

T-13495

Regular

T-13495

Name Weitz & CompanyAddress PO Box 854
Baker City Oregon 97814Change in APCDDate Filed 7/23/2020Initial notice date 8/4/2020DPD issued date 12/10/2020PD issued date 3/21/2022PD notice date 3/22/2022Date of FO 5/19/2022 Vol 125 Page 119Ext of Time Deny 10/24/2025 Vol 135 Page 921-922C-Date 10/01/2023COBU due date 10/01/2024

COBU Received date

Certificate issued

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Pine CreekTrib. of Salmon CreekUse IrrigationCounty Baker

Quantity of water (CFS)

No. of Acres

Name of ditch

App# Decree Per # Powder river Cert # 4386 PR Date 12/31/1864

App# Per # Cert # PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

FEES PAID

Date	Amount	Receipt #
<u>7-23-2020</u>	<u>\$1,160.00</u>	<u>133115</u>
<u>3-14-2022</u>	<u>\$149.69</u>	<u>137679</u>
<u>4-6-2023</u>	<u>\$780.00</u>	<u>140447</u>
<u>9-2-25</u>	<u>\$1,170.00</u>	<u>145972</u>

FEES REFUNDED

Date	Amount	Receipt #

Assignments:

Irrigation District

Agent Dan Weitz weitz.conw@gmail.com

CWRE

CC's list Baker County☐ - Oversized map - Location



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

October 24, 2025

DAN WEITZ
PO BOX 854
BAKER CITY, OR 97814

Reference: File T-13495

We have received your application for extension of the time limit to make complete application of water under T-13495. We also have your check in the amount of \$1,170.00. A copy of receipt number 145972 is enclosed.

The above referenced extension of time application was denied in the records of the Water Resources Department on May 19, 2022, by Special Order Volume 135, Page 921 (copy enclosed).

If you have any questions related to the approval of this transfer, you may contact your caseworker, Stacy Phillips, by telephone at (503) 979-9948 or by e-mail at Stacy.h.phillips@water.oregon.gov.

Sincerely,

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

cc: Marcy J. Osborn, Watermaster Dist. #8 (via email)
Baker County Planning Department, Local Government

Enclosure

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

In the Matter of Application for Extension	)	FINAL ORDER DENYING
of Time for Transfer Application T-13495,	)	AN EXTENSION OF TIME FOR A
Baker County	)	PERMANENT TRANSFER

Applicant

WEITZ AND CO. INC.
DAN WEITZ
PO BOX 854
BAKER CITY, OR 97814

Authority

Oregon Administrative Rules (OAR) 690-380-5140(2) authorizes the Department to grant an extension of time to complete a transfer.

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time to complete a transfer as authorized by a final order issued under OAR Division 380.

OAR 690-380-6020 (3) establishes that extensions are granted for one year, from October 1 to October 1 of each year. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence.

Findings of Fact

1. On September 2, 2025, the Department received an application for extension of time for Transfer Application T-13495.
2. On May 19, 2022, the Department signed an order, which was mailed on May 19, 2022, approving Transfer Application T-13495 to change add an additional point of diversion. The order was recorded in Special Order Volume 125, Pages 119-123. The order set a transfer completion date of October 1, 2023.
3. On June 22, 2023, the Department approved an extension of time for Transfer Application T-13495, which was mailed to the applicant on June 23, 2023. The order was recorded in Special Order Volume 128, Pages 551-552. The order extended the transfer completion date to October 1, 2025.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On September 18, 2025, the Department received information via email from the Oregon Department of Fish and Wildlife (ODFW), indicating that the neither the applicant nor agent had contacted ODFW regarding design or installation of a fish screen for the new point of diversion (approved by T-13495) since November 2023; At that time ODFW reiterated the importance of having a fish screen installed prior to diverting water.
5. On October 7, 2025, the Department contacted the watermaster to inquire if water had been diverted from the new point of diversion (approved by T-13495) within the most recent extension time period of June 22, 2023, and October 1, 2025. The watermaster confirmed that water had been diverted.
6. To date a proper fish screen has not been installed, according to ODFW.
7. Since the approval of the transfer, the applicant has not shown reasonable due diligence toward completing the transferred water right consistent with the terms and conditions of the transfer order.
8. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2030. The applicant did not provide sufficient justification in the extension application to grant an extension of time.

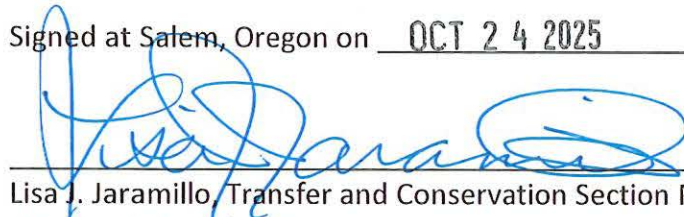
Conclusions of Law

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has not shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-13495.

Now, therefore, it is ORDERED:

The request for an extension of time for completion of the changes authorized by Transfer Application T-13495, is hereby denied.

Signed at Salem, Oregon on OCT 24 2025.



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

Mailing date: OCT 27 2025

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 # 145972

INVOICE # _____

RECEIVED FROM: Weitz + Company Inc.
BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>T-13495</u>

CASH: ☐ CHECK:# 1285 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,170.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
TC162 DEPOSIT LIAB. (IDENTIFY)	\$
0240 EXTENSION OF TIME	\$ <u>1,170.00</u>

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
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 _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ \$ _____

RECEIPT: 145972 DATED: 9.2.25 BY: mm-millb

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

Application for Extension of Time for Transfer of Water Right



Transfer Number: T- T-13495

A summary of review criteria and procedures that are generally applicable to these applications is available at https://www.oregon.gov/owrd/WRDFormsPDF/transfer_extension_criteriareview.pdf

Applicant = Transfer Holder of Record*			Contact Name	Phone Number
Weitz & Co. Inc			Dan Weitz	541-403-2160
Mailing Address				Fax Number
43730 Old Wingville Rd.				
City	State	Zip	Email	
Baker City	OR	97814		
Application Prepared By:		Title	Contact Information	
Dan Weitz		President Weitz & Co.	Dan Weitz 541-403-2160	

*The applicant must be the transfer holder of record. If the applicant is not the transfer holder of record, the applicant must request an assignment of interest prior to submitting the transfer extension application. Alternatively, the request for assignment may be submitted simultaneously with the extension application. Separate checks for the fees is helpful. Links to assignment forms: <https://www.oregon.gov/owrd/WRDFormsPDF/assign.pdf>, https://www.oregon.gov/owrd/WRDFormsPDF/Assign_by_proof.pdf
Contact information about assignments is available at <https://www.oregon.gov/owrd/programs/WaterRights/Permits/Assignment/Pages/default.aspx>

Received

SEP 02 2025

OWRD

To the WATER RESOURCES DIRECTOR OF OREGON:

1. I/WE, THE TRANSFER HOLDER(S) OF RECORD, do hereby make application for an extension of time within which to complete a change in (check all that apply):

- ☒ point(s) of diversion/appropriation
- ☐ place(s) of use
- ☐ character of use

under the terms of a final order of the Water Resources Director entered on 05/19/22(month/day/year) for Transfer Number T- T-13495 Current

2. THE FOLLOWING WORK HAS BEEN ACCOMPLISHED toward completion of the change within the time allowed, which expired on N/A (month/day/year):

Enter Text:

Current extension expires 10/01/2025. Nearly all work completed with the exception of a "Staff Gauge" and an overflow back to Pine Creek. Then an application of irrigation water to be applied and inspected by a certified water rights examiner. All work stopped with a "Notice of Violation" by OWRD.

3. TO FULLY COMPLETE THE CHANGE, it will be necessary to accomplish the following:

Enter Text:

To complete the Additional Point of Diversion (APOD) the application is now having to go through the litigation process, including an appeal of an Administrative Judge decision to the Oregon Court of Appeals, then possibly Oregon Supreme court and then the 9th District Court of Appeals. This process will likely take 5 or more years.

4. **I/WE ARE REQUESTING THE TIME FOR COMPLETION** be extended to October 1, 5 (year).

Transfer extensions can be authorized for one (1) calendar year from October 1 to October 1 of each year, or up to five (5) years for transfers involving municipal or quasi-municipal uses, unless the applicant can justify the need for a longer period of time by submission of pertinent evidence. OAR 690-380-6020 (3) and OAR 690-385-7200 (5).

5. **I/WE CERTIFY THAT TO THE BEST OF MY/OUR KNOWLEDGE** the information contained in this application is true and accurate.

08/25/2025

Date


Signature of Applicant(s), i.e., Transfer Holder(s) of Record

6. **IN ORDER FOR AN APPLICATION TO BE COMPLETE**, it must be accompanied by the required fee. See the Department's fee schedule at https://www.oregon.gov/owrd/WRDFormsPDF/fee_schedule.pdf or call (503) 986-0900.

7. **MAIL THE COMPLETED APPLICATION AND FEE TO:**

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

Received
SEP 02 2025
OWRD



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

June 22, 2023

DAN WEITZ

PO BOX 854

BAKER CITY, OR 97814

REFERENCE: Transfer Application T-13495

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 your caseworker, Stacy.H.Phillips, by telephone at (503) 979-3511 or by e-mail at Stacy.H.Phillips@water.oregon.gov.

Sincerely,

Flor Pena

Water Rights Services Support

Transfers and Conservation Section

cc: Marcy J. Osborn, Watermaster Dist. # 8 (via email)
Baker county

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

In the Matter of Application for Extension of)	FINAL ORDER APPROVING AN EXTENSION
Time for Transfer Application T-13495,)	OF TIME FOR A PERMANENT TRANSFER
Baker County)	FOR AN ADDITIONAL POINT OF DIVERSION

Applicant
WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814
WEITZCONW@GMAIL.COM

Agent
ROBERT D. BAGGETT, CWRE
bobbagett@gmail.com

Authority

Oregon Administrative Rules (OAR) 690-380-5140(2) authorizes the Department to grant an extension of time to complete a transfer.

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time to complete a transfer as authorized by a final order issued under OAR Division 380.

OAR 690-380-6020 (3) establishes that extensions are granted for one year, from October 1 to October 1 of each year. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence.

Findings of Fact

1. On April 6, 2023, the Department received an application for extension of time for Transfer Application T-13495.
2. On May 19, 2022, the Department signed an order, which was mailed on May 19, 2022, approving Transfer Application T-13495 to change add an additional point of appropriation. The order was recorded in Special Order Volume 125, Pages 119-123. The order set a transfer completion date of October 1, 2023.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

3. Since the approval of the transfer, the applicant has retained a contractor for construction of the additional point of diversion and has been in contact with the Oregon Department of Fish and Wildlife for the design and construction of the fish screening and bypass structure.
4. To fully complete the change, the applicant needs to construct the point of diversion after the irrigation season ends when Pine Creek stops flowing, install a fish screen at the new point of diversion consistent with the consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards, and install a totalizing flow meter.
5. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2025. Consistent with OAR 690-380-6020(3), the applicant provided sufficient justification in the extension application to grant an extension for more than one year. Due to the timeframe required for ODFW to construct the fish screening device, the Department will extend the transfer completion date to October 1, 2025.

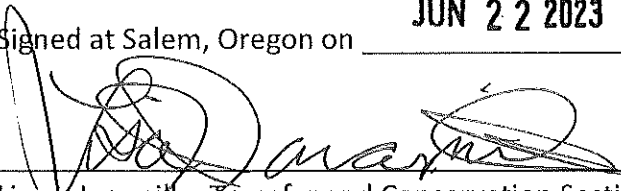
Conclusions of Law

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-13495.

Now, therefore, it is ORDERED:

The time for completion of the changes authorized by Transfer Application T-13495 shall be extended to **October 1, 2025**.

Signed at Salem, Oregon on JUN 22 2023



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: JUN 23 2023

**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 # **140447**

INVOICE # _____

RECEIVED FROM: Waitz & Company Inc.

BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>T-13495</u>

CASH: ☐ CHECK:# 3935 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 780.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES	\$
OTHER: (IDENTIFY)	\$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS	
0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
TC162 DEPOSIT LIAB. (IDENTIFY)	\$
0240 EXTENSION OF TIME	\$ <u>780.00</u>
WATER RIGHTS:	
0201 SURFACE WATER	\$
0203 GROUND WATER	\$
0205 TRANSFER	\$
WELL CONSTRUCTION	
0218 WELL DRILL CONSTRUCTOR	\$
LANDOWNER'S PERMIT	\$
OTHER (IDENTIFY)	\$

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE	
OBJ. CODE	VENDOR #	
DESCRIPTION		\$

RECEIPT: **140447** DATED: 4/6/23 BY: Lisa D-Miner



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900

**Application for Extension of Time for
Transfer of Water Right**

Transfer Number: T- 13495

A summary of review criteria and procedures that are generally applicable to these applications is available at https://www.oregon.gov/owrd/WRDFormsPDF/transfer_extension_criteriareview.pdf

Applicant = Transfer Holder of Record* Weitz & Company, Inc			Contact Name Dan Weitz	Phone No. 541-403-2160
Address P. O. Box 854			Fax No.	
City BAKER CITY	State OR	Zip 97814	E-Mail WEITZCONW@GMAIL.COM	
Report Prepared By Robert D. Bagett		Title CWRE# 009	Contact Information bobbagett@gmail.com	

*The applicant must be the transfer holder of record. If the applicant is not the transfer holder of record, the applicant must request an assignment of interest prior to submitting the transfer extension application. Alternatively, the request for assignment may be submitted simultaneously with the extension application. Separate checks for the fees is helpful. Links to assignment forms: <https://www.oregon.gov/owrd/WRDFormsPDF/assign.pdf>, [https://www.oregon.gov/owrd/WRDFormsPDF/Assign by proof.pdf](https://www.oregon.gov/owrd/WRDFormsPDF/Assign_by_proof.pdf)

Contact information about assignments is available at

<https://www.oregon.gov/owrd/programs/WaterRights/Permits/Assignment/Pages/default.aspx>

RECEIVED

APR 06, 2023

OWRD
SALEM, OREGON

To the WATER RESOURCES DIRECTOR OF OREGON:

1. **I/WE, THE TRANSFER HOLDER(S) OF RECORD**, do hereby make application for an extension of time within which to complete a change in (check all that apply):

☒ point(s) of diversion/appropriation

☐ place(s) of use

☐ character of use

under the terms of a final order of the Water Resources Director entered on 5/19/2022 (month/day/year) for Transfer Number T-13495.

2. **THE FOLLOWING WORK HAS BEEN ACCOMPLISHED** toward completion of the change within the time allowed, which expired on 10/1/2023 (month/day/year):

We retained Adam Kerns of Ag Contracting to construct the APOD. We contacted ODFW for instructions relating to the design and construction of the fish screening and bypass structure and were referred to Phillip Sheeler for the design plans. We have not yet received the plans. Weitz & Co. issued a check to Ag Contracting (Adam Kerns) for \$10,000.00 as partial payment for APOD project on January 23, 2023 to begin design and construction.

3. **TO FULLY COMPLETE THE CHANGE**, it will be necessary to accomplish the following:

We need the design drawings of the fish screening/bypass structure to proceed with construction. Construction must take place after this irrigation season ends as Pine Creek dries up by October. Prior to that Pine Creek runs too much water to construct this structure.

(continue on next page)

4. **I/WE ARE REQUESTING THE TIME FOR COMPLETION** be extended to October 1, 2025.

