

T-13433

T-13433

Regular

Name Darvin BundtrockAddress Po Box 773
Ontario Oregon 97914Change in APDDate Filed 5/8/2020Initial notice date 5/19/2020DPD issued date 11/30/2020PD issued date 3/24/2021PD notice date 3/30/2021Date of FO 5/19/2021 Vol 120 Page 1021C-Date 10/1/2022COBU due date 10/1/2023

COBU Received date

Certificate issued

DESCRIPTION OF WATER RIGHT(S)

Name of Stream malheur riverTrib. of Snake riverUse IrrigationCounty malheur

Quantity of water (CFS)

No. of Acres

Name of ditch

App# DecreePer # malheur riverCert # 47180PR Date 8/25/1907

App#

Per #

Cert #

PR Date

App#

Per #

Cert #

PR Date

App#

Per #

Cert #

PR Date

App#

Per #

Cert #

PR Date

FEES PAID

Date	Amount	Receipt #
5-8-2020	\$1,160.00	132473
2-26-21	\$127.87	134631

FEES REFUNDED

Date	Amount	Receipt #
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Assignments:

Irrigation District

Agent

CWRE

CC's list malheur county☐ - Oversized map - Location



Oregon
Kate Brown, Governor

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

May 19, 2021

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

REFERENCE: Transfer Application T-13433

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

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

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

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

If you have any questions related to the approval of this transfer, you may contact your caseworker, Corey Courchane, by telephone at (503) 986-0825 or by e-mail at Corey.A.Courchane@oregon.gov.

Sincerely,

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

cc: Jered L. Hoshaw, Watermaster Dist. #9 (via email)
Malheur County Planning

Enclosure

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-13433, Malheur County) ADDITIONAL POINT OF DIVERSION

Special Order Volume 120, Page 6260

4. On March 24, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13433 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 30, 2021, and in the Ontario Argus Observer newspaper on March 26, 2021, and April 2, 2021 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 47186 in the name of THOS J BROSINAN (confirmed by MALHEUR RIVER Decree)

Use: IRRIGATION of 3.5 ACRES, DOMESTIC and STOCK

Priority Date: AUGUST 25, 1902

Rate/Duty: 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.

Source: MALHEUR RIVER, a tributary of SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	POD 1 - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION, DOMESTIC and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	NE SW	3.5

6. Transfer Application T-13433 proposes an additional point of diversion approximately 6.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	28	NE SW	3	POD 2 - 748 FEET SOUTH AND 348 FEET EAST FROM THE CENTER-WEST 1/16 CORNER OF SECTION 28

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

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

8. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13433.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Conclusions of Law

The additional point of diversion proposed in Transfer Application T-13433 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

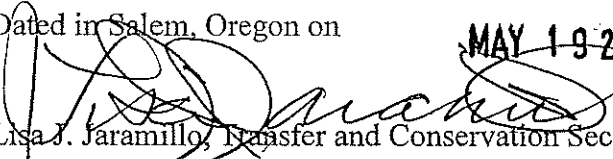
Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-13433 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 47186 and any related decree.
3. Water right Certificate 47186 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The combined quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

6. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

MAY 19 2021


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

Mailing date: **MAY 20 2021**

STATE OF OREGON
COUNTY OF MALHEUR
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOS. J. BROSNAN
ONTARIO, OR 97914

confirms the right to use the waters of MALHEUR RIVER, a tributary of SNAKE RIVER for IRRIGATION of 32.5 ACRES, DOMESTIC , AND STOCK.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Malheur County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 8, at Page 228. The date of priority is AUGUST 25, 1902.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	BROSNAN DITCH - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

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

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	SW NW	2.0
17 S	47 E	WM	28	NE SW	3.5
17 S	47 E	WM	28	NW SW	2.0
17 S	47 E	WM	29	SW NE	10.0
17 S	47 E	WM	29	NE SE	7.0
17 S	47 E	WM	29	NW SE	3.0
17 S	47 E	WM	29	SE SE	5.0
Total					32.5

This certificate describes that portion of water right Certificate 47186, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered MAY 19 2021, approving Transfer Application T-13433.

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

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

WITNESS the signature of the Water Resources Director, affixed MAY 19 2021.

A handwritten signature in black ink, appearing to read "Lisa J. Jaramillo", written over a horizontal line.

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

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 13433

Transfer Specialist: *Corey*

Transfer Type: Regular

Applicant: DARYN BUNDTROCK PO BOX 773 ONTARIO, OR 97914 Email: _____ Phone: _____		Agent: ☐ N/A UNAVAILABLE Email: _____ Phone: _____	
Irrigation District: ☐ N/A Email: _____		CWRE: ☐ N/A Email: _____	
Affected Local Gov'ts: ☐ N/A Malheur County Planning Department Email: _____		Affected Tribal Gov't: ☐ N/A UNAVAILABLE Email: _____	
Current Landowner if other than Applicant: ☐ N/A Email: _____		Receiving Landowner: ☐ N/A Email: _____	

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☐	Decree	Malheur River	47186	☒ Yes ☐ No	95556
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	

Key Dates & Initial Actions:

Rec'd: May 8, 2020	Proposed Action(s): ADDITIONAL POINT OF DIVERSION	
Fees Pd: 1160.00	WM District: 9	ODFW District:
Initial Public Notice: May 19, 2020	WM Review sent:	ODFW Review sent:
Acknowledgement Letter Sent ☒		GW Review sent: ☐ N/A
County sent cc: of Ack Letter ☐	BOR notified (date): ☐ N/A	
Newspaper quote requested: 2/16/21	Request for news \$ sent: 2/22/21	News \$ received: 2-26-21
Request to publish sent:	Affidavit of publication received:	Last day of publication:

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: 11/6/20 Initials: CC	Date: 11/17/20 Initials: Jom	Date: _____ Initials: _____	Date: 11/23/20 Initials: PKS	Date: 11/30/20 Initials: CC	CW Sent: 11/30/20	N/A
PD	Date: 1/14/21 Initials: CC	Date: 1-15-21 Initials: AB	Date: _____ Initials: _____	Date: 2/8/21 Initials: PKS	Date: