

GR-MQD

T-10495

Name Allen & Mary Ruth Fechtig

Address 1650 Christmas Tree Drive NW
Albany, OR 97321
541-928-9806 541-990-1512

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Well

Trib. of Willamette River

Use PR

County Benton, Linn
No. of Acres

Quantity of water (CFS)

Name of ditch

App #	Per #	Cert #	PR Date
<u>GR 2394</u>			<u>1957</u>
App #	Per #	Cert #	PR Date
App #	Per #	Cert #	PR Date
App #	Per #	Cert #	PR Date
App #	Per #	Cert #	PR Date

Date	FEES PAID	
	Amount	Receipt #
<u>11/28/07</u>	<u>500.00</u>	<u>90764</u>

Change in POA
Date Filed 11/28/2007
Initial notice date 12-14-07
DPD issued date
PD issued date
PD notice date
Date of FO 10-15-08 Vol 76 Page 499

C-Date
COBU due date
COBU Received date
Certificate issued

Date	FEES REFUNDED	
	Amount	Receipt#

Assignments:

Irrigation District

Agent Martha Pagel, Schwabe Williamson & Wyatt Equitable Center, 530 Centex St
NE, Suite 400 Salem, OR 97301 503 540-4262 503 796-2900 Fax
CWRE Gary Bull # 345
CC's list Benton County Planning 360 SW Avery Ave Corvallis, OR 97333



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

October 17, 2008

ALLEN & MARY FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY OR 97321

Reference: Ground Water Registration Modification 10495

Enclosed is a copy of the order approving recognition of your Ground Water Registration Modification application.

If you have any questions, please call the Transfer Section, (503)986-0900.

Sincerely,

Sarah Henderson
Executive Support

cc: Watermaster #16
Gary Ball, CWRE
Martha Pagel, Agent

Enclosure



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

In the Matter of Ground Water)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF A MODIFICATION
T-10495, Benton County)	IN POINT OF APPROPRIATION

Authority

ORS 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

Applicant

ALLEN D. FECHTIG
MARY RUTH FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY, OR 97321

Agent

MARTHA O. PAGEL
SCHWABE, WILLIAMSON & WYATT
EQUITABLE CENTER
530 CENTER STREET NE, SUITE 400
SALEM, OR 97301

Findings of Fact

Background

1. On November 28, 2007, Allen and Mary Ruth Fechtig filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The Department assigned the application number T-10495.
2. On December 5, 2007, the applicant submitted a revised map that better illustrates the location of the proposed new points of appropriation under application T-10495.
3. On December 19, 2007, Registration Application GR-2394 (Certificate of Registration GR-2275) was assigned from Russell H. and Jessie Parker to Allen D. and Mary Ruth Fechtig.

4. The portion of the ground water registration to be modified is as follows:

Registration: APPLICATION GR-2394 (CERTIFICATE of REGISTRATION GR-2275), in the name of Russell H. and Jessie Parker (*assigned to Allen D. and Mary Ruth Fechtig*)

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.

Use: IRRIGATION of 14.3 ACRES
 Tentative Priority Date: JULY 6, 1951
 Rate/Duty: 65.3 GALLONS PER MINUTE (GPM);
 being further limited to 42.9 ACRE FEET PER YEAR
 Source: A PUMP WELL, in the Willamette River Basin

Original Point of Appropriation:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
10 S	4 W	WM	36	NE NE	Pump Well – North 30 degrees 40 minutes West 46.8 chains from the SE corner of DLC 79, Township 10 South, <i>Range 2 West*</i> , WM
* indicates a scrivener's error.					

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
10 S	4 W	WM	25	SE SE	8.8
10 S	4 W	WM	36	NE NE	5.5
TOTAL:					14.3

5. There is a scrivener's error in the description of the original point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The description of the recognized survey corner (*i.e., the SE corner of DLC 79, Township 10 South, Range 2 West, WM*) from which the survey coordinates are measured is in error. Based upon the original map for the ground water registration claim, the ground water registration modification application map and the recognized public land survey system, the survey coordinates of the original point of appropriation should be described as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
10 S	4W	WM	36	NE NE	Pump Well – North 30 degrees 40 minutes West 46.8 chains from the SE corner of DLC 79, Township 10 South, <i>Range 3 West</i> , WM

6. Application T-10495 proposes to modify the point of appropriation under the ground water registration. The proposed new points of appropriation, located between approximately 700 and 925 feet northwest from the original well, are located as follows:

Twp	Rng	Mer	Sec	¼ ¼	DLC	Survey Coordinates
10 S	4 W	WM	25	SE SE	43	Well 1 – 2100 feet West and 3440 feet North from the SE corner of DLC 79, T 10S, R 3W, WM
10 S	4 W	WM	25	SE SE	43	Well 2 – 2120 feet West and 3245 feet North from the SE corner of DLC 79, T 10S, R 3W, WM
10 S	4 W	WM	25	SE SE	43	Well 3 - 2135 feet West and 3045 feet North from the SE corner of DLC 79, T 10S, R 3W, WM

7. Notice of the application for ground water registration modification was published on December 18, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On July 30, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve recognition of Ground Water Registration Modification Application T-10495 to the applicants and their agent. The draft Preliminary Determination set forth a deadline of August 29, 2008, for the applicants to respond. The applicants' agent requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
9. On September 3, 2008, the Department issued a Preliminary Determination proposing to approve Ground Water Registration Modification Application T-10495 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the application was published on the Department's weekly notice on September 9, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Review Criteria for Ground Water Registration Modification Applications [OAR 690-382-0700(2)]

10. The proposed modification would not result in enlargement of the ground water registration.
11. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
12. The proposed modification would not result in injury to other water rights.

Conclusions of Law

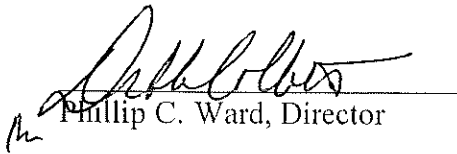
The modification in point of appropriation proposed in Application T-10495 is consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modification to Registration Application GR-2394 (Certificate of Registration GR-2275) proposed in Application T-10495 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate ground water under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.
2. 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 Registration Application GR-2394 (Certificate of Registration GR-2275) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

4. Water shall no longer be appropriated from the original point of appropriation for the portion of the ground water registration modified under application T-10495.
5. The total combined quantity of water diverted at any one time from the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 15th day of October 2008.


Phillip C. Ward, Director

Mailing date: OCT 20 2008

Water Right Transfer Checklist

Transfer T-10495

Transfer Specialist: Lisa Jaramillo

Transfer Type: GR-Mod

Applicant Name/Address: Allen & Mary Ruth Fechtig, 1650 Christmas Tree Drive NW, Albany OR 97321

Agent Name/Address: Martha Page, Schwabe, Williamson & Wyatt, 530 Center Street NE Suite 400, Salem, OR 97301

CWRE Name/Number: Gary Ball #345

Rec Landowner Name/Address: none

Irr. District Name/Address: none

Affected Gov'ts Name/Address: none

Commentors: Name/Address: none

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>GR 2394</u>		<u>GR 2275</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<u>N/A</u>
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions

Rec'd: <u>11/28/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER: <u>POA</u>	
Fees Pd: <u>500.00</u>	WM District: <u>16</u>	ODFW District: <u>NONE</u>
Initial Notice: <u>12/18/07</u>	WM Review sent: <u>12/17/07</u>	ODFW Review sent: <u>NONE</u>
Acknowledgement Letter Sent <input checked="" type="checkbox"/>		GW Review sent: <u>12/17/07</u>

Processing Dates & Actions

Deficiency Contacts: N/A

DPD Mailed: _____

ODFW contact sheet sent with DPD, or N/A

PD Mailed: _____

PD Weekly Notice: _____

Newspaper Pub Affid Due: N/A
 not required
 Affid of Pub Rec'd: _____
 Last Day Published: _____
 Affidavit Reminder Sent: _____
 Reminder Deadline: _____

Proposed wells between 700 & 925 ft NW from orig. well.

Preliminary Determination

- Electronic Files uploaded
- PD Cover letter
- PD Notice
- File Assigned/ ModPod updated
- Preliminary Determination
- ~~Fee Refund Due~~
- Remaining Rights

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: <u>PXS</u>	Reviewer: _____
Date: _____	Date: <u>8/25/08</u>	Date: _____
Coordinator: _____	Coordinator: <u>ALP</u>	Coordinator: _____
Date: _____	Date: <u>9/2/08</u>	Date: _____

Comments/Special Issues:
 • POA Change from auth. well to 3 new wells.
minor changes

Special Order Volume: Vol 76 Pages 499 Final Order Signature Date: 10-15-08
 Notice of FO email'd to processors Lisa

Application

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

Water right subject to transfer

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

Application Map

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

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

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

Ownership

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

Evaluation (materials needed for peer reviewer in bold)

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

- Reviews/comments/conditions received? Watermaster ODFW GW
- | | | | |
|---------------------|---|---|--|
| Headgate | <input type="checkbox"/> When in the judgment | <input type="checkbox"/> Prior to diverting | <input type="checkbox"/> Existing and maintain |
| Measuring Devices | <input type="checkbox"/> When in the judgment | <input type="checkbox"/> Prior to diverting | <input type="checkbox"/> Existing and maintain |
| Fish Screen Devices | <input type="checkbox"/> | | |

Injury: Y N Enlargement: Y N

Conditions to avoid enlargement/injury –



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

August 22, 2008

ALLEN D. FECHTIG
MARY RUTH FECHTIG
1650 CHRISTMAS TREE DR. NW
ALBANY, OR 97321

Pd. Notice A
9-9-08

SUBJECT: Ground Water Registration Modification T-10495

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10495. This document is an intermediate step in the approval process; water may not be used legally as proposed in the ground water registration modification application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

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

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

Please do not hesitate to contact me at 503-986-0880 or Lisa.J.Jaramillo@ wrd.state.or.us if I may be of assistance.

Sincerely,

Lisa J. Jaramillo
Transfer Specialist
Field Services Division

*Protest
Deadline*
10-9-08

cc: GR Modification T-10495
Mike McCord, Watermaster Dist. #16
Schwabe, Williamson & Wyatt, Attn: Martha O. Pagel, Equitable Center, 530 Center St. NE, Ste. 400, Salem, OR 97301
Gary Ball, CWRE #345

encs



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

In the Matter of Ground Water)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING TO APPROVE
T-10495, Benton County)	RECOGNITION OF A MODIFICATION
)	IN POINT OF APPROPRIATION

Authority

ORS 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

Applicant

ALLEN D. FECHTIG
MARY RUTH FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY, OR 97321

Agent

MARTHA O. PAGEL
SCHWABE, WILLIAMSON & WYATT
EQUITABLE CENTER
530 CENTER STREET NE, SUITE 400
SALEM, OR 97301

Findings of Fact

Background

1. On November 28, 2007, Allen and Mary Ruth Fechtig filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The Department assigned the application number T-10495.
2. On December 5, 2007, the applicant submitted a revised map that better illustrates the location of the proposed new points of appropriation under application T-10495.
3. On December 19, 2007, Registration Application GR-2394 (Certificate of Registration GR-2275) was assigned from Russell H. and Jessie Parker to Allen D. and Mary Ruth Fechtig.

4. The portion of the ground water registration to be modified is as follows:

Registration: APPLICATION GR-2394 (CERTIFICATE of REGISTRATION GR-2275),
in the name of Russell H. and Jessie Parker (*assigned to Allen D. and Mary
Ruth Fechtig*)

Use: IRRIGATION of 14.3 ACRES

Tentative Priority Date: JULY 6, 1951

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.

Rate/Duty: 65.3 GALLONS PER MINUTE (GPM);
being further limited to 42.9 ACRE FEET PER YEAR
Source: A PUMP WELL, in the Willamette River Basin

Original Point of Appropriation:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
10 S	4 W	WM	36	NE NE	Pump Well – North 30 degrees 40 minutes West 46.8 chains from the SE corner of DLC 79, Township 10 South, <i>Range 2 West*</i> , WM
* indicates a scrivener's error.					

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
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TOTAL:					14.3

5. There is a scrivener's error in the description of the original point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The description of the recognized survey corner (*i.e., the SE corner of DLC 79, Township 10 South, Range 2 West, WM*) from which the survey coordinates are measured is in error. Based upon the original map for the ground water registration claim, the ground water registration modification application map and the recognized public land survey system, the survey coordinates of the original point of appropriation should be described as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
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6. Application T-10495 proposes to modify the point of appropriation under the ground water registration. The proposed new points of appropriation, located between approximately 700 and 925 feet northwest from the original well, are located as follows:

Twp	Rng	Mer	Sec	¼ ¼	DLC	Survey Coordinates
10 S	4 W	WM	25	SE SE	43	Well 1 – 2100 feet West and 3440 feet North from the SE corner of DLC 79, T 10S, R 3W, WM
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10 S	4 W	WM	25	SE SE	43	Well 3 - 2135 feet West and 3045 feet North from the SE corner of DLC 79, T 10S, R 3W, WM

7. Notice of the application for ground water registration modification was published on December 18, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On July 30, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve recognition of Ground Water Registration Modification Application T-10495 to the applicants and their agent. The draft Preliminary Determination set forth a deadline of August 29, 2008, for the applicants to respond. The applicants' agent requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

Review Criteria for Ground Water Registration Modification Applications [OAR 690-382-0700(2)]

9. The proposed modification would not result in enlargement of the ground water registration.
10. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
11. The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

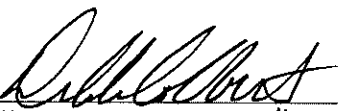
The modification in point of appropriation proposed in Application T-10495 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000, and will be recognized provided that protests are not filed pursuant to OAR 690-382-0900.

If Ground Water Registration Modification Application T-10495 is recognized, the final order will include the following:

1. *The modification to Registration Application GR-2394 (Certificate of Registration GR-2275) proposed in Application T-10495 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate ground water under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.*
2. *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 Registration Application GR-2394 (Certificate of Registration GR-2275) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
4. *Water shall no longer be appropriated from the original point of appropriation for the portion of the ground water registration modified under application T-10495.*

5. *The total combined quantity of water diverted at any one time from the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*

Dated at Salem, Oregon this 3rd day of September 2008.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Lisa J. Jaramillo. If you have any questions about the information in this draft preliminary determination, you may reach me at (503) 986-0880 or Lisa.J.Jaramillo@wrд.state.or.us.

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

**Notice of Preliminary Determination for
Ground Water Registration Modification T-10495**

T-10495 filed by Allen D. and Mary Ruth Fechtig, 1650 Christmas Tree Dr. NW, Albany, OR 97321, proposes to modify the point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The ground water registration claims the use of 65.3 gpm, further limited to 42.9 acre feet per year, (tentative priority date July 6, 1951) from a well in Sec. 36, T 10 S, R 4 W, W.M. (Willamette River Basin) for irrigation in Sec. 25 and 36. The applicant proposes to modify the point of appropriation to three wells located between approximately 700 and 925 feet northwest (Sec. 25, T 10 S, R 4 W, W.M.). The Water Resources Department has concluded that the proposed modification appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-382-1000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0852. The last date of newspaper publication is ***[DATE OF LAST PUBLICATION]***. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

Lisa Jaramillo

From: Lisa Jaramillo
Sent: Wednesday, August 20, 2008 10:30 AM
To: Langford, Shonee D.
Cc: Pagel, Martha
Subject: RE: Comments on Draft PD for GR Modification T-10495

Shonee,

Yes that is the intent, the coordinates referencing Range 3 West are only describing the location of the beginning point of measurement at the SE corner of DLC 79.

It sounds like we're all on the same page, so I will begin preparing the Preliminary Determination.

Thank you for your review,
Lisa

-----Original Message-----

From: Langford, Shonee D. [mailto:SLangford@SCHWABE.com]
Sent: Wednesday, August 20, 2008 9:03 AM
To: Lisa Jaramillo
Cc: Pagel, Martha
Subject: RE: Comments on Draft PD for GR Modification T-10495

Lisa,

You are correct that the SE corner of DLC 79 is in Range 3 West. I had read the survey coordinates in the draft preliminary determination as saying that Wells 1, 2 and 3 were themselves located in Range 3 West.

But if I understand you correctly, the coordinates referencing Range 3 West are only describing the location of the beginning point of measurement at the SE corner of DLC 79.

Is that the intent of the description? If so, the survey coordinates in Findings 5 and 6 are correct.

SHONEE D. LANGFORD | Attorney at Law
SCHWABE, WILLIAMSON & WYATT
Direct: 503-540-4261 | Fax: 503-796-2900 Legal advisors for the future of your business(r)
www.schwabe.com

-----Original Message-----

From: Lisa Jaramillo [mailto:jaramilj@wrd.state.or.us]
Sent: Tuesday, August 19, 2008 3:54 PM
To: Langford, Shonee D.
Cc: Pagel, Martha
Subject: RE: Comments on Draft PD for GR Modification T-10495

Shonee and Martha,

I reviewed the application and associated map again. I think Range 3 west is correct. The survey coordinates are being measured from the SE corner of DLC 79, which looks like it is located in Township 10 South, Range 3 West.

Please review and let me know if you concur with my assessment.

Thank you,
Lisa

-----Original Message-----

From: Langford, Shonee D. [mailto:SLangford@SCHWABE.com]
Sent: Tuesday, August 19, 2008 3:14 PM
To: JARAMILLO Lisa J
Cc: Pagel, Martha

Subject: Comments on Draft PD for GR Modification T-10495

Lisa,

On behalf of our clients Allen and Mary Fechtig, we have reviewed the draft preliminary determination issued for the above application on July 30, 2008. We identified some well location descriptions that need to be corrected. It appears that the descriptions provided in the application contained an error. Please make the following changes before issuing the Preliminary Determination:

1. Finding 5: In the table, under "Survey Coordinates," change the underlined wording to "Range 4 West." The wrong range was given in the application.
2. Finding 6: In the table, under "Survey Coordinates," make the same change to "Range 4 West" for each of the proposed additional three wells. These errors were also based on an incorrect description in the application.

The application map correctly shows all of the above wells to be located in Range 4 West.

Thank you for your assistance. Please reply to confirm your receipt of these comments and feel free to let me know if you have any questions.

SHONEE D. LANGFORD | Attorney at Law
SCHWABE, WILLIAMSON & WYATT
530 Center Street NE, Suite 400, Salem, OR 97301
Direct: 503-540-4261 | Fax: 503-796-2900
Email: slangford@schwabe.com <mailto:youremail@schwabe.com>
Assistant: Karen Donohue | Direct: 503-540-4262 | kdonohue@schwabe.com Legal advisors for the future of your business(r) www.schwabe.com

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Lisa Jaramillo

From: Lisa Jaramillo
Sent: Tuesday, August 19, 2008 3:54 PM
To: Langford, Shonee D.
Cc: Pagel, Martha
Subject: RE: Comments on Draft PD for GR Modification T-10495

Shonee and Martha,

I reviewed the application and associated map again. I think Range 3 west is correct. The survey coordinates are being measured from the SE corner of DLC 79, which looks like it is located in Township 10 South, Range 3 West.

Please review and let me know if you concur with my assessment.

Thank you,
Lisa

-----Original Message-----

From: Langford, Shonee D. [mailto:SLangford@SCHWABE.com]
Sent: Tuesday, August 19, 2008 3:14 PM
To: JARAMILLO Lisa J
Cc: Pagel, Martha
Subject: Comments on Draft PD for GR Modification T-10495

Lisa,

On behalf of our clients Allen and Mary Fechtig, we have reviewed the draft preliminary determination issued for the above application on July 30, 2008. We identified some well location descriptions that need to be corrected. It appears that the descriptions provided in the application contained an error. Please make the following changes before issuing the Preliminary Determination:

1. Finding 5: In the table, under "Survey Coordinates," change the underlined wording to "Range 4 West." The wrong range was given in the application.
2. Finding 6: In the table, under "Survey Coordinates," make the same change to "Range 4 West" for each of the proposed additional three wells. These errors were also based on an incorrect description in the application.

The application map correctly shows all of the above wells to be located in Range 4 West.

Thank you for your assistance. Please reply to confirm your receipt of these comments and feel free to let me know if you have any questions.

SHONEE D. LANGFORD | Attorney at Law
SCHWABE, WILLIAMSON & WYATT
530 Center Street NE, Suite 400, Salem, OR 97301
Direct: 503-540-4261 | Fax: 503-796-2900
Email: slangford@schwabe.com <mailto:youremail@schwabe.com>
Assistant: Karen Donohue | Direct: 503-540-4262 | kdonohue@schwabe.com Legal advisors for the future of your business@ www.schwabe.com

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Lisa Jaramillo

From: Lisa Jaramillo
Sent: Tuesday, August 19, 2008 3:56 PM
To: Pagel, Martha
Cc: afechtig@gmail.com
Subject: RE: Comments on Draft PD for GR Modification T-10495

Martha,

Yes. Once any minor corrections are agreed upon, we are ready to proceed with issuance of the Preliminary Determination.

Thank you,
Lisa

-----Original Message-----

From: Pagel, Martha [mailto:MPagel@SCHWABE.com]
Sent: Tuesday, August 19, 2008 3:35 PM
To: Lisa Jaramillo
Cc: afechtig@gmail.com
Subject: FW: Comments on Draft PD for GR Modification T-10495

Hi Lisa:

I just wanted to confirm with you that subject to the minor corrections that are noted in Shonee's e-mail, the applicant approves the draft preliminary determination and we are ready to proceed.

Thank you for your assistance,
Martha

Martha O. Pagel
SCHWABE, WILLIAMSON & WYATT
Direct: 503-540-4260 | Fax: 503-796-2900 | Cell: 503-507-7293 | Email: mpagel@schwabe.com
<mailto:youremail@schwabe.com>

>
> From: Langford, Shonee D.
> Sent: Tuesday, August 19, 2008 3:14 PM
> To: Lisa.J.Jaramillo@state.or.us
> Cc: Pagel, Martha
> Subject: Comments on Draft PD for GR Modification T-10495

>
> Lisa,
> On behalf of our clients Allen and Mary Fechtig, we have reviewed the draft preliminary determination issued for the above application on July 30, 2008. We identified some well location descriptions that need to be corrected. It appears that the descriptions provided in the application contained an error. Please make the following changes before issuing the Preliminary Determination:

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>
> The application map correctly shows all of the above wells to be located in Range 4 West.

>
> Thank you for your assistance. Please reply to confirm your receipt of these comments and feel free to let me know if you have any questions.

>

Lisa Jaramillo

From: Lisa Jaramillo
Sent: Tuesday, August 19, 2008 10:29 AM
To: Pagel, Martha
Cc: afechtig@gmail.com
Subject: RE: Requested documentation to facilitate State of OR, WRD ground water registration Modification T-10495

Hi Martha,

Thank you for sending the copies of the deeds of trust. I have reviewed the documents and determined that no additional information or consent is needed.

At this point, all I need is a statement indicating whether the Fechtig's agree with the Draft Preliminary Determination (DPD). Once I receive the statement, I can prepare the Preliminary Determination accordingly.

Thanks again,
Lisa

From: Pagel, Martha [mailto:MPagel@SCHWABE.com]
Sent: Thursday, August 14, 2008 2:22 PM
To: Lisa Jaramillo
Cc: afechtig@gmail.com
Subject: FW: Requested documentation to facilitate State of OR, WRD ground water registration Modification T-10495

Hi Lisa:

I am forwarding copies of the deeds of trust that we obtained from the title company. You will see that one of the trusts is in favor of Allen and Mary Ruth Fechtig, individually, and the other is in favor of Beaver Spray Service, Inc. The Beaver Spray Service Inc. is a corporation owned by Allen and Mary Ruth, as well.

Please let me know if you think it is necessary to provide formal notice of the transfer application to Beaver Spray Service.

Thank you for your assistance,
Martha

Martha O. Pagel
SCHWABE, WILLIAMSON & WYATT
Direct: 503-540-4260 | Fax: 503-796-2900 | Cell: 503-507-7293 | Email: mpagel@schwabe.com

To comply with IRS regulations, we are required to inform you that this message, if it contains advice relating to federal taxes, cannot be used for the purpose of avoiding penalties that may be imposed under federal tax law. Any tax advice that is expressed in this message is limited to the tax issues addressed in this message. If advice is required that satisfies applicable IRS regulations, for a tax opinion appropriate for avoidance of federal tax law penalties, please contact a Schwabe attorney to arrange a suitable engagement for that purpose.

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8/19/2008

Lisa Jaramillo

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SALEM, OREGON

From: Pagel, Martha [MPagel@SCHWABE.com]
Sent: Thursday, August 14, 2008 2:22 PM
To: Lisa Jaramillo
Cc: afechtig@gmail.com
Subject: FW: Requested documentation to facilitate State of OR, WRD ground water registration Modification T-10495
Attachments: 23920001.pdf

Hi Lisa:

I am forwarding copies of the deeds of trust that we obtained from the title company. You will see that one of the trusts is in favor of Allen and Mary Ruth Fechtig, individually, and the other is in favor of Beaver Spray Service, Inc. The Beaver Spray Service Inc. is a corporation owned by Allen and Mary Ruth, as well.

Please let me know if you think it is necessary to provide formal notice of the transfer application to Beaver Spray Service.

Thank you for your assistance,
Martha

Martha O. Pagel

SCHWABE, WILLIAMSON & WYATT

Direct: 503-540-4260 | Fax: 503-796-2900 | Cell: 503-507-7293 | Email: mpagel@schwabe.com

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BENTON COUNTY, OREGON 2007-429746
DE-FOR
Cnt=1 SIn=8 11/05/2007 01:38:44 PM
\$20.00 \$11.00 \$10.00 \$15.00 \$56.00



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



DEED IN LIEU OF FORECLOSURE

Grantor's Name and Address:

Par-Fect Orchards, Inc., an
Oregon corporation
1650 Christmas Tree Drive NW
Albany OR 97321

Grantee's Name and Address:

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

After recording return to:

✓ James H. Jordan PC
Attorney at Law
P. O. Box 983
Albany, OR 97321

**The true and actual
consideration for this
conveyance is \$ None
(trust deed foreclosure)**

**Until a change is requested
all tax statements shall be
sent to:**

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

Tax Account Information:

Account No. [REDACTED] Map No. 10436 0101; Code No. 0803

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SALEM, OREGON

CONVEYANCE

Par-Fect Orchards, Inc., an Oregon corporation, Grantor, conveys to Allen D. Fechtig and Mary Ruth Fechtig, husband and wife as tenants by the entirety, Grantee, the following described real property in Benton county, Oregon:

Beginning at a 3/4 inch pipe on the northerly extension of the West line of that parcel described in deed recorded in Microfilm No. M-38698, Benton County Microfilm Records which point is 1149.13 feet South 89°58' West, 3548.40 feet North 3°26'46" East and 1302.58 feet North 89°58' West, 3580.40 North 3°26'46" East and 1302.58 feet North 89°58'53" West of the Southeast corner of the Gallatin Adkins Donation Land Claim No. 79, Township 10 South, Range 3 West, Willamette Base and Meridian, Benton County, Oregon; thence South 89°58'53" East 679.91 feet to a 5/8 inch rod; thence South 3°26'46" West 915.65 feet to a 5/8 inch iron rod; thence North 89°47'25" West 679.40 feet to the West line of said parcel; thence North 3°24'15" East 918.32 feet to the point of beginning.

TOGETHER WITH the right to use for road and utility purposes a 30 foot strip of land the East and North line of which are described as follows: Beginning at the Southeast corner of that parcel described in deed recorded in Book 146, Page 321, Deed Records of Benton County, Oregon, which point is on the South line of the Gallatin Adkins Donation Land Claim No. 79 in Township 10 South, Range 3 West of the Willamette Meridian, Benton County, Oregon, and 1149.13 feet South 89°58' West of the Southeast corner of said Claim; thence North 3°26'46" East, along the East line of said parcel and the East line of that parcel described in deed recorded as M-38698, Microfilm Records of Benton County, Oregon, 3485.95 feet to a 5/8 inch iron rod; thence North 44°17'43" West 87.12 feet to a 5/8 inch iron rod; thence North 89°58'53" West 622.67 feet to the Northeast corner of the above described parcel. Said right of way to extend from the South line of said Gallatin Adkins Claim to the East line of the above described parcel.

Grantor covenants that:

This deed is absolute in effect and conveys and warrants fee simple title of the premises above described to the Grantee and does not operate as a mortgage, trust conveyance, or security of any kind.

Grantor is the owner of the premises free of all encumbrances except the line of credit trust deed executed to grantee, dated October 19, 2005, and recorded on October 21, 2005, at Record No. 2005-394301 of the official records of Benton County, Oregon, and the line of credit trust deed executed by Grantor to Beaver Spray Service, Inc., an Oregon corporation, recorded on January 27, 2006, as Document No. 2006-399061, records of Benton County, Oregon, and except those of record.

This deed does not effect a merger of the fee ownership and the lien of the line of

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credit trust deeds described above. The fee and lien shall hereafter remain separate and distinct.

In consideration of Grantee's agreement not to file suit for a money judgment against Grantor, Grantee's waiver of the right to claim reasonable attorney fees and costs and Grantor's benefit from remaining in possession of the premises described above until relinquished at the time of this conveyance, Grantee may retain all payments previously made on the secured debt with no duty to account therefor.

By acceptance of this deed, Grantee covenants and agrees that Grantee shall forever forbear taking any action whatsoever against Grantor on the line of credit trust deed above described, other than by foreclosure of that line of credit trust deed and that in any proceeding to foreclose the line of credit trust deed Grantee shall not seek, obtain or permit a deficiency judgment against Grantor, or Grantor's heirs or assigns, such rights and remedies being hereby waived.

Grantor does hereby waive, surrender, convey, and relinquish any equity of redemption and statutory rights of redemption concerning the real property and line of credit trust deed described above.

Grantor is not acting under any misapprehension as to the legal effect of this deed, not under any duress, undue influence, or misrepresentation of Grantee, Grantee's agent or attorney, or any other person.

THIS TRANSACTION IS NOT INTENDED TO CONSOLIDATE ANY OF THE INDIVIDUALLY DESCRIBED PARCELS OR TAX LOTS FOR LAND USE, TAX LOTS, OR ANY OTHER PURPOSE.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST

✓ OK - No specific water right language in this Trust Deed

RECORDING COVER SHEET
ALL TRANSACTIONS, ORS: 205.234
This cover sheet has been prepared by the person
Presenting the attached instrument for recording.
Any errors in this cover sheet **DO NOT** affect the
Transaction(s) contained in the instrument itself.

BENTON COUNTY, OREGON **2005-394301**
MG-TD
Cnt=1 Shr=5 MR **10/21/2006 11:54:40 AM**
\$45.00 \$11.00 \$10.00 \$15.00 **\$81.00**



I, James V. Morales, County Clerk for Benton
County, Oregon, certify that the instrument
identified herein was recorded in the Clerk
records.
PF James V. Morales - County Clerk



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SALEM, OREGON

AFTER RECORDING RETURN TO:

James H. Jordan PC
Attorney at Law
PO Box 983
Albany OR 97321-2291

1.) NAME(S) OF THE DOCUMENT(S) BEING RECORDED required by ORS 205.234(a)

Line of Credit Trust Deed

2.) DIRECT PARTY / GRANTOR, required by ORS 205.125(1)(b) and ORS 205.160

Par-Fect Orchards, Inc., an Oregon corporation

3) INDIRECT PARTY / GRANTEE, required by ORS 205.125(1)(a) and ORS 205.160

Allen D. Fechtig
Mary Ruth Fechtig

4) TRUE and ACTUAL CONSIDERATION (if any), ORS 93.030
n/a

5) ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:
n/a

6) FULL OR PARTIAL SATISFACTION ORDER or WARRANT FILED IN THE COUNTY CLERKS LIEN RECORDS, ORS 205.121(1)(e)
n/a

7) THE AMOUNT OF THE CIVIL PENALTY or THE AMOUNT, INCLUDING PENALTIES, INTEREST AND OTHER CHARGES FOR WHICH THE WARRANT, ORDER OR JUDGMENT WAS ISSUED. ORS 205.125(1)(c) and ORS 18.325
n/a

8) Rerecorded to correct n/a
Previously recorded as n/a

DO NOT DESTROY THIS DOCUMENT. The original of this document and the original Promissory Note must be delivered to the Trustee named in this Deed of Trust at the time of Reconveyance.

After Recording Return To:

James H. Jordan PC
P. O. Box 983
Albany, OR 97321-0369

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SALEM, OREGON

LINE OF CREDIT TRUST DEED

(a) "THE MAXIMUM PRINCIPAL AMOUNT TO BE ADVANCED PURSUANT TO THE CREDIT AGREEMENT IS TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)."

(b) "THE MATURITY DATE OF THE CREDIT AGREEMENT, EXCLUSIVE OF ANY OPTIONS TO RENEW OR EXTEND SUCH TERM OR MATURITY DATE, IS NOVEMBER 1, 2015."

(c) "This document and supporting documents are not a commitment to advance the maximum principal amount."

AMONG : Par-Fect Orchards, Inc., an Oregon corporation,
whose address is
1650 Christmas Tree Drive NW
Albany OR 97321, hereinafter called
"Grantor,"

AND : James H. Jordan, Attorney at Law,
whose address is
PO Box 983
Albany OR 97321-0369, hereinafter called
"Trustee,"

AND : Allen D. Fechtig
Mary Ruth Fechtig, whose address is
1642 Christmas Tree Drive NW
Albany OR 97321, hereinafter called
"Beneficiary."

DATED : October 19, 2005

The parties agree as follows:

Grantor irrevocably grants, bargains, sells and conveys to Trustee in trust, with power of sale, the real property in Benton County, Oregon, described as:

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STATE OF OREGON

Beginning at a 3/4 inch pipe on the northerly extension of the West line of that parcel described in deed recorded in Microfilm No. M-38698, Benton County Microfilm Records which point is 1149.13 feet South 89°58' West, 3548.40 feet North 3°26'46" East and 1302.58 feet North 89°58' West, 3580.40 feet North 3°26'46" East and 1302.58 feet North 89°58'53" West of the Southeast corner of the Gallatin Adkins Donation Land Claim No. 79, Township 10 South, Range 3 West, Willamette Base and Meridian, Benton County, Oregon; thence South 89°58'53" East 679.91 feet to a 5/8 inch rod; thence South 3°26'46" West 915.65 feet to a 5/8 inch iron rod; thence North 89°47'25" West 679.40 feet to the West line of said parcel; thence North 3°24'15" East 918.32 feet to the point of beginning.

TOGETHER WITH the right to use for road and utility purposes a 30 foot strip of land the East and North line of which are described as follows: Beginning at the Southeast corner of that parcel described in deed recorded in Book 146, Page 321, Deed Records of Benton County, Oregon, which point is on the South line of the Gallatin Adkins Donation Land Claim No. 79 in Township 10 South, Range 3 West of the Willamette Meridian, Benton County, Oregon, and 1149.13 feet South 89°58' West of the Southeast corner of said Claim; thence North 3°26'46" East, along the East line of said parcel and the East line of that parcel described in deed recorded as M-38698, Microfilm Records of Benton County, Oregon, 3485.95 feet to a 5/8 inch iron rod; thence North 44°17'43" West 87.12 feet to a 5/8 inch iron rod; thence North 89°58'53" West 622.67 feet to the Northeast corner of the above described parcel. Said right of way to extend from the South line of said Gallatin Adkins Claim to the East line of the above described parcel.

together with the tenements, hereditament and appurtenances and all other rights belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection herewith, "the Property."

The Grantor covenants and agrees to and with the Beneficiary and those claiming under Beneficiary, that Grantor is lawfully seized in fee simple of the Property and has a valid, unencumbered title thereto and that Grantor will warrant and forever defend the same against all persons whomsoever except those of record.

This conveyance is made for the purpose of securing performance of each agreement of Grantor herein contained, all sums now or hereafter due from Grantor to Beneficiary, including but not limited to sums due for payment of all sums now or hereafter advanced by Beneficiary. The final payment of principal and interest, if not sooner paid, shall be paid not later than November 1, 2015. The credit agreement maturity date may be extended at any time at the option of the beneficiary, without notice.

The "Credit Agreement" consists of oral and written agreements to advance funds by the beneficiary to the Grantor.

The date of maturity of the debt secured by this instrument is

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SALEM, OREGON

the date, stated above, on which all obligations originally become due and payable. In the event the Property or any part or interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the Grantor without first having obtained the written consent or approval of the Beneficiary, then, at the Beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

To protect the security of this trust deed, Grantor agrees:

1. To protect, preserve and maintain the Property in good condition and repair; not to remove or demolish any building or improvement without the prior written consent of Beneficiary; not to commit or permit any waste of the Property; and to permit Beneficiary or Beneficiary's agent access to the premises at any reasonable time to determine Grantor's compliance with the provisions of this trust deed.

2. To restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred in such restoration, whether or not such damage is covered by insurance.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property, including environmental laws and regulations; if the Beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the Beneficiary may reasonably require and to pay for filing same in the proper public office or offices; to indemnify and hold harmless the Beneficiary, and Beneficiary's heirs, successors and assigns, from any claim, liability, loss, cost or expense (including attorney's fees) resulting from the presence of hazardous or toxic substances located on the property including, but not limited to costs and compliance with state and federal laws, regulations and order and statutory common law claims arising from or related to the presence of hazardous or toxic substances released on the property or arising from or related to migration of hazardous or toxic substances from the property.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the Property against loss or damage by fire and such other hazards as the Beneficiary may from time to time reasonably require, in an amount not less than the full insurable value, written in companies reasonably acceptable to the Beneficiary, with loss payable to the latter. All policies of insurance, or a certificate of insurance issued by each carrier, shall be delivered to the Beneficiary as soon as insured and shall require not less than ten (10) days' written notice from the carrier to Beneficiary prior to cancellation. If the Grantor shall fail for any reason to procure any such insurance and to deliver said policies (or a certificate) to the Beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the Beneficiary may procure the same at Grantor's expense. Provided Grantor is not in default hereunder, the amount collected under any fire or other insurance policy shall be released

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to Grantor for the reconstruction or repair of the Property. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

WARNING

UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

5. To keep the Property free from all liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary. Should the Grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by Grantor, Beneficiary may, at Beneficiary's option, make payment thereof, and the amount so paid, with interest at the rate set forth in the obligation secured hereby, together with the obligations described in this trust deed, shall be added to and become a part of the debt secured by this trust deed. Such payment by Beneficiary shall not act as a waiver of any rights arising from any breach. For such payments and interest, the Property and the Grantor shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the Beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust as well as the other costs and expenses of the Trustee incurred in connection with or in enforcing this obligation, including the cost of title search, and Trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting

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to affect the security rights or powers of Beneficiary or Trustee, and in any suit, action or proceeding in which the Beneficiary or Trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the Beneficiary's or Trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph in all cases shall be fixed by the trial court or appellate court in the event of an appeal from any judgment or decree of the trial court.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by Grantor or Beneficiary in such proceedings, shall be paid to Beneficiary and applied upon the indebtedness secured hereby. Grantor agrees, at Grantor's own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon Beneficiary's request.

9. At any time and from time to time upon written request of Beneficiary, and upon payment of Trustee's fees and presentation of this trust deed and the note for endorsement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof.

10. Upon any default by Grantor, Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of Property of any part thereof, in Beneficiary's own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

11. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by Grantor in payment of any indebtedness secured hereby or in Grantor's performance of any agreement with

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Beneficiary, including but not limited to the note and trust deed, the Beneficiary may declare all sums secured hereby immediately due and payable. In such an event, the Beneficiary, in addition to any other remedy otherwise available to Beneficiary, including an action on the obligation, may proceed to foreclose this trust deed in equity as a mortgage or direct the Trustee to foreclose this trust deed by advertisement and sale, at Beneficiary's election. In the latter event the Beneficiary or the Trustee shall execute and cause to be recorded a written notice of default and election to sell the Property to satisfy the obligation secured hereby, whereupon the Trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS Chapter 86.

13. After the Trustee has commenced foreclosure by advertisement and sale, and at any time prior to five (5) days before the date the Trustee conducts the sale, the Grantor or any other person so privileged by ORS Chapter 86, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the Beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with Trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The Trustee may sell the Property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. The Beneficiary shall be entitled to credit bid the amounts due hereunder in lieu of paying cash at the sale. Trustee shall deliver to the purchaser a trustee's deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the Trustee, but including the Grantor and Beneficiary, may purchase at the sale.

15. When Trustee sells pursuant to the powers provided herein, Trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the Trustee and a reasonable charge by Trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the Trustee in the trust deed as their interest may appear to the order of their priority and (4) the surplus, if any, to the Grantor or to Grantor's successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successors to any Trustee named herein or to any successor Trustee appointed hereunder. Upon such appointment, and without conveyance to

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TO: **James H. Jordan, Attorney at Law, Trustee**

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to

DATED: _____, 20____.

✓-OK. No specific water right language in this Trust Deed.

**RECORDING COVER SHEET
ALL TRANSACTIONS, ORS: 205.234**

This cover sheet has been prepared by the person presenting the attached instrument for recording. Any errors in this cover sheet DO NOT affect the transaction(s) contained in the instrument itself.

BENTON COUNTY, OREGON **2006-399061**
MG-TD
Crt=1 Sbt=6 MR 01/27/2008 10:47:49 AM
\$45.00 \$11.00 \$10.00 \$15.00 **\$81.00**



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



James V. Morales - County Clerk

AFTER RECORDING RETURN TO:

James H. Jordan PC
Attorney at Law
PO Box 983
Albany OR 97121-2291

PRINT or TYPE ALL INFORMATION

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WATER RESOURCES DEPT.
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1.) NAME(S) OF THE DOCUMENT(S) BEING RECORDED required by ORS 205.234(a)

Line of Credit Trust Deed

2.) DIRECT PARTY / GRANTOR, required by ORS 205.125(1)(b) and ORS 205.160

Par-Fect Orchards, Inc., an Oregon corporation
1650 Christmas Tree Drive NW
Albany OR 97321

3) INDIRECT PARTY / GRANTEE, required by ORS 205.125(1)(a) and ORS 205.160

Beaver Spray Service, Inc., an Oregon corporation
1642 Christmas Tree Drive NW
Albany OR 97321

4) TRUE and ACTUAL CONSIDERATION (if any), ORS 93.030
\$350,000.00

5) ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:

Beaver Spray Service, Inc., an Oregon corporation
1642 Christmas Tree Drive NW
Albany OR 97321

6) FULL OR PARTIAL SATISFACTION ORDER or WARRANT FILED IN THE COUNTY CLERKS LIEN RECORDS, ORS 205.121(1)(e)

n/a

7) THE AMOUNT OF THE CIVIL PENALTY or THE AMOUNT, INCLUDING PENALTIES, INTEREST AND OTHER CHARGES FOR WHICH THE WARRANT, ORDER OR JUDGMENT WAS ISSUED. ORS 205.125(1)(c) and ORS 18.325

n/a

8) Rerecorded to correct

n/a

Previously recorded as n/a

DO NOT DESTROY THIS DOCUMENT. The original of this document and the original Promissory Note must be delivered to the Trustee named in this Deed of Trust at the time of Reconveyance.

After Recording Return To:
James H. Jordan PC
P. O. Box 983
Albany, OR 97321-0369

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LINE OF CREDIT TRUST DEED

(a) "THE MAXIMUM PRINCIPAL AMOUNT TO BE ADVANCED PURSUANT TO THE CREDIT AGREEMENT IS THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00)."

(b) "THE MATURITY DATE OF THE CREDIT AGREEMENT, EXCLUSIVE OF ANY OPTIONS TO RENEW OR EXTEND SUCH TERM OR MATURITY DATE, IS NOVEMBER 1, 2015."

(c) "This document and supporting documents are not a commitment to advance the maximum principal amount."

AMONG : Par-Fect Orchards, Inc., an Oregon corporation,
whose address is
1650 Christmas Tree Drive NW
Albany OR 97321, hereinafter called
"Grantor,"

AND : James H. Jordan, Attorney at Law,
whose address is
PO Box 983
Albany OR 97321-0369, hereinafter called
"Trustee,"

AND : Beaver Spray Service, Inc., an Oregon corporation,
whose address is
1642 Christmas Tree Drive NW
Albany OR 97321, hereinafter called
"Beneficiary."

DATED : January 23, 2006

The parties agree as follows:

Grantor irrevocably grants, bargains, sells and conveys to Trustee in trust, with power of sale, the real property in Benton County, Oregon, described as:

Page 1 Line of Credit Trust Deed-Par-Fect Orchards, Inc. to
Beaver Spray Service, Inc.

[JHbjm: fech2257.1.1.td/dra#1/1.19.06]

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Beginning at a 3/4 inch pipe on the northerly extension of the West line of that parcel described in deed recorded in Microfilm No. M-38698, Benton County Microfilm Records which point is 1149.13 feet South 89°58' West, 3548.40 feet North 3°26'46" East and 1302.58 feet North 89°58' West, 3580.40 North 3°26'46" East and 1302.58 feet North 89°58'53" West of the Southeast corner of the Gallatin Adkins Donation Land Claim No. 79, Township 10 South, Range 3 West, Willamette Base and Meridian, Benton County, Oregon; thence South 89°58'53" East 679.91 feet to a 5/8 inch rod; thence South 3°26'46" West 915.65 feet to a 5/8 inch iron rod; thence North 89°47'25" West 679.40 feet to the West line of said parcel; thence North 3°24'15" East 918.32 feet to the point of beginning.

TOGETHER WITH the right to use for road and utility purposes a 30 foot strip of land the East and North line of which are described as follows: Beginning at the Southeast corner of that parcel described in deed recorded in Book 146, Page 321, Deed Records of Benton County, Oregon, which point is on the South line of the Gallatin Adkins Donation Land Claim No. 79 in Township 10 South, Range 3 West of the Willamette Meridian, Benton County, Oregon, and 1149.13 feet South 89°58' West of the Southeast corner of said Claim; thence North 3°26'46" East, along the East line of said parcel and the East line of that parcel described in deed recorded as M-38698, Microfilm Records of Benton County, Oregon, 3485.95 feet to a 5/8 inch iron rod; thence North 44°17'43" West 87.12 feet to a 5/8 inch iron rod; thence North 89°58'53" West 622.67 feet to the Northeast corner of the above described parcel. Said right of way to extend from the South line of said Gallatin Adkins Claim to the East line of the above described parcel.

together with the tenements, hereditament and appurtenances and all other rights belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection herewith, "the Property."

The Grantor covenants and agrees to and with the Beneficiary and those claiming under Beneficiary, that Grantor is lawfully seized in fee simple of the Property and has a valid, unencumbered title thereto and that Grantor will warrant and forever defend the same against all persons whomsoever except those of record.

This conveyance is made for the purpose of securing performance of each agreement of Grantor herein contained, all sums now or hereafter due from Grantor to Beneficiary, including but not limited to sums due for payment of all sums now or hereafter advanced by Beneficiary. The final payment of principal and interest, if not sooner paid, shall be paid not later than November 1, 2015. The credit agreement maturity date may be extended at any time at the option of the beneficiary, without notice.

The "Credit Agreement" consists of oral and written agreements to advance funds by the beneficiary to the Grantor.

Page 2 Line of Credit Trust Deed-Par-Fect Orchards, Inc. to
Beaver Spray Service, Inc.

[JHJ]m:fech2257.1.cd/dra#1/:1.19.06]

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The date of maturity of the debt secured by this instrument is the date, stated above, on which all obligations originally become due and payable. In the event the Property or any part or interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the Grantor without first having obtained the written consent or approval of the Beneficiary, then, at the Beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

To protect the security of this trust deed, Grantor agrees:

1. To protect, preserve and maintain the Property in good condition and repair; not to remove or demolish any building or improvement without the prior written consent of Beneficiary; not to commit or permit any waste of the Property; and to permit Beneficiary or Beneficiary's agent access to the premises at any reasonable time to determine Grantor's compliance with the provisions of this trust deed.
2. To restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred in such restoration, whether or not such damage is covered by insurance.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property, including environmental laws and regulations; if the Beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the Beneficiary may reasonably require and to pay for filing same in the proper public office or offices; to indemnify and hold harmless the Beneficiary, and Beneficiary's heirs, successors and assigns, from any claim, liability, loss, cost or expense (including attorney's fees) resulting from the presence of hazardous or toxic substances located on the property including, but not limited to costs and compliance with state and federal laws, regulations and order and statutory common law claims arising from or related to the presence of hazardous or toxic substances released on the property or arising from or related to migration of hazardous or toxic substances from the property.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the Property against loss or damage by fire and such other hazards as the Beneficiary may from time to time reasonably require, in an amount not less than the full insurable value, written in companies reasonably acceptable to the Beneficiary, with loss payable to the latter. All policies of insurance, or a certificate of insurance issued by each carrier, shall be delivered to the Beneficiary as soon as insured and shall require not less than ten (10) days' written notice from the carrier to Beneficiary prior to cancellation. If the Grantor shall fail for any reason to procure any such insurance and to deliver said policies (or a certificate) to the Beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on

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said buildings, the Beneficiary may procure the same at Grantor's expense. Provided Grantor is not in default hereunder, the amount collected under any fire or other insurance policy shall be released to Grantor for the reconstruction or repair of the Property. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

WARNING

UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

5. To keep the Property free from all liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary. Should the Grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by Grantor, Beneficiary may, at Beneficiary's option, make payment thereof, and the amount so paid, with interest at the rate set forth in the obligation secured hereby, together with the obligations described in this trust deed, shall be added to and become a part of the debt secured by this trust deed. Such payment by Beneficiary shall not act as a waiver of any rights arising from any breach. For such payments and interest, the Property and the Grantor shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the Beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust as well as

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the other costs and expenses of the Trustee incurred in connection with or in enforcing this obligation, including the cost of title search, and Trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of Beneficiary or Trustee; and in any suit, action or proceeding in which the Beneficiary or Trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the Beneficiary's or Trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph in all cases shall be fixed by the trial court or appellate court in the event of an appeal from any judgment or decree of the trial court.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by Grantor or Beneficiary in such proceedings, shall be paid to Beneficiary and applied upon the indebtedness secured hereby. Grantor agrees, at Grantor's own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon Beneficiary's request.

9. At any time and from time to time upon written request of Beneficiary, and upon payment of Trustee's fees and presentation of this trust deed and the note for endorsement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof.

10. Upon any default by Grantor, Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of Property of any part thereof, in Beneficiary's own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

11. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking

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or damage of the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by Grantor in payment of any indebtedness secured hereby or in Grantor's performance of any agreement with Beneficiary, including but not limited to the note and trust deed, the Beneficiary may declare all sums secured hereby immediately due and payable. In such an event, the Beneficiary, in addition to any other remedy otherwise available to Beneficiary, including an action on the obligation, may proceed to foreclose this trust deed in equity as a mortgage or direct the Trustee to foreclose this trust deed by advertisement and sale, at Beneficiary's election. In the latter event the Beneficiary or the Trustee shall execute and cause to be recorded a written notice of default and election to sell the Property to satisfy the obligation secured hereby, whereupon the Trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS Chapter 86.

13. After the Trustee has commenced foreclosure by advertisement and sale, and at any time prior to five (5) days before the date the Trustee conducts the sale, the Grantor or any other person so privileged by ORS Chapter 86, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the Beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with Trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The Trustee may sell the Property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. The Beneficiary shall be entitled to credit bid the amounts due hereunder in lieu of paying cash at the sale. Trustee shall deliver to the purchaser a trustee's deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the Trustee, but including the Grantor and Beneficiary, may purchase at the sale.

15. When Trustee sells pursuant to the powers provided herein, Trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the Trustee and a reasonable charge by Trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the Trustee in the trust deed as their interest may

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REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: **James H. Jordan, Attorney at Law, Trustee**

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to

DATED: _____, 20____.

Lisa Jaramillo

From: Lisa Jaramillo
Sent: Wednesday, August 13, 2008 10:06 AM
To: Pagel, Martha
Subject: RE: T-10495 - Request for Copy of Deeds of Trust

Hi Martha,

This has been our practice for about the last year. Here's an excerpt from some guidance for the Transfer Section related to the issue: "If the report of ownership and lien information indicates a trust deed in effect, the deed may or may not indicate that someone other than the landowner (trustor) has an interest in the water right that needs to be considered. A copy of the trust deed may need to be requested from the applicant unless it was originally provided as part of the application materials. The Department's role is to use common sense and due diligence to ensure that all parties having an interest in the water right are notified or have given consent before changes to the water right are authorized."

So, once we receive the copy of the deed of trust, we will review it to determine if there is any language specific to water rights (indicating that interest in water rights has been assigned to the Trustee). If it does not contain any specific "water right" language, then we're done. If there is specific "water right" language, then we will need a statement from the Trustee indicating either: 1) their lack of interest in the proposed Transfer/GR Modification; or 2) their consent to the Transfer/GR Modification.

Please don't hesitate to contact me if you have any further questions,
Lisa

From: Pagel, Martha [mailto:MPagel@SCHWABE.com]
Sent: Wednesday, August 13, 2008 9:52 AM
To: Lisa Jaramillo
Subject: RE: T-10495 - Request for Copy of Deeds of Trust

Lisa:

Is this a new requirement -- or just something that I haven't dealt with before?

Thanks,
Martha

Martha O. Pagel
SCHWABE, WILLIAMSON & WYATT
Direct: 503-540-4260 | **Fax:** 503-796-2900 | **Cell:** 503-507-7293 | **Email:** mpagel@schwabe.com

From: Lisa Jaramillo [mailto:jaramilj@wr.d.state.or.us]
Sent: Wednesday, August 13, 2008 9:34 AM
To: afechtig@gmail.com
Cc: Pagel, Martha
Subject: RE: T-10495 - Request for Copy of Deeds of Trust

Hello Mr. Fechtig,

Thank you for providing the revised Report of Ownership and Lien Information (prepared 8-12-08) for your Ground Water Registration Modification Application T-10495.

My review of the revised Report of Ownership and Lien Information indicates there are two Deeds of Trust associated with the subject property (See Items #2 and 3 of the report). When Deeds of Trust exists, the Department's current policy is that we must receive a copy of the Deeds of Trust in order to determine whether any of the Trustees listed in the report have an interest in the water right that needs to be considered.

Therefore, before I can continue processing Application T-10495, I need to receive a copy of each of the two Deeds of Trust indicated in the revised Report of Ownership and Lien Information. Please submit this information by Wednesday, September 3, 2008, to: Water Resources Department, Attn: Lisa Jaramillo, 725 Summer Street NE, Suite A, Salem, OR 97301-1266.

8/13/2008

If you have any questions or would like to discuss this request, please don't hesitate to contact me at (503) 986-0880.

Thank you,
Lisa Jaramillo

To comply with IRS regulations, we are required to inform you that this message, if it contains advice relating to federal taxes, cannot be used for the purpose of avoiding penalties that may be imposed under federal tax law. Any tax advice that is expressed in this message is limited to the tax issues addressed in this message. If advice is required that satisfies applicable IRS regulations, for a tax opinion appropriate for avoidance of federal tax law penalties, please contact a Schwabe attorney to arrange a suitable engagement for that purpose.

NOTICE: This communication (including any attachments) may contain privileged or confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this communication and/or shred the materials and any attachments and are hereby notified that any disclosure, copying or distribution of this communication, or the taking of any action based on it, is strictly prohibited. Thank you.

8/13/2008

Lisa Jaramillo

From: Lisa Jaramillo
Sent: Wednesday, August 13, 2008 9:34 AM
To: afechtig@gmail.com
Cc: mpagel@schwabe.com
Subject: RE: T-10495 - Request for Copy of Deeds of Trust

Hello Mr. Fechtig,

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If you have any questions or would like to discuss this request, please don't hesitate to contact me at (503) 986-0880.

Thank you,
Lisa Jaramillo

Lisa Jaramillo

From: Taisey, Marcy [Marcy.Taisey@FNF.com]
Sent: Tuesday, August 12, 2008 12:41 PM
To: afechtig@gmail.com
Cc: mpagel@schwabe.com; Lisa Jaramillo
Subject: FW: Mr Fechtig LER
Attachments: 08-10583.pdf

Mr. Fechtig, thank you for your call today, and my apologies for the taxes reporting as unpaid on the previous report. Please let me know if you have additional concerns with the report, sincerely, Marcy Taisey.

From: Webster, Jason
Sent: Tuesday, August 12, 2008 12:27 PM
To: Taisey, Marcy
Subject: Mr Fechtig LER

Hi Marcy,

Attached is MR Fechtig's updated LER. I only found the taxes to be the only change.

Jason

Fidelity National Title Company of Oregon
200 Hawthorne Ave., Suite A-100, Salem, OR 97301
Phone: 503-315-2000 Fax: 503-315-2012

LIEN AND ENCUMBRANCE REPORT

Prepared for:
Allen Fechtig August 12, 2008
1642 Christmas Tree Lane NW
Albany, OR. 97321

Property Address: 1650 Christmas Tree Lane NW; Albany, OR. 97321

Reference Name: Fechtig, Allen D. & Mary Ruth

Benton County	Title #: FT080010583
Your Reference	Order #: n/a
	Charge: \$85.00

We have searched our tract indices as to the following described property:

(See attached Exhibit attached to Conveyance Instrument)

As of August 8, 2008, we find that the last deed of record runs to:

Allen D. Fechtig and Mary Ruth Fechtig, as tenants by the entirety

We also find the following apparent monetary encumbrances affecting the herein described property as of the effective date:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2008-2009.
2. Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:
Amount: \$200,000.00
Dated: October 19, 2005
Grantor: Par-Fect Orchards Inc., an Oregon Corporation
Trustee: James H. Jordan, Attorney at Law
Beneficiary: Allen D. Fechtig and Mary Ruth Fechtig
Recorded: October 21, 2005, Recorder's No. 2005-394301
3. Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:
Amount: \$350,000.00
Dated: January 23, 2006
Grantor: Par-Fect Orchards Inc., an Oregon Corporation
Trustee: James H. Jordan, Attorney at Law
Beneficiary: Beaver Spray Service Inc., an Oregon Corporation
Recorded: January 27, 2006, Recorder's No. 2006-399061

NOTES:

For proration purposes, the property taxes for the fiscal year shown below are Paid as follows:

Fiscal Year: 2007-2008
Amount: \$485.53
Account No.: 285423
Map No.: 105360000101

We have also searched our General Index for judgments and State and Federal Tax Liens against the above named grantee and find the following:

None

THIS INFORMATION IS A PLANT SERVICE OF FIDELITY NATIONAL TITLE, IT IS NOT TITLE INSURANCE OR A GUARANTEE, THIS SERVICE DOES NOT INCLUDE ANY SUPPLEMENTAL REPORTS OR ANY OTHER INFORMATION, LIABILITY FOR ERRORS OR OMISSIONS IS LIMITED TO THE AMOUNT CHARGED.

Examined by

Darin Hillier
Mid-Willamette Valley Title Group
200 Hawthorne Avenue SE, Suite A-100
Salem, OR 97301
Phone: 503-315-2000
Fax: 503-315-2012

Thank you for using Fidelity National Title Company of Oregon

Lisa Jaramillo

From: Taisey, Marcy [Marcy.Taisey@FNF.com]
Sent: Monday, August 04, 2008 2:48 PM
To: Lisa Jaramillo; mpagel@schwabe.com
Cc: afechtig@gmail.com
Subject: Ground Water Registration Modification T-10495
Attachments: 21340001.pdf

Attached for your records and use please find a copy of Fidelity's lien and encumbrance report dated August 4, 2008 in compliance with your request of July 30, 2008.

From: fntalbany@fnf.com [mailto:fntalbany@fnf.com]
Sent: Monday, August 04, 2008 7:18 AM
To: Taisey, Marcy
Subject: Attached Image

Fidelity National Title Company of Oregon
200 Hawthorne Ave., Suite A-100, Salem, OR 97301
Phone: 503-315-2000 Fax: 503-315-2012

LIEN AND ENCUMBRANCE REPORT

Prepared for:
Allen Fechtig August 4, 2008
1642 Christmas Tree Lane NW
Albany, OR. 97321

Property Address: 1650 Christmas Tree Lane NW; Albany, OR. 97321

Reference Name: Fechtig, Allen D. & Mary Ruth

Benton County

Title #: FT080010583

Your Reference

Order #: n/a

Charge: \$85.00

We have searched our tract indices as to the following described property:

(See attached Exhibit attached to Conveyance Instrument)

As of July 31st, 2008, we find that the last deed of record runs to:

Allen D. Fechtig and Mary Ruth Fechtig, as tenants by the entirety

We also find the following apparent monetary encumbrances affecting the herein described property as of the effective date:

1. Taxes for the year 2007-2008, plus interest, unpaid

Amount: \$485.53

Account No. [REDACTED]

Map No. 105360000101

2.) Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:

Amount: \$200,000.00

Dated: October 19, 2005

Grantor: Par-Fect Orchards Inc., an Oregon Corporation

Trustee: James H. Jordan, Attorney at Law

Beneficiary: Allen D. Fechtig and Mary Ruth Fechtig

Recorded: October 21, 2005, Recorder's No. 2005-394301

3.) Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:

Amount: \$350,000.00

Dated: January 23, 2006

Grantor: Par-Fect Orchards Inc., an Oregon Corporation

Trustee: James H. Jordan, Attorney at Law

Beneficiary: Beaver Spray Service Inc., an Oregon Corporation

Recorded: January 27, 2006, Recorder's No. 2006-399061

NOTES:

We have also searched our General Index for judgments and State and Federal Tax Liens against the above named grantee and find the following:

None

THIS INFORMATION IS A PLANT SERVICE OF FIDELITY NATIONAL TITLE, IT IS NOT TITLE INSURANCE OR A GUARANTEE, THIS SERVICE DOES NOT INCLUDE ANY SUPPLEMENTAL REPORTS OR ANY OTHER INFORMATION, LIABILITY FOR ERRORS OR OMISSIONS IS LIMITED TO THE AMOUNT CHARGED.

Examined by

Darin Hillier
Mid-Willamette Valley Title Group
200 Hawthorne Avenue SE, Suite A-100
Salem, OR 97301
Phone: 503-315-2000
Fax: 503-315-2012

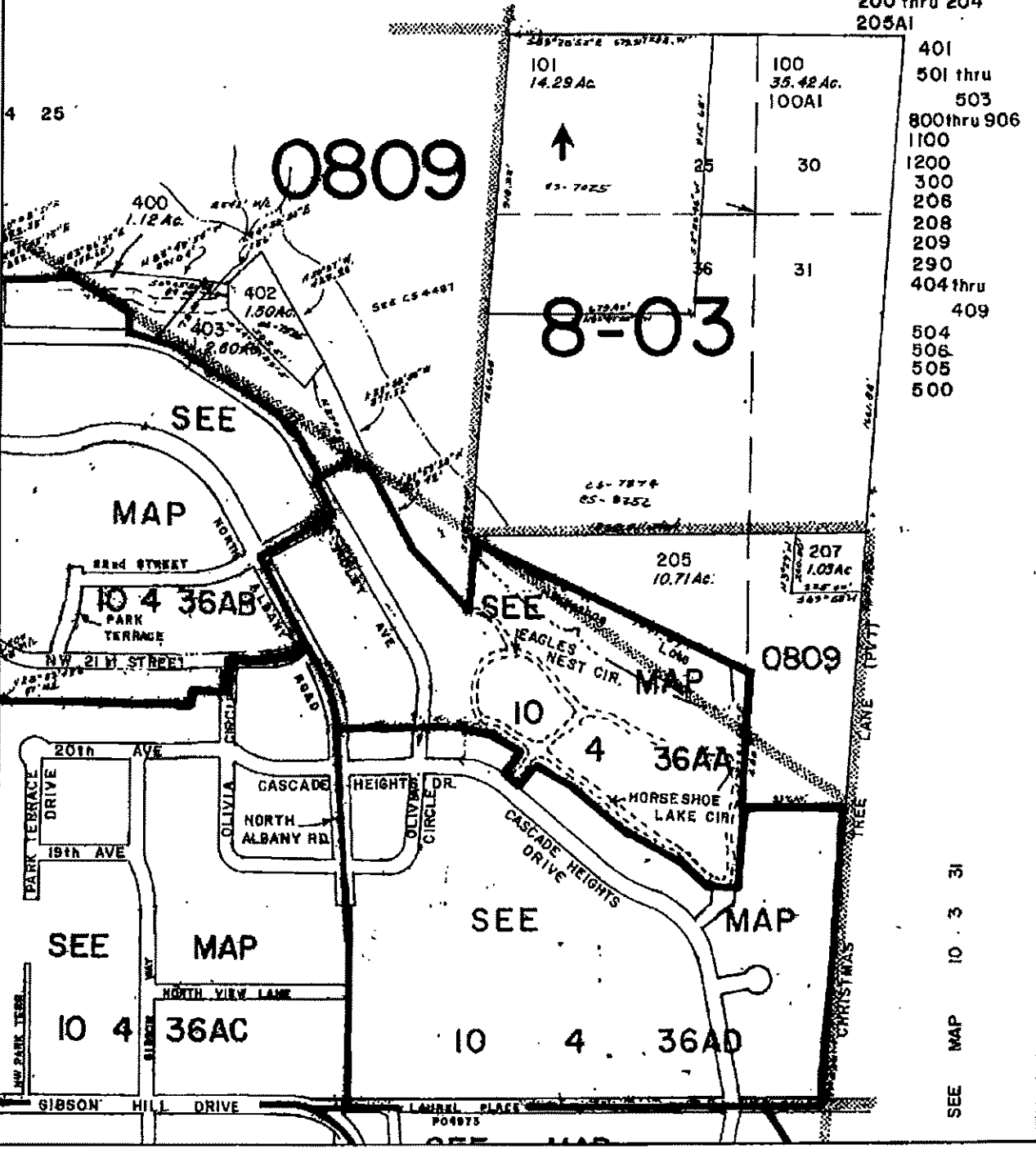
Thank you for using Fidelity National Title Company of Oregon

NTY

**& INDEX
ALBANY**
REV. 10-03-2005
CANC.

200 thru 204
205AI

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- 503
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- 500



MAP FURNISHED AS A CONVENIENCE BY FIDELITY NATIONAL TITLE COMPANY

This sketch is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



MAP # 10425-00-00190

BENTON COUNTY, OREGON 2007-429746
DE-FOR
Crt=1 Stn=9 11/05/2007 01:38:44 PM
\$20.00 \$11.00 \$10.00 \$15.00 \$56.00



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
James V. Morales - County Clerk



DEED IN LIEU OF FORECLOSURE

Grantor's Name and Address:

Par-Fect Orchards, Inc., an
Oregon corporation
1650 Christmas Tree Drive NW
Albany OR 97321

Grantee's Name and Address:

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

After recording return to:

✓ James H. Jordan PC
Attorney at Law
P. O. Box 983
Albany, OR 97321

The true and actual
consideration for this
conveyance is \$ None
(trust deed foreclosure)

Until a change is requested
all tax statements shall be
sent to:

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

Tax Account Information:

Account No. [REDACTED] Map No. 10436 0101; Code No. 0803

CONVEYANCE

Par-Fect Orchards, Inc., an Oregon corporation, Grantor, conveys to Allen D. Fechtig and Mary Ruth Fechtig, husband and wife as tenants by the entirety, Grantee, the following described real property in Benton county, Oregon:

Beginning at a 3/4 inch pipe on the northerly extension of the West line of that parcel described in deed recorded in Microfilm No. M-38698, Benton County Microfilm Records which point is 1149.13 feet South 89°58' West, 3548.40 feet North 3°26'46" East and 1302.58 feet North 89°58' West, 3580.40 North 3°26'46" East and 1302.58 feet North 89°58'53" West of the Southeast corner of the Gallatin Adkins Donation Land Claim No. 79, Township 10 South, Range 3 West, Willamette Base and Meridian, Benton County, Oregon; thence South 89°58'53" East 679.91 feet to a 5/8 inch rod; thence South 3°26'46" West 915.65 feet to a 5/8 inch iron rod; thence North 89°47'25" West 679.40 feet to the West line of said parcel; thence North 3°24'15" East 918.32 feet to the point of beginning.

TOGETHER WITH the right to use for road and utility purposes a 30 foot strip of land the East and North line of which are described as follows: Beginning at the Southeast corner of that parcel described in deed recorded in Book 146, Page 321, Deed Records of Benton County, Oregon, which point is on the South line of the Gallatin Adkins Donation Land Claim No. 79 in Township 10 South, Range 3 West of the Willamette Meridian, Benton County, Oregon, and 1149.13 feet South 89°58' West of the Southeast corner of said Claim; thence North 3°26'46" East, along the East line of said parcel and the East line of that parcel described in deed recorded as M-38698, Microfilm Records of Benton County, Oregon, 3485.95 feet to a 5/8 inch iron rod; thence North 44°17'43" West 87.12 feet to a 5/8 inch iron rod; thence North 89°58'53" West 622.67 feet to the Northeast corner of the above described parcel. Said right of way to extend from the South line of said Gallatin Adkins Claim to the East line of the above described parcel.


Grantor covenants that:

This deed is absolute in effect and convey premises above described to the Grantee and d conveyance, or security of any kind.

Grantor is the owner of the premises free credit trust deed executed to grantee, dated Octob 21, 2005, at Record No. 2005-394301 of the offic and the line of credit trust deed executed by Gra Oregon corporation, recorded on January 27, 2 records of Benton County, Oregon, and except tho

This deed does not effect a merger of the f

Page 2 DEED IN LIEU OF FORECLOSURE
[JHJ:bmf:fech2257.1.d\l\dms#2/05.31.08]

OK -
legal matches
subject lands.


credit trust deeds described above. The fee and lien shall hereafter remain separate and distinct.

In consideration of Grantee's agreement not to file suit for a money judgment against Grantor, Grantee's waiver of the right to claim reasonable attorney fees and costs and Grantor's benefit from remaining in possession of the premises described above until relinquished at the time of this conveyance, Grantee may retain all payments previously made on the secured debt with no duty to account therefor.

By acceptance of this deed, Grantee covenants and agrees that Grantee shall forever forbear taking any action whatsoever against Grantor on the line of credit trust deed above described, other than by foreclosure of that line of credit trust deed and that in any proceeding to foreclose the line of credit trust deed Grantee shall not seek, obtain or permit a deficiency judgment against Grantor, or Grantor's heirs or assigns, such rights and remedies being hereby waived.

Grantor does hereby waive, surrender, convey, and relinquish any equity of redemption and statutory rights of redemption concerning the real property and line of credit trust deed described above.

Grantor is not acting under any misapprehension as to the legal effect of this deed, not under any duress, undue influence, or misrepresentation of Grantee, Grantee's agent or attorney, or any other person.

THIS TRANSACTION IS NOT INTENDED TO CONSOLIDATE ANY OF THE INDIVIDUALLY DESCRIBED PARCELS OR TAX LOTS FOR LAND USE, TAX LOTS, OR ANY OTHER PURPOSE.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST



Oregon

Theodore R. Kulongoski, Governor

T-10495
Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

July 30, 2008

ALLEN D. FECHTIG
MARY RUTH FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY, OR 97321

SUBJECT: Ground Water Registration Modification T-10495

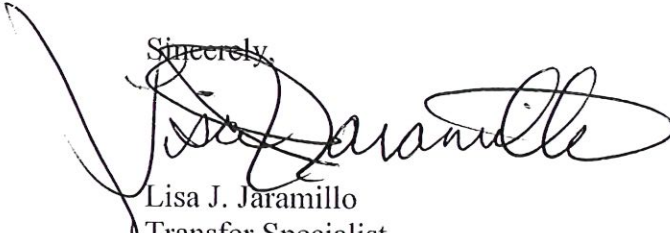
Enclosed, please find a draft of our Preliminary Determination regarding Ground Water Registration Modification Application T-10495. The document reflects the Department's conclusion that, based on the information currently available, recognition of the ground water registration modification will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the ground water registration modification, and whether you agree with the proposed action.

At this time, you must submit a report of ownership and lien information prepared by a title company within the last three months, as required by OAR 690-382-0700(5). If there are additional lienholders identified in the report that have not previously been notified of the ground water registration modification, you must send notice of the modification to them, and submit copies of each such notice to the Department to document that each lienholder has been informed of the ground water registration modification.

Issuance of the Preliminary Determination will occur shortly after we receive both your response and the report of ownership and lien information. If we do not receive your response and the report by **Friday, August 29, 2008**, a Preliminary Determination may be issued denying the application. You may provide your response in writing or via e-mail.

Please do not hesitate to contact me at 503-986-0880 or Lisa.J.Jaramillo@wrp.state.or.us if I may be of assistance.

Sincerely,



Lisa J. Jaramillo
Transfer Specialist
Field Services Division

cc: GR Modification T-10495
Mike McCord, Watermaster District #16
Schwabe, Williamson & Wyatt, Attn: Martha O. Pagel, Equitable Center, 530 Center St. NE, Ste. 400, Salem, OR 97301
Gary Ball, CWRE #345

enc

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

In the Matter of Ground Water
Registration Modification Application
T-10495, Benton County

) **D R A F T**
)
) PRELIMINARY DETERMINATION
) PROPOSING TO APPROVE
) RECOGNITION OF A MODIFICATION
) IN POINT OF APPROPRIATION
)

Authority

ORS 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

Applicant

ALLEN D. FECHTIG
MARY RUTH FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY, OR 97321

Agent

MARTHA O. PAGEL
SCHWABE, WILLIAMSON & WYATT
EQUITABLE CENTER
530 CENTER STREET NE, SUITE 400
SALEM, OR 97301

Findings of Fact

Background

1. On November 28, 2007, Allen and Mary Ruth Fechtig filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The Department assigned the application number T-10495.
2. The applicant submitted a revised map on December 5, 2007, that better illustrates the location of the proposed new points of appropriation under application T-10495.
3. On December 19, 2007, Registration Application GR-2394 (Certificate of Registration GR-2275) was assigned from Russell H. and Jessie Parker to Allen D. and Mary Ruth Fechtig.
4. The portion of the ground water registration to be modified is as follows:
Registration: APPLICATION GR-2394 (CERTIFICATE of REGISTRATION GR-2275), in the name of Russell H. and Jessie Parker (*assigned to Allen D. and Mary Ruth Fechtig*)

Use: IRRIGATION of 14.3 ACRES
Tentative Priority Date: JULY 6, 1951
Rate/Duty: 450.0 GALLONS PER MINUTE (GPM);
 being further limited to 295.8 ACRE FEET PER YEAR
Source: A PUMP WELL, in the Willamette River Basin

Original Point of Appropriation:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
10 S	4 W	WM	36	NE NE	Pump Well – North 30 degrees 40 minutes West 46.8 chains from the SE corner of DLC 79, Township 10 South, <i>Range 2 West*</i> , WM
* indicates a scrivener's error.					

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
10 S	4 W	WM	25	SE SE	8.8
10 S	4 W	WM	36	NE NE	5.5
TOTAL:					14.3

5. There is a scrivener's error in the description of the original point of appropriation under Registration Application GR-2394 (Certificate of Registration GR-2275). The description of the recognized survey corner (*i.e., the SE corner of DLC 79, Township 10 South, Range 2 West, WM*) from which the survey coordinates are measured is in error. Based upon the original map for the ground water registration claim, the ground water registration modification application map and the recognized public land survey system, the survey coordinates of the original point of appropriation should be described as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
10 S	4W	WM	36	NE NE	Pump Well – North 30 degrees 40 minutes West 46.8 chains from the SE corner of DLC 79, Township 10 South, <i>Range 3 West</i> , WM

6. Application T-10495 proposes to modify the point of appropriation under the ground water registration. The proposed new points of appropriation, located between approximately 700 and 925 feet northwest from the original well, are located as follows:

Twp	Rng	Mer	Sec	¼ ¼	DLC	Survey Coordinates
10 S	4 W	WM	25	SE SE	43	Well 1 – 2100 feet West and 3440 feet North from the SE corner of DLC 79, T 10S, R 3W, WM
10 S	4 W	WM	25	SE SE	43	Well 2 – 2120 feet West and 3245 feet North from the SE corner of DLC 79, T 10S, R 3W, WM
10 S	4 W	WM	25	SE SE	43	Well 3 - 2135 feet West and 3045 feet North from the SE corner of DLC 79, T 10S, R 3W, WM

7. Notice of the application for ground water registration modification was published on December 18, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

Review Criteria for Ground Water Registration Modification Applications [OAR 690-382-0700(2)]

8. The proposed modification would not result in enlargement of the ground water registration.
9. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
10. The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

The modification in point of appropriation proposed in Application T-10495 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000, and will be recognized provided that protests are not filed pursuant to OAR 690-382-0900.

If Ground Water Registration Modification Application T-10495 is recognized, the final order will include the following:

1. *The modification to Registration Application GR-2394 (Certificate of Registration GR-2275) proposed in Application T-10495 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate ground water under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.*
2. *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 Registration Application GR-2394 (Certificate of Registration GR-2275) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
4. *Water shall no longer be appropriated from the original point of appropriation for the portion of the ground water registration modified under application T-10495.*
5. *The total combined quantity of water diverted at any one time from the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*

6. *Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*

Dated at Salem, Oregon this ____ day of _____ 2008.

DRAFT

Phillip C. Ward, Director

This draft Preliminary Determination was prepared by Lisa J. Jaramillo. If you have any questions about the information in this draft preliminary determination, you may reach me at (503) 986-0880 or Lisa.J.Jaramillo@wrd.state.or.us.

T-10495

**Ground Water Registration Modification
Processing Log (Division 382)**

Reviewer's Name: [Signature]

Date: 5-2-08

GR Modification #T- 10495 Type of Change: POA ~~POU~~ ~~USE~~
 Appl No. GR- 2394 Certificate of Registration No. GR- 2275
 Date filed: 11-28-07 Initial Public Notice: 12-18-07
 County: Benton WM District: #16 - Mike McCord
 Applicant's Name & Mailing Address: Allen & Mary Ruth Fechtig
1650 Christmas Tree Dr. NW
Albany, OR 97321
 CWRE (if any) or Agent: #345 - Gary Ball & Martha Pagel

Martha D. Pagel; Schwabe, Williamson & Wyatt, Equitable Center, 530 Center St. NE, Suite 400
Salem, OR 97301

Workflow Maintenance: Has file been assigned to me? Yes ~~No~~ (If No, Update Workflow in ModPod)

Check Application

- Type of Change indicated clearly? (Only POA, ~~POU~~ or ~~USE~~ allowed for GR Modifications.)
- Application signed by all applicants?
- Have appropriate fees been paid? \$500.00 paid 11-28-07
- If any fees are to be refunded, generate a Request for Refund memo to be forwarded to WRD Fiscal Section.
- Does the Land Use Form match affected tax lots and is it signed by the proper official?
- For a Change in POA, are well logs for authorized & proposed wells attached?
- If well logs are NOT available or if the proposed well is NOT yet constructed, the applicant must provide a description of the authorized or proposed well construction.

Check Application Map (Map is NOT required to be prepared by a CWRE)

- Is the size and scale accurate and appropriate as per OAR 690-380-3100(1)(c) & (d)?
- Are all authorized and proposed POA's and POU's shown and clearly labeled?
- Do the location coordinates for the POA's properly describe the location on the map?
- Do the map acres match the tabulation on the GW Registration?
- Pull maps for the GW Registration. Does the application map match the GW Registration map?
- Pull aerial photos, if needed (and available).
- Other: _____

* Correct a scrivener's error on GR claim - description of orig POA - should be from the SE corner of DLC 79, T.10S, R. 3W, not R. 2W.

Check Ownership and Review Report of Ownership & Lien Information:

- Print a copy of the current tax lot map. (You may contact the County Assessor's office to research current ownership info.)
- Is the applicant the owner of the "from" land? Yes No
- Have all owners signed the application? Yes No
 - If No, is there a notarized, signed statement of consent from any landowners other than applicant? Yes No
- Verify agent authority if applicant has not specifically signed a statement authorizing agent to work on his behalf.

The Report of Ownership and Lien Information will be requested at the P.D. stage, once it is submitted you will need to consider the following:

- Has the Report of Ownership and Lien Information been prepared for the subject parcel of land? Yes No
- Are any other owners of record identified? Yes No
 - If Yes, have they consented to the modification?
- Are any lien holders identified? Yes No
- Is there a copy of written notification of the transfer to each lien holder identified in the Report? Yes No
 - If No, applicant needs to submit a copy of notification to lien holder(s).

Is Application Complete?

- application form map GR registration land-use form
- fees paid well logs report of ownership & lien (requested at P.D. stage)
- Reviews/comments received? Watermaster Ground Water ~~ODEW (if hydraulically connected)~~ N/A

Deficiencies to be resolved:

-
-
-

Determining the "From" and "To" Lands (make working copy of application & GW Registration to mark on

- Are only the authorized POA's and/or POU's to be modified listed?
- Do application & GW Registration tabulations match? (check off on A.ppl & GW Regist. copies and note corrections needed)
- Mark on the GW Registration copy which acreage is being modified and what will remain in each 1/4 1/4.

- N/A Print plat card report. Are there conflicting rights? - No POU Change.
- N/A Are there any rights that need to be cancelled or diminished to supplemental? If so, prepare an affidavit.
- N/A Are there any rights that need to transferred concurrently with this GR Modification? No POU Change.
- Other: _____

No Is Newspaper Notice required? Yes No (If so, generate a draft of the notice to include with P.D.)

- from original well location, proposed wells 1, 2 & 3 are located:
• Well #1 - 925 feet northwest
• Well #2 - 800 feet northwest
• Well #3 - 700 feet northwest.

Injury/Enlargement Determination:

Injury:

Watermaster Injury: Yes No Conditions: Yes No

Ground Water Injury: Yes No Conditions: Yes No

N/A ODEW Injury: Yes No Conditions: Yes No

Conditions requested:

Measurement devices: Required prior to use -or- "When in the judgement..."

Other: _____

Would the modification result in injury issues to other ground water users? Yes No

Other: _____

If hydraulically connected....

N/A Check Interactive Mapping. Are there any intervening POD's? Yes No

N/A Would it result in reduction of flows available to junior rights? Yes No

N/A Would it affect flows available for instream water rights? Yes (moves into or within ISWR) No problem

Enlargement: *No*

N/A Will the "from" lands be able to be dried up? Yes No *No POA Change.*

N/A If hydraulically connected, are return flows an issue? Yes No

Other: *No POA Change*

State Scenic Waterway: Would the proposed modification result in a State Scenic Waterway **NOT** receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835?

NOT within or above a State Scenic Waterway

Is this use of ground water hydraulically connected to surface water? Yes No (See GW review.)

If hydraulically connected to surface water, is the authorized POA located within or above a State Scenic Waterway reach? Yes No If Yes, identify State Scenic Waterway reach: _____

If No, will the proposed modification result in moving the POA to a point that is located within or above a State Scenic Waterway reach? Yes No If Yes, identify reach: _____

Does the authorized POA contribute return flows to a State Scenic Waterway reach? Yes No

-If Yes, will the proposed modification result in those return flows no longer contributing or no long being available to that State Scenic Waterway reach? Yes No

Remarks:

State of Oregon

Water Resources Department

Interoffice Memorandum

July 11, 2008

To: Water Rights
From: Josh Hackett
Subject: Ground Water Review of Ground Water Registration Modification T-10495

Findings

The proposed POAs (BENT 1881, BENT 1882/2050 (original/deepening), and BENT 2052/2049 (original/deepening)) will produce from the same aquifer as the authorized point of appropriation.

The transfer is unlikely to result in injury to existing rights.

Discussion

This application proposes a change in point of appropriation (POA), on Ground Water Registration GR-2394.

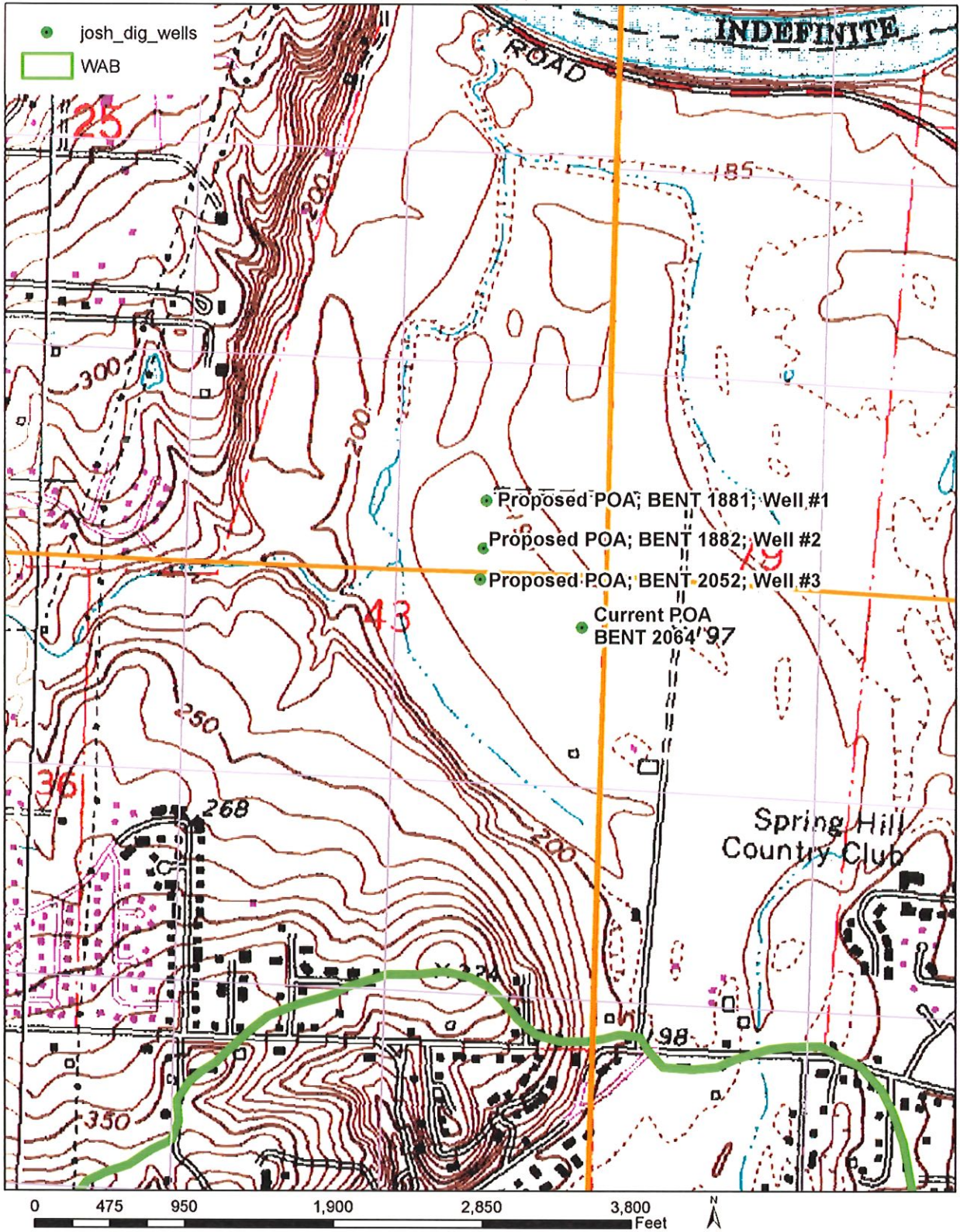
Well BENT 2064 is the authorized point of appropriation on GR-2394. The applicant is requesting a change in the point of appropriation to wells BENT 1881, BENT 1882/2050 and BENT 2052/2049 on the Ground Water Registration. The current POA (BENT 2064) is 28 feet deep and produces from alluvial sands and gravels.

The proposed POAs are 30, 40, and 35 feet deep and also produce from alluvial sands and gravels. The proposed POAs are oriented in a north-south line with approximately 200 feet separating each well from an adjacent well. Wells located this close together are likely to cause mutual interference if they are pumped at the same time. The proposed POAs are 700-1000 feet northwest of the existing POA.

