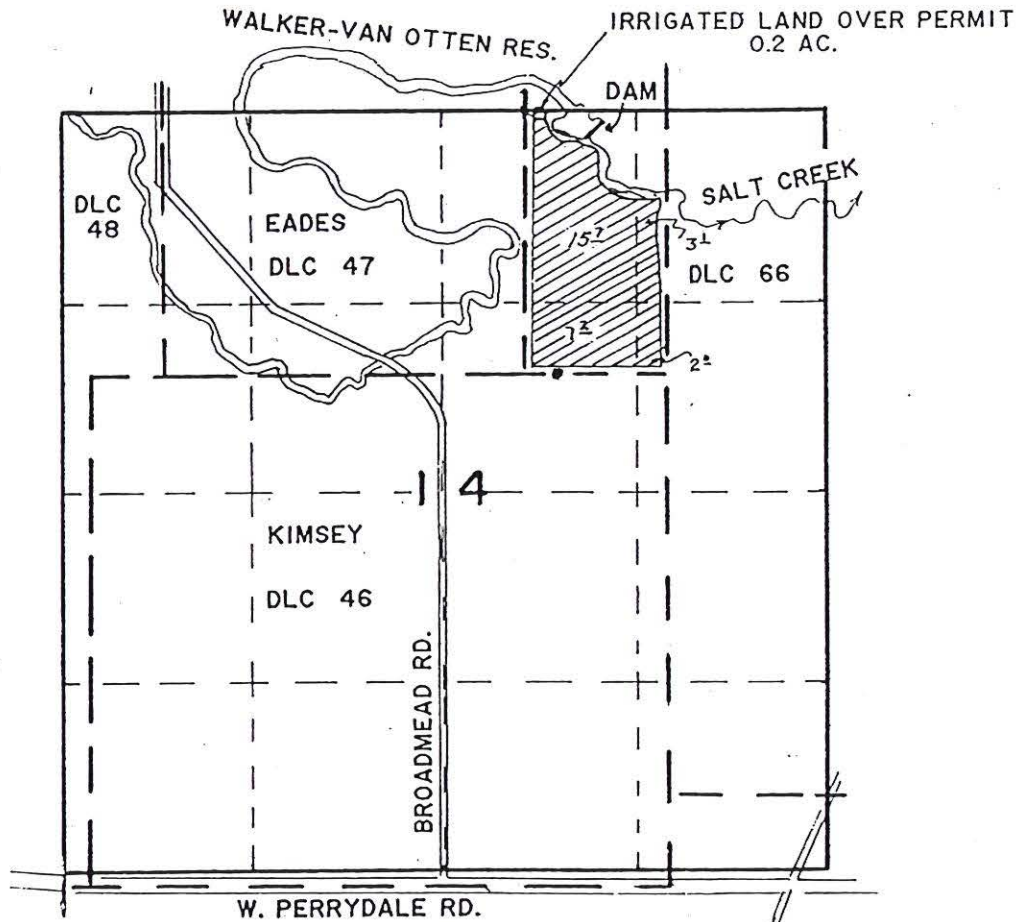
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NOTE:  
THIS MAP IS FOR THE  
PURPOSE OF IDENTIFYING  
WATER RIGHTS AND HAS  
NO INTENT TO DIMENSION  
OR LOCATE PROPERTY  
OWNERSHIP LINES.

J & R NO. 93-75-W1

T. 6 S., R. 5 W., W.M.  
POLK COUNTY, OREGON



IRRIGATED LAND



DIVERSION POINT IS 1800 FEET NORTH AND 170 FEET EAST  
FROM THE SOUTHEAST CORNER OF THE JOHN EADES DLC NO. 47.

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SALEM, OREGON

FINAL PROOF SURVEY

UNDER

70140

R-1405  
50853

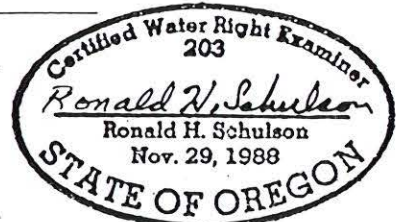
1 10473

APPLICATION NO. \_\_\_\_\_, PERMIT NO. \_\_\_\_\_

IN NAME OF:

DAN VAN OTTEN  
8130 BROADMEAD RD.  
AMITY, OR 97101

SURVEYED SEPT. 1993 BY R.H.S.



STATE OF OREGON

COUNTY OF POLK

ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE

Pursuant to ORS 540.523, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TEMPORARY TRANSFER 9322 submitted by

KEN EICHLER  
8250 TUCKER ROAD  
AMITY, OREGON 97101.

The right to be modified, as evidenced by Certificate 79992, was perfected under Permit 50853 with a date of priority of DECEMBER 13, 1989. The right allows the use of WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT NO. R-1405, a tributary of SALT CREEK, for IRRIGATION of 28.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 28.0 ACRE-FEET OF STORED WATER ONLY, if available at the authorized point of diversion: LOT 3 (NW¼ NE¼), SECTION 14, T 6 S, R 5 W, W.M.; 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OR J. EADES DLC #47, or its equivalent in case of rotation, measured at the point of diversion from the source.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

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 not to exceed 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

|                 |            |
|-----------------|------------|
| LOT 2 (NE¼ NE¼) | 3.1 ACRES  |
| LOT 3 (NW¼ NE¼) | 15.7 ACRES |
| LOT 4 (SW¼ NE¼) | 7.2 ACRES  |
| LOT 1 (SE¼ NE¼) | 2.0 ACRES  |

SECTION 14

TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

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

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

The applicant proposes to **temporarily** change the place of use to:

SW¼ NW¼            7.8 ACRES (TAX LOT 100)

SECTION 13

SE¼ NE¼            20.2 ACRES (TAX LOT 100)

SECTION 14

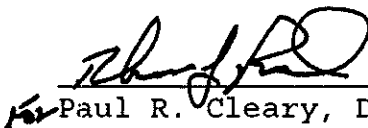
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The change is temporary. The change shall be effective upon issuance of this order.

2. The former place of use shall not be irrigated as part of this water right during the 2003, 2004, 2005, 2006 and 2007 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2007 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. Prior to diverting water at the new place of use, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

WITNESS the signature of the Water Resources  
Director, affixed APR 24 2003.

  
\_\_\_\_\_  
Paul R. Cleary, Director



# Oregon Water Resources Department Land Use Information Form

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

Applicant Name: THE BROADMEAD TRUST  
Mailing Address: 8603 DIXIE HIGHWAY #205  
City: MIAMI State: FL Zip: 33143 Day Phone: 971-237-3602

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

## A. Land and Location

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

| Township                  | Range | Section | ¼ ¼ | Tax Lot # | Plan Designation (e.g. Rural Residential/RR-5) | Water to be:                                                                                      | Proposed Land Use: |
|---------------------------|-------|---------|-----|-----------|------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------|
| <u>SEE ATTACHED SHEET</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 |                    |
|                           |       |         |     |           |                                                | <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, or used. POLK COUNTY

## B. Description of Proposed Use

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

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

Source of water:  Reservoir/Pond     Ground Water     Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 28.0  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: IRRIGATION RT ON NEIGHBOR'S LAND TO BE TRANSFERRED TO APPLICANT'S LAND FOR IRRIGATION USE

T 10473

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

## For Local Government Use Only

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

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

**Please check the appropriate box below and provide the requested information**

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 126.030(A)

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

| Type of Land-Use Approval Needed<br>(e.g. plan amendments, rezones,<br>conditional-use permits, etc.) | Cite Most Significant, Applicable Plan<br>Policies & Ordinance Section References | Land-Use Approval:                                                   |                                                                                      |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|                                                                                                       |                                                                                   | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><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.