Transfer extensions can be authorized for one (1) calendar year from October 1 to October 1 of each year, or up to five (5) years for transfers involving municipal or quasi-municipal uses, unless the applicant can justify the need for a longer period of time by submission of pertinent evidence. OAR 690-380-6020 (3) and OAR 690-385-7200 (5).

5. **I/WE CERTIFY THAT TO THE BEST OF MY/OUR KNOWLEDGE** the information contained in this application is true and accurate.

04/03/2023
Date

Wet & Co. Inc. By [Signature]
Signature of Applicant(s), i.e., Transfer Holder(s) of Record

6. **IN ORDER FOR AN APPLICATION TO BE COMPLETE**, it must be accompanied by the required fee. See the Department's fee schedule at https://www.oregon.gov/owrd/WRDFormsPDF/fee_schedule.pdf or call (503) 986-0900.

7. **MAIL THE COMPLETED APPLICATION AND FEE TO:**

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

RECEIVED
APR 06 2023
OWRD
SALEM, OREGON

PHILLIPS Stacy H * WRD

From: FAUCERA Danette L * ODFW
Sent: Wednesday, June 14, 2023 10:20 AM
To: PHILLIPS Stacy H * WRD
Cc: REECE Ann L * WRD; NORDHOLM Katherine E * ODFW
Subject: RE: Request for ODFW Comments for Transfer Extension (T-13495)

Categories: Extensions

Good morning Stacy,

The water user is working on plans/design for a fish screen at the new diversion. The screens must be approved by ODFW and installed prior to diverting water at the new POD. As long as the new POD is not currently being utilized for this transfer, ODFW has no concern with the extension.

Let me know if you have any questions.

Danette

****note new phone number****

Danette Faucera
Water Policy Coordinator
Oregon Department of Fish and Wildlife
Cell: ****971-280-3773****
4034 Fairview Industrial Drive SE
Salem, OR 97302

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

From: PHILLIPS Stacy H * WRD <Stacy.H.PHILLIPS@water.oregon.gov>
Sent: Tuesday, June 13, 2023 8:01 AM
To: FAUCERA Danette L * ODFW <Danette.L.FAUCERA@odfw.oregon.gov>
Cc: REECE Ann L * WRD <Ann.L.REECE@water.oregon.gov>
Subject: RE: Request for ODFW Comments for Transfer Extension (T-13495)
Importance: High

Good Morning Danette,

I have not heard back on these extension requests and if anything has changed with the need of fish screens or bypass. I understand you are busy; we would like to get these completed and finalized soon but need the input of ODFW. Please let us know soon.

Thanks,

[Stacy H. Phillips](#)

Natural Resource Specialist 2, Permit Amendment Caseworker

725 Summer Street NE, Suite A, Salem, OR 97301

Office: 503-986-0898 | Work Cell: 503-979-9948



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: PHILLIPS Stacy H * WRD

Sent: Wednesday, May 17, 2023 9:05 AM

To: FAUCERA Danette L * ODFW <Danette.L.FAUCERA@odfw.oregon.gov>

Cc: REECE Ann L * WRD <Ann.L.REECE@water.oregon.gov>

Subject: Request for ODFW Comments for Transfer Extension (T-13495)

Importance: High

Hello Danette,

Could you please look over the attached documents for Transfer T-13495 and determine if anything has changed regarding the needed fish screen or Bypass? The Applicant is requesting an Extension of Time and we would like to check with you if there are any red flags with us moving forward with it. Please let me know at your soonest convenience.

Thanks,

[Stacy H. Phillips](#)

Natural Resource Specialist 2, Permit Amendment Caseworker

725 Summer Street NE, Suite A, Salem, OR 97301

Office: 503-986-0898 | Work Cell: 503-979-9948



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

PHILLIPS Stacy H * WRD

From: OSBORN Marcy J * WRD
Sent: Thursday, May 18, 2023 11:47 AM
To: PHILLIPS Stacy H * WRD
Subject: RE: Request for WM Comments for Transfer Extension (T-13495)

Categories: Extensions

Good morning, Stacy,

I cannot comment on the information provided regarding the fish screen because I have not been involved with that process. I do know they have hired Adam Kerns with ACI to design and construct the project. We met with Dan and Adam last fall to discuss the project and design. So far, I think they have done some surveying at the site but there has been no dirt work started at this point.

Let me know if you need something else.

Marcy J. Osborn

Watermaster Dist. 8
39155 Pocahontas Rd.
Baker City, OR 97814
541-519-6395
marcy.j.osborn@water.oregon.gov

From: PHILLIPS Stacy H * WRD <Stacy.H.PHILLIPS@water.oregon.gov>
Sent: Wednesday, May 17, 2023 9:07 AM
To: OSBORN Marcy J * WRD <Marcy.J.OSBORN@water.oregon.gov>
Cc: REECE Ann L * WRD <Ann.L.REECE@water.oregon.gov>
Subject: Request for WM Comments for Transfer Extension (T-13495)
Importance: High

Hello Marcy,

Please look over the attached documents for me regarding an extension for this transfer.

Thanks,

Stacy H. Phillips

Natural Resource Specialist 2, Permit Amendment Caseworker
725 Summer Street NE, Suite A, Salem, OR 97301
Office: 503-986-0898 | Work Cell: 503-979-9948



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

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That MILTON S. OSBORN
of Baker, State of Oregon, has a right to the use of
the waters of Pine Creek, tributary of Powder River,
for the purpose of the irrigation of 62 acres of land
and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Baker County, and the said decree entered of record at Salem, in the Order
Record of the STATE WATER BOARD of the State of Oregon, in Volume 6, at page 291;
that the priority of the right thereby confirmed dates from 1864 for 12 acres; 1870 for
15 acres and 1866 for 35 acres

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
amount actually beneficially used for said purposes, and shall not exceed 1/10 of one cubic foot
per second per acre; and shall be subject to all other conditions and limitations
contained in said decree

A description of the lands irrigated under such right, and to which the water is appurtenant
(or, if for other purposes, the place where such water is put to beneficial use), is as follows:
30 acres in the Southwest quarter of Northwest quarter and 32 acres in the
Southeast quarter of Northwest quarter of Section Twenty-seven, Township Eight
South, Range Thirty-nine East of Willamette Meridian, in Baker County, Oregon.

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

WITNESS the seal and signature of the State
Water Board, affixed this 15th day
of February, 1923

STATE WATER BOARD

(Seal of State Water Board)

By PERCY A. CUPPER
State Engineer, President

Attest:

R. W. POTTER
Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4386.



Oregon
Kate Brown, Governor

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

May 19, 2022

DAN WEITZ
PO BOX 854
BAKER CITY, OR 97814

REFERENCE: Transfer Application T-13495

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 temporary transfer, you may contact your caseworker, Corey Courchane by telephone at (503) 979-3917 or by e-mail at Corey.A.Courchane@oregon.gov.

Sincerely,

Julie C. Baustian
Water Rights Services Support
Transfers and Conservation Section

cc: Marcy J. Osborn, Watermaster Dist. # 8 (via email)
Baker County Planning Department

Enclosure

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13495, Baker County	)	ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814

Findings of Fact

1. On July 23, 2020, WEITZ & COMPANY, INC. filed an application for an additional point of diversion under Certificate 4386. The Department assigned the application number T-13495.
2. Notice of the application for transfer was published on August 4, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 10, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13495 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 11, 2021, for the applicant to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.

4. On December 14, 2020, the applicant requested to extend the date for completion to October 1, 2023.
5. On February 2, 2021, the Department received a report of ownership from AmeriTitle identifying a Wayne C. Lewis and Gloria G. Lewis as owners of the property involved with Certificate 4386. The Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the application. The report of ownership did not satisfy the rule requirement under OAR 690-380-4010(5)(c). The Department sent a copy of an Affidavit of Consent by Deeded Landowner and requested that the deficiency be resolved by March 2, 2021.
6. On March 8, 2021, the Department contacted the applicant to check the status of the Affidavit of Consent, and requested that the deficiency be resolved by March 22, 2021.
7. On March 29, 2021, the applicant contacted the Department. The applicant stated that Wayne C. Lewis and Gloria G. Lewis are former owners of the property, who were experiencing health issues that prevented the change in ownership to be completed in a timely manner.
8. On January 29, 2022, the applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
9. On March 21, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13495 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 March 22, 2022, and in the Baker City Herald newspaper on March 22 and 29, 2022 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
10. The portion of the right to be transferred is as follows:

Certificate: 4386 in the name of MILTON S. OSBORN (confirmed by Powder River decree)
Use: IRRIGATION of 28.0 ACRES
Priority Date: 1864 for 12.0 ACRES and 1866 for 16.0 ACRES
Rate: 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree
Source: PINE CREEK, tributary of POWDER RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Not specified in certificate					

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority Date
8 S	39 E	WM	27	SE NW	12.0	1864
8 S	39 E	WM	27	SE NW	16.0	1866

11. The Department received information from the applicant that better describes the location of the authorized points of diversion for Certificate 4386 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SW NW	POD 1 - 1070 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27
8 S	39 E	WM	27	SW NW	POD 2 - 1100 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

12. Transfer Application T-13495 proposes an additional point of diversion approximately 1958 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SE NW	APOD - 470 FEET NORTH AND 1220 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

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

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

14. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
15. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13495.
16. The proposed change would not result in enlargement of the right.
17. The proposed change would not result in injury to other water rights.
18. All other application requirements are met.

Conclusions of Law

The additional point of diversion proposed in Transfer Application T-13495 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

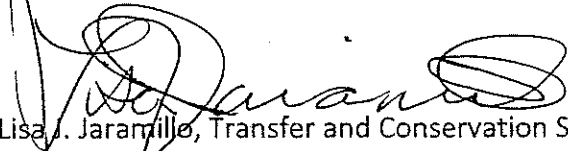
Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-13495 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 4386 and any related decree.
3. Water right Certificate 4386 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new additional point of diversion (APOD), together with that diverted at the original points of diversion (POD 1 and POD 2), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and POD 2).
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 new 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

MAY 19 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: **MAY 20 2022**

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 13495

Transfer Specialist:

Transfer Type: Regular

Corey

Applicant: DAN WEITZ & Company, Inc. PO BOX 854 BAKER CITY, OR 97814 Email: <u>WeitzCoNW@gmail.com</u> Phone: <u>541-403-2160</u>		Agent: ☐ N/A DAN WEITZ Email: _____ Phone: _____	
Irrigation District: ☐ N/A Email: _____		CWRE: ☐ N/A Email: _____	
Affected Local Gov'ts: ☐ N/A Baker County Planning Department Email: _____		Affected Tribal Gov't: ☐ N/A UNAVAILABLE Email: _____	
Current Landowner if other than Applicant: ☐ N/A Email: _____		Receiving Landowner: ☐ N/A Email: _____	

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☐	DECREE	POWDER RIVER	4386	☒ Yes ☐ No	96201
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	

Key Dates & Initial Actions:

Rec'd:	Proposed Action(s): ADDITIONAL POINT OF DIVERSION	
Fees Pd: 1160.00	WM District: 8	ODFW District:
Initial Public Notice: August 4, 2020	WM Review sent:	ODFW Review sent:
Acknowledgement Letter Sent ☒		GW Review sent: ☐ N/A
County sent cc: of Ack Letter ☐	BOR notified (date): ☐ N/A	
Newspaper quote requested: 3/2/22	Request for news \$ sent:	News \$ received:
Request to publish sent:	Affidavit of publication received:	Last day of publication:

Baker City Herald

* E peer review *

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: <u>11/25/20</u> Initials: <u>cc</u>	Date: <u>12-1-20</u> Initials: <u>Jam</u>	Date: _____ Initials: _____	Date: <u>12/3/20</u> Initials: <u>PKS</u>	Date: <u>12/10/20</u> Initials: <u>cc</u>	CW Sent: <u>12/10/20</u>	N/A
PD	Date: <u>1/21/22</u> Initials: <u>cc</u>	Date: <u>2-8-22</u> Initials: <u>PKS</u>	Date: _____ Initials: _____	Date: <u>3/1/22</u> Initials: <u>PKS</u>	Date: <u>3/2/22</u> Initials: <u>cc</u>	Date: <u>3/18/22</u>	Date: <u>3/21/2022</u>
FO	Date: <u>3/25/22</u> Initials: <u>cc</u>	Date: <u>3-21-22</u> Initials: <u>PKS</u>	Date: _____ Initials: _____	Date: <u>4/15/22</u> Initials: <u>PKS</u>	Date: _____ Initials: _____	Date: <u>5/6/22</u>	Date: <u>5/19/2022</u>

Special Issues:

APOD

Special Order Volume: Vol. 125 Pages 119

COURCHANE Corey A * WRD

From: BUCHHOLZ Sheila L * WRD
Sent: Thursday, March 10, 2022 10:33 AM
To: COURCHANE Corey A * WRD; BAUSTIAN Julie C * WRD
Cc: MARTIN Duff A * WRD
Subject: PD T-13495
Attachments: PD T-13495.pdf

Good Morning Corey & Julie,

This PD Transfer has been completed by data.

Thanks,

Sheila Buchholz

Data Technician 1

725 Summer St. NE, Suite A | Salem, Oregon 97301

Email: Sheila.L.Buchholz@water.oregon.gov



OREGON
WATER
RESOURCES
DEPARTMENT

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

Name and PostOffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Olson, C. C. (Continued)							26.6 acres in NE 1/4 NW 1/4 31 acres in NW 1/4 NW 1/4 Section 3 T 8 S. R. 39 E. W. M. ✓
⁴³³⁴ Olson, C. C. & Emma Baker, Oregon. (Finding #11 & 91)	1884		.15	Irrigation	Kellog	Powder Stewarts Slough	A lot, 75 x 108 1/2, Block 2, Kellog's Addition to the City of Baker, Oregon. ✓
⁴³³⁵ Olsen, Hattie H Baker, Oregon (Finding #21 & 94)	1878		28	Irrigation	Olsen- Nicholsen	Rock Creek	29.61 acres in SW 1/4 NE 1/4 30.86 acres in SE 1/4 NE 1/4 25.86 acres in SE 1/4 NW 1/4 40 acres in NE 1/4 SW 1/4 5 acres in SW 1/4 SW 1/4 40 acres in SE 1/4 SW 1/4 35 acres in NE 1/4 SE 1/4 35 acres in NW 1/4 SE 1/4 Section 27 T 7 S. R. 38 E. W. M. Following lands included in above received sup- plemental supply: ✓
	1886		132		Angel- Olsen- Leonnig		20 acres in SW 1/4 NE 1/4 26 acres in SE 1/4 NE 1/4 4 acres in SE 1/4 NW 1/4 Section 27 T 7 S. R. 38 E. W. M.
	1891		81.33				
	1874		50	Supplemental Irrigation	Olsen #2	Little Muddy Creek Supplemen- ted by Rock Creek as above	20 acres in SW 1/4 NE 1/4 26 acres in SE 1/4 NE 1/4 4 acres in SE 1/4 NW 1/4 Section 27 T 7 S. R. 38 E. W. M.
⁴³³⁶ Osborn, Milton S Baker, Oregon	1864		12	Irrigation	Osborn	Pine	30 acres in SW 1/4 NW 1/4
	1870		15			Creek	32 acres in SE 1/4 NW 1/4 Section 27 ✓
	1866		35		Payton- Osborn		T 8 S. R. 39 E. W. M.
⁴³³⁷ Osborn, Orrin R Baker, Oregon (Finding #32 to 81 inc.)	1863		150	Irrigation	Estes & Geddes- Osborn- Chambers	Powder	40 acres in NE 1/4 NW 1/4 40 acres in NW 1/4 NW 1/4 35 acres in SW 1/4 NW 1/4 35 acres in SE 1/4 NW 1/4 Section 29 T 8 S. R. 40 E. W. M. ✓
⁴³³⁸ Osborn, S. Baker, Oregon (Finding #32 to 81 inc and 91)	1898		5	Irrigation	Taggers	Powder	5 acres in NW 1/4 NE 1/4 Section 28
	1866		183.8		Geddes Osborn Chambers		40 acres in NE 1/4 SW 1/4 35 acres in NW 1/4 SW 1/4 40 acres in SW 1/4 SW 1/4 40 acres in SE 1/4 SW 1/4 26 acres in NW 1/4 SE 1/4 40 acres in SW 1/4 SE 1/4 5.8 acres in SE 1/4 SE 1/4 Section 29
	1869		70		Osborn		35 acres in NW 1/4 NW 1/4 35 acres in SW 1/4 NW 1/4 Section 28 ✓
	1863		280		Estes		20 acres in NE 1/4 NE 1/4 25 acres in NW 1/4 NE 1/4 30 acres in SW 1/4 NE 1/4 20 acres in SE 1/4 NE 1/4 40 acres in NE 1/4 SE 1/4 40 acres in NW 1/4 SE 1/4 40 acres in SW 1/4 SE 1/4 40 acres in SE 1/4 SE 1/4 Section 30 T 8 S. R. 40 E. W. M.

Name and Postal Address of Appropriator	Date of Relative Priority	Amount, Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
⁴³⁹⁷ Osborne, C. J. Haines, Oregon. (Finding #94)	X 1878 1888 1893		7 47 7	Irrigation	Olsen-Nicholson	Rock Creek	40 acres in NE ¹ / ₄ NW ¹ / ₄ 21 acres in NW ¹ / ₄ NW ¹ / ₄ Section 34 T 7 S. R. 38 E. W. M. ✓
⁴³⁹⁸ Owen, W. A. Haines, Oregon	X 1884 1882		80 160	Irrigation	Owen-Cartmill Owen	Rock Creek Rock Creek	40 acres in NE ¹ / ₄ NE ¹ / ₄ 40 acres in NW ¹ / ₄ NE ¹ / ₄ Section 1 T 8 S. R. 38 E. W. M. 40 acres in NE ¹ / ₄ NE ¹ / ₄ 40 acres in NW ¹ / ₄ NE ¹ / ₄ 40 acres in SE ¹ / ₄ NE ¹ / ₄ 40 acres in NE ¹ / ₄ SE ¹ / ₄ Section 6 T 8 S. R. 39 E. W. M. ✓
⁴³⁹⁹ Palmer, C. L. Baker, Oregon	X Dec. 1 1899		50	Irrigation	Bamberger	Powder	5 acres in SW ¹ / ₄ NW ¹ / ₄ 15 acres in NE ¹ / ₄ SW ¹ / ₄ 25 acres in NW ¹ / ₄ SW ¹ / ₄ 5 acres in SE ¹ / ₄ SW ¹ / ₄ Section 21 T 9 S. R. 40 E. W. M. ✓
⁴⁴⁰⁰ Palmer, Florence E. Baker, Oregon	X 1884		.5	Irrigation	Easterbrook	Powder	0.5 acres in NW ¹ / ₄ NW ¹ / ₄ Section 20 T 9 S. R. 40 E. W. M. being the W ¹ / ₄ of Block 5, Kellog's Addition to Baker, Oregon. ✓
⁴⁴⁰¹ Palmer, Melville M. Baker, Oregon	X 1890 Aug. 14 1889 1888 1880		10 17 9 20	Irrigation	Second Creek Palmer Duncan Basche	Second Creek Ruckles Creek Powder	5 acres in SE ¹ / ₄ NE ¹ / ₄ 5 acres in NE ¹ / ₄ SE ¹ / ₄ 3 acres in SW ¹ / ₄ NE ¹ / ₄ 14 acres in SE ¹ / ₄ NE ¹ / ₄ Section 7 T 9 S. R. 42 E. W. M. 29 acres in SE ¹ / ₄ SW ¹ / ₄ Section 21 T 8 S. R. 42 E. W. M. ✓
⁴⁴⁰² Palmer, R. R. & H. E. Denham Baker, Oregon (Finding #32, 81 & 85)	X 1873 1886 1907 1872		100.6 21 24 240	Irrigation	Palmer-Denham #1, 2, 3, 4, 5 & 6 Palmer-Denham- Boyce Proffitt Old Set- tlers Slaigh	Sutton Creek Creek & West Sutton Creek Powder	23 acres in SW ¹ / ₄ NE ¹ / ₄ 19 acres in NE ¹ / ₄ SE ¹ / ₄ 23 acres in NW ¹ / ₄ SE ¹ / ₄ 35.6 acres in SE ¹ / ₄ SE ¹ / ₄ Section 12 12 acres in SE ¹ / ₄ NE ¹ / ₄ 28 acres in NE ¹ / ₄ NE ¹ / ₄ 5 acres in NW ¹ / ₄ NE ¹ / ₄ Section 13 T 10 S. R. 40 E. W. M. (Supplementary supply from East Sutton or Ebell Creek under priority date of 1906) 40 acres in SE ¹ / ₄ NW ¹ / ₄ 40 acres in NE ¹ / ₄ NW ¹ / ₄ 40 acres in NW ¹ / ₄ NW ¹ / ₄ 40 acres in SW ¹ / ₄ NW ¹ / ₄ Section 6 T 9 S. R. 40 E. W. M. 40 acres in NE ¹ / ₄ NE ¹ / ₄ 40 acres in SE ¹ / ₄ NE ¹ / ₄ Section 1 T 9 S. R. 39 E. W. M. ✓

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MILTON S. OSBORN
BAKER, OR 97814

confirms the right to use the waters of PINE CREEK, a tributary of POWDER RIVER for the IRRIGATION of 34.0 ACRES of land.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Baker County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1870 for 15.0 acres and 1866 for 19.0 acres.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	27	SW NW	30.0
8 S	39 E	WM	27	SE NW	4.0
Total					34.0

This certificate describes that portion of water right Certificate 4386, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered _____, approving Transfer Application T-13495.

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

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

WITNESS the signature of the Water Resources Director, affixed _____.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

**Notice of Preliminary Determination for
Water Right Transfer T-13495**

T-13495 filed by Weitz and Company, Inc., PO Box 854, Baker City, OR 97814, proposes an additional point of appropriation under Certificate 4386. The right allows the use of 1/40 of one cubic foot per second per acre from Pine Creek in Sec. 27, T8S, R39E, WM for irrigation in Sec. 27, T8S, R39E, WM. The applicant proposes an additional point of diversion in Sec. 27, T8S, R39E, WM. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice, MM/DD/YEAR. Call (503) 986-0815 to obtain additional information. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Regular Transfer Review Checklist

T- 13495

Caseworker: Corey

TYPE OF TRANSFER	
☒	POD, APOD or POA, APOA and/or Place of Use (690-380-2110 and 690-380-2200)
Transfers Requiring Supplemental Review Criteria	
☐	Character of Use (690-380-2300)
☐	Instream, ORS 537.348, (690-380-2200, 690-380-2300 and 690-077-065 thru 075)
☐	Consent to Injury of Instream (CTI) ORS 540.530, (690-380-5050)
☐	Surface Water to Ground Water (SW to GW), ORS 540.531, (690-380-2130)
☐	Supplemental Use to Primary Use (S to P), ORS 540.524, (690-380-2320)
If transfer type not listed above, see separate checklists	

FILE PREPARATION	
CW	
☒	File Assigned (Computer Entry)
☒	Is transfer within a district boundary? ☐ Yes ☒ No <i>If yes, attach "Supplemental Processing Checklist for Transfers with a District" for additional required information.</i>
☒	Make Copies and Place in Working File: ☒ Application ☒ Map
☒	Verify all Certificates/Permits are shown in WRIS to be non-cancelled ☒ Print Certificates and Place in Working File
☒	Add Working file to T-file
☒	Check Public Comments https://apps.wrd.state.or.us/apps/wr/wr_public_comment_mgmt/default.aspx
CW	
☒	All Stakeholders accurately listed in WRIS with email addresses if available, including ☐ Irrigation District ☐ BOR ☐ Tribes Is this a Living Certificate? ☐ Yes ☒ No
☒	Double check all water rights/permits are included in WRIS under Transfer #
☒	Copy and Place in Working File: ☒ Watermaster Review ☐ Groundwater Review ☒ ODFW Review
☒	Public Comments Received? ☐ Yes ☒ No If yes, print comments and place in file ☐ Timely ☐ Untimely Notes:

PR Initials

BASIC APPLICATION REVIEW and NOTICE (OAR 680-380-3000 and -4000)			
CW	N/A		
☒		Appropriately signed	
☒		All required Attachments Received	
☒		Appropriate Fees Paid	
☒	☐	Local Government [County] noticed Copy of Acknowledgment Letter	
☒		Check Area of Interest – Print if needed, include in WRIS stakeholder as interested party	
☐	☒	Ditch Co., Irr. Dist and/or BOR sent copies	
☐	☒	Overpayment of Fees, Refund Request w/FO	
☒	☐	OWRD Land Use Form matches Tax Lots, is signed by proper official and is APPROVED N/A = Must meet all 4 criteria for exemption (OAR 690-380-3000(19))	

BASIC APPLICATION REVIEW and NOTICE (OAR 680-380-3000 and -4000) Cont'd

CW	N/A		CW	N/A	
☐	☒	Supp. Form D or Letter of approval from Irrigation or Water Control District	☒	☐	Evidence of Use is submitted with supporting documentation
☐	☒	Are the supplemental water rights included in the Transfer? ☐ Yes ☐ No If no, are they cancelling? ☐ Yes ☐ No	☒	☐	Map meets criteria of OAR 690-380-3100
☒	☐	Water Use Subject to Transfer (OAR 690-380-0100(14)) Is the water right(s) proposed for transfer a water use(s) subject to transfer? ☐ Adjudicated or decreed ☒ Certificated ☐ Water use permit with CBU and proof to satisfaction issued ☐ Transfer app for which an order approving change has been issued and proper proof of the completion of the change has been filed	☒	☐	Any application deficiencies that need to be addressed? ☐ Yes ☒ No Notes: _____ _____ _____

PR Initials

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

CW		CW	
☒	<u>From</u> : Only the authorized POD's/POA's and POUs involved are listed.	☒	<u>From</u> : Application & certificate tabulations match. (Mark on appl. and cert. copies and note corrections needed)
☒	<u>From</u> : Marked on certificate the acreage being affected and remaining by ¼ ¼.	☒	<u>From</u> : Marked on certificate the quantity of water being transferred, cancelled, and remaining
☒	<u>From and To</u> : Print Plat Card(s), check and note conflicts (change in pou and use only)	☒	<u>From and To</u> : Compare water right map to Application tabulation (Table 2) to Application map for accuracy

PR Initials

Amended Application Pages and Maps

CW	N/A		CW	N/A	Notes/Documentation
☐	☒	Amended Application Pages Rec'd _____ Amended Application Map Rec'd _____	☐	☐	☐ Scan new pages ☐ Update WRIS with new pages ☐ Mark replaced pages in red with 'SUPERSEDED' and place in back of file
☐	☒	Did the amendment change the location of the proposed POD or POA? ☐ Yes ☐ No	☐	☐	☐ For POD changes, re-review from Watermaster or other documentation ☐ For POA changes, re-review from GW section

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Layered and Supplemental Water Rights (OAR 690-380-2240)

CW	N/A		CW	N/A	NOTES
☐	☒	OAR 690-380-2240(2) and (3) Transfer of Layered Water Rights and Certificates of Registration (change in use or pou) <i>See definition of layered in OAR 690-380- 0100(4)</i>	☐	☒	Are there other layered water uses subject transfer, permits or certificates of registration which were <u>not</u> included in the application? ☐ Yes ☐ No If yes, provide applicant 30days to: ☐ Submit application for concurrent changes ☐ Submit affidavits for voluntary cancellations ☐ Withdraw the application
☐	☒	OAR 690-380-2240(5) Transfer of Supplemental Irrigation water right separately from associated primary water right. Transfer of supplemental irrigation right may be moved separately from associated primary irrigation right if another primary irrigation right with similar reliability is appurtenant to the lands to which the supplemental right is to be moved.	☐	☒	Does the new primary irrigation water right have similar reliability as the associated primary irrigation water right? ☐ Yes ☐ No Will the supplemental water right be used more than it was when associated with previous primary right? New primary right priority date: _____ Prior primary right priority date: _____ History of regulation? ☐ Yes ☐ No Watermaster Review

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TRANSFER REVIEW Criteria (OAR 690-380-4010)

CW		CW	DOCUMENTATION
☒	Validity of the Right; Not Forfeited OAR 690-380-4010(2)(a) The right(s) has been used over the past five years according to the terms and conditions of the right and the right is not subject to forfeiture under ORS 540.610.	☒	☒ Evidence of Use & supporting documentation ☐ Confirming Cert issued within last 5 years ☐ Rebuttal to forfeiture (ORS 540.610(2)) _____
☒	Ready, Willing, and Able OAR 690-380-4010(2)(b) The water user is ready, willing and able to use the full amount of water allowed under the right.	☒	☒ Current delivery system description in Part 5 of Application Notes: _____ Delivery system has the capacity to fully divert and use the rate/duty of the right
☒	Enlargement OAR 690-380-4010(2)(c) The proposed transfer would result in enlargement ☐ Yes ☒ No Notes: _____ _____ (Must make a positive finding of "No enlargement").	☒	No expansion of the right: ☒ No greater rate or duty per acre than currently allowed ☐ Cannot increase acreage under the right ☐ Must prevent the original place of use from receiving water from the same source ☐ Cannot divert more water at the new POD or POA than is legally available to that right at the original point of diversion/appropriation See deficient rate right guidance See micro irrigation guidance

TRANSFER REVIEW Criteria Cont'd (OAR 690-380-4010)

☒	Injury OAR 690-380-4010(2)(d) The proposed transfer would result in injury ☐ Yes ☒ No Notes: _____ _____ (Must make a positive finding of "No injury").	☒	The proposed transfer would result in another, existing water right not receiving previously available water to which it is legally entitled ☒ Watermaster Review. ☐ Yes ☒ No ☐ Groundwater Review. ☐ Yes ☒ No ☒ N/A ☒ ODFW Review. ☐ Yes ☒ No ☐ N/A If yes, can the injury be mitigated? ☐ Yes ☐ No Conditions: _____ _____ Also See Injurious Transfers (690-380-5030 to 5050)
☒	Other requirements OAR 690-380-4010(2)(e) Any other requirements for water right transfers are met.	☐	Attach supplemental criteria checklist for transfer type marked on page 1 ☐ Character of Use ☐ SW to GW ☐ Instream ☐ Supplemental to Primary ☐ Consent to Injury of Instream Water Right

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Additional Findings of Fact

CW	N/A		CW	N/A	SAMPLE FINDING
☐	☒	Add Finding for submission of amended application pages or amended map	☐	☐	On ____, the applicant submitted an amended application page/map clarifying
☐	☒	Add Finding for timely comments received	☐	☐	On (date), timely comments were received from (name), asserting (issues). The Department has considered the comments and finds: (do they assert injury/enlargement or forfeiture?)
☐	☒	Add Watermaster Review	☐	☐	The District ____ Watermaster reviewed the proposed transfer application and concluded the proposed transfer would not result in enlargement of the right or injury to existing water rights. OR would result in injury or enlargement of the right unless it was conditioned

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Additional Conditions and Provisions under Review Criteria

CW	N/A		CW	N/A	SAMPLE FINDING
☒	☐	Add Watermaster conditions	☐	☐	See Supplemental Language (Measurement devices) or requirements to prevent injury or enlargement
☒	☐	Add ODFW fish screen requirements	☐	☐	See Supplemental Language Fish Screen Requirements
☐	☒	Add ground water conditions	☐	☐	See Groundwater Review / Supplemental Language

Additional Conditions and Provisions under Review Criteria (Cont'd)					
CW	N/A		CW	N/A	SAMPLE FINDING
☐	☒	Additional finding for evaluation of comments received and any actions or conditions to address comments	☐	☐	
☐	☒	Add any other special provisions	☐	☐	Additional findings to support determination of additional review criteria listed
☐	☒	Any cancellation/diminishment submitted? ☐ Yes ☐ No	☐	☐	If yes: (See Supplemental Language Document) ☐ Add Authority after 1 st paragraph ☐ Add finding(s) to document cancellation/diminishment
☐	☒	Are the existing water rights issued in the name of a District or Bureau of Reclamation? ☐ Yes ☒ No	☐	☐	If yes, a Finding of Fact and an Order item identifying the name in which the confirming certificate will be issued and who is responsible for COBU. Notes: <i>See "Supplemental Processing Checklist for Transfers within a District"</i>

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Determination and Conclusions of Law

FINDINGS	DETERMINATION AND PROPOSED ACTION / CONCLUSIONS OF LAW
Based on review of the evidence submitted, the Department finds the water right(s) has/have been used [within the last five years] OR [within the five-year period prior to submittal of the transfer application] according to the terms and conditions of the right(s) and the right(s) is/are not subject to forfeiture.	The right(s) has/have been used [within the past five years] OR [within the five-year period prior to submittal of the transfer application] according to the terms and conditions of the right(s). OR Confirming water right Certificate XXXXX was issued within the last five years prior to submission of Transfer Application T-XXXXX.
Based on the information submitted [and Department records], a diversion structure and ditch sufficient to use the full amount of water allowed under the existing right(s) were present within the five-year period prior to submittal of the transfer application. OR Based on the information submitted [and Department records], a pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right(s) were present within the five-year period prior to submittal of the transfer application.	The Applicant is ready, willing, and able to use the full quantity of water under the right. There is no evidence in the record to suggest the right is subject to forfeiture.
[As conditioned,] the proposed change(s) would not result in enlargement of the right. OR, if denial The lands currently irrigated under the right would continue to receive water from the same source resulting in enlargement of the right(s).	The proposed change(s) will not enlarge the right. OR The proposed change(s) would result in enlargement of the right.

Determination and Conclusions of Law (Cont'd)

Based on review of the record, the proposed change(s) would not result in injury to other water rights.

OR, if denial

The proposed change(s) would result in the routing of return flows around at least one diversion of other existing water rights, resulting in injury to those rights. **OR**

An instream water right, Certificate XXXXX, exists for the reach of the river in which the authorized point of diversion would be moved upstream, and streamflows within the reach are frequently below the levels allocated under the instream water right. Thus, the instream water right would be injured as a result of the proposed change in point of diversion.

The proposed change(s) would not result in injury to other water rights.

OR

The proposed change would result in injury to other water rights.

OR

The proposed change would result in injury to the instream water right. [See consent to injury]

☒ The application is complete. **OR**

☐ The application is incomplete

☒ All other application requirements are met. **OR**

☐ The application is incomplete because . . .

Ensure all conditions are carried forward in Order section.

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☒ N/A

Denial of Transfer (OAR 690-380-4010(3))

OAR 690-380-4010(3)(a)

Describe the basis for the denial

☐

☐ Injury

☐ Enlargement

☐ Deficiencies not rectified

OAR 690-380-4010(3)(b)

Identify conditions or restrictions that, if included in the transfer, would allow approval of the transfer

☐

Examples: consent to injury; amend application to remove well

☐ Yes Approve with conditions

☐ No Must be denied

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DRAFT PRELIMINARY DETERMINATION**Document Preparation**

☐	☐ N/A	Additional Supplemental Review Criteria Checklist attached	
CW		CW	
☒		☒	Add agent, receiving landowner, if applicable, etc.
☒		☒	Compare "from" lands with marked up Table 2 of Application and Certificate
☒		☒	Compare Proposed Place of Use with Table 2 of Application and Map
☒			Compare Proposed PODs/POAs with Table 1 of Application and Map

Cover Letter

CW	N/A		CW	N/A	
☒	☐	Correct Name and Address including email address	☒	☐	Attach supporting documents to cover letter ☒ Completed Watermaster Contact Sheet ☒ ODFW Contact sheet
☒	☐	Include email addresses for agent and other interested parties (in cc section) of letter	☐	☒	Any special conditions explained
			☒		Document is "Spell checked"

Remaining Right Certificate(s)

☒	Check tenses (Find and Replace (s), is/are, was/were)	☒	Table format matches current template
☒	Content format matches original certificate (e.g., rate/duty limitation)	☒	Name and address matches originating certificate Note: Remaining rights can only be issued in the name of the current landowner(s) of the remaining rights <u>IF</u> 1) the Report of Ownership information supplied for the transfer covers all of the remaining right lands (as well as the right being transferred) <u>and</u> 2) the applicant asks for the remaining right to be issued in its name. Otherwise, the name(s) on the remaining right will be the same as the original water right involved in the transfer.
☒	Determination and remaining acres combined match acres under originating certificate?	☒	All water accounted for
☒	Draft all remaining right certificates	☒	Document is "Spell checked"

COMMENTS

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PRELIMINARY DETERMINATION**Public/Newspaper Notice**

CW	N/A		CW	N/A	
☐	☐	Prepare public/newspaper notice using template	☐	☐	Send letter to Applicant/Agent regarding newspaper notice cost
☐		Notice and Letter are "Spellchecked"	☐	☐	Funds received from Applicant/Agent for newspaper notice
☐	☐	Forward Draft Newspaper Notice to Coordinator	☐	☐	Affidavit of Publication Received

Ownership Verification

CW		CW	
☐	The Deed/ROI matches the "from" lands	☐	Compare with current tax lot map
☐	All owners on the Deed/ROI have signed the application	☐	☐ N/A Notarized, signed statement of consent

Document Preparation

CW		CW	
☐	Save DPD document as a new document XXXXX-pd.doc	☐	Hidden Findings unveiled (control "a", select Font, unmark hidden box)
☐	Any substantive changes/amendments as result of DPD ☐ Yes ☐ No If yes, issue revised DPD	☐	Remove "DRAFT" from document title and any extra "carriage" returns
☐	Update the hidden paragraph following the received notice and amendments findings (regarding is authorized to pursue transfer, etc.)	☐	Select the appeals language in the first page footer for the preliminary determination
☐	Protest language is listed following document preparation box	☐	Notice Regarding Service Members is showing
		☐	Document is "Spell checked"

Cover Letter

☐	Cover letter prepared	☐	Email addresses checked for accuracy
		☐	Document is "Spell checked"

Remaining Right Certificate(s)

☐	Assign certificate #s to all Remaining Right Certificates	☐	Document is "Spell checked"
☐	Remaining right Certificate numbers Orig. Cert. # _____ RR Cert. # _____ Orig. Cert. # _____ RR Cert. # _____ Orig. Cert. # _____ RR Cert. # _____ Orig. Cert. # _____ RR Cert. # _____ Orig. Cert. # _____ RR Cert. # _____ Orig. Cert. # _____ RR Cert. # _____	☐	Update Certificates with new Certificate numbers and print

Data Center Review			
CW		CW	
☐	Prepare Route Slip	☐	☐ Prepare Revised DPD if <i>substantive changes</i> OR ☐ Issue Preliminary Determination
☐	File Returned		

COMMENTS

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FINAL ORDER**Document Preparation**

CW		CW	
☐	Save PD document as new document XXXXX-ord-approve.doc	☐	Hidden Findings unveiled (control "a", select Font, unmark hidden box)
☐	Update the hidden paragraph following the received notice and amendments findings (regarding issuance of PD)	☐	Remove "PRELIMINARY DETERMINATION" from document title and replace with "FINAL ORDER", Replace "PROPOSING APPROVAL/DENIAL OF" with APPROVING/DENYING"
☐	Unhide and Select the appeals language in the first page footer for the "Final Order" language; unhide Special Order Volume and page	☐	Change "Determination and Proposed Action" to "Conclusions of Law" and update paragraph
☐	Replace "If application T-XXXXX is approved . . ." with Now, therefore, it is ORDERED:	☐	Select text below "It is ORDERED" section and turn off Italics. Restart numbering at "1".
☐	Delete Protest language, Document preparation box, and Notice Regarding Servicemembers; Insert "Mailing Date: _____"	☐	Final Check: All Conclusions of Law have Findings to support them
		☐	Document is "Spell checked"

Remaining Right Certificate

CW		CW	
☐	Assign Certificate Number from Spreadsheet	☐	Update footer to read: T-XXXXX.rr.YYYYYY.ini, where YYYYYY is original certificate number, and ini stands for your initials
☐	Input new certificate number on right side of footer	☐	Print on Certificate paper
		☐	Document is "Spell checked"

COMMENTS

Application for Permanent Water Right Transfer

Part 1 of 5 – Minimum Requirements Checklist



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

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

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

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: C-4386**
Please include a separate Part 5 for each water right. (See instructions on page 6)

Attachments:

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

(For Staff Use Only)

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

- | | |
|--|--|
| ☐ Application fee not enclosed/insufficient | ☐ Map not included or incomplete |
| ☐ Land Use Form not enclosed or incomplete | ☐ Evidence of Use Form not enclosed or incomplete |
| ☐ Additional signature(s) required | ☐ Part _____ is incomplete |

Other/Explanation _____

Staff: _____ 503-986-0 _____

Date: ____/____/____

[illegible]

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

FEE WORKSHEET for SUBSTITUTION			
1	Base Fee (includes change to one well)	1	\$840.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$410 and enter » » » » » » » » » » » » » » » »	2	
3	Add entries on lines 1 through 2 above » » » » » » Fee for Substitution:	3	

Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Weitz & Company, Inc.		PHONE NO. 541-403-2160	ADDITIONAL CONTACT NO.
ADDRESS P. O. Box 854		FAX NO.	
CITY Baker City	STATE OR	ZIP 97814	E-MAIL WeitzCoNW@gmail.com
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

AGENT/BUSINESS NAME Dan Weitz		PHONE NO. 541-403-2160	ADDITIONAL CONTACT NO.
ADDRESS P. O. Box 854		FAX NO.	
CITY Baker City	STATE OR	ZIP 97814	E-MAIL WeitzCoNW@gmail.com
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:
We propose to install an APOD within our property approximately 1500 ft. downstream on Pine Creek.
This will improve our operation and be more efficient use of the water.

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

Check One Box

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

By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: **Baker City Herald.**
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).

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

Applicant signature

Dan Weitz, President of Weitz & Company, Inc.
Print Name (and Title if applicable)

Date

Applicant signature

Print Name (and Title if applicable)

Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? X Yes ☐ No If NO, include signatures of all deeded landowners (and mailing and/or e-mail

Part 5 of 5 – Water Right Information

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

CERTIFICATE # 4386

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Description of Water Delivery System

JUL 23 2020

System capacity: **0.80** cubic feet per second (cfs) **OR**

_____ gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. Water was diverted from the authorized POD on Pine Creek through ditches to irrigate the field.

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

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

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD #1	☒ Authorized ☐ Proposed		8 S	39 E	27	SW NW		1070' N & 2650' W from C1/4 cor. Sec. 27
POD #2	☒ Authorized ☐ Proposed		8 S	39 E	27	SW NW		1100' N & 2650' W from C1/4 cor. Sec. 27
APOD	☐ Authorized ☒ Proposed		8 S	39 E	27	SE NW		470' N & 1220' W from C1/4 cor. Sec. 27
	☐ Authorized ☐ Proposed							

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

- | | |
|--|---|
| ☐ Place of Use (POU) | ☐ Supplemental Use to Primary Use (S to P) |
| ☐ Character of Use (USE) | ☐ Point of Appropriation/Well (POA) |
| ☐ Point of Diversion (POD) | ☐ Additional Point of Appropriation (APOA) |
| ☒ Additional Point of Diversion (APOD) | ☐ Substitution (SUB) |
| ☐ Surface Water POD to Ground Water POA (SW/GW) | ☐ Government Action POD (GOV) |

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

☐ Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.

☒ No Complete all of Table 2 to describe the portion of the water right to be changed.

13495

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

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

Table 2. Description of Changes to Water Right Certificate # 4386

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.													Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.												
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp	Rng	Sec		¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date						
EXAMPLE																										
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901
														2	S	9	E	2	SW	NW	500		5.0		POD #6	1901
8	S	39	E	27	SE	NW	600		12.0	Irrigation	POD#1	1864	APOD	8	S	39	E	27	SE	NW	600		12.0		APOD	1864
8	S	39	E	27	SE	NW	600		16.0	Irrigation	POD#2	1866	APOD	8	S	39	E	27	SE	NW	600		16.0		APOD	1866
TOTAL ACRES:									28.0	TOTAL ACRES:															28.0	

Additional remarks: APOD ONLY.

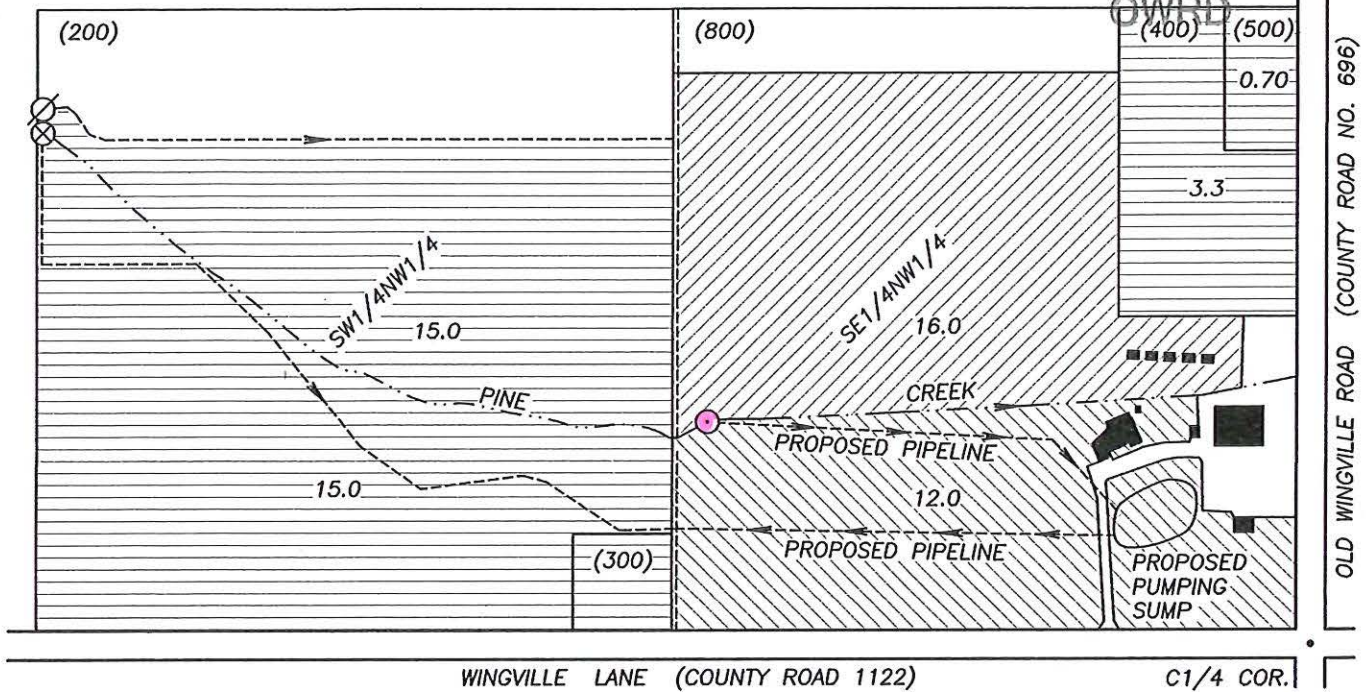
567
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SECTION 27, T.8S., R.39E., W.M.

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JUL 23 2020



TRANSFER
APPLICATION MAP
FOR
WEITZ & COMPANY, INC.
UNDER C-4386

LOCATION OF AUTHORIZED POD'S
DETERMINED JUNE 25, 2020

- ⊗ AUTHORIZED POD #1
1070 FT. NORTH & 2650 FT. WEST
FROM CENTER 1/4 COR. SECTION 27
- ⊘ AUTHORIZED POD #2
1100 FT. NORTH & 2650 FT. WEST
FROM CENTER 1/4 COR. SECTION 27
- PROPOSED POD
470 FT. NORTH & 1220 FT. WEST
FROM CENTER 1/4 COR. SECTION 27

PREPARED BY
ROBERT D. BAGETT, PLS, CWRE
217 N. CANYON BLVD.
JOHN DAY, OR 97845
JUNE 25, 2020

SCALE: 1"=400'

- ▨ CURRENT PLACE OF USE
PRIORITY DATE 1866
- ▨ CURRENT PLACE OF USE
PRIORITY DATE 1864
- ▨ REMAINING RIGHT
NOT A PART OF THIS TRANSFER
- DITCH
- PROPOSED PIPELINE
- () TAX LOT



RENEWS 12/31/2021

DISCLAIMER: THIS MAP IS NOT INTENDED TO PROVIDE LEGAL
DIMENSIONS OR LOCATIONS OF PROPERTY BOUNDARY LINES.

13495

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That, MILTON S. OSBORN
 of Baker, State of Oregon, has a right to the use of
 the waters of Pine Creek, tributary of Powder River,
 for the purpose of the irrigation of 62 acres of land

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
 Baker County, and the said decree entered of record at Salem, in the Order
 Record of the STATE WATER BOARD of the State of Oregon, in Volume 6, at page 291;
 that the priority of the right thereby confirmed dates from 1864 for 12 acres; 1870 for
 15 acres and 1866 for 35 acres

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
 amount actually beneficially used for said purposes, and shall not exceed $1/40$ of one cubic foot
 per second per acre; and shall be subject to all other conditions and limitations
 contained in said decree

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

30 acres in the Southwest quarter of Northwest quarter and 32 acres in the
 Southeast quarter of Northwest quarter of Section Twenty-seven, Township Eight
 South, Range Thirty-nine East of Willamette Meridian, in Baker County, Oregon.

$$1864 = 12.0a / 40 = 0.3 \text{ cfs}$$

$$1866 = 16.0a / 40 = 0.4 \text{ cfs}$$

$$PR = \frac{1864 \text{ } \cancel{\phi}}{1866 = 19.0a}$$

$$1870 = 15.0a$$

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

WITNESS the seal and signature of the State
 Water Board, affixed this 15th day
 of February, 1923

STATE WATER BOARD

(Seal of State Water Board)

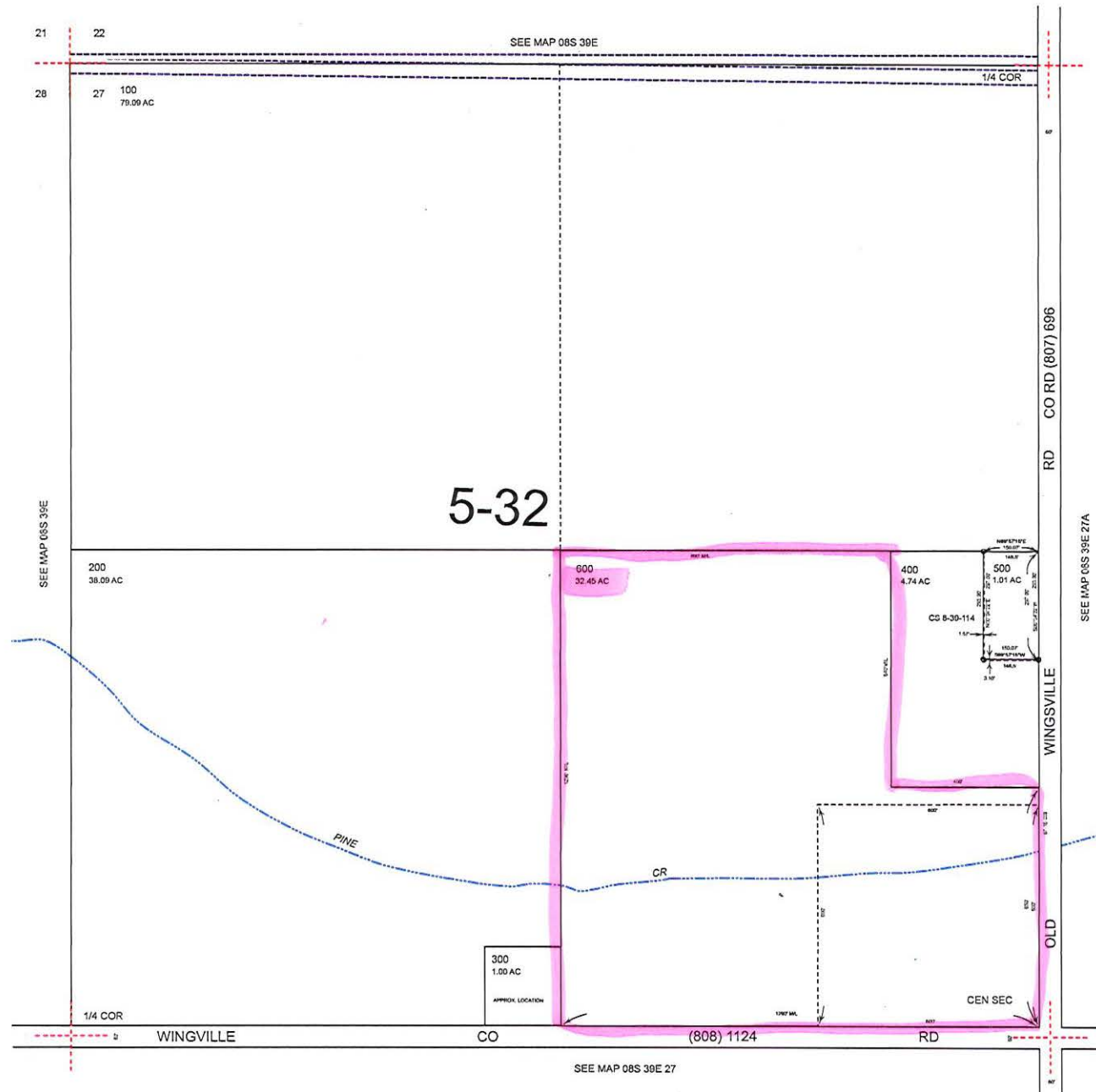
By PERCY A. CUPPER
 State Engineer, President

Attest:

R. W. POTTER

Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4386.



**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 # **137679**

INVOICE # _____

RECEIVED FROM: Weitz & Company Inc.

BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>1-13495</u>

CASH: ☐ CHECK: # 3753 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 149.69

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES	<u>46118</u>	\$
<u>0307</u> OTHER:	(IDENTIFY) <u>Newspaper Notice</u>	\$ <u>149.69</u>
0243 I/S Lease	0244 Muni Water Mgmt. Plan	0245 Cons. Water

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
TC162 DEPOSIT LIAB. (IDENTIFY)	\$
0240 EXTENSION OF TIME	\$
WATER RIGHTS:	EXAM FEE
0201 SURFACE WATER	\$
0203 GROUND WATER	\$
0205 TRANSFER	\$
WELL CONSTRUCTION	EXAM FEE
0218 WELL DRILL CONSTRUCTOR	\$
LANDOWNER'S PERMIT	\$
OTHER (IDENTIFY)	\$

RECORD FEE

0202	\$
0204	\$

LICENSE FEE

0219	\$
0220	\$

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE
OBJ. CODE	VENDOR #
DESCRIPTION	\$

RECEIPT: **137679**

DATED: 3.14.2022 BY: Mindy Carlson

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

IN THE CIRCUIT COURT OF THE
STATE OF OREGON FOR UNION,
BAKER COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of Union, Baker } ss

I, Julie Ferdig being duly
sworn, depose and say that I am
the principal clerk of the publisher
of the La Grande Observer, Baker
City Herald, bakercityherald.com,
a newspaper of general circulation,
as defined by ORS 193.010 and
193.020; that the

**Notice of Preliminary
Determination**

a printed copy of which is hereto
annexed; was published in the
entire issue of said newspaper for 2
successive and consecutive issues in
the following issues:
03/22/2022, 03/29/2022

Subscribed and sworn to before me
on this **31st** day of **March, A.D. 2022**

**Notice of Preliminary
Determination for Water
Right Transfer T-13495**

T-13495 filed by Weltz and
Company, Inc., PO Box 854,
Baker City, OR 97814, pro-
poses an additional point of
appropriation under Certifi-
cate 4386. The right allows
the use of one-fortieth of one
cubic foot per second per acre
from Pine Creek in Sec. 27,
T8S, R39E, WM for Irrigation
in Sec. 27, T8S, R39E, WM.
The applicant proposes an
additional point of diversion
in Sec. 27, T8S, R39E, WM.
The Water Resources De-
partment proposes to approve
the transfer, based on the re-
quirements of ORS Chapter
540 and OAR 690-380-5000.
Any person may file, jointly or
severally, a protest or stand-
ing statement within 30 days
after the last date of newspa-
per publication of this notice,
March 29th, 2022. Call (503)
986-0815 to obtain additional
information. If no protests are
filed, the Department will issue
a final order consistent with
the preliminary determination.

IMPORTANT: Due to
COVID-19, the Department's
office is closed to walk-in ser-
vices. The Department en-
courages the submission of
protests by U.S. mail. Please
consider mailing early to en-
sure the Department receives
the protest by the deadline
specified above.

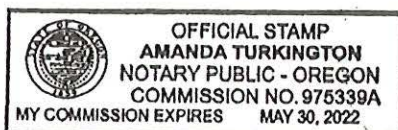
Legal No. 285743
Published: March 22, 29,
2022

RECEIVED

APR 11 2022

OWRD

Julie Ferdig
Aubrey Turley
Notary Public of Oregon



IN THE CIRCUIT COURT OF THE
STATE OF OREGON FOR UNION,
BAKER COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of Union, Baker } ss

I, Julie Ferdig being duly
sworn, depose and say that I am
the principal clerk of the publisher
of the La Grande Observer, Baker
City Herald, bakercityherald.com,
a newspaper of general circulation,
as defined by ORS 193.010 and
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Notice of Preliminary
Determination

a printed copy of which is hereto
annexed; was published in the
entire issue of said newspaper for 2
successive and consecutive issues in
the following issues:
03/22/2022, 03/29/2022

Subscribed and sworn to before me
on this 31st day of March, A.D. 2022

Julie Ferdig
Julie Ferdig
Notary Public of Oregon



Notice of Preliminary
Determination for Water
Right Transfer T-13495

T-13495 filed by Weitz and
Company, Inc., PO Box 854,
Baker City, OR 97814, pro-
poses an additional point of
appropriation under Certifi-
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consider mailing early to en-
sure the Department receives
the protest by the deadline
specified above.

Legal No. 285743
Published: March 22, 29,
2022

Received by OWRD

APR 06 2022

Salem, OR



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 21, 2022

VIA CERTIFIED MAIL AND E-MAIL

Applicant

WEITZ & COMPANY, INC.

PO BOX 854

BAKER CITY, OR 97814

SUBJECT: Water Right Transfer Application T-13495

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13495. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Baker City Herald newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

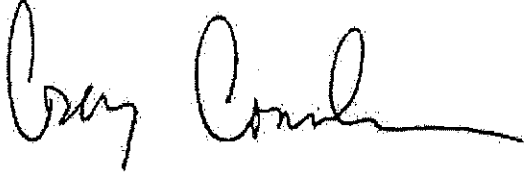
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me, at corey.a.courchane@water.oregon.gov or (503) 979-3917, if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-13495
Marcy J. Osborn, District 8 Watermaster (*via e-mail*)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13495, Baker County	)	PROPOSING APPROVAL FOR AN
	)	ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814

Findings of Fact

1. On July 23, 2020, WEITZ & COMPANY, INC. filed an application for an additional point of diversion under Certificate 4386. The Department assigned the application number T-13495.
2. Notice of the application for transfer was published on August 4, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 10, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13495 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 11, 2021, for the applicant to respond. The applicant(s) requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
4. On December 14, 2020, the applicant requested to extend the date for completion to October 1, 2023.

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

5. On February 2, 2021, the Department received a report of ownership from AmeriTitle identifying a Wayne C. Lewis and Gloria G. Lewis as owners of the property involved with Certificate 4386. The Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the application. The report of ownership did not satisfy the rule requirement under OAR 690-380-4010(5)(c). The Department sent a copy of an Affidavit of Consent by Deeded Landowner and requested that the deficiency be resolved by March 2, 2021.
6. On March 8, 2021, the Department contacted the applicant to check the status of the Affidavit of Consent, and requested that the deficiency be resolved by March 22, 2021.
7. On March 29, 2021, the applicant contacted the Department. The applicant stated that Wayne C. Lewis and Gloria G. Lewis are former owners of the property, who were experiencing health issues that prevented the change in ownership to be completed in a timely manner.
8. On January 29, 2022, the applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
9. The portion of the right to be transferred is as follows:

Certificate: 4386 in the name of MILTON S. OSBORN (confirmed by Powder River decree)

Use: IRRIGATION of 28.0 ACRES

Priority Date: 1864 for 12.0 ACRES and 1866 for 16.0 ACRES

Rate: 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree

Source: PINE CREEK, tributary of POWDER RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Not specified in certificate					

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority Date
8 S	39 E	WM	27	SE NW	12.0	1864
8 S	39 E	WM	27	SE NW	16.0	1866

10. The Department received information from the applicant that better describes the location of the authorized points of diversion for Certificate 4386 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SW NW	POD 1 - 1070 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27
8 S	39 E	WM	27	SW NW	POD 2 - 1100 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

11. Transfer Application T-13495 proposes an additional point of diversion approximately 1958 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SE NW	APOD - 470 FEET NORTH AND 1220 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

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

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

13. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13495.
15. The proposed change would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13495 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13495 is approved, the final order will include the following:

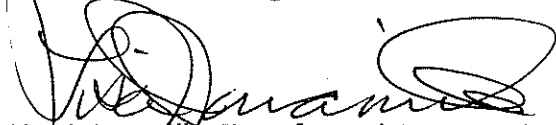
- 1. The additional point of diversion proposed in Transfer Application T-13495 is approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 4386 and any related decree.*
- 3. Water right Certificate 4386 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*

4. *The quantity of water diverted at the new additional point of diversion (APOD), together with that diverted at the original points of diversion (POD 1 and POD 2), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and POD 2).*
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 new 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. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

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

Dated in Salem, Oregon on

MAR 21 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-979-3917 or corey.a.courchane@water.oregon.gov

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

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Notice Regarding Service Members: Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon
Kate Brown, Governor

RECEIVED

MAR 14 2022

OWRD

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 11, 2022

WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814

SUBJECT: Water Right Transfer Application T-13495

Your water right transfer is ready for issuance of the Preliminary Determination, once the Department receives payment for publication of the newspaper notice.

Items needed before the next phase of processing...

At this time you need to:

1. submit a check for **\$149.69** (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. **write "for T-13495 NOTICE" on the front of your check, and**
3. submit it with the tracking stub at the bottom of this letter.

Mail the check to 725 Summer St. NE, Suite A, Salem, OR 97301-1266, **no later than April 11, 2022.**

What happens next...

Shortly after receiving payment, the Department will issue the Preliminary Determination, initiate publication in the Baker City Herald newspaper, and also publish the notice on the Department's weekly notice. Publication of the notice will initiate a protest period during which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

If we do not receive payment for newspaper notice by April 11, 2022 a Preliminary Determination may be issued denying the application as incomplete.

Handwritten:
Pd 3/11/2022
\$ 149.69
CF# 3753

✂-----
Attached is a check for \$149.69 (PCA #46118) for Newspaper Notice for Transfer T-13495 made out to Oregon Water Resources Department (or WRD)

- **"for T-13495 NOTICE" written on front of check**

Mail to: Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Caseworker: cc

Please do not hesitate to contact me, at corey.a.courchane@water.oregon.gov or (503) 979-3917, if I may be of assistance.

Sincerely,



Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: Transfer Application file T-13495
Marcy J. Osborn, District 8 Watermaster (via e-mail)CAC

RECEIVED

MAR 14 2022

OWRD



Oregon

Kate Brown, Governor

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

March 11, 2022

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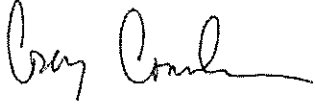
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Caseworker: cc

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Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: Transfer Application file T-13495
Marcy J. Osborn, District 8 Watermaster *(via e-mail)*CAC

COURCHANE Corey A * WRD

From: PHILLIPS Stacy H * WRD
Sent: Friday, March 11, 2022 8:24 AM
To: STARNES Patrick K * WRD
Cc: COURCHANE Corey A * WRD
Subject: RE: Newspaper Estimate for Transfer Application T-13495

Hello,

The quote came in for this notice. Total cost is \$149.69.

Thanks,

Stacy H. Phillips

Restoration Program Technician
725 Summer Street NE, Suite A, Salem, OR 97301
Office: 503-986-0898 | Work Cell: 503-979-9948



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

From: STARNES Patrick K * WRD <Patrick.K.STARNES@water.oregon.gov>
Sent: Tuesday, March 08, 2022 10:09 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.PHILLIPS@water.oregon.gov>
Cc: COURCHANE Corey A * WRD <Corey.A.COURCHANE@water.oregon.gov>
Subject: FW: Newspaper Estimate for Transfer Application T-13495

Might need the attachment.....

Kelly Starnes, Transfer Program Analyst
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301-1271
Cell phone: 503-979-3511 Fax: 503-986-0903
E-mail: patrick.k.starnes@water.oregon.gov

Please Note: Under Oregon Law, messages to and from
this e-mail address may be available to the public.

From: STARNES Patrick K * WRD
Sent: Tuesday, March 08, 2022 10:08 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.PHILLIPS@water.oregon.gov>
Cc: COURCHANE Corey A * WRD <Corey.A.COURCHANE@water.oregon.gov>
Subject: Newspaper Estimate for Transfer Application T-13495

Hi Stacy –

Corey will need a quote for the attached **TRANSFER** Application notice to run in the Baker City Herald. Run time is two weeks.

Thanks!

Kelly

Kelly Starnes, Transfer Program Analyst
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301-1271
Cell phone: 503-979-3511 Fax: 503-986-0903
E-mail: patrick.k.starnes@water.oregon.gov

Please Note: Under Oregon Law, messages to and from
this e-mail address may be available to the public.

COURCHANE Corey A * WRD

From: Dan Weitz <weitzconw@gmail.com>
Sent: Saturday, January 29, 2022 9:28 AM
To: COURCHANE Corey A * WRD
Subject: Baker APOD T 13395
Attachments: Baker Ranch.pdf

Cory, attached is a copy of the deed(s) to the Wingville place in Baker County. These were recorded extinguishing Lewis's interest in the property. I'll order another lot book of record if you need it.

Dan

Dan Weitz, Weitz & Co. Inc.



300 Klamath Ave., Klamath Falls, OR 97601
(541) 883-3401
Fax (541) 882-0620

RECEIVED

JAN 29 2022

OWRD

Weitz & Co., Inc.
c/o Dan & Cheryl Weitz
PO Box 854
Baker City, OR 97814

January 19, 2022

RE: Account Servicing: # [REDACTED], LEWIS / WEITZ & CO. INC.

Dear Customer:

Attached please find the following original documents from the payoff/closure of the above referenced account:

Check #3701 - \$151.00 - unprocessed
Contract of Sale - dated July 26, 2005
Memorandum of Sale - #B05320335
Warranty Deed - #B22030112

Please do not hesitate to contact our office if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Carol McCullough'.

Carol McCullough
Account Servicing Department

Enc

MTS BA2V996

After recording return to:

Weitz & Co., Inc.

PO Box 854

Baker City, OR 97814

Until a change is requested,
send tax statements to:

Weitz & Co., Inc.

c/o Dan & Cheryl Weitz, PO Box 854
Baker City OR 97814

WARRANTY DEED

WAYNE C. LEWIS and GLORIA G. LEWIS, Grantors, convey and warrant to WEITZ & CO., INC., an Idaho corporation, Grantee, the real property described on Exhibit A attached hereto and incorporated herein by reference, free of encumbrances except as specifically set forth herein:

Ref. No. 8492 and 8494



TOGETHER WITH all tenements, hereditaments and appurtenances thereunto belonging to or otherwise appertaining.

SUBJECT TO a deed of trust recorded December 10, 2003, in the official records of Baker County, Oregon as B03 49 0277 which the Grantee shall pay and hold the Grantors harmless from any further liability thereon.

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

The true consideration for this conveyance is \$ 487,200.00



DATED this 26th day of July, 2005.

Wayne C. Lewis
Wayne C. Lewis

Gloria G. Lewis
Gloria G. Lewis

STATE OF OREGON)

: ss.

County of Baker)

This instrument was acknowledged before me on July 26, 2005, by WAYNE C. LEWIS and GLORIA G. LEWIS.

Julie Dawn Payton
Notary Public for Oregon

AmeriTitle
MTC 542 V996

B22030112

After recording return to:

Weitz & Co., Inc.

PO Box 854

Baker City, OR 97814

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send tax statements to:

Weitz & Co., Inc.

c/o Dan & Cheryl Weitz, PO Box 854
Baker City OR 97814

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RECEIVED

JAN 29 2022

OWRD

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Wayne C. Lewis

Gloria G. Lewis
Gloria G. Lewis

STATE OF OREGON)

: ss.

County of Baker)

This instrument was acknowledged before me on July 26, 2005, by WAYNE C. LEWIS and GLORIA G. LEWIS.



Julie Dawn Paxton
Notary Public for Oregon
My Commission expires: 10/18/05

EXHIBIT "A"

A parcel of land in the Southeast quarter of the Northwest quarter of Section 27, Township 8 South, Range 39 East of the Willamette Meridian, in the County of Baker and State of Oregon, more particularly described as follows:

BEGINNING at the intersection of the West right of way line of Old Wingville Road (Baker County Road No. 696) and the North right of way line of Wingville Lane (Baker County Road No. 1122); thence North 650 feet along said West right of way line; thence West 400 feet parallel to said North right of way line; thence North 640 feet, more or less, parallel to said West right of way line to the North line of the Southeast quarter of the Northwest quarter of Section 27, said township and range; thence West 890 feet, more or less, along said North line to the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 27; thence South 1290 feet, more or less, along the West line of the Southeast quarter of the Northwest quarter of said Section 27 to said North right of way line; thence East 1290 feet, more or less, along said North right of way line to the POINT OF BEGINNING.

STATE OF OREGON

County of Baker

} ss

I certify that this instrument was
received and recorded in the book of
records of said county.

Stefanie Kirby
Baker County Clerk

by: *Karen Phillips* Deputy.

DOC#: B22030112

91.00

1/14/2022 3:14 PM

REFUND: .00

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RECEIVED
JAN 29 2022
OWRD

0024996

RECORDED ELECTRONICALLY	
ID 322030112	County BAKER
Date 1/14/2022	Time 02:14 PM
simplefile www.simplefile.com 800.440.5557	

COURCHANE Corey A * WRD

From: Dan Weitz <weitzconw@gmail.com>
Sent: Monday, December 06, 2021 3:01 PM
To: COURCHANE Corey A * WRD
Subject: Re: Payoff for Transfer T-13395

The mortgage has been paid off, we're waiting for Amerititle to record the documents.
Dan

Dan Weitz, Weitz & Co. Inc.

On Mon, Dec 6, 2021, 3:32 PM COURCHANE Corey A * WRD <Corey.A.COURCHANE@water.oregon.gov> wrote:

Good afternoon Dan,

It's been awhile, so I'm checking on the status of the title report.

Thank you,

Corey

From: Dan Weitz <weitzconw@gmail.com>
Sent: Saturday, July 10, 2021 8:01 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: FW: Payoff for Transfer T-13395

Cory, I have begun the process of eliminating the Lewis interest in the property that is subject to this transfer. I have sold a small parcel of property in Idaho that closes by July 22nd 2021. I will forward a copy of the paid off documents and a clear deed to Weitz & Co. please restart the transfer application after your satisfied the Lewis interest has been eliminated.

Thanks, Dan

Dan Weitz, Weitz & Co. Inc.

From: [Mary Banta](#)
Sent: Friday, July 9, 2021 3:44 PM
To: WeitzCoNW@gmail.com
Subject: Payoff

Dan

Attached is the payoff you requested. Let me know if you have questions. Thanks Mary

From: BakerCity@ameri-title.com [<mailto:BakerCity@ameri-title.com>]
Sent: Friday, July 09, 2021 3:46 PM
To: Mary Banta <mary.banta@amerititle.com>
Subject: Message from KM_558e

COURCHANE Corey A * WRD

From: weitzconw@gmail.com
Sent: Monday, March 29, 2021 10:30 AM
To: COURCHANE Corey A * WRD
Subject: RE: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Cory, nothing back from Lewis, so in their declining condition I will pay the contract off out of some proceeds of a small 25 acre parcel I sold in Idaho. The parcel sold for 2.6M, Purchase and Sale is done, title commitment is done, but the closing proceeds won't be available until June 26th. Could you put my application on hold until the end of July to give Amerititle time to record the documents and get rid of Lewis's interest in this parcel we're putting the APOD on, then we can continue on. The PNC contract is down to 190K or a little less, so it needs to be paid off anyway before Lewis's expire.

Thanks, Dan

Dan Weitz, Weitz & Co. Inc

From: [COURCHANE Corey A * WRD](#)
Sent: Monday, March 29, 2021 8:47 AM
To: [Dan Weitz](#)
Subject: RE: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Good morning Dan,

Any updates on receiving the affidavit of consent?

Thank you,

Corey

From: Dan Weitz <weitzconw@gmail.com>
Sent: Monday, March 08, 2021 9:05 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: Re: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

I'm trying to get the former land owner to sign the affidavit, he is trying to get me to pay a flood insurance bill of his in return for his signature. He has no interest left in this property other than the contract i assumed from his lender. This place is not in a flood plain so flood insurance is not available here and paying for his other place is not my obligation. According to his former attorney he and his wife live in Maryville Washington and both suffer from dementia. His former attorney is attempting to get him to sign as there is no legal reason to withhold signing and actually makes them responsible for damages. I don't want to make their situation worse, hopefully the attorney can get their cooperation

Dan

Dan Weitz, Weitz & Co. Inc.

On Mon, Mar 8, 2021, 8:53 AM COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov> wrote:

Good morning Dan,

Any status on the affidavit for consent? I haven't received anything yet. Please submit no later than March 22, 2021, or the Department may issue a Preliminary Determination proposing to deny for being incomplete.

Thank you,

Corey

From: Dan Weitz <weitzconw@gmail.com>
Sent: Tuesday, February 02, 2021 11:19 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: Re: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Received, thank you.

Dan Weitz, Weitz & Co. Inc.

On Tue, Feb 2, 2021, 11:13 AM COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov> wrote:

Dan,

Please see the attached Affidavit of Consent. Let me know if I may be of further assistance.

Thank you,

Corey

From: weitzconw@gmail.com <weitzconw@gmail.com>
Sent: Tuesday, February 02, 2021 11:11 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: RE: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Cory, do you have a form that Wayne Lewis can fill out or should he just make out an authorization statement and sign and notarize it?

Dan

Dan Weitz, Weitz & Co. Inc

From: [COURCHANE Corey A * WRD](#)

Sent: Tuesday, February 2, 2021 10:50 AM

To: weitzconw@gmail.com

Cc: [OSBORN Marcy J * WRD](#)

Subject: RE: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Good morning,

Thank you for the attached lot book report. After reviewing the title report, it appears that tax lot 600 belongs to Wayne C. Lewis and Gloria G. Lewis. Pursuant to Oregon Administrative Rule 690-380-4010(5) (c) If the landowner identified in the report of ownership information is not the applicant, documentation to demonstrate that the applicant is authorized to pursue the transfer, which shall include:

- (A) A notarized statement by the landowner(s) identified in the report of ownership information consenting to the transfer;
- (B) If the interest in the water right has been conveyed, a notarized statement consenting to the transfer from the person or authorized representative(s) of the entity to whom the interest in the water right has been conveyed identified in a water right conveyance agreement; or
- (C) Other documentation demonstrating that the applicant is authorized to pursue the transfer.

Based on the current title report, Weitz & Company, Inc., is not authorized to pursue the transfer. You will need to submit documentation that you are authorized to complete Transfer Application T-13495. **If the Department does not receive the above requested materials by March 2, 2021, a Preliminary Determination shall be issued denying the application as incomplete.**

Thank you,

Corey Courchane

COREY A COURCHANE | TRANSFER SPECIALIST

TRANSFER AND CONSERVATION SECTION

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0825 | Fax: 503 986-0901

Email: corey.a.courchane@oregon.gov | Web: <http://www.oregon.gov/OWRD>

From: weitzconw@gmail.com <weitzconw@gmail.com>
Sent: Tuesday, February 02, 2021 9:30 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Cc: Gmail <weitzconw@gmail.com>
Subject: FW: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Lot book record for APOD # T 13495

Dan

Dan Weitz, Weitz & Co. Inc

From: [Jeri Shaffer](#)
Sent: Monday, February 1, 2021 2:24 PM
To: [Dan Weitz](#)
Subject: 429600AM: 43730 Old Wingville Road, Baker City, OR 97814: Lot Book Report

Hello,

Please see attached Lot Book Report for file number 429600AM.

Thank you for the opportunity to serve you. Your business is appreciated!

If you have any questions or need further assistance, please do not hesitate to contact Ginger Pedroza at (541)276-2010.

Sincerely,

AmeriTitle, LLC

Jeri Shaffer | Recorder | AmeriTitle, LLC

2245 Main St. | Baker City, OR | 97814

Phone (541) 523-3663 | Fax (541) 523-2290

*****CONSUMER PROTECTION ALERT: Please call our branch and verify wire transfer instructions verbally with your escrow officer prior to wiring funds.*****

COURCHANE Corey A * WRD

From: Dan Weitz <weitzconw@gmail.com>
Sent: Monday, December 14, 2020 12:15 PM
To: COURCHANE Corey A * WRD
Subject: Re: Transfer number T 13495

Thanks Corey.
Dan

Dan Weitz, Weitz & Co. Inc.