Because the proposed POAs will be in close proximity to, and will produce from the same aquifer as, the current POA, this transfer is not likely to result in injury to existing water rights.

Well Location Map

T-10495





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

INTEROFFICE MEMO

FORWARD TO: Lisa Jaramillo
FIELD PROCESSOR WORKING ON THIS TRANSFER

DATE: 12-17-07

FROM: _____ WATERMASTER, DISTRICT # _____
X _____ GROUNDWATER SECTION

(SIGNATURE) [Signature] date signed 7/11/08
signed by injury reviewer

SUBJECT: WATER RIGHT TRANSFER # T-10495 **GR-MOD**

A change in: POU POD POA USE of water.

In the name(s) of Allen & Mary Ruth Fechtig

In my opinion (assuming the right is valid), the proposed change

MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY* to an existing water right.

*The approval of this transfer application would result in injury to other water rights because

The existing right may not be valid because _____

Headgate notices HAVE HAVE NOT Been issued for diversion from the source(s) which serve(s) this right.

If for change in point of diversion, is there any intervening point(s) for diversion between the authorized and proposed points of diversion? (Yes or No) _____

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

_____ (1) PRIOR to the diverting of water at the new point of diversion . . .

_____ (2) WHEN IN the judgement of the watermaster it becomes necessary . . .

The enclosed copy of the transfer application and map(s) is for your records.

Lisa J.



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

Watermaster Review Form:
Water Right Transfer

Transfer Application: T-10495

Review Due Date: 1/15/08

Applicant Name: Fechtig

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

Reviewer(s): Mlm

Date of Review: Dec. 21, 2007

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

11. Have headgate notices been issued for the source that serves the right? Yes No

12. What water control and measurement conditions should be included in the transfer:

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



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Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

**Notice of Application for
Water Right Transfer, Temporary Transfer, or Permit Amendment
12/18/2007**

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

County: BENTON
Transfer: 10495
Water Right: GR 2394 CERT GR 2275
Priority Date: 1951
Name: ALLEN & MARY RUTH FECHTIG
Address: 1650 CHRISTMAS TREE DRIVE NW, ALBANY, OR
97321
Change: POINT OF APPROPRIATION
Source: GROUND WATER
Authorized POA: T10S, R4W, SEC 36 NENE
Proposed POA: WELL 1 T10S, R4W, SEC 25 SESE 2100 FT W &
3440 FT N FROM SE CORNER
WELL 2 T10S, R4W, SEC 25 SESE 2120 FT W &
3245 FT N FROM SE CORNER
WELL 3 T10S, R4W, SEC 25 SESE 2135 ft W & 3045 ft N from
SE CORNER

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

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

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

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



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

December 17, 2007

ALLEN & MARY RUTH FECHTIG
1650 CHRISTMAS TREE DRIVE NW
ALBANY OREGON 97321

Reference: Ground Water Registration Modification 10495

On November 28, 2007 we received your application for recognition of a Ground Water Registration modification. The application was accompanied by \$500.00. Our receipt 90764 is enclosed.

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

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

If you have any questions, please call the Transfer Section, (503)986-0900.

cc: Watermaster #16
Gary Ball, CWRE
Martha Pagel, Agent
Groundwater

enclosure

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

Ground Water Registration Modification Application – OAR 690-382

Completeness Checklist

Applicant's Name: Allen & Mary Ruth Fechtig (Last revised: April 27, 2007)

GR to be Modified: Application No. GR- 2394 Certificate No. GR- 2275

Name on GR File: Russell H. & Jesse Parker

Section A – Who may Submit a GR Modification?

~~✗~~
✓
OK

A GR Modification may only be filed by one of the following persons: [OAR 690-382-0300]

- 1) the person named on the GR file;
- ✓ 2) the person to whom the GR file has been assigned; Assigned on 12-19-07
- 3) the owner of the land to which the GR is appurtenant provided the application is accompanied by a Request for Assignment application; or
- 4) any other person or entity who can demonstrate they are authorized to request the GR Modification (e.g., legal representative, power of attorney, agent, etc. for one of the above.)

Does the applicant fall into one of the above criteria? YES NO

If "NO", the GR Modification cannot be accepted. RETURN the application and, if necessary, include a Request for Assignment application.

Section B – Type of Change

✓
OK

Is the proposed change(s) allowed under the Ground Water Registration Modification process? YES NO --- Type of Change Proposed POA POU USE [OAR 690-382-0010]

NOTE: Only POA, POU or USE changes are allowed on GR Modifications.

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

Section C - Fees

✓
OK

Have the appropriate fees been paid? (Stat. Authority: ORS 537.610)

Total Required Fees: \$500.00

Fee Schedule – OAR 690-382-0400(18)

Total Fees Paid: 500

\$350 - Examination of an application to ONLY change the POU under a Ground Water Registration

Fees Due (if any): _____

~~-OR-~~

\$500 - Examination of all other applications to modify a Ground Water Registration

Refund Due (if any): _____

NOTE: For a POA modification...if the applicant abandons the original well identified in the claim according to well construction standards within one year of the Department's recognition of the modification, the application may request a refund of \$100 of the fee paid under OAR 690-382-0400(18)(b).

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

Section D – Completeness

<p>Indicate in this column whether an item is incomplete, and if so, identify the deficiency.</p>	<p>Is the Ground Water Registration Modification application complete? [OAR 690-382-0400]</p> <p>All required elements necessary for a complete GR Modification application are listed below. Indicate whether or not the applicant has answered and/or supplied attachments to adequately address each of the following items. If any one of the items is deficient, then the application is incomplete.</p> <p><i>NOTE: For reference, the application page number upon which each item is requested is identified.</i></p> <p><i>If the application is NOT complete, RETURN the application & fee to the applicant.</i></p>
✓	<ul style="list-style-type: none"> Applicant's name, mailing address and contact information. (Page 1)
✓	<ul style="list-style-type: none"> Agent's name, mailing address and contact information, <i>if applicable.</i> (Page 1)
✓	<ul style="list-style-type: none"> Are multiple Ground Water Registrations being amended? YES NO (Pages 2 & 3) If YES..... a <u>separate</u> application must be submitted for <u>each</u> Ground Water Registration, <u>unless</u> the Ground Water Registrations to be modified are <u>layered</u> [refer to OAR 690-382-0300(2)].
✓	<ul style="list-style-type: none"> The type of change (modification) being proposed: POA POU USE (Page 2)
✓	<ul style="list-style-type: none"> Reason for the Ground Water Registration modification. (Page 2)
✓	<ul style="list-style-type: none"> Current Ground Water Registration information – registration number, use, priority date, source(s), etc. (Page 3)
N/A	<ul style="list-style-type: none"> If for a change in POU, are there any other “layered” irrigation rights, permits, or Ground Water Registrations appurtenant to the same place of use as the Ground Water Registration proposed to be modified? YES NO (Page 3) If YES..... the other “layered” water uses subject to transfer, permits or other ground water registrations must either change concurrently or be cancelled, except as provided in OAR 690-382-0200(5).
✓	<ul style="list-style-type: none"> Location description of the authorized POA to be modified. (Page 4) <i>NOTE: Ensure that the location coordinates listed in the application match the point and location coordinates illustrated on the application map.</i>
✓	<ul style="list-style-type: none"> For the authorized POA, the applicant must either: (Page 4) ✓ 1) supply a copy of the well log(s), <u>or</u> “BENT 2064” _____ 2) if well logs are not available, describe the construction of the well(s) in the table provided on page 4 of the application.
✓	<ul style="list-style-type: none"> Location description of the existing authorized POU and associated acres (if applicable). (Page 5) <i>NOTE: Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.</i>
✓ OK	<ul style="list-style-type: none"> Location description of the proposed POA. <i>— it's just as the orig. GR map is. ✓ OK.</i> (Page 6) <i>NOTE: Ensure that the proposed location coordinates listed in the application match the proposed point and location coordinates illustrated on the application map.</i>
✓	<ul style="list-style-type: none"> For the proposed POA, the applicant must either: (Page 6) ✓ 1) supply a copy of the well log(s), <u>or</u> _____ 2) if well logs are not available <u>or</u> the well is not yet constructed, describe the construction of the well(s) in the table provided on page 6 of the application.

N/A	<ul style="list-style-type: none"> Location description of the <i>proposed</i> POU and associated acres (if applicable). (Page 7) <p>NOTE: Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.</p>
✓	<ul style="list-style-type: none"> Affected districts and local governments. (Page 8) <p>If within a district/local government jurisdiction, ensure that name & mailing address is provided.</p>
✓	<ul style="list-style-type: none"> Is the applicant the owner of the land "FROM" which the Ground Water Registration is being moved? <u>YES</u> NO (Page 9) <p>If <i>NO</i>..... the applicant must provide the name and mailing address of the current landowner.</p>
✓	<ul style="list-style-type: none"> Is the applicant the owner of the land "TO" which the Ground Water Registration is being moved? <u>YES</u> NO (Page 9) <p>If <i>NO</i>..... the applicant must provide the name and mailing address of the "receiving" landowner and indicate who (applicant or receiving landowner) will be responsible for completing the change(s).</p>
	<ul style="list-style-type: none"> Map..... (OAR 690-380-3100, except NOT required to be prepared by a CWRE). (Page 10) <p> <input checked="" type="checkbox"/> north arrow <input checked="" type="checkbox"/> size & scale <input type="checkbox"/> other: _____ <input checked="" type="checkbox"/> authorized acreage per ¼ ¼ matches the ground water registration <input checked="" type="checkbox"/> authorized POA and POU (clearly shown, labeled & matches application listing) <input checked="" type="checkbox"/> point plotted for the authorized POA agrees with location coordinates <input checked="" type="checkbox"/> proposed POA and/or POU (clearly shown, labeled & matches application "proposed" listing) <input checked="" type="checkbox"/> location coordinates accurately describe the point identified as the proposed POA </p> <p><i>OK - corrected See Revised Maps 12-5-07</i></p>
✓	<ul style="list-style-type: none"> Land Use form, <i>if applicable</i>. (Page 10) <p>NOTE: May <u>not</u> be needed if the modification meets all four requirements outlined in OAR 690-382-0400(12).</p>
✓	<ul style="list-style-type: none"> Signature(s) of applicant(s): (Page 11) <p><u>All</u> applicants listed on page 1 of the application <u>must</u> sign the application.</p>
<p>WRD Completeness Reviewer's Name: <u><i>Via Parante</i></u> Date: <u>12-4-07</u></p>	

NOTE: A Report of Ownership and Lien Information will be requested from the applicant at the time a Draft Preliminary Determination is mailed, unless applicant is an entity meeting OAR 690-382-0400(16)(b) or (c).

ORIGINALS

Transfer Application and Map

Amendments/Revisions to Appl & Map

Receipt

Deed or Lot Book Report

Notarized Consent

Evidence of Use Affidavit

Land Use Information Form

Lien Holder Notification *(if applicable)*

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

&

Other Supporting Documentation

**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 # **90764**

INVOICE # _____

RECEIVED FROM: Allen & Mary Ruth Fechtig
BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>T-10495</u>

CASH: CHECK:# 4299 OTHER: (IDENTIFY)

TOTAL REC'D \$ 500.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$ _____

0410 RESEARCH FEES \$ _____

0408 MISC REVENUE: (IDENTIFY) _____ \$ _____

TC162 DEPOSIT LIAB. (IDENTIFY) _____ \$ _____

0240 EXTENSION OF TIME \$ _____

WATER RIGHTS:

EXAM FEE		RECORD FEE
\$ _____	0202	\$ _____
\$ _____	0204	\$ _____
\$ <u>500.00</u>		

WELL CONSTRUCTION

EXAM FEE		LICENSE FEE
\$ _____	0219	\$ _____
\$ _____	0220	\$ _____

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

OTHER (IDENTIFY) _____

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OVER THE COUNTER**

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD # _____

0210 MONITORING WELLS \$ _____ CARD # _____

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD) \$ _____

0231 HYDRO LICENSE FEE (FWWRD) \$ _____

HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **90764**

DATED: 11/28/07 BY: J. Parake



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

Application for

Ground Water Registration Modification

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

1. TYPE OF APPLICATION

Please check one of the following:

- Permit Amendment Ground Water Registration Modification

2. APPLICANT INFORMATION

Name: Allen and Mary Ruth Fechtig
First Last

Address: 1650 Christmas Tree Drive NW

Albany OR 97321
City State Zip

Phone: 541-928-9806 541-990-1512
Home Work Other

Fax: 541-926-7437 E-Mail address: afechtig@gmail.com

3. AGENT INFORMATION

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

Name: Martha O. Pagel, Schwabe Williamson & Wyatt
First Last

Address: Equitable Center, 530 Center Street NE, Suite 400

Salem OR 97301
City State Zip

Phone: 503-540-4262
Home Work Other

Fax: 503-796-2900 E-Mail address: mpagel@schwabe.com

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

Ground Water Registration Modifications

- You may propose modification of only one ground water registration per application, unless in accordance with OAR 690-382-0300(2), the ground water registrations to be modified are layered. (**NOTE:** Concurrent changes to a water right must be filed separately on a transfer application.)

4. TYPE OF AMENDMENT OR MODIFICATION PROPOSED

Please check **all** of the following that apply:

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> Change (The old point of diversion or appropriation will not be used for the portion of the water right affected by the amendment or modification.) <input type="checkbox"/> Additional (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the amendment or modification.) <p style="text-align: center;"><i>Not Available for <u>Ground Water Registrations</u></i></p> <input type="checkbox"/> Surface Water to Ground Water (A new point of appropriation will be used instead of the old point of diversion. The old point of diversion will not be used.)	<input type="checkbox"/> All of the Permit or Registration will be exercised at a different location than currently authorized (Use of water at the current authorized location will be discontinued.) <input type="checkbox"/> Only a portion of the Permit or Registration will be exercised at a different location than currently authorized (Use of water at a <u>portion</u> of the current authorized location will be discontinued.)	<p style="text-align: center;"><i>Not Available for <u>Permit Amendments</u></i></p> Change existing authorized use to the following proposed <u>new</u> use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Domestic (indicate number of households): _____ <input type="checkbox"/> Other _____

- Reason(s) for amendment/modification(s): To have authorized points of appropriation on our property for this Ground Water Registration.

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5. CURRENT PERMIT OR REGISTRATION INFORMATION

WATER RESOURCES DEPT
SALEM, OREGON

Permit or Registration to be Amended/Modified (*check and complete one of the following*):

Permit to be Amended:

Permit Number

Current Completion Date of Permit

Ground Water Registration
to be Modified:

GR- 2394
Ground Water Registration Number

NOTE: Concurrent changes to a
water right must be filed separately
on a transfer application.

- Name on Permit or Registration: Russell H. and Jessie Parker (both deceased)
- County: Benton
- Authorized Use(s) to be affected by this Amendment/Modification: Irrigation

- Priority Date(s): 7/06/1951

If there are multiple Priority Dates identified on the Permit or Registration, any information provided on pages 4 through 7 must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

- All Source(s) of Water to be affected by this Amendment/Modification: Groundwater

Tributary to: Willamette River

If there are multiple Sources listed on the Permit or Registration, any information provided on pages 4 through 7 must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

For an application proposing a Change in Place of Use or Character of Use:

- Are there any other "Layered" Water Rights, Permits, or Ground Water Registrations issued for **Irrigation** purposes that are appurtenant to the same place of use as the Permit or Registration being Amended/Modified? Yes No N/A -No Change in Use or Place of Use

If "Yes", pursuant to ORS 540.510, OAR 690-380-2240 and OAR 690-382-0200, the other "layered" water uses subject to transfer must either change concurrently or be cancelled, except as provided in OAR 690-380-2240(5).

- Remarks: _____

- *The following information must be provided only for those points of diversion or appropriation that are involved in the permit amendment or ground water registration modification (i.e., list only the portion of the permit/registration you propose to amend/modify.) Attach additional pages as necessary.*

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

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Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:

(i.e., the allowed point(s) of diversion/appropriation that will be affected by the proposed amendment/modification, the "FROM" point(s) of diversion/appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-____)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
BENT 2064	Groundwater 7/06/1951	10 S	4 W	WM	36	NENE	DLC 43	N 30 deg 40 min W 46.8 chains fm SE Cor DLC 79, T 10 S, R 3 W

NOTE: Error in survey coordinate information in registration statement. Should be from SE Cor of DLC 79, T 10 S, R 3 W, not R 2 W.

- Does the permit/registration being amended/modified involve a ground water source(s)?
 Yes No (Surface water source only.)

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

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map.

(NOTE: You may search for well logs on the Department's website at: www.wrd.state.or.us)

or

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

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

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

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

- The following information must be provided only for those places of use that are involved in the permit amendment or ground water registration modification (i.e., list only the portion of the permit/registration you propose to amend/modify.) Attach additional pages as necessary.

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

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Location of Existing Authorized Place of Use to be Affected:

(i.e., the allowed lands that will be affected by the proposed amendment/modification, the "FROM" lands)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
GW – 7/06/1951	10 S	4 W	WM	25	SE SE	DLC 43	8.8
GW – 7/06/1951	10 S	4 W	WM	36	NE NE	DLC 43	5.5

WATER RESOURCES DEPT
SALEM, OREGON

6. PROPOSED PERMIT AMENDMENT OR REGISTRATION MODIFICATION

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

Location of Proposed Point(s) of Diversion or Appropriation: (i.e., the "TO" point(s) of diversion/appropriation)
 (NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Well 1 BENT 1881	10 S	4 W	WM	25	SE SE	DLC 43	2100 ft W & 3440 ft N from SE Cor DLC 79, T 10 S, R 3 W, WM
Well 2 BENT 1882/2050	10 S	4 W	WM	25	SE SE	DLC 43	2120 ft W & 3245 ft N from SE Cor DLC 79, T 10 S, R 3 W, WM
Well 3 BENT 2052/2049	10 S	4 W	WM	36 25	SE SE	DLC 43	2135 ft W & 3045 ft N from SE Cor DLC 79, T 10 S, R 3 W, WM
				per map			

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

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below.