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WATER RESOURCES DEPARTMENT  
SALEM, OREGON

Name: DM Gibson Title: Permit specialist  
 Signature: [Signature] Phone: 503 623 9237 Date: 10/17/2007  
 Government Entity: Polk County Com. Dev. - Planning  
LUC 07-40

1 10473

**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.

**A. Land and Location**

Planning Official's Initials *Dugan*

| Township | Range | Section | ¼ ¼    | Tax Lot # | Plan Designation (e.g. Rural Residential/RR-5) | Water to be:                                                                                                            | Proposed Land Use |
|----------|-------|---------|--------|-----------|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-------------------|
| 6 S      | 5 W   | 11      | SW, NE | 1400      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | NE, NW | 1400      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | NW, NW | 1400      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | SE, NW | 1400      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       | 11      | NE, NW | 1500      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | NW, NW | 1500      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | SE, NW | 1500      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | NW, SE | 1500      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       | 11      | SW, SW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
| 6 S      | 5 W   | 14      | NE, NW | 404       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         | NW, NW | 404       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used | FARMING           |
|          |       |         |        |           |                                                | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used                       |                   |
| 6 S      | 5 W   | 11      | SE, SW | 900       |                                                | <input checked="" type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       | 11      | SE, NE | 1300      |                                                | <input checked="" type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         |        |           |                                                | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used                       |                   |
| 6 S      | 5 W   | 11      | NE, NW | 500       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | NW, NW | 500       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SW, NW | 500       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SE, NW | 500       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       | 11      | SW, NE | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SE, NW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SW, SW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | NE, SW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | NW, SW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SE, SW | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | NW, SE | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SW, SE | 900       |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       | 11      | NW, SE | 1000      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         | SW, SE | 1000      |                                                | <input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used            | FARMING           |
|          |       |         |        |           |                                                | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used                       |                   |
|          |       |         |        |           |                                                | <input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used                       |                   |

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WATER RESOURCES DEPT  
SALEM, OREGON

I 10473

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

State of Oregon )  
 ) ss  
County of Marion )

I, Corbey Boatwright, in my capacity as Water Right Examiner,  
mailing address 2613 12th Street SE  
telephone number (503) 363-9225, being first duly sworn depose and say:

1. I attest that:

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

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

- Personal observation
- Professional expertise

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

| Township | Range | Mer | Sec | ¼ ¼ Section | Gov't Lot or DLC | Acres (if applicable) |      |
|----------|-------|-----|-----|-------------|------------------|-----------------------|------|
| 6        | 5     | 5 W | WM  | 14          | NE, NE           | L+ 2                  | 3.1  |
|          |       |     |     |             | NW, NE           | L+ 3                  | 15.7 |
|          |       |     |     |             | SW, NE           | L+ 4                  | 7.2  |
|          |       |     |     |             | SE, NE           | L+ 1                  | 2.0  |
|          |       |     |     |             |                  |                       |      |
|          |       |     |     |             |                  |                       |      |
|          |       |     |     |             |                  |                       |      |
|          |       |     |     |             |                  |                       |      |
|          |       |     |     |             |                  |                       |      |
|          |       |     |     |             |                  |                       |      |

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WATER RESOURCES DIVISION  
SALEM, OREGON

(continues on reverse side)

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

1 10473

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

IRRIGATION

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

PTO ON TRACTOR TO ALUMINUM MAIN TO WHEEL LINE WITH RAINBIRD SPRINKLERS

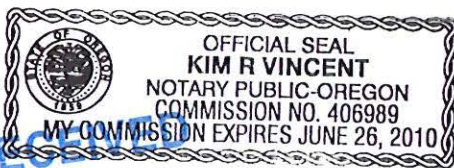
6. One or more of the following documentation supporting the above statements is attached:

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

Corby Bostrom  
Signature of Adiant

October 18, 2007  
Date

Signed and sworn to (or affirmed) before me this 18<sup>th</sup> day of October, 2007.



Kim R. Vincent  
Notary Public for Oregon

My Commission Expires: 6/26/10

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



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

# Certificate of Water Right Ownership Update

## NOTICE TO SELLERS & BUYERS:

By law, all water belongs to the public (ORS 537.110). In almost every instance, a permit or water right certificate from the Water Resources Department is needed before using, diverting or storing water (ORS 537.130). However, most domestic wells do not require water rights. A certificate of water right stays with the land. In order to keep track of water right ownership, the Department requests that this form be submitted to the Department.

Water that has been used for a long time in one place or that involves a water structure (like a dam) that already exists is no guarantee that there is a water right which would allow the water use to continue.

If you have any questions about this form or water right requirements, please contact your local watermaster or call the Water Resources Department at 503-986-0900.

Note: Please type or print legibly when filling in the following information. Use additional paper if necessary.

### WATER RIGHT PROPERTY SELLER INFORMATION

Applicant(s): KEN EICHLER  
First Last  
 Mailing address: 8250 TUCKER RD  
AMITY OREGON 97101-9520  
City State Zip  
 Phone: \_\_\_\_\_  
Home Work Other

### PROPERTY BUYER INFORMATION

Applicant(s): THE BROADMEAD TRUST  
First Last  
 Mailing address: 8603 DIXIE HWY #205  
MIAMI FLORIDA 33143  
City State Zip  
 Phone: 971-237-3602 (cell)  
Home Work Other

### WATER RIGHT LOCATION PROPERTY DESCRIPTION (attach additional pages if necessary):

County: POLK Township: 6S Range: 5W Section: 14  
 Tax lot number(s): 6514304

Attach a copy of your property deed or legal description of the property. Attached Certificate & Proof Map

Street address of water right property: NONE

Water Right Information (attach copy of water right permit or certificate & final proof map if available):

Application #: S-70140 Permit #: 50853 Certificate or page #: 79992

Will all the lands associated with this water right be owned by the buyer?  Yes  No N/A only right being sold see attached legal documents  
 Name of individual completing this form: JEANNE BOATWRIGHT Phone: 503-363-9225  
Print

Signature: [Signature] Date: 8-14-07

Rev. August 2006

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Ownership Update

Attachment 3

WTR

Page 1 of 1

OCT 19 2007

WATER RESOURCES DEPT  
 SALEM, OREGON

1 10473

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KEN EICHLER  
8250 TUCKER ROAD  
AMITY, OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR  
CONSTRUCTED UNDER PERMIT R-1405, a tributary of SALT CREEK, for  
IRRIGATION OF 28.0 ACRES.

This right was perfected under Permit 50853. The date of priority is  
DECEMBER 13, 1989. The amount of water to which this right is  
entitled is limited to an amount actually beneficially used and shall  
not exceed 28.0 ACRE-FEET OF STORED WATER ONLY, or its equivalent in  
case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

WALKER-VAN OTTEN RESERVOIR DAM - LOT 3 (NW 1/4 NE 1/4), SECTION 14,  
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; AND

RE-DIVERSION - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH,  
RANGE 5 WEST, W.M.; 1800 FEET NORTH AND 170 FEET EAST FROM THE SE  
CORNER OF J. EADES DLC NO 47.

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 not to exceed 2 1/2 acre-feet per acre for each acre  
irrigated during the irrigation season of each year.

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

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

|                       |            |
|-----------------------|------------|
| LOT 2 (NE 1/4 NE 1/4) | 3.1 ACRES  |
| LOT 3 (NW 1/4 NE 1/4) | 18.7 ACRES |
| LOT 4 (SW 1/4 NE 1/4) | 7.2 ACRES  |
| LOT 1 (SE 1/4 NE 1/4) | 2.0 ACRES  |

SECTION 14  
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

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

70140.SB

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Certificate Number 79992

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WATER RESOURCES DEPT  
SALEM, OREGON

1 10473

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

The right to the use of the water for the above purpose is restricted to beneficial use without waste on the lands or place of use described. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APRIL 10, 2003.