On Mon, Dec 14, 2020, 12:06 PM COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov> wrote:

Dan,

Thank you for the information. I don't need to contact the title company, as we leave that responsibility with the applicant. I will keep the deadline of January 11, and will allow additional time once the date has arrived and nothing has been received. I can reset the date for completion to October 1, 2023, as the date for completion on a transfer always falls on October 1.

Thank you,

Corey

From: weitzconw@gmail.com <weitzconw@gmail.com>
Sent: Monday, December 14, 2020 9:32 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: Transfer number T 13495

Cory, I emailed your request for the title documents you need to Amerititle in Baker City. They are not sure they will be able to meet your deadline of January 11, 2021 with the restrictions placed on them and the courthouse by Covid 19. I would request a little more time for Amerititle to provide that document. I spoke with Mary there, her number is 514-523-3663 if you need to speak with her.

Also in speaking to my contractor here they would ask for more time to complete the project. We won't be able to do any work this summer as the irrigation season will be in effect so they can't de water the creek so it would be late fall 2021 before any work can begin and then concrete pouring must stop by around the end of

October because of temperatures too low to cure, no work in spring of 2022 because of Spring runoff and irrigation we'll be waiting until fall 2022. Could we have end of December 2023 to finish?

Everything else looks good.

Thanks, Dan

Dan Weitz, Weitz & Co. Inc



Oregon
Kate Brown, Governor

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

December 10, 2020

WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814

Reference: Water Right Transfer Application T-13495

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Transfer Application T-13495. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved.

Items needed before the next phase of processing...

1. Please review the draft carefully to see if it accurately reflects the changes you intend to make, and to become familiar with all proposed conditions. **You will need to respond in writing** by the deadline provided below, whether you agree with the proposed action and conditions. Also we will appreciate having you let us know if there are typographical errors that need to be corrected.
2. A report of landownership for the lands to which the water right(s) are appurtenant (the FROM lands) is required. **The report must be prepared by a title company and meet the criteria below.** (*Reports may be called by various names, such as Customer Service Report, Property Analysis Report (PAR), List Pack, Lot Book Report, etc.*)
 - a) The title company's report must either be:
 - i) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
 - ii) prepared within 3 months of recording of a water right conveyance agreement, or
 - iii) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
 - b) The ownership report shall include:
 - i) Date the ownership report was generated or prepared; and
 - ii) List of owners at that time; and
 - iii) Legal description of the property where the water right to be transferred is currently located.
 - c) 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.
3. Notice of this transfer will need to be published in a newspaper with general circulation in the area where the water rights are currently located. You will be responsible for the charges. Please confirm the Baker City Herald as the newspaper you prefer to publish in so we can get an accurate estimate of the cost.

Conditions to your water right...

The Watermaster has required a water measurement device(s) at the new diversion point(s) prior to diversion of water. Enclosed is a contact information sheet to assist you in pursuing additional information or approval of the required (or alternate) device(s).

This transfer will require installation of a fish screen at the new diversion point **prior to diversion of water. You may not divert water prior to installation and approval of the fish screen by the Oregon Department of Fish and Wildlife (ODFW).** You may wish to contact the ODFW staff person listed on the enclosed contact sheet for more information about the screen and to determine a reasonable timeline.

Please note the proposed date by which all conditions must be met: October 1, 2022. If the required completion date is insufficient to comply with any of the conditions, you may extend the date at no cost to you during this stage of processing. Please let me know by the comment deadline so we can make the proper arrangements to get you the time you need.

What happens next...

Once the Preliminary Determination is issued a publication period is required. Because there is more than ¼ mile between the new and the authorized points of diversion, the Department will publish notice of the transfer in a local newspaper having a general circulation in the area of the water right at least once per week for two consecutive weeks. You are responsible for sending a check to cover the cost of publication prior to the issuance of the Preliminary Determination and publication of notice.

Issuance of the Preliminary Determination will occur shortly after we receive:

1. Your written response to the conditions and proposed action in the draft Preliminary Determination (e-mail is acceptable); and
2. Report of ownership, and affidavits of consent from any landowners shown in the ownership report who have not signed the transfer application.

If we do not receive the items listed above by January 11, 2021, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,



Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-13495
Marcy J. Osborn, District 8 Watermaster (via e-mail)

encs

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

In the Matter of Transfer Application
T-13495, Baker County

)
)
)
)
)

D R A F T

PRELIMINARY DETERMINATION
PROPOSING APPROVAL FOR AN
ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

WEITZ & COMPANY, INC.
PO BOX 854
BAKER CITY, OR 97814

Findings of Fact

1. On July 23, 2020, WEITZ & COMPANY, INC. filed an application for an additional point of diversion under Certificate 4386. The Department assigned the application number T-13495.
2. Notice of the application for transfer was published on August 4, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:

Certificate: 4386 in the name of MILTON S. OSBORN (confirmed by Powder River decree)
Use: IRRIGATION of 28.0 ACRES
Priority Date: 1864 for 12.0 ACRES and 1866 for 16.0 ACRES
Rate: 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree
Source: PINE CREEK, tributary of POWDER RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
<i>Not specified in certificate</i>					

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority Date
8 S	39 E	WM	27	SE NW	12.0	1864
8 S	39 E	WM	27	SE NW	16.0	1866

4. The Department received information from the applicant that better describes the location of the authorized points of diversion for Certificate 4386 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SW NW	POD 1 - 1070 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27
8 S	39 E	WM	27	SW NW	POD 2 - 1100 FEET NORTH AND 2650 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

5. Transfer Application T-13495 proposes an additional point of diversion approximately 1958 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	27	SE NW	APOD - 470 FEET NORTH AND 1220 FEET WEST FROM THE C1/4 CORNER OF SECTION 27

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

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

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13495.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13495 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13495 is approved, the final order will include the following:

- 1. The additional point of diversion proposed in Transfer Application T-13495 is approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 4386 and any related decree.*
- 3. Water right Certificate 4386 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The quantity of water diverted at the new additional point of diversion (APOD), together with that diverted at the original points of diversion (POD 1 and POD 2), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and POD 2).*
- 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 new 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

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

Dated in Salem, Oregon on

D R A F T

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This draft Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@oregon.gov

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 #: T- **13495**, WEITZ & COMPANY, INC

Date of review: 8-11-20

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 [stream] , tributary to , because .

(Please attach any available supporting information.)

Note: This will prompt WRD to make a determination whether the transfer will injure an instream water right. (OWRD 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 OWRD consents to injury of an instream water right.)

B. Please check one of the following five boxes related to fish screen requirements pursuant to ORS 540.525 or 540.532:

☐ **1. Screen Maintain**

[Select this option if the new Point of Diversion (POD) requires a fish screen and is currently equipped with an appropriate fish screen that will still be in compliance if the transferred water is diverted from this POD.]

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

Condition: The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☒ **2. Screen Now**

[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 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 screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Condition: Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

*Please return all 3 pages to: Transfers Section, Water Resources Department,
725 Summer St. NE, Suite A, Salem, OR 97301-1266*

☐ **3. Screen 2 Year**

[Option 3 may be checked if the change is from an unscreened diversion to a HISTORIC POD or an existing POD in use for another water right, and cost-share funds are not currently available. It 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. Please provide contact information on the "Fish Screening and Passage Information" sheet.] 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 screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. 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 screen. 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: By October 1, 20____ [Within two years after the date of this order] the water user shall install an approved fish screen at the new point of diversion. The water user may withdraw water at the new point of diversion without a screen until October 1, 20____. The water user shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall maintain and operate the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☐ **4. Screen Future**

[Use this option if fish are not currently present, but might possibly be at some future time.]

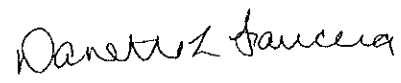
Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

Condition: The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

☐ **5. No Screen Needed**

[Check this box if fish are not currently present, and are not expected in the future.]



Signature

Danette Faucera
Printed Name

(503) 947-6092

Phone

Water Policy Coordinator
Title

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 #: T-13495, WEITZ & COMPANY, INC

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 is required as a condition of this transfer. The fish screen must meet ODFW's design, construction, operational and maintenance standards.

Pursuant to ORS 498.306, cost-share funds may be available to assist in the installation of fish screening.

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

ODFW staff name: Nathaniel Ashley

Address: 357 Patterson Bridge Rd

City/State/Zip: John Day, OR 97845

Phone: (541) 575-0561

- ☒ 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 member 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: Danette Faucera

Address: 4034 Fairview Industrial Dr. SE

City/State/Zip: Salem, OR 97302

Phone: (503) 947-6092

Watermaster Review Form: Water Right Transfer



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

Transfer Application: T-13495

Review Due Date: 8/29/2020

Applicant Name: Dan Weitz, Weitz and Company Inc.

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

Reviewer(s): Marcy Osborn

Date of Review: 8/11/2020

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

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

☒ N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

☒ N/A

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

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

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

10. For POU or USE changes: ☒ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☐ No If "Yes", explain:

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

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

☐ Yes ☐ No If "Yes", explain:

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

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

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

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

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

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

☐ Yes ☐ No If "Yes", describe:

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

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

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

☐ Yes ☒ No If "Yes", explain:

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

☐ Yes ☒ No If "Yes", explain:

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

☐ Yes ☒ No If "Yes", explain:

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

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

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

☐ A Headgate should be required prior to diverting water.

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

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

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

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

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

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

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

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



Weir



Submerged Orifice



Parshall Flume



Flow Restrictor



Other: ____

Oregon Water Resources Department

Measurement Condition Information for the Applicant

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

Transfer #: T- 13495



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



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



at each new point of diversion/appropriation.

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

Watermaster name: **Marcy Osborn**

District: **8**

Address: **1995 3rd. St.**

City/State/Zip: **Baker City, OR 97814**

Phone: **541-523-8224**

Email: **marcy.j.osborn@oregon.gov**

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

Approval of an Alternate Measurement Device

T-

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

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

Watermaster signature

District

Date

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

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



Oregon
Kate Brown, Governor

Water Resources Department

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

July 30, 2020

WEITZ & COMPANY, INC
DAN WEITZ
PO BOX 854
BAKER CITY, OR 97814

Reference: Application T- 13495

On , we received your water right Transfer application. The application was accompanied by \$1160.00. Our receipt number 133115 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 requested change. A review form will also be sent to Oregon Department of Fish and Wildlife to determine if a fish screen is needed. This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water from the new point of diversion until a final order approving the transfer application has been issued by the Department. 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 application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

If you have any questions, please contact the Transfer Section at (503) 986-0815.

Cc: Watermaster Dist. #8 (*via email*)
Baker County Planning Department

Enclosure

**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 # **133115**

INVOICE # _____

RECEIVED FROM: Weitz & Company Inc.
BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>7-13495</u>

CASH: ☐ CHECK: # 3546 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,160.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

MISCELLANEOUS	
0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
TC162 DEPOSIT LIAB. (IDENTIFY)	\$
0240 EXTENSION OF TIME	\$
WATER RIGHTS:	
0201 SURFACE WATER	\$
0203 GROUND WATER	\$
0205 TRANSFER	\$ <u>1,160.00</u>
WELL CONSTRUCTION	
0218 WELL DRILL CONSTRUCTOR	\$
LANDOWNER'S PERMIT	\$
OTHER (IDENTIFY)	

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE
OBJ. CODE	VENDOR #
DESCRIPTION	\$

RECEIPT: **133115**

DATED: 7-23-2020 BY: [Signature]

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

Application for Permanent Water Right Transfer

Part 1 of 5 – Minimum Requirements Checklist



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

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

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

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OWRD

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: C-4386**
Please include a separate Part 5 for each water right. (See instructions on page 6)

Attachments:

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

(For Staff Use Only)

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

- | | |
|--|--|
| ☐ Application fee not enclosed/insufficient | ☐ Map not included or incomplete |
| ☐ Land Use Form not enclosed or incomplete | ☐ Evidence of Use Form not enclosed or incomplete |
| ☐ Additional signature(s) required | ☐ Part _____ is incomplete |

Other/Explanation _____

Staff: _____ 503-986-0_____

Date: ____/____/____

Part 2 of 5 – Transfer Application Map

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

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

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

Part 3 of 5 – Fee Worksheet

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)			
1	Base Fee (includes one type of change to one water right for up to 1 cfs)	1	\$1,160
	Types of change proposed: ☐ Place of Use ☐ Character of Use ☒ Point of Diversion/Appropriation Number of above boxes checked = <u>1 (2a)</u> Subtract 1 from the number in line 2a = <u>0 (2b)</u> <i>If only one change, this will be 0</i>		
2	Multiply line 2b by \$930 and enter » » » » » » » » » » » » » » » »	2	0
3	Number of water rights included in transfer <u>1 (3a)</u> Subtract 1 from the number in 3a above: <u>0 (3b)</u> <i>If only one water right this will be 0</i> Multiply line 3b by \$520 and enter » » » » » » » » » » » » » » » »	3	0
4	Do you propose to add or change a well, or change from a surface water POD to a well? ☒ No: enter 0 » ☐ Yes: enter \$410 »	4	0
5	Do you propose to change the place of use or character of use? ☒ No: enter 0 on line 5 » ☐ Yes: enter the cfs for the portions of the rights to be transferred (see example below*): _____ (5a) Subtract 1.0 from the number in 5a above: _____ (5b) If 5b is 0 or less, enter 0 on line 5 » If 5b is greater than 0, round up to the nearest whole number: _____ (5c) and multiply 5c by \$350, then enter on line 5 » » » » » » » » » » » » » » » »	5	0
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6	\$1,160
7	Is this transfer: ☐ necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? ☐ endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat? If one or more boxes is checked, multiply line 6 by 0.5 and enter on line 7 » If no box is applicable, enter 0 on line 7 »	7	0
8	Subtract line 7 from line 6 » Transfer Fee:	8	\$1,160

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

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

FEE WORKSHEET for SUBSTITUTION			
1	Base Fee (includes change to one well)	1	\$840.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$410 and enter »	2	
3	Add entries on lines 1 through 2 above » » » » » » » » » » Fee for Substitution:	3	

addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.

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JUL 23 2020

OWRD

13495

Part 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Weitz & Company, Inc.			PHONE NO. 541-403-2160	ADDITIONAL CONTACT NO.
ADDRESS P. O. Box 854			FAX NO.	
CITY Baker City	STATE OR	ZIP 97814	E-MAIL WeitzCoNW@gmail.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

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JUL 23 2021

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

AGENT/BUSINESS NAME Dan Weitz			PHONE NO. 541-403-2160	ADDITIONAL CONTACT NO.
ADDRESS P. O. Box 854			FAX NO.	
CITY Baker City	STATE OR	ZIP 97814	E-MAIL WeitzCoNW@gmail.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Explain in your own words what you propose to accomplish with this transfer application, and why:
We propose to install an APOD within our property approximately 1500 ft. downstream on Pine Creek.
This will improve our operation and be more efficient use of the water.

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

Check One Box

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

By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: Baker City Herald.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).