(NOTE: You may search for well logs on the Department's website at: www.wrd.state.or.us)

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

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

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

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
Yes	BENT 1881	SEE	WELL	LOG						
Yes	BENT 1882/2050	SEE	WELL	LOG						
Yes	BENT 2052/2049	SEE	WELL	LOG						

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

Location of Proposed Place of Use: (i.e., the "TO" lands)

(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

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

Remarks: _____

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

- Are any of the Permit(s) or Registration(s) proposed for amendment/modification located within or served by an irrigation or other water district? Yes No
- Will any of the Permit(s) or Registration(s) be located within or served by an irrigation or other water district after the proposed amendment/modification? Yes No
- Is water for any of the Permit(s) or Registration(s) supplied under a water service agreement or other contract for stored water with a federal agency? Yes No

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

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

_____ Benton County Planning
 _____ 360 SW Avery Ave.
 _____ Corvallis, OR 97333

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 SALEM, OREGON

8. PERMIT HOLDER OF RECORD

This section is to be completed only for Permit Amendment applications.

N/A – This is a Ground Water Registration Modification application.

Is the applicant the permit holder of record? Yes No

If "No", the applicant must either:

A. Be assigned as a permit holder of record by submitting a completed **Request for Assignment** form and the required statutory fee for an assignment;

or

B. Submit an **Affidavit of Consent** from the permit holder of record that gives permission for the applicant to amend the permit.

9. LAND OWNERSHIP

If for a Ground Water Registration Modification:

Does the applicant own the lands **FROM** which the registration is being moved? Yes No

If "No", provide the following information:

Names of Current Landowner(s): NA
First Last

Address: _____

City State Zip

Does the applicant own the lands **TO** which the registration is being moved? Yes No

If "No", provide the following information:

Names of Receiving Landowner(s): _____
First Last

Address: _____

City State Zip

Check one of the following:

The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.

The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.

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10. ATTACHMENTS

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

<p>Map:</p> <p><input checked="" type="checkbox"/> A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.</p> <p>Land Use Information Form:</p> <p><input checked="" type="checkbox"/> Enclosed; <i>or</i></p> <p><input type="checkbox"/> Not required if all of the following are met:</p> <ul style="list-style-type: none">❶ In EFU zone or irrigation district;❷ Change in place of use only;❸ No structural changes needed, including diversion works, delivery facilities, other structures; <i>and</i>❹ Irrigation only. <p>Water Well Reports/Well Logs:</p> <p><input checked="" type="checkbox"/> The application involves a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.</p> <p><input type="checkbox"/> Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.</p> <p><input type="checkbox"/> N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.</p>	<p>Fees:</p> <p><input checked="" type="checkbox"/> Amount enclosed: \$ <u>500.00</u> See the Department's Fee Schedule at www.wrd.state.or.us/OWRD/PUBS/forms.shtml or call (503) 986-0900.</p> <p><u>For Permit Amendments Only...</u></p> <p>Request for Assignment:</p> <p><input type="checkbox"/> Enclosed. The applicant is NOT the permit holder of record and needs to be assigned to the permit; OR the landowner of the proposed place of use is NOT the permit holder of record and needs to be assigned to the permit. <i>The Request for Assignment form is available online at: www.wrd.state.or.us/OWRD/PUBS/forms.shtml ; <i>or</i></i></p> <p><input type="checkbox"/> N/A. The applicant is the permit holder of record and owns or controls the proposed place of use; OR the applicant is <i>not</i> the permit holder of record but is supplying an Affidavit of Consent from the permit holder.</p> <p>Affidavit of Consent:</p> <p><input type="checkbox"/> Enclosed. Because the applicant is NOT the permit holder of record, an Affidavit of Consent is being supplied that gives permission for the applicant to amend the permit; <i>or</i></p> <p><input type="checkbox"/> N/A. Not required because the applicant is the permit holder of record.</p>
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Before submitting your application to the Department, be sure you have:

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

11. SIGNATURES

- **For Ground Water Registration Modification Applications only, check the appropriate one and sign the application in the signature box below:**


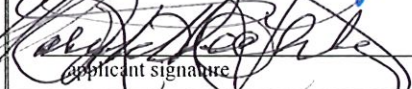
In accordance with OAR 690-382-0400(16)(a), I (we) understand that prior to Department approval of a permanent modification and upon my receipt of a draft Preliminary Determination for the proposed modification, I (we) will be required [pursuant to OAR 690-382-0700(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the modification:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed modification provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the recorded agreement and a listing of the owner(s) of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the applicant is not both the person named on the ground water registration or the assignee *and* the owner of the lands to which the registration is appurtenant, as identified in the report of ownership and lien information, then either of the following must be provided:
 - A) Notarized statements consenting to the modification by all persons, other than the applicant, who are named on the ground water registration or identified as landowners in the report of ownership and lien information or who are authorized representatives of an entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement; or
 - B) Documentation demonstrating that the applicant is authorized to pursue the modification in the absence of consent of the persons named on the ground water registration or the assignee and the owner of the lands to which the registration is appurtenant.

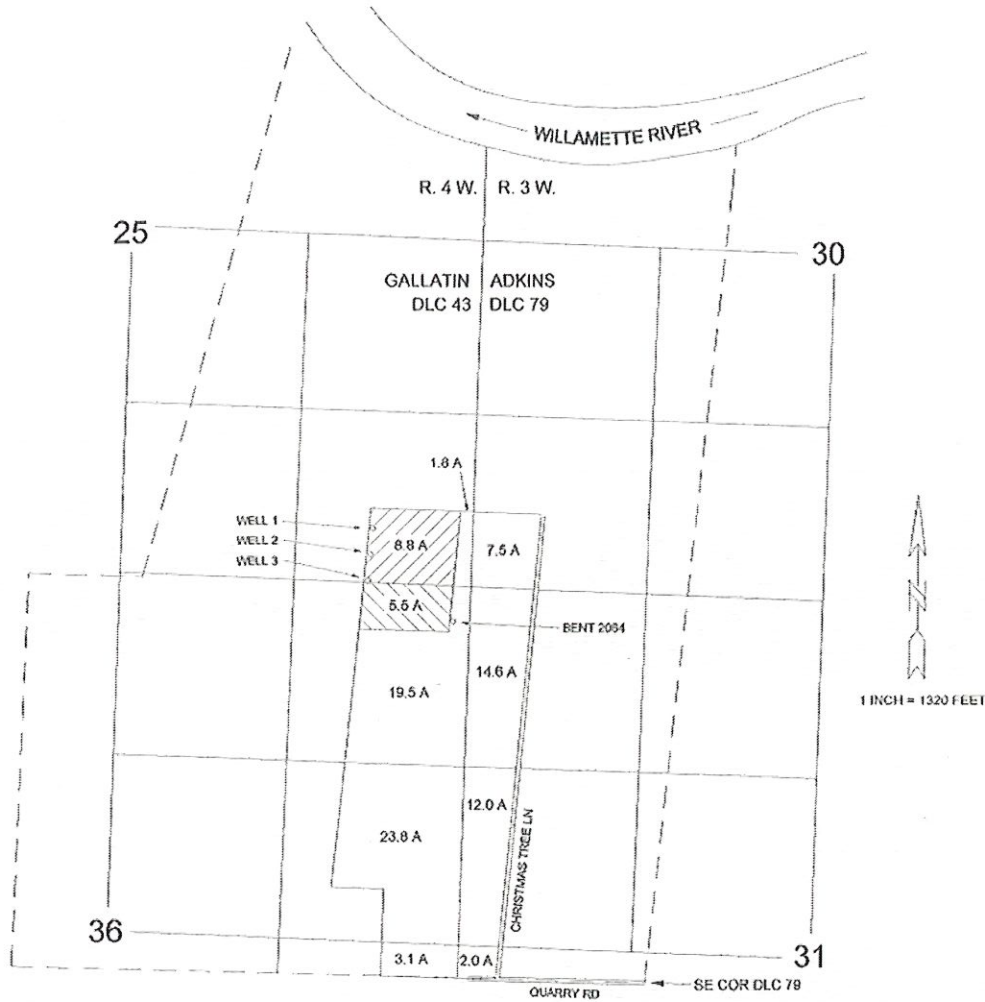
I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-382-0400(16)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the ground water registration proposed for modification is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-382-0400(16)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for recognition of a modification under this subsection if it has filed a condemnation action to acquire the property and deposited the funds with the court as required by ORS 35.265.)

- **For both Permit Amendment and Ground Water Registration Modification Applications, I (we) affirm that the information contained in this application is true and accurate.**

 applicant signature	ALLEN D. FECHTIG name (print)	11/15/07 date
 applicant signature	MARY RUTH FECHTIG name (print)	11/15/07 date

T. 10 S., R. 3 & 4 W., W.M.



BENT 2064 (ORIG. WELL): N 30 DEG 40 MIN W 46.8 CH. FROM SE COR DLC 79
 WELL 1: 2100 FT W & 3440 FT N FROM SE COR DLC 79
 WELL 2: 2120 FT W & 3245 FT N FROM SE COR DLC 79
 WELL 3: 2135 FT W & 3045 FT N FROM SE COR DLC 79

MAP FOR APPLICATION TO MODIFY GROUNDWATER REGISTRATION GR-2394

PREPARED FOR:
 ALLEN & MARY RUTH FECHTIG
 PAR-FECT ORCHARDS
 ALBANY, OR

PREPARED BY:
 GARY BALL, PE, PLS, CWRE
 BALL ENGINEERING & SURVEYING
 LA CENTER, WA



RENEWAL DATE: 12/31/2007

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WATER RESOURCES DEPT
 SALEM, OREGON

STATE ENGINEER
Salem, Oregon

Well Record

STATE WELL NO. 10/LW-36A
COUNTY BENTON
APPLICATION NO. GR-2394

OWNER: Russell H. & Jessie Parker

MAILING ADDRESS: 904 North Albany Road

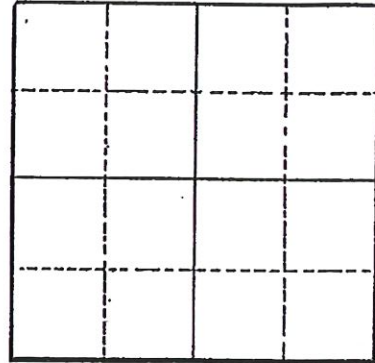
LOCATION OF WELL: Owner's No. _____

CITY AND STATE: Albany, Oregon

NE 1/4 NE 1/4 Sec. 36 T. 10 N S. R. 4 W., W.M.

Bearing and distance from section or subdivision corner N. 30° 40' W. 46.8 chains from SE corner

DLC 79. T. 10 S. R. 2 W.



Section _____

Altitude at well _____

TYPE OF WELL: Drilled Date Constructed 1951

Depth drilled 28 Depth cased 28

CASING RECORD:

6-inch

FINISH:

Slot perforations from 24 to 28

AQUIFERS:

WATER LEVEL:

14-feet

PUMPING EQUIPMENT: Type Fairbanks Morse 3" Centrifugal H.P. 20
Capacity 450 G.P.M.

WELL TESTS:

Drawdown 5 ft. after _____ hours Pumping 650 G.P.M.

Drawdown _____ ft. after _____ hours _____ G.P.M.

USE OF WATER Irrigation Temp. _____ °F. _____, 19.

SOURCE OF INFORMATION GR-2275

DRILLER or DIGGER Bill Hamilton Drilling Co., 838 East Third Ave., Albany, Oregon

ADDITIONAL DATA:

Log _____ Water Level Measurements _____ Chemical Analysis _____ Aquifer Test _____

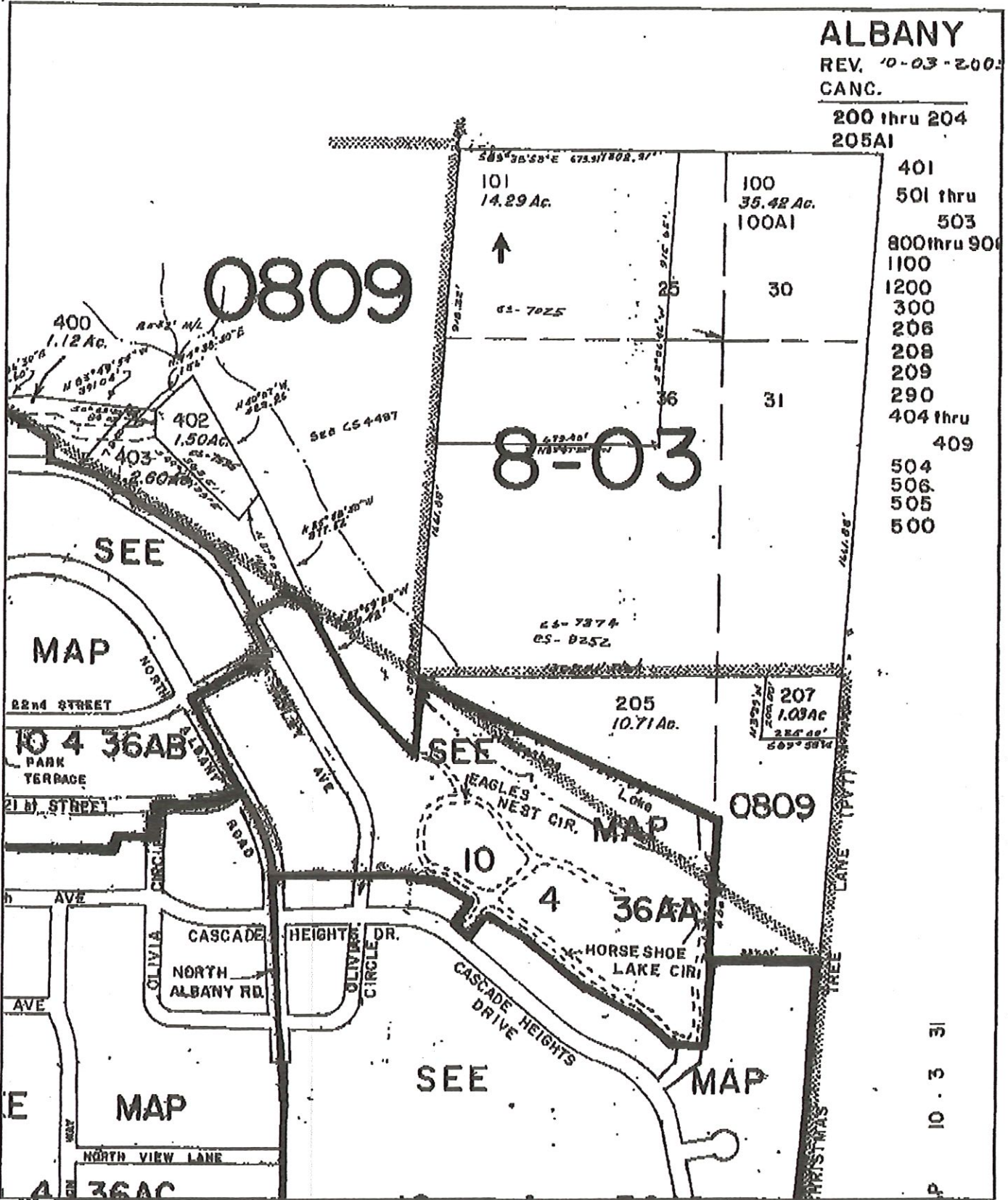
REMARKS:

ALBANY

REV. 10-03-2003
CANC.