  
Paul R. Cleary



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SALEM, OREGON

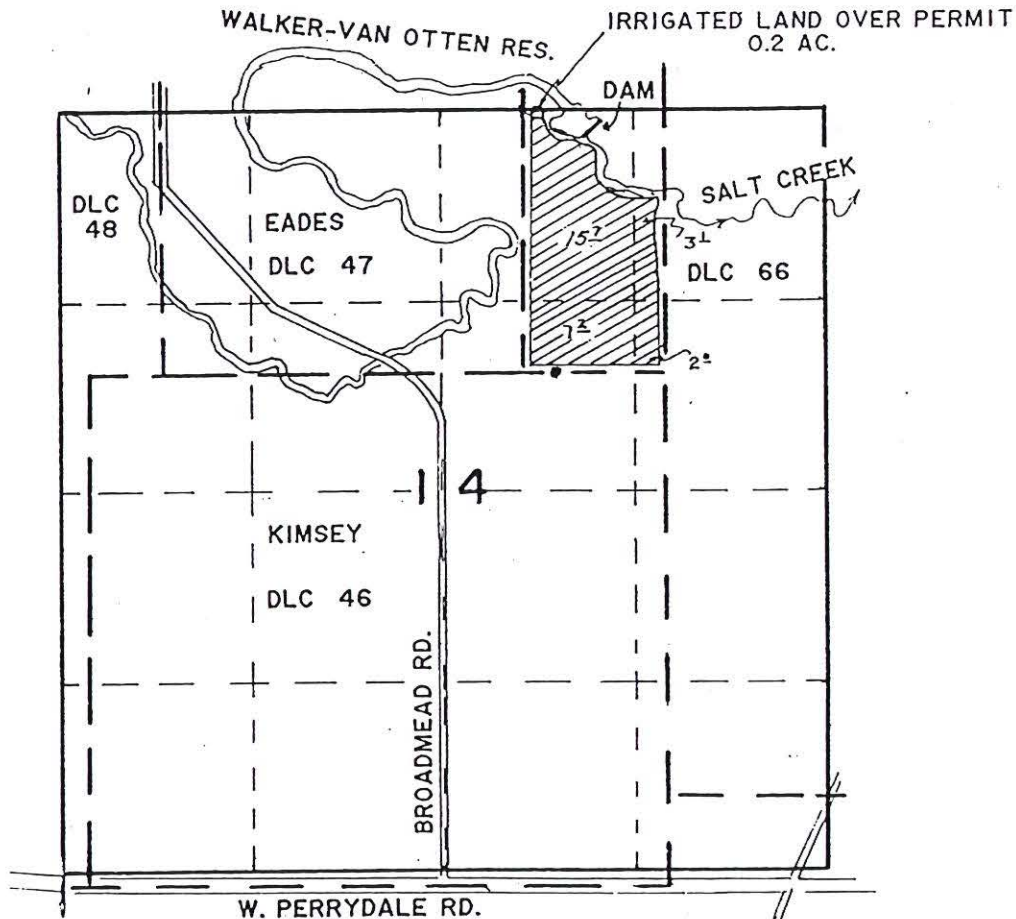
Recorded in State Record of Water Right Certificate Number 79992.

70140.SB

J & R NO. 93-75-W1

NOTE:  
THIS MAP IS FOR THE  
PURPOSE OF IDENTIFYING  
WATER RIGHTS AND HAS  
NO INTENT TO DIMENSION  
OR LOCATE PROPERTY  
OWNERSHIP LINES.

T. 6 S., R. 5 W., W.M.  
POLK COUNTY, OREGON



DIVERSION POINT IS 1800 FEET NORTH AND 170 FEET EAST  
FROM THE SOUTHEAST CORNER OF THE JOHN EADES DLC NO. 47.



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SALEM, OREGON

FINAL PROOF SURVEY  
UNDER

70140

R-1405  
50853

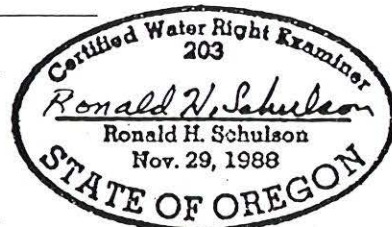
1 10473

APPLICATION NO. \_\_\_\_\_, PERMIT NO. \_\_\_\_\_

IN NAME OF:

DAN VAN OTTEN  
8130 BROADMEAD RD.  
AMITY, OR 97101

SURVEYED SEPT. 1993 BY R.H.S.



ATTACHMENT "A"

PARCEL I

All that portion of the following described property lying South of the Section line common to Sections 11, 12, 13 and 14, to-wit: Beginning at an iron pipe on the Westerly boundary of the County Road, said iron pipe being located North 882.91 feet and East 1216.38 feet and South 23° 05' West 29.7 feet and South 63°00' East 81.50 feet from the Southeast corner of the Thomas Kimsey Donation Land Claim No. 46 In Township 6 South, Range 5 West of the Willamette Meridian, Polk County, Oregon; thence North 63° 00' West 81.50 feet to an iron pipe; thence North 23°05' East 121.53 feet to an iron pipe; thence West 852.9 feet to an iron pipe on the Easterly boundary of the Southern Pacific Railroad right-of-way; thence Northerly along said Easterly Railroad boundary to a point which is the most Southerly corner of the most Northerly parcel of that certain tract of land conveyed to Daniel A. Van Otten, et al, in Volume 142, Page 181, Deed Records of Polk County, Oregon; thence Easterly to a point which is West 16.35 chains and South 10° 30' West 23.94 chains from the one quarter corner common to Sections 11 and 12 in said Township and Range; thence South 35° 30' East 1.48 chains; thence East 3.43 chains; thence North 66° 00' East 2.54 chains; thence North 64° 00' East 7.40 chains; thence North 77° 00' East 5.44 chains; thence South 10°00' East 11.20 chains to a point on the North boundary of the John Townsend Donation Land Claim No. 66 In said Township and Range, which point is West 20.12 chains from the Northeast corner of said Claim; thence South 14°30' East 3.56 chains; thence South 32° 00' East 9.20 chains; thence South 40°00' East 4.77 chains; thence South 9° 30' East 1.50 chains; thence South 21° 15' West 3.14 chains; thence East to a point on the Westerly boundary of said County Road, Perrydale to Amity; thence Southwesterly along said Road boundary to the place of beginning.

PARCEL II

Beginning at an iron pipe on the North line of the Thomas Kimsey Donation Land Claim No. 46 in Section 14, Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said iron pipe being North 89° 56' 39" East 81.10 feet from an iron pipe marking the Southeast corner of the John Eades Donation Land Claim No. 47 in said Township and Range; and running thence North 0° 38' 36", East 1827.67 feet to an iron pipe; thence South 62° 59' 16" East 63.44 feet to an iron pipe; thence South 4° 06' 12" East 105.38 feet to an iron pipe; thence South 35° 30' 53" East 64.34 feet to an iron pipe; thence South 60° 49' 26" East 62.87 feet to an iron pipe; thence South 73° 26' 35" East 129.37 feet to an iron pipe; thence South 81° 43' 52" East 327.60 feet to a point on the Northerly line of a tract of land conveyed to Daniel A. and Anne Van Otten by deed recorded in Volume 142, Page 185, Deed Records for Marion County, Oregon; thence South 32° 02' West along said Northerly line, 200.00 feet to an angle point in said line; thence South 78° 48' 30" East continuing along said Northerly line, 371.37 feet to a point on the West line of the Southern Pacific Railroad right-of-way; thence South 0° 07' West along said West right-of-way line, 1281.14 feet to an iron pipe on the North line of the aforesaid Thomas Kimsey Donation Land Claim No. 46; thence South 89° 56' 39" West along said Claim line, 880.66 feet to the point of beginning.