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

→ Weitz & Co. Inc.
Applicant signature

Dan Weitz, President of Weitz & Company, Inc.
Print Name (and Title if applicable)

Date

Applicant signature

Print Name (and Title if applicable)

Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? X Yes ☐ No If NO, include signatures of all deeded landowners (and mailing and/or e-mail

Check the following boxes that apply:

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

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

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

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

https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

RECEIVING LANDOWNER NAME			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS				FAX NO.
CITY	STATE	ZIP	E-MAIL	

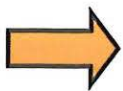
Describe any special ownership circumstances here: _____

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

IRRIGATION DISTRICT NAME	ADDRESS		
CITY	STATE	ZIP	

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

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	



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

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	

Part 5 of 5 – Water Right Information

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

CERTIFICATE # **4386**

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Description of Water Delivery System

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System capacity: **0.80** cubic feet per second (cfs) OR

_____ gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. Water was diverted from the authorized POD on Pine Creek through ditches to irrigate the field.

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

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

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD #1	☒ Authorized ☐ Proposed		8 S	39 E	27	SW NW		1070' N & 2650' W from C1/4 cor. Sec. 27
POD #2	☒ Authorized ☐ Proposed		8 S	39 E	27	SW NW		1100' N & 2650' W from C1/4 cor. Sec. 27
APOD	☐ Authorized ☒ Proposed		8 S	39 E	27	SE NW		470' N & 1220' W from C1/4 cor. Sec. 27
	☐ Authorized ☐ Proposed							

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

- | | |
|--|---|
| ☐ Place of Use (POU) | ☐ Supplemental Use to Primary Use (S to P) |
| ☐ Character of Use (USE) | ☐ Point of Appropriation/Well (POA) |
| ☐ Point of Diversion (POD) | ☐ Additional Point of Appropriation (APOA) |
| ☒ Additional Point of Diversion (APOD) | ☐ Substitution (SUB) |
| ☐ Surface Water POD to Ground Water POA (SW/GW) | ☐ Government Action POD (GOV) |

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

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

13495

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

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

Table 2. Description of Changes to Water Right Certificate # 4386

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.													Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.									
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp	Rng	Sec		¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date			
EXAMPLE																							
2	S	9	E 15 NE NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E 1 NW NW	500	1	10.0		POD #5	1901			
											2	S	9	E 2 SW NW	500		5.0		POD #6	1901			
8	S	39	E 27 SE NW	600		12.0	Irrigation	POD#1	1864	APOD	8	S	39	E 27 SE NW	600		12.0		APOD	1864			
8	S	39	E 27 SE NW	600		16.0	Irrigation	POD#2	1866	APOD	8	S	39	E 27 SE NW	600		16.0		APOD	1866			
TOTAL ACRES:						28.0						TOTAL ACRES:						28.0					

Additional remarks: **APOD ONLY.**

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For Place of Use or Character of Use Changes

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

If YES, list the certificate, water use permit, or ground water registration numbers: ____.

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

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

Ground water supplemental Permit or Certificate # ____;

Surface water primary Certificate # ____.

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For a change from Supplemental Irrigation Use to Primary Irrigation Use

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Identify the primary certificate to be cancelled. Certificate # ____

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

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

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

http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

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

Table 3. Construction of Point(s) of Appropriation

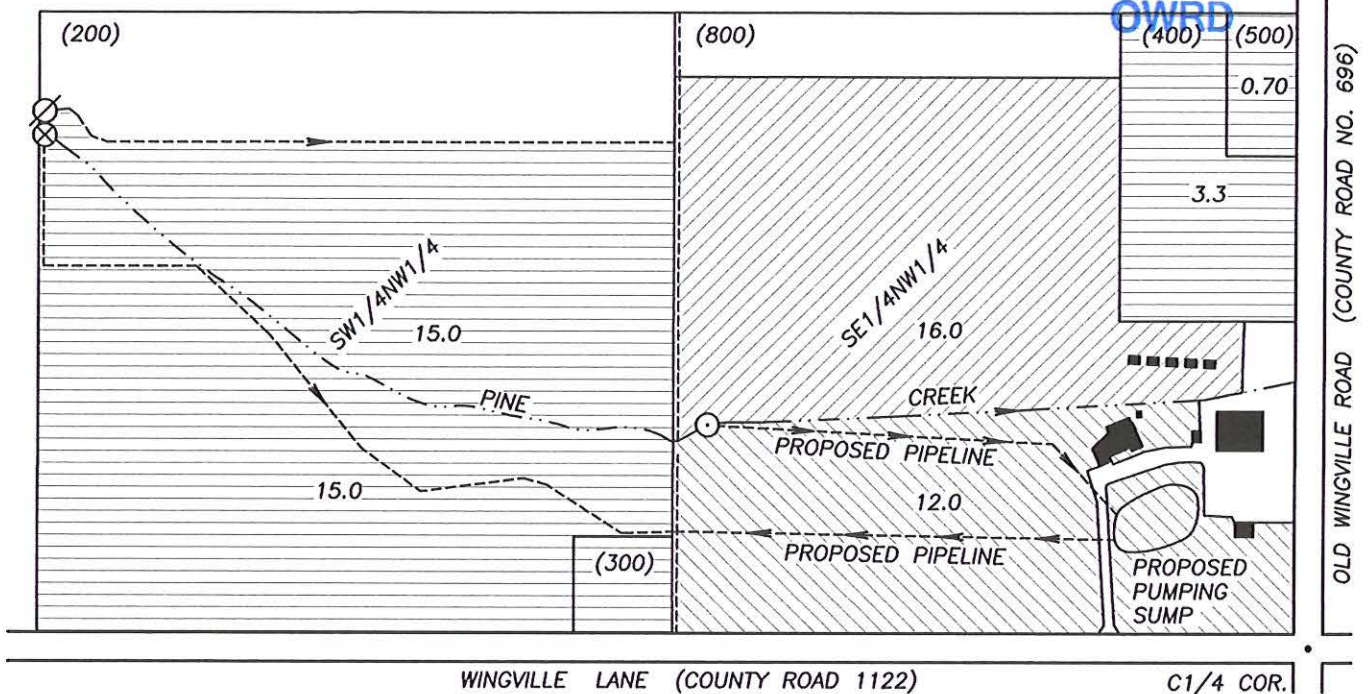
Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department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

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

SECTION 27, T.8S., R.39E., W.M.

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TRANSFER
APPLICATION MAP
FOR
WEITZ & COMPANY, INC.
UNDER C-4386

LOCATION OF AUTHORIZED POD'S
DETERMINED JUNE 25, 2020

- ⊗ AUTHORIZED POD #1
1070 FT. NORTH & 2650 FT. WEST
FROM CENTER 1/4 COR. SECTION 27
- ⊘ AUTHORIZED POD #2
1100 FT. NORTH & 2650 FT. WEST
FROM CENTER 1/4 COR. SECTION 27
- ⊙ PROPOSED POD
470 FT. NORTH & 1220 FT. WEST
FROM CENTER 1/4 COR. SECTION 27

PREPARED BY
ROBERT D. BAGETT, PLS, CWRE
217 N. CANYON BLVD.
JOHN DAY, OR 97845
JUNE 25, 2020

SCALE: 1"=400'

- CURRENT PLACE OF USE
PRIORITY DATE 1866
- CURRENT PLACE OF USE
PRIORITY DATE 1864
- REMAINING RIGHT
NOT A PART OF THIS TRANSFER
- DITCH
- PROPOSED PIPELINE
- () TAX LOT



RENEWS 12/31/2021

DISCLAIMER: THIS MAP IS NOT INTENDED TO PROVIDE LEGAL
DIMENSIONS OR LOCATIONS OF PROPERTY BOUNDARY LINES.

13495

Application for Water Right Transfer Evidence of Use Affidavit



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

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

State of Oregon)
) ss

County of BAKER)

I, DAN WEITZ, in my capacity as PRESIDENT OF WEITZ & COMPANY, INC.,

mailing address P. O. BOX 854, BAKER CITY, OR 97814

telephone number (541-)403-2160, being first duly sworn depose and say:

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

☒ Personal observation

☐ Professional expertise

2. I attest that:

☐ Water was used during the previous five years on the **entire** place of use for
Certificate # ____; **OR**

☒ My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township		Range		Mer	Sec	¼ ¼		Gov't Lot or DLC	Acres (if applicable)
4346	8	S	39	E	WM	27	SE	SW		28

OR

☐ Confirming Certificate # ____ has been issued within the past five years; **OR**

☐ Part or all of the water right was leased instream at some time within the last five years. The
instream lease number is: ____ (Note: If the entire right proposed for
transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**

☐ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for
non-use would be rebutted under ORS 540.610(2) is attached.

☐ Water has been used at the actual current point of diversion or appropriation for more than
10 years for Certificate # ____ (For Historic POD/POA Transfers)

(continues on reverse side)

13495

3. The water right was used for: (e.g., crops, pasture, etc.): CROPS, PASTURE

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Signature of Affiant

Date

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Signed and sworn to (or affirmed) before me this 20 day of July, 2020.

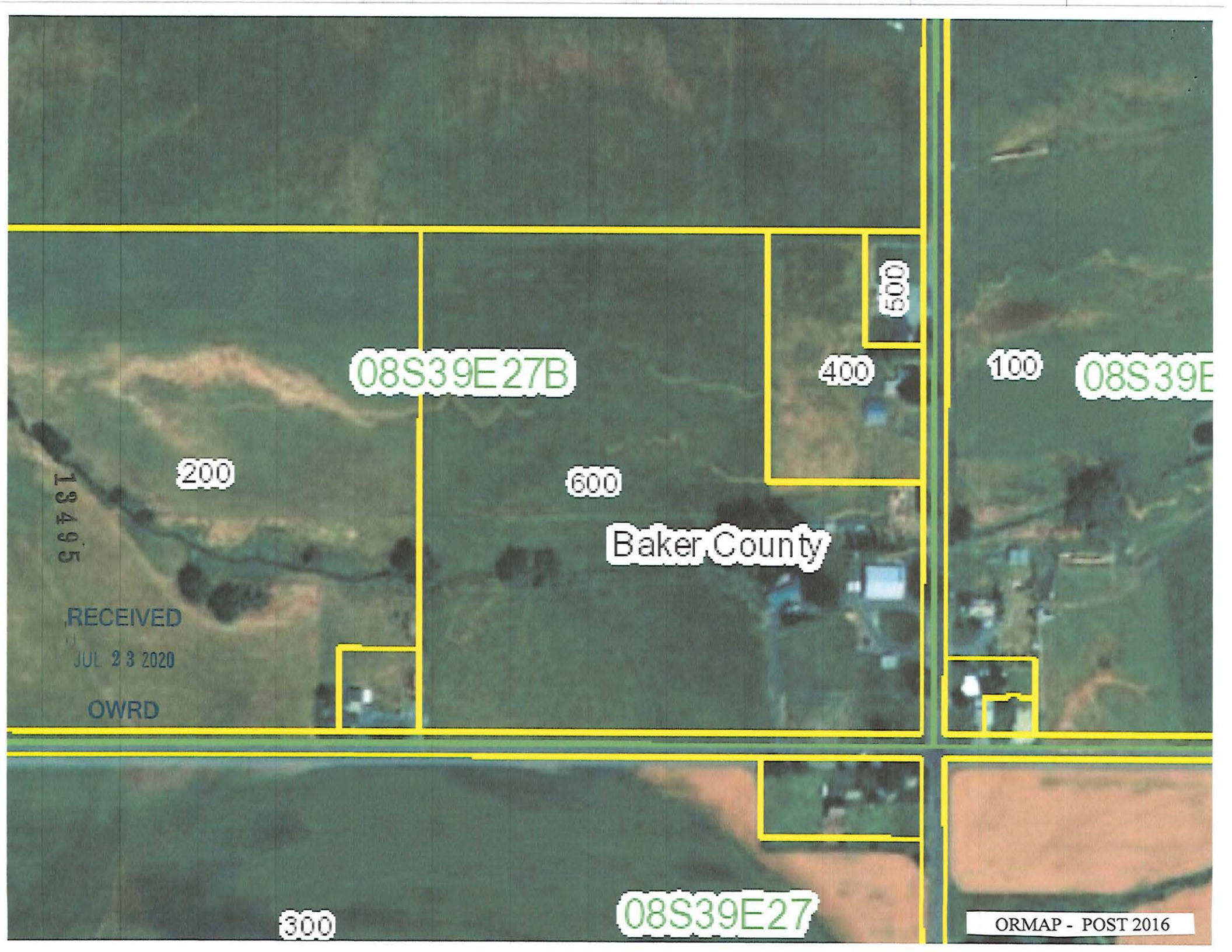


Katie Joan Moe
Notary Public for Oregon

My Commission Expires: May 27, 2023

Supporting Documents	Examples
☐ Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
☐ Copies of receipts from sales of irrigated crops or for expenditures related to use of water	• Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
☐ Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	• District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
☒ Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added. Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com
☐ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

13495



08S39E27B

08S39E

Baker County

08S39E27

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200

600

400

500

100

300

ORMAP - POST 2016

Land Use Information Form



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

Applicant(s): Weitz & Company, Inc

Mailing Address: P. O. Box 854

City: Baker City

State: OR

Zip Code: 97814

Daytime Phone: 541-403-2160

A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>8S</u>	<u>39E</u>	<u>27</u>	<u>SWNW</u>	<u>200</u>	_____	☒ Diverted	☒ Conveyed	☐ Used	_____
<u>8S</u>	<u>39E</u>	<u>27</u>	<u>SENW</u>	<u>600</u>	_____	☐ Diverted	☒ Conveyed	☒ Used	_____
_____	_____	_____	_____	_____	_____	☐ Diverted	☐ Conveyed	☐ Used	_____
_____	_____	_____	_____	_____	_____	☐ Diverted	☐ Conveyed	☐ Used	_____

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

Baker County

B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) Pine Creek

Estimated quantity of water needed: 0.70 ☒ 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:

We propose to install an additional point of diversion downstream on Pine Creek within our property.
This will improve our irrigation operation and will be more efficient use of the water.

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

See bottom of Page 3. →

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

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

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

Outright use in EFU Zone, as per Baker County Zoning Ordinance chapter 410.

Name: Kevin Berryman Title: Planner
 Signature: [Signature] Phone: 523-8220 Date: 6/23/2020
 Government Entity: Baker County Planning Dept

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

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

Regular Permanent Water Right Transfer Application Checklist

Checked by JDM Date 7-28-20

(If OK, check box to left; if not, fill in the blank)

- ☒ 1. Page 1 of application: Are all attachments that have been checked actually included?

If not, what is missing? _____

- ☒ 2. Are fees included and correct? Fee paid: 1160.02

If not, the correct fee would be: _____, so the amount missing is: _____

► If a Government Action POD change (see: Page 5): NO CHARGE

*NOTE: [POD/APOD, POA/APOA, SW to GW, Gov Action] are all counted as one type

POU is counted as one type

[USE or (Supplemental to Primary)] are counted as one type

- ☒ 3. Page 3 of application: Have all the applicants listed at the top of the page signed?

If no, whose signature is missing? _____

- ☒ 4. Are all listed certificates or permits shown by WRIS as non-cancelled?

If no, which are cancelled? _____

For each cancelled certificate, if there has been a remaining right certificate issued that covers the lands in the left side of Table 2, list its number _____ and check the #4 box at left on this checklist.

- ☒ 5. If any certificate is in the name of a "district", is a Supplemental Form D from that district enclosed?

☒ N/A ☐ Form D needed from _____ (district)

6. If all #1-#5 boxes on this checklist are checked (with no remaining deficiencies identified), accept the application. Put this check sheet in the transfer folder. If #1, #2, #3, #4 or #5 on this checklist is deficient, the application cannot be accepted. It should be returned and the deficiencies listed in the "staff" section at the bottom of Application Page 1, unless the applicant or agent can resolve the deficiencies within 2-3 days.

4386

APOD A

T-13495

Certs & acres involved:

Changes: _____

cfs involved: _____

Source: _____