200 thru 204
205A1

- 401
- 501 thru
- 503
- 800 thru 900
- 1100
- 1200
- 300
- 206
- 208
- 209
- 290
- 404 thru
- 409
- 504
- 506
- 505
- 500



MAP FURNISHED AS A CONVENIENCE BY FIDELITY NATIONAL TITLE COMPANY

This sketch is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



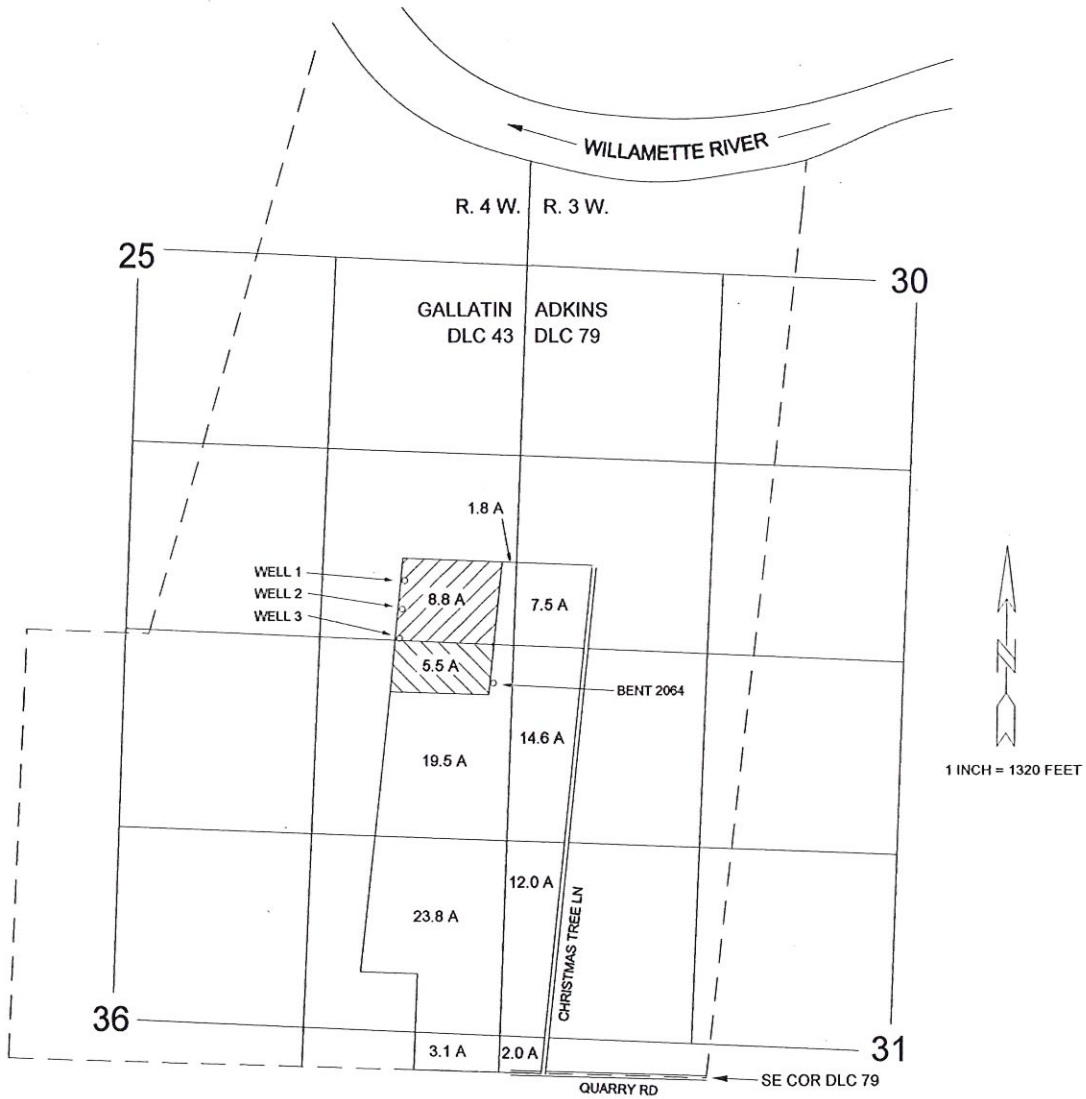
MAP # 10438-00-00101

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SALEM, OREGON

T. 10 S., R. 3 & 4 W., W.M.



BENT 2064 (ORIG. WELL): N 30 DEG 40 MIN W 46.8 CH. FROM SE COR DLC 79
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MAP FOR APPLICATION TO MODIFY GROUNDWATER REGISTRATION GR-2394

PREPARED FOR:
 ALLEN & MARY RUTH FECHTIG
 PAR-FECT ORCHARDS
 ALBANY, OR

PREPARED BY:
 GARY BALL, PE, PLS, CWRE
 BALL ENGINEERING & SURVEYING
 LA CENTER, WA

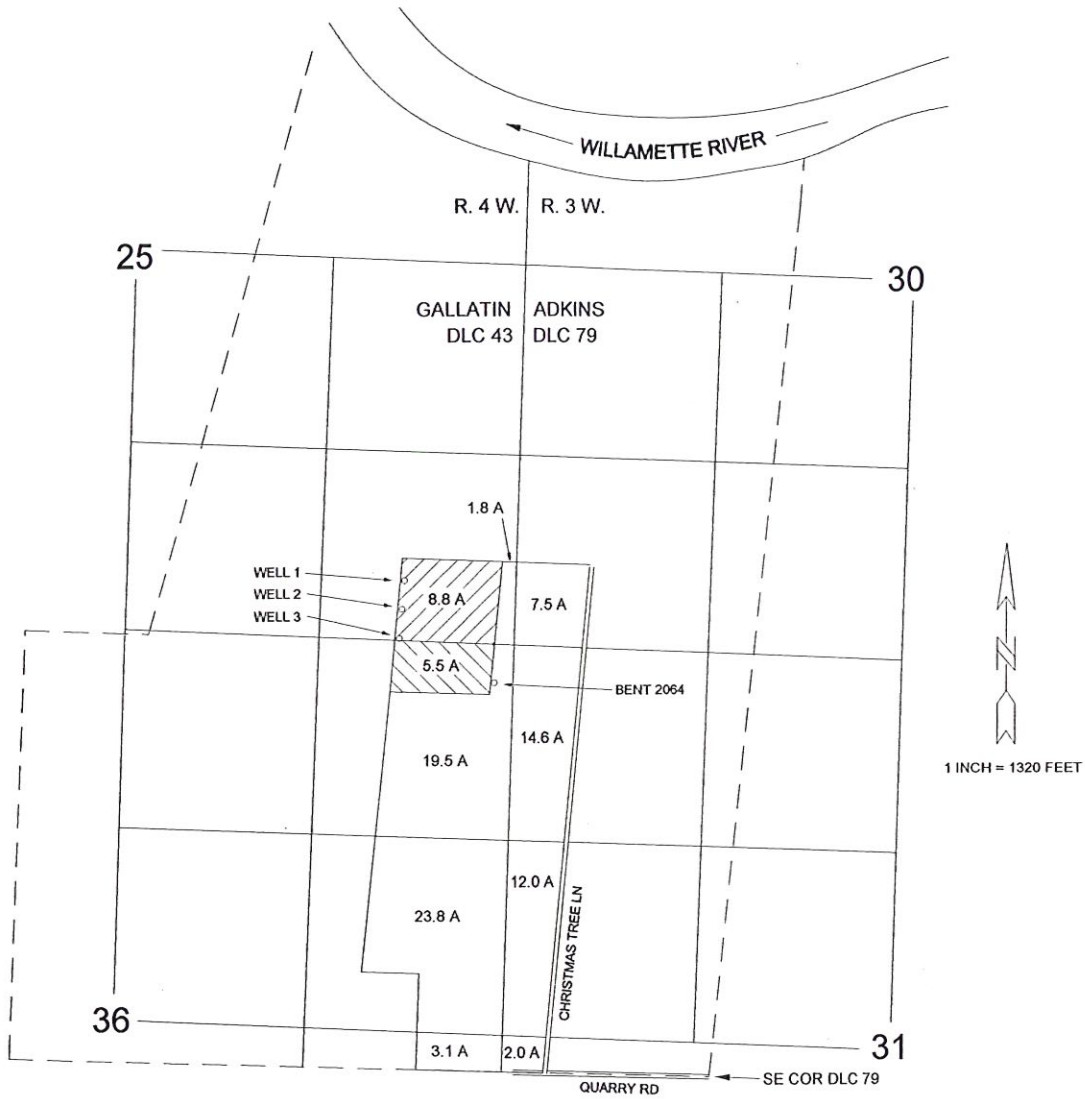
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 DEC 05 2007
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 SALEM, OREGON



RENEWAL DATE: 12/31/2007

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T. 10 S., R. 3 & 4 W., W.M.

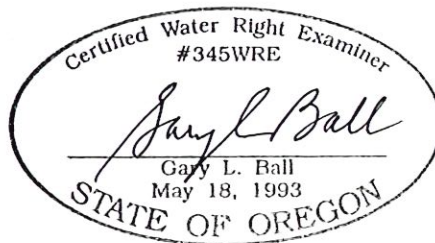


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MAP FOR APPLICATION TO MODIFY GROUNDWATER REGISTRATION GR-2394

PREPARED FOR:
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 LA CENTER, WA



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RENEWAL DATE: 12/31/2007

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MARTHA O. PAGEL
Admitted in Oregon and Washington
Direct Line: Salem 503-540-4260; Portland 503-796-2872
E-Mail: mpagel@schwabe.com

November 28, 2007

BY HAND DELIVERY

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

Re: Application for Ground Water Registration Modification
Allen and Mary Ruth Fechtig
Our File No.: 117562/155593

Dear Lisa:

Enclosed please find an application for modification of ground water registration, to be filed on behalf of our clients, Allen and Mary Ruth Fechtig. We have also enclosed their check in the amount of \$500 for the application fee. **Please note that I will be the contact person for this application.**

As described in the application materials, Mr. and Mrs. Fechtig own land in Benton County to which a portion of GR 2394 is appurtenant. The application seeks addition of three wells located on the Fechtig's property as authorized points of appropriation for their portion of the registration. Copies of well logs for the three existing wells are enclosed. The application does not propose any changes to the portion of the registration that is not appurtenant to the Fechtig's ownership.

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OVER THE COUNTER

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Lisa Jaramillo
November 28, 2007
Page 2

Thank you for your assistance in processing this request. If you have questions or need any additional information, please let me know.

Sincerely,



Martha O. Pagel

MOP:kdo
Enclosure

cc: (all w/encls.)
Allen & Mary Ruth Fechtig
Gary L. Ball, PE, PLS, CWRE

BENTON COUNTY, OREGON 2007-429746
DE-FOR
Cnt=1 Str=9 11/05/2007 01:38:44 PM
\$20.00 \$11.00 \$10.00 \$15.00 \$56.00



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



DEED IN LIEU OF FORECLOSURE

Grantor's Name and Address:

Par-Fect Orchards, Inc., an
Oregon corporation
1650 Christmas Tree Drive NW
Albany OR 97321

Grantee's Name and Address:

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

After recording return to:

✓ James H. Jordan PC
Attorney at Law
P. O. Box 983
Albany, OR 97321

**The true and actual
consideration for this
conveyance is \$ None
(trust deed foreclosure)**

**Until a change is requested
all tax statements shall be
sent to:**

Allen D. Fechtig
Mary Ruth Fechtig
1642 Christmas Tree Drive NW
Albany OR 97321

Tax Account Information:

Account No. [REDACTED] Map No. 10436 0101; Code No. 0803

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SALEM, OREGON**

CONVEYANCE

Par-Fact Orchards, Inc., an Oregon corporation, Grantor, conveys to Allen D. Fechtig and Mary Ruth Fechtig, husband and wife as tenants by the entirety, Grantee, the following described real property in Benton county, Oregon:

X Beginning at a 3/4 inch pipe on the northerly extension of the West line of that parcel described in deed recorded in Microfilm No. M-38698, Benton County Microfilm Records which point is 1149.13 feet South 89°58' West, 3548.40 feet North 3°26'46" East and 1302.58 feet North 89°58' West, 3580.40 North 3°26'46" East and 1302.58 feet North 89°58'53" West of the Southeast corner of the Gallatin Adkins Donation Land Claim No. 79, Township 10 South, Range 3 West, Willamette Base and Meridian, Benton County, Oregon; thence South 89°58'53" East 679.91 feet to a 5/8 inch rod; thence South 3°26'46" West 915.65 feet to a 5/8 inch iron rod; thence North 89°47'25" West 679.40 feet to the West line of said parcel; thence North 3°24'15" East 918.32 feet to the point of beginning.

TOGETHER WITH the right to use for road and utility purposes a 30 foot strip of land the East and North line of which are described as follows: Beginning at the Southeast corner of that parcel described in deed recorded in Book 146, Page 321, Deed Records of Benton County, Oregon, which point is on the South line of the Gallatin Adkins Donation Land Claim No. 79 in Township 10 South, Range 3 West of the Willamette Meridian, Benton County, Oregon, and 1149.13 feet South 89°58' West of the Southeast corner of said Claim; thence North 3°26'46" East, along the East line of said parcel and the East line of that parcel described in deed recorded as M-38698, Microfilm Records of Benton County, Oregon, 3485.96 feet to a 5/8 inch iron rod; thence North 44°17'43" West 87.12 feet to a 5/8 inch iron rod; thence North 89°58'53" West 622.67 feet to the Northeast corner of the above described parcel. Said right of way to extend from the South line of said Gallatin Adkins Claim to the East line of the above described parcel. X

106740 N01

Grantor covenants that:

This deed is absolute in effect and conveys and warrants fee simple title of the premises above described to the Grantee and does not operate as a mortgage, trust conveyance, or security of any kind.

Grantor is the owner of the premises free of all encumbrances except the line of credit trust deed executed to grantee, dated October 19, 2005, and recorded on October 21, 2005, at Record No. 2005-394301 of the official records of Benton County, Oregon, and the line of credit trust deed executed by Grantor to Beaver Spray Service, Inc., an Oregon corporation, recorded on January 27, 2006, as Document No. 2006-399061, records of Benton County, Oregon, and except those of record.

This deed does not effect a merger of the fee ownership and the lien of the line of

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SALEM, OREGON

credit trust deeds described above. The fee and lien shall hereafter remain separate and distinct.

In consideration of Grantee's agreement not to file suit for a money judgment against Grantor, Grantee's waiver of the right to claim reasonable attorney fees and costs and Grantor's benefit from remaining in possession of the premises described above until relinquished at the time of this conveyance, Grantee may retain all payments previously made on the secured debt with no duty to account therefor.

By acceptance of this deed, Grantee covenants and agrees that Grantee shall forever forbear taking any action whatsoever against Grantor on the line of credit trust deed above described, other than by foreclosure of that line of credit trust deed and that in any proceeding to foreclose the line of credit trust deed Grantee shall not seek, obtain or permit a deficiency judgment against Grantor, or Grantor's heirs or assigns, such rights and remedies being hereby waived.

Grantor does hereby waive, surrender, convey, and relinquish any equity of redemption and statutory rights of redemption concerning the real property and line of credit trust deed described above.

Grantor is not acting under any misapprehension as to the legal effect of this deed, not under any duress, undue influence, or misrepresentation of Grantee, Grantee's agent or attorney, or any other person.

THIS TRANSACTION IS NOT INTENDED TO CONSOLIDATE ANY OF THE INDIVIDUALLY DESCRIBED PARCELS OR TAX LOTS FOR LAND USE, TAX LOTS, OR ANY OTHER PURPOSE.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST

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SALEM, OREGON

Fidelity National Title Company of Oregon
198 Commercial St. SE, Suite 200, Salem, OR 97301
Phone: 503-585-7219 Fax: 503-585-3474

LIEN AND ENCUMBRANCE REPORT

Prepared for:
Allen Fechtig
1642 Christmas Tree Lane NW
Albany, OR. 97321

November 14th, 2007

Property Address: 1650 Christmas Tree Lane NW; Albany, OR. 97321

Reference Name: Fechtig, Allen D. & Mary Ruth

Benton County
Your Reference

Title #: 07-5027
Order #: n/a
Charge: \$85.00

We have searched our tract indices as to the following described property:

(See attached Exhibit attached to Conveyance Instrument)

As of November 8th, 2007 p.m. we find that the last deed of record runs to:

Allen D. Fechtig and Mary Ruth Fechtig, as tenants by the entirety

We also find the following apparent monetary encumbrances affecting the herein described property as of the effective date:

1. Taxes for the year 2007-2008, plus interest, unpaid

Amount: \$485.53

Account No. [REDACTED]

Map No. 105360000101

2.) Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:

Amount: \$200,000.00

Dated: October 19, 2005

Grantor: Par-Fect Orchards Inc., an Oregon Corporation

Trustee: James H. Jordan, Attorney at Law

Beneficiary: Allen D. Fechtig and Mary Ruth Fechtig

Recorded: October 21, 2005, Recorder's No. 2005-394301

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SALEM, OREGON

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3.) Line of credit Deed of Trust, to secure an indebtedness as shown below and any other obligation secured thereby:

Amount: \$350,000.00

Dated: January 23, 2006

Grantor: Par-Fect Orchards Inc., an Oregon Corporation

Trustee: James H. Jordan, Attorney at Law

Beneficiary: Beaver Spray Service Inc., an Oregon Corporation

Recorded: January 27, 2006, Recorder's No. 2006-399061

NOTES:

We have also searched our General Index for judgments and State and Federal Tax Liens against the above named grantee and find the following:

None .

THIS INFORMATION IS A PLANT SERVICE OF FIDELITY NATIONAL TITLE, IT IS NOT TITLE INSURANCE OR A GUARANTEE, THIS SERVICE DOES NOT INCLUDE ANY SUPPLEMENTAL REPORTS OR ANY OTHER INFORMATION, LIABILITY FOR ERRORS OR OMISSIONS IS LIMITED TO THE AMOUNT CHARGED.

Examined by



Jeff Wilson, V.P. & Mid-Willamette Valley Title Manager

Fidelity National Title

198 Commercial St. SE, Ste. 200

Salem, OR. 97301

Email: jeff.wilson@fnf.com

Office Phone: (503)585-7219

Mobile Phone: (503)798-5120

Fax: (503)362-4962

Thank you for using Fidelity National Title Company of Oregon

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SALEM, OREGON

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Oregon Water Resources Department Land Use Information Form

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

Applicant Name: ALLEN & MARY RUTH FECHTIG, PAR-FECT ORCHARDS
Mailing Address: 1650 CHRISTMAS TREE LANE NW
City: ALBANY State: OR Zip: 97321 Day Phone: 541-990-1512

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

A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
10 S	4 W	36	NENE	101	EFU	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	IRRIG.
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

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

B. Description of Proposed Use

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

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

Source of water: Reservoir/Pond Ground Water Surface Water (name) _____

Estimated quantity of water needed: 65 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: THIS APPLICATION IS FOR THE PUPOSE OF PROVIDING AUTHORIZED POINTS OF DIVERSION ON OUR PROPERTY

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

Receipt for Request for Land Use Information

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

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WATER RESOURCES DEPT
SALEM, OREGON

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For Local Government Use Only

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

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

Please check the appropriate box below and provide the requested information

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): BCC 55.105(1) - Farm use.

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

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

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

Name: Greg Verret Title: Planning Official
 Signature: [Signature] Phone: 541-766-6819 Date: 10/29/07
 Government Entity: Benton County

RECEIVED

NOV 28 2007

WATER RESOURCES DEPT
 SALEM, OREGON

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: Benton County Staff contact: Toby Lewis
 Signature: [Signature] Phone: 760-6819 Date: 10/29/07