PARCEL III

Beginning at an iron pipe which is 81.10 feet North 89° 48' 42" East and 878.52 feet North 00° 30' 35" East from the Southeast corner of the John Eades Donation Land Claim No. 47 in Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said pipe being on the West line of that tract of land conveyed to Leroy Gilson by that deed recorded November 24, 1997, in Book 344, Page 1969, Book of Records for Polk County, Oregon; thence North 39° 05' 39" West, 252.48 feet to an iron rod; thence North 59° 24' 52" West, 96.26 feet to an iron rod; thence North 78° 10' 11" West, 236.47 feet to an iron rod; thence North 63° 00' 07" West, 388.30 feet to an iron rod; thence North 75° 07' 53" West, 338.50 feet to an iron rod; thence North 70° 26' 51" West, 341.52 feet to an iron rod; thence South 88° 41' 11" West, 159.88 feet to an iron rod; thence North 50° 49' 50" West, 42.96 feet to an iron rod; thence North 15° 23' 35" West, 282.06 feet to an iron rod; thence North 14° 50' 08" East, 90.39 feet to an iron rod; thence North 69° 29' 51" East, 57.36 feet to an iron rod at a point on the Southerly line of that tract of land conveyed to The Broadmead Trust by that deed recorded in Book 304, Page 1504, Book of Records for Polk County, Oregon; thence South 83° 15' 25" East, 165.44 feet to an iron rod; thence South 66° 13' 02" East, 122.23 feet to an iron rod; thence South 71° 00' 04" East, 123.13 feet to an iron rod; thence South 79° 05' 14" East, 119.63 feet to an iron rod; thence South 67° 56' 34" East, 120.20 feet to an iron rod; thence North 65° 05' 33" East, 136.58 feet to an iron rod; thence North 76° 46' 30" East, 40.63 feet to an iron rod; thence South 80° 32' 31" East, 290.51 feet to an iron rod; thence North 71° 04' 35" East, 149.25 feet to an iron rod; thence South 89° 28' 43" East, 209.70 feet to an iron rod; thence North 63° 47' 31" East 111.57 feet to an iron rod; thence South 66° 42' 46" East 158.63 feet to an iron rod at the Northwest corner of the aforesaid Gilson tract of land; thence South 00° 30' 35" West, 949.30 feet more or less to the point of beginning.

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ATTACHMENT "B"

TRACT 1: Beginning at the Southeast corner of the Jonathan Comegy Donation Land Claim No. 49 (referred to as "Donation Land Claim No. 40" in the Deed recorded on December 13, 2002, in Book 2002, Page 018926 of the Deed Records of Polk County, Oregon) in Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; running thence North 40.25 chains; thence West 31.70 chains; thence South 40.25 chains; thence East 31.70 chains to the place of beginning.

TRACT 2: Lots Numbered One (1) and Two (2) of Section 15 in Township 6 South Range 5 West of the Willamette Meridian in Polk County, Oregon.

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MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Recitals

This Mutual Release and Settlement Agreement (the "Agreement") is entered into this 14th day of August, 2007, by and between The Broadmead Trust ("Broadmead") and Kenneth W. Eichler ("Eichler") and their respective trusts, trustees, beneficiaries, spouses, family members, heirs and assigns (collectively, the "Parties").

Broadmead filed a civil action in the Circuit Court for the State of Oregon for the County of Polk (the "Action"), seeking recovery of money damages and injunctive relief from and against Eichler. Eichler filed an Answer and Counterclaim in the Action, seeking recovery of money damages from Broadmead. The Action was filed under the following caption:

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF POLK

|                                      |   |              |
|--------------------------------------|---|--------------|
| Heidi L. Harper, as Trustee of THE ) | ) |              |
| BROADMEAD TRUST,                     | ) |              |
|                                      | ) | No. 03 P1295 |
| Plaintiff,                           | ) |              |
|                                      | ) |              |
| v.                                   | ) |              |
|                                      | ) |              |
| KENNETH W. EICHLER,                  | ) |              |
|                                      | ) |              |
| Defendant.                           | ) |              |

The Parties have entered into an Agreement, dated November 16, 2004, a copy of which is attached hereto as Exhibit A, as supplemented by terms agreed to on December 1, 2006, attached hereto as Exhibit B (collectively, the "Settlement Agreement"). The Parties desire to more clearly document their Settlement Agreement, but wish at all times for the Settlement Agreement to control their settlement of this matter.

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WATER RESOURCES  
SALEM, OREGON

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

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## Covenants

Now, therefore, it is hereby agreed between the parties that:

1. Easement to Broadmead. Eichler agrees to execute and be bound by an easement in the form attached as Exhibit C, and to support any application filed by Broadmead with the Oregon Water Resources Department (OWRD) seeking an increase in the authorized storage capacity of the Walker-VanOttten reservoir up to an elevation of 151' USGS on the upstream face of the Walker-VanOttten dam, subject only to the provisions of Paragraph 3, below. The 151' elevation shall be reflected in the Easement and in any water right application by Broadmead.
2. Assignment. Eichler agrees to assign to Broadmead his ownership of his water right to use water in the Walker-VanOttten reservoir as specified in Oregon Water Rights Certificate 79992 (Application No. 70140, Permit No. 50853) pursuant to the documents attached as Exhibit D.
3. Easement to Eichler. Broadmead agrees to execute and be bound by an Easement to Eichler in the form attached as Exhibit E, and to support any application filed by Eichler with OWRD seeking an increase in the authorized storage capacity of the Eichler Lower Reservoir authorized under OWRD Permit R-13835 ("Eichler Lower Reservoir") up to an elevation of 150' USGS on the downstream face of the Walker-VanOttten dam. Broadmead further agrees that to the extent of 30 acre feet, the Eichler Lower Reservoir has priority over any application by Broadmead seeking to expand the Walker-VanOttten reservoir over 47 acre feet, should OWRD determine that limited water is available for storage.
4. Stipulation to Dismissal. The Parties agree to dismiss the Action with prejudice and without costs or fees to any party.
5. Binding Arbitration of All Disputes. The Parties agree that Michael J. Scott of Scott Hookland, LLP shall act as the sole arbitrator of any disputes and/or claims arising from or related to this Agreement or any of its Exhibits. Mr. Scott's decision on any such matter shall be final and

binding on the Parties and the Parties agree that any such decision may be filed and entered in the Polk County Circuit Court for the State of Oregon and have the full force and effect of a General Judgment. If Mr. Scott is unwilling or unable to act as the sole arbitrator, the Parties shall mutually agree upon a qualified arbitrator to replace Mr. Scott. If the Parties cannot agree on a qualified arbitrator to replace Mr. Scott, either or both parties shall apply to the Circuit Court of Polk County for a designation of an arbitrator after notice and a summary hearing on the matter.

6. Passthrough. Up to four times per year, water stored by Eichler in the Tucker Road reservoir ("Eichler Upper Reservoir"), located on Salt Creek above the Walker-VanOttten reservoir, shall be passed through the Walker-VanOttten reservoir to Eichler Lower Reservoir. On each occasion, Eichler shall measure the amount of water released, in turn, from the Walker-VanOttten reservoir. Each Party shall pay the cost of purchasing, installing, and maintaining an appropriate measuring device of the type typically approved by the OWRD for similar purposes. The Parties shall cooperate in ensuring that the measuring devices are compatible and provide comparable data. The Parties agree to designate a neutral third party to serve as an intermediary between them in implementing the provisions of this paragraph, including receiving notice from Eichler, and taking and maintaining the required measurements from both reservoirs. The cost of such third party services on each Party's property, if any, shall be borne by that Party. Until the Parties provide otherwise, by signed agreement, Mr. Bob Walker (12215 Ballston Road, Amity, Oregon 97101, Ph. 503-843-2035) shall serve as the neutral third party; in the event Mr. Walker is unavailable to serve due to either poor health or absence, Boatwright Engineering, Inc. (2613 12th Street SE, Salem, Oregon 97302, Ph. 503-363-9225) shall serve as the neutral third party. Eichler shall provide at least 24 hours notice to the designated third party and to counsel for Broadmead of an intended release from storage, including the approximate amount of water to be released (in acre-feet) and the approximate time required to accomplish the release and conveyance. Such notice shall be provided

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by speaking in person or by telephone with, or by delivering written notice to the designated third party and to counsel for Broadmead. The provisions of this paragraph are based on the Parties' mutual understanding and agreement that water released by Eichler and delivered to the Walker-VanOttens Reservoir must reasonably flow through the Reservoir, and will not puddle or evaporate within the Reservoir. If Broadmead does not timely comply with the release of water requirement of this pass-through provision, Eichler shall be entitled to liquidated damages of \$1,000 per day of non-compliance.

7. Payment to Eichler. In exchange for the rights granted to Broadmead under paragraphs 1 and 2 herein, Broadmead agrees to pay \$30,000 to the client trust account of Schwabe Williamson & Wyatt, upon execution of this Agreement and all its Exhibits.

8. Mutual Release. In consideration of the mutual promises and payment of money as set forth herein, and the various attachments hereto, the Parties hereby release and forever discharge each other, their trustees, insurance companies, beneficiaries, heirs, successors, assigns, agents, attorneys and servants of and from any and all claims and demands of every kind, name, nature or description, arising out of or related to, or in any way caused by the facts, circumstances and conduct alleged by any party to the Action, or based upon any facts occurring at any time before the date on which this Agreement is executed, and for any damages known or unknown. The Parties intend this to be a full, final and complete settlement, adjustment, and compromise of any and all claims based upon the allegations by any of the Parties, or which could have been brought under the facts and conduct alleged herein, including all claims and counterclaims.

9. No Admission of Liability. The Parties specifically acknowledge that this Agreement is a resolution of disputed claims. The Parties agree that the making of this Agreement is not and shall not be considered as an admission of liability on the part of any of the Parties, by whom liability

is expressly denied.

10. Future Conduct. The Parties agree to mutually cooperate with each other and third-parties, including the Oregon Water Resources Department, to accomplish the objectives of this Agreement, including obtaining any permits and exchanging easements where necessary relating to either increasing the authorized storage capacity of the Walker-VanOttten reservoir to the elevation of 151' or increasing the authorized storage capacity of the Eichler Lower Reservoir to the elevation of 150'.

11. Notice of Water Storage. Prior to filling the Walker-VanOttten reservoir, Broadmead shall give Eichler 24 hours' notice so as to permit Eichler to put boards in the Eichler Upper Reservoir. For purposes of this paragraph, notice shall be provided by telephone call (including leaving a voice-mail message for Eichler), by delivery of written notice to Eichler at that address shown in Paragraph 16, or by other actual notice provided 24 hours in advance.

12. Entire Agreement. This Agreement and its Exhibits constitute the entire agreement among the Parties, which supersede any prior oral or written agreements or communications on the subject matter addressed herein. The Parties acknowledge that other than as contained in this Agreement and its Exhibits, no representations or promises of any kind have been made by or on behalf of the Parties or on which the Parties have relied in the slightest to execute this agreement.

13. Binding Effect. This Agreement shall be binding on and inure to the benefit to the Parties and their respective trustees, beneficiaries, legal representatives, heirs, successors, agents and assigns.

14. Severability. In the event that any provision, or any portion thereof, becomes or is declared by either Mr. Scott or a qualified replacement arbitrator as provided herein to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision

or portion of said provision.

15. Governing Law. This Agreement shall be construed, interpreted and enforced pursuant to the laws of the State of Oregon.

16. Notices. Except as provided in Paragraphs 6 and 11, any notice required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, and by first-class mail addressed to the parties and their counsel as follows:

Mr. Kenneth Eichler  
8250 Tucker Road  
Amity, Oregon 97101-9520

Schwabe Williamson & Wyatt, P.C.  
Ms. Martha Pagel  
Attorney at Law  
1600-1900 Pacwest Center  
12111 SW Fifth Avenue  
Portland, Oregon 97204

The Broadmead Trust  
c/o Mrs. Heidi Harper, Trustee  
11120 McCann Road  
Amity, Oregon 97101

Mr. John N. McKeegan  
Attorney at Law  
P.O. Box 480  
McMinnville, Oregon 97128

All notices and other communications shall be deemed to be given three (3) days after mailing as required above. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided above.

17. Modification. Any modifications to this Agreement must be made in writing and signed by all of the parties.

18. Certification. The Parties have executed this Agreement only after full and ample

opportunity to carefully consider it, reflect at length, and after consultation with experienced attorneys of their own choosing. The Parties recognize this Agreement contains a full and final mutual release. The Parties likewise recognize this instrument as a binding contractual commitment, not a mere recital. The undersigned hereby certify that they have the authority to enter into this agreement on behalf of all of the Parties.

19. Counterparts. This instrument may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties.

20. Recording. This Agreement, including its Exhibits, shall be attached to and/or recorded concurrently with the recordation of any Easement contemplated herein.

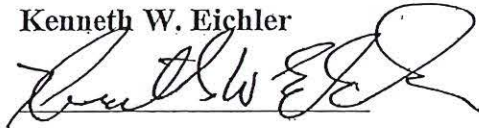
**The Broadmead Trust**

By \_\_\_\_\_

Its \_\_\_\_\_

Date: \_\_\_\_\_

Kenneth W. Eichler



Date: 8/14/07

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T 10473

opportunity to carefully consider it, reflect at length, and after consultation with experienced attorneys of their own choosing. The Parties recognize this Agreement contains a full and final mutual release. The Parties likewise recognize this instrument as a binding contractual commitment, not a mere recital. The undersigned hereby certify that they have the authority to enter into this agreement on behalf of all of the Parties.

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20. Recording. This Agreement, including its Exhibits, shall be attached to and/or recorded concurrently with the recordation of any Easement contemplated herein.

The Broadmead Trust

Kenneth W. Eichler

By Heidi L. Harper

Its Trustee

Date: Aug. 8, 2007

\_\_\_\_\_  
Date: \_\_\_\_\_

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THE PARTIES AGREE AS FOLLOWS.

① WATER ELEVATION ON "NEW" LOWER RES. UP TO 150 FT. LEVEL.

② MJS ACTING AS SCRIBNER ONLY ADVISES PARTIES TO SEEK INDEPENDENT LEGAL COUNSEL. MJS TO ACT AS SOLE ARBITRATOR OF TERMS OF SUPPLEMENTAL DOCUMENTS AND AGREEMENTS AS WELL AS CLAIMS UNDER THIS AGREEMENT AND HIS DECISIONS SHALL BE FINAL AND BINDING.

③ A FLOW METER OR SIMILAR DEVICE (OR PUMP WITH A FLOW METER) SHALL ~~BE~~ BE INSTALLED ON TUCKER RD.

RES. DAM AT EICHLER'S EXPENSE,

AND A FLOW METER OR SIMILAR DEVICE (OR PUMP WITH A FLOW METER)

~~MAY~~ SHALL BE INSTALLED ON WALKER DAM AT HARPOUL'S EXPENSE.

THE ~~RES.~~ READINGS SHALL BE

ON CUBIC FEET OR IDENTICAL STANDARDS TO MEASURE VOLUME.

EICHLER MAY FLOW WATER THROUGH THE WALKER RES. UPON 24 HOURS

PREVIOUS WRITTEN NOTICE ~~AND~~ WITH THE UNDERSTANDING THAT WATER MUST

REASONABLY FLOW THROUGH THE WALKER RES. AND NOT Puddle OR

EVAPORATE. SUCH RIGHT SHALL NOT BE EXERCISED MORE THAN FOUR

TIMES PER CALENDAR YEAR. THE TERMS OF SUCH RIGHT SHALL

BE PERMIT THE PARTIES TO REASONABLY ASSIST EACH

OTHER IN CONFIRMING THE

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*Kue*  
THIS SHALL BE ADMINISTERED BY A THIRD PARTY WHOSE COST SHALL BE EQUALLY SHARED BY THE PARTIES

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SALEM, OREGON

12/14 Exhibit A  
Page 1 of 2

WALKER RES. IN AND THE WALKER  
REMOVED FROM THE WALKER RES.

4) ~~ALL~~ CLAIMS BY AND BETWEEN THE  
PARTIES TO BE DISMISSED WITH  
PREJUDICE AND WITHOUT MONETARY  
AWARD, COSTS OR DISBURSEMENTS  
FOR OR AGAINST ANY PARTY AND AS ~~EXCEPT~~  
AS PROVIDED THEREIN ALL CLAIMS ~~HEREIN~~ EXCEPT

5) EACH PARTY TO MUTUALLY COOPERATE  
WITH THE OTHER AND THIRD PARTIES  
(INCLUDING GOVERNMENT ENTITIES) TO  
ACCOMPLISH THE ~~OBJECTIVES OF THE~~  
THIS AGREEMENT  
MIGHT REPERA CATERING  
AND MEUSE

6) EICHLER A ~~ALSO~~ ELEVATION OF  
WALKER RES. IS A ~~GRANTED TO~~ ~~IT~~  
SO ONLY ~~IT~~ ~~RES.~~ ~~LEVELS~~ ~~WALKER~~  
~~RES.~~ ~~LEVELS~~ ~~WALKER~~  
AGREEMENT  
CONDITION  
WHI PARTS  
AGREEMENT  
THIS ELEVATION

7) HARPER SHALL GIVE EICHLER  
24 HOURS NOTICE BEFORE  
~~PROCEED~~ FILLING THE RES. ~~EXCEPT~~ SO  
AS TO PERMIT EICHLER PUT THE  
TUCKER RD DAM IN.

8) ~~TO THE EXTENT OF 30 ACRES FEET~~ ~~RES.~~  
NEW NEW COVER HAS PRIORITY  
OVER EXPANSION OF WALKER  
RES. OVER 47 ACRES FEET, STATE  
SHALL DETERMINE LIMITED WATER  
AVAILABLE FOR STORAGE.

9) HARPER TO PAY EICHLER  
\$30,000 UPON EXECUTION OF  
FINAL DOCUMENT OR WITHIN 60 DAYS  
DETERMINES IT IS DUE WHICH SHALL  
NOT BE BEFORE DEC. 15 2004.  
WALKER SHALL BE  
FOR ACRES, WALKER RES.  
IN THE WALKER RES.

10) THIS IS AN AGREEMENT WITH SUFFICIENT MATERIAL TERMS  
11) EICHLER'S AGREEMENT IS ~~CONDITION~~ UPON WRS,  
EICHLER'S AGREEMENT WHICH SHALL BE ~~REMOVED~~ GIVEN IF  
NOT OBJECT BEFORE 5 PM 11/17/04  
EXISTING  
AND  
RIGHT TO  
COUNTER CHANGE  
WATER RES.

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Exhibit A  
Page 2 of 2

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WATER RESOURCES DEPT

December 1, 2006

The parties agree as follows:

1. The handwritten terms of the prior agreement between the parties remain in full force and effect except as may be expressly modified by this Agreement.

2. Mike Scott is acting as scrivener only advises parties to seek independent legal counsel. *MS*

3. The ~~historical~~ water level <sup>for para. 6 of Settlement agreement</sup> is agreed to be 151.00 feet on the upstream side of Walker dam.

4. If the release of water requirement of the pass-through provisions of the agreement are not timely complied with Eichler shall be entitled to liquidated damages of \$1,000 per day for non-compliance.

5. Mike Scott shall act as the arbitrator on any and all issues related to this matter and his decision shall be final and binding.

6. The parties shall complete the written settlement agreement and execute the same by December 15, 2006 or present any remaining issue to Mike Scott for his determination by such date.

*MS* *John A. ...* Dec 1 6

*James A. ... Jr.*

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WATER RESOURCES DEPT  
SALEM, OREGON

Exhibit B

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EXHIBIT D


**ASSIGNMENT AND BILL OF SALE**

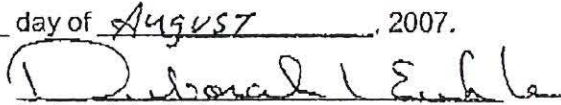
THIS INDENTURE WITNESSETH, WHEREAS: Grantors, Kenneth W. Eichler and Deborah L. Eichler, Trustees, and the Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002, are the record owners of Water Right Certificate No. 79992 (Application No. 70140 and Permit No. 50853) (hereinafter the "Water Right"), and the land to which the Water Right is appurtenant (hereinafter the "Land"). Copies of the Water Right and deed to the Land are attached hereto and by this reference incorporated herein as Attachments 1 and 2, respectively.)

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged; including the performance of that certain Mutual Release and Settlement Agreement dated 8/14, 2007; Grantors do hereby grant, transfer, assign, and convey the Water Right unto Grantee, the Broadmead Trust, for the purpose of cancellation or transfer of the Water Right to land owned or controlled by Grantee. Grantors covenant to cooperate with Grantee to execute all additional documents or transfer documents required by the Oregon Water Resources Department to place such assignment and change of ownership on record with the Department, including but not limited to the Ownership Update Form attached hereto as Attachment 3 to this Assignment and Bill of Sale and any application to transfer or cancel the water right.

This Assignment and Bill of Sale is binding upon the executors, administrators, heirs, successors and assigns of Grantors and Grantee forever.

WITNESS our hand(s) this 14 day of August, 2007.

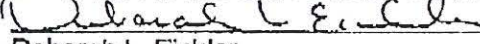
  
Kenneth W. Eichler

  
Deborah L. Eichler

STATE OF OREGON       )  
                                  ) ss.  
County of Polk         )

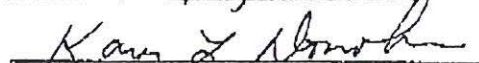
We, Kenneth W. Eichler and Deborah L. Eichler, being duly sworn, depose and say that we are the sole owners of the Water Right described in the above Assignment and Bill of Sale, and that the same is free and clear of liens and encumbrances of every kind and nature, and that said Assignment and Bill of Sale is our true and voluntary act and deed.

  
Kenneth W. Eichler

  
Deborah L. Eichler

SUBSCRIBED AND SWORN to before me this 14 day of August, 2007.



  
Notary Public for Oregon  
My Commission Expires: 1-6-11

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WATER RESOURCES DEPT  
SALEM, OREGON

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STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KEN EICHLER  
8250 TUCKER ROAD  
AMITY, OR 97101

confirms the right to use the waters of WALKER-VAN OTTEN RESERVOIR, CONSTRUCTED UNDER PERMIT R-1405, a tributary of SALT CREEK, for IRRIGATION OF 28.0 ACRES.

This right was perfected under Permit 50853. The date of priority is DECEMBER 13, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 28.0 ACRE-FEET OF STORED WATER ONLY, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located as follows:

WALKER-VAN OTTEN RESERVOIR DAM - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; AND

RE-DIVERSION - LOT 3 (NW 1/4 NE 1/4), SECTION 14, TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.; 1800 FEET NORTH AND 170 FEET EAST FROM THE SE CORNER OF J. EADES DLC NO 47.

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 not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

- LOT 2 (NE 1/4 NE 1/4) 3.1 ACRES
  - LOT 3 (NW 1/4 NE 1/4) 18.7 ACRES
  - LOT 4 (SW 1/4 NE 1/4) 7.2 ACRES
  - LOT 1 (SE 1/4 NE 1/4) 2.0 ACRES
- SECTION 14  
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

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

70140.6B

Certificate Number 79992

Attachment 1  
Page 1 of 3

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WATER RESOURCES DEPT  
SALEM, OREGON

1 10473

Page Two

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

The right to the use of the water for the above purpose is restricted to beneficial use without waste on the lands or place of use described. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APRIL 10, 2003.

*Paul R. Cleary*  
PAUL R. Cleary



Recorded in State Record of Water Right Certificate Number 79992.

70140.SB

Attachment 1  
Page 2 of 3

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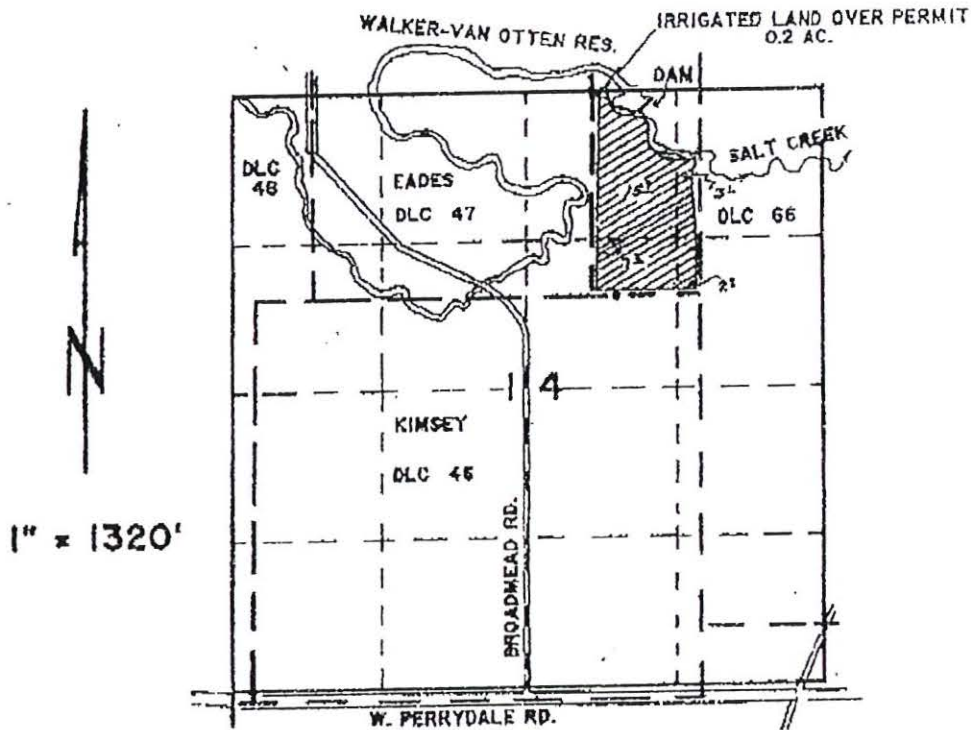
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WATER RESOURCES  
SALEM, OREGON

J & R NO. 93-75-W1

NOTE:  
THIS MAP IS FOR THE  
PURPOSE OF IDENTIFYING  
WATER RIGHTS AND HAS  
NO INTENT TO DIMENSION  
OR LOCATE PROPERTY  
OWNERSHIP LINES.

### T. 6 S., R. 5 W., W.M. POLK COUNTY, OREGON



DIVERSION POINT IS 1800 FEET NORTH AND 170 FEET EAST  
FROM THE SOUTHEAST CORNER OF THE JOHN EADES DLC NO. 47.

### FINAL PROOF SURVEY UNDER

70140

R-1405  
50853

APPLICATION NO. \_\_\_\_\_, PERMIT NO. \_\_\_\_\_

IN NAME OF:  
DAN VAN OTTEN  
8130 BROADMEAD RD.  
AMITY, OR 97101

SURVEYED SEPT. 1993 BY R.H.S.



J & R SURVEYORS - P.O. BOX 419 - DALLAS, OR 97330 - PH.625-4003

Attachment 1  
Page 3 of 3

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OCT 19 2007

WATER RESOURCES DEPT  
SALEM, OREGON

T 10473

Grantor: Kenneth W. Eichler  
8250 Tucker Road  
Amity, Oregon 97101-9520

RECORDED IN POLK COUNTY  
LINDA DAWSON, COUNTY CLERK

2002-018927

Send all tax statements to Grantee:  
Kenneth W. Eichler and Deborah L. Eichler, Trustees  
8250 Tucker Road  
Amity, Oregon 97101-9520



\$31.00

12/13/2002 01:07:32 PM

REC-B5 Cnt=1 Stmt A. CAPTAIN  
\$10.00 \$10.00 \$11.00

After recording, return to: BRISLAWN LOFTON, PLLC  
520 Kirkland Way, Suite 301  
Kirkland, Washington 98033

BARGAIN AND SALE DEED

RESERVED FOR RECORDER'S USE

KNOW ALL BY THESE PRESENTS that Kenneth W. Eichler (aka Ken Eichler), a married person, hereinafter called grantor, for no consideration other than estate planning, does hereby grant, bargain, sell and convey unto Kenneth W. Eichler and Deborah L. Eichler, Trustees, and the Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002, hereinafter called grantees, and unto grantees's heirs, successors and assigns, all of that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in Polk County, State of Oregon, described as follows, to-wit:

LEGAL DESCRIPTION: See attached Exhibit A, incorporated herein by this reference

Property Address: 8165 Pennydale Road, Amity, Oregon. Tax Account # <sup>474806, 232500,</sup> 232427, 232498, 232344

SUBJECT TO: agreements, easements, reservations, restrictions, limitations, excoptions, covenants, conditions, rights of way, other rights of the public, zoning ordinances, deeds of trusts, mortgages, liens, taxes, assessments and encumbrances of record, if any.

Grantor gives a special power of attorney to the Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust to execute title transfers as may be required.

IN WITNESS WHEREOF, I set my hand this 6 day of December, 2002.

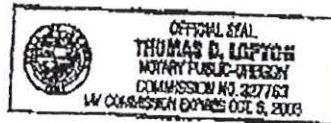
THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS.

*Kenneth W. Eichler*  
Kenneth W. Eichler, Grantor

STATE OF OREGON }  
                          } ss.  
COUNTY OF POLK }

On December 6, 2002, before me appeared Kenneth W. Eichler, who proved to me to be the person whose name is subscribed to this Instrument, consisting of two (2) pages, and acknowledged he executed it as his voluntary act and deed.

*Thomas D. Lofton*  
Notary Public for the State of Oregon  
Printed Name Thomas D. Lofton  
Residing at Bethell, WA  
My Commission Expires 10-5-2003



Attachment 2  
Page 1 of 2

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T 10473

## EXHIBIT "A"

## PARCEL I

A) that portion of the following described property lying South of the Section line common to Sections 11, 12, 13 and 14, to-wit: Beginning at an iron pipe on the Westerly boundary of the County Road, said iron pipe being located North 882.91 feet and East 1118.38 feet and South 23° 05' West 29.7 feet and South 83° 03' East 81.50 feet from the Southeast corner of the Thomas Kinsey Donation Land Claim No. 48 in Township 6 South, Range 5 West of the Willamette Meridian, Polk County, Oregon; thence North 63° 00' West 81.90 feet to an iron pipe; thence North 23° 05' East 121.53 feet to an iron pipe; thence West 852.9 feet to an iron pipe on the Easterly boundary of the Southern Pacific Railroad right-of-way; thence Northerly along said Easterly Railroad boundary to a point which is the most Southerly corner of the most Northerly parcel of that certain tract of land conveyed to Daniel A. Van Otter, et al, in Volume 142, Page 181, Deed Records of Polk County, Oregon; thence Easterly to a point which is West 16.35 chains and South 10° 30' West 23.84 chains from the one quarter corner common to Sections 11 and 12 in said Township and Range; thence South 39° 30' East 1.48 chains; thence East 3.43 chains; thence North 65° 00' East 2.54 chains; thence North 64° 00' East 7.40 chains; thence North 77° 00' East 5.44 chains; thence South 10° 00' East 11.20 chains to a point on the North boundary of the John Townsend Donation Land Claim No. 68 in said Township and Range, which point is West 20.12 chains from the Northeast corner of said claim; thence South 14° 30' East 3.58 chains; thence South 32° 00' East 9.20 chains; thence South 40° 00' East 4.77 chains; thence South 9° 30' East 1.50 chains; thence South 21° 15' West 3.14 chains; thence East to a point on the Westerly boundary of said County Road, Perrydale to Amity; thence Southwesterly along said Road boundary to the place of beginning.

## PARCEL II

Beginning at an iron pipe on the North line of the Thomas Kinsey Donation Land Claim No. 48 in Section 14, Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said iron pipe being North 89° 56' 39" East 81.10 feet from an iron pipe marking the South-east corner of the John Eades Donation Land Claim No. 47 in said Township and Range; and running thence North 0° 38' 36" East 1827.87 feet to an iron pipe; thence South 62° 59' 19" East 63.44 feet to an iron pipe; thence South 4° 06' 12" East 105.38 feet to an iron pipe; thence South 35° 30' 53" East 64.34 feet to an iron pipe; thence South 63° 49' 28" East 82.87 feet to an iron pipe; thence South 73° 26' 35" East 129.37 feet to an iron pipe; thence South 81° 43' 52" East 327.60 feet to a point on the Northerly line of a tract of land conveyed to Daniel A. and Anne Van Otter by deed recorded in Volume 142, Page 185, Deed Records for Marion County, Oregon; thence South 32° 02' West along said Northerly line, 200.00 feet to an angle point in said line; thence South 78° 48' 30" East continuing along said Northerly line, 371.37 feet to a point on the West line of the Southern Pacific Railroad right-of-way; thence South 0° 07' West along said West right-of-way line, 1261.14 feet to an iron pipe on the North line of the aforesaid Thomas Kinsey Donation Land Claim No. 46; thence South 89° 58' 39" West along said claim line, 880.66 feet to the point of beginning.

## PARCEL III

Beginning at an iron pipe which is 81.10 feet North 89° 48' 42" East and 878.52 feet North 00° 30' 35" East from the Southeast corner of the John Eades Donation Land Claim No. 47 in Township 6 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, said pipe being on the West line of that tract of land conveyed to Leroy Gilson by that deed recorded November 24, 1887, in Book 344, Page 186B, Book of Records for Polk County, Oregon; thence North 39° 05' 39" West, 252.45 feet to an iron rod; thence North 59° 24' 52" West, 95.26 feet to an iron rod; thence North 78° 10' 11" West, 286.47 feet to an iron rod; thence North 63° 00' 07" West, 388.30 feet to an iron rod; thence North 75° 07' 53" West, 338.50 feet to an iron rod; thence North 70° 28' 61" West, 341.52 feet to an iron rod; thence South 88° 41' 11" West, 159.88 feet to an iron rod; thence North 52° 49' 50" West, 42.98 feet to an iron rod; thence North 15° 23' 35" West, 282.06 feet to an iron rod; thence North 14° 50' 08" East, 90.39 feet to an iron rod; thence North 89° 28' 51" East, 57.36 feet to an iron rod at a point on the Southerly line of that tract of land conveyed to The Broadmoor Trust by that deed recorded in Book 304, Page 1604, Book of Records for Polk County, Oregon; thence South 83° 15' 26" East, 165.44 feet to an iron rod; thence South 66° 13' 02" East, 122.23 feet to an iron rod; thence South 71° 00' 04" East, 123.13 feet to an iron rod; thence South 79° 05' 14" East, 119.63 feet to an iron rod; thence South 67° 58' 34" East, 120.20 feet to an iron rod; thence North 65° 05' 33" East, 136.58 feet to an iron rod; thence North 76° 46' 30" East, 40.83 feet to an iron rod; thence South 80° 32' 31" East, 290.61 feet to an iron rod; thence North 71° 04' 35" East, 149.25 feet to an iron rod; thence South 69° 23' 43" East, 208.70 feet to an iron rod; thence North 63° 47' 31" East 111.57 feet to an iron rod; thence South 69° 42' 46" East 158.63 feet to an iron rod at the Northwest corner of the aforesaid Gilson tract of land; thence South 00° 30' 35" West, 949.30 feet more or less to the point of beginning.

Attachment 2  
Page 2 of 2

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WATER RESOURCES  
SALEM, OREGON

T 10473



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

Certificate of Water Right
Ownership Update

NOTICE TO SELLERS & BUYERS:

By law, all water belongs to the public (ORS 537.110). In almost every instance, a permit or water right certificate from the Water Resources Department is needed before using, diverting or storing water (ORS 537.130). However, most domestic wells do not require water rights. A certificate of water right stays with the land. In order to keep track of water right ownership, the Department requests that this form be submitted to the Department.

Water that has been used for a long time in one place or that involves a water structure (like a dam) that already exists is no guarantee that there is a water right which would allow the water use to continue.

If you have any questions about this form or water right requirements, please contact your local watermaster or call the Water Resources Department at 503-986-0900.

Note: Please type or print legibly when filling in the following information. Use additional paper if necessary.

PROPERTY SELLER INFORMATION

Applicant(s):
Mailing address:
Phone:

PROPERTY BUYER INFORMATION

Applicant(s):
Mailing address:
Phone:

PROPERTY DESCRIPTION (attach additional pages if necessary):

County: Township: Range: Section:
Tax lot number(s):

Attach a copy of your property deed or legal description of the property.

Street address of water right property:

Water Right Information (attach copy of water right permit or certificate & final proof map if available):

Application #: Permit #: 50853 Certificate or page #: 79992

Will all the lands associated with this water right be owned by the buyer? Yes No

Name of individual completing this form: Phone:

Signature: Date: 8-14-07

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SALEM, OREGON

T 10473



\$96:00

10/03/2007 11:52:00 AM

REC-EAS Cnt=1 Stn=1 K. WILLIAMS  
\$70.00 \$10.00 \$11.00 \$5.00

EXHIBIT C

After recording, return to:  
Walter R. Gowell, Attorney  
P.O. Box 480  
McMinnville, OR 97128  
Send Tax Statements to:  
No Change

RESERVOIR WATER STORAGE  
ENCROACHMENT EASEMENT

T 10473

THIS ENCROACHMENT EASEMENT for the storage of reservoir waters, made this 14<sup>th</sup> day of August, 2007 by Kenneth W. Eichler and Deborah L. Eichler, Trustees, and the Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, dated November 12, 2002, hereinafter called the Grantors, in favor of The Broadmead Trust, hereinafter called the Grantee;

WITNESSETH:

WHEREAS: Grantors are the record owners of the following described real estate in Polk County, State of Oregon, to-wit:

see Attachments A and B, incorporated herein by this reference

and have the unrestricted right to grant the reservoir encroachment easement hereinafter described over, under and upon:

All those portions of the Grantors' above-described real property located in Sections 11, 14 or 15 of Township 6 South, Range 5 West of the Willamette Meridian lying below an elevation level of one hundred fifty-one feet (151') above mean sea level and contiguous with that certain Walker Van-Otten Dam reservoir identified in State of Oregon Certificate of Water Right No. 30028, hereinafter described as the "Easement Area";

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged; including the performance of that certain Mutual Release and Settlement Agreement dated 8/14, 2007, which is attached hereto and incorporated by reference; Grantors do hereby grant and convey unto Grantee a perpetual non-exclusive easement for encroachment of stored reservoir waters on, over, under and upon the confines of the Easement Area.

This perpetual reservoir water storage encroachment easement is for the benefit of, runs with the land, and shall hereafter be appurtenant to the following described real estate, more particularly described as follows, to-wit:

All of Grantee's real property now or hereafter owned in Sections 2, 10, 11, 14 and 15 of Township 6 South, Range 5 West of the Willamette Meridian, in Polk County, Oregon.

This encroachment easement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto, but also their respective heirs, executors, administrators, successors and assigns.

In construing this encroachment easement and where the context so requires, words in the singular include the plural; the masculine includes the feminine and the neuter; and generally, all changes shall be made or implied so that this instrument shall apply both to individuals and to corporations.

IN WITNESS WHEREOF, the parties hereto have subscribed this instrument on this, the day and year first hereinabove written.

Kenneth W. Eichler, Grantor

Deborah L. Eichler, Grantor

STATE OF OREGON )

County of Polk )

) ss

8-14-07, 2007

Personally appeared the above named Kenneth W. Eichler and Deborah L. Eichler, as Trustees and Successor Trustees of The Kenneth W. Eichler and Deborah L. Eichler Revocable Living Trust, who acknowledged the within instrument as their true and voluntary act and deed.

Before me:

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OCT 19 2007  
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SALEM, OREGON



Notary Public for Oregon  
My Commission Expires: 1-6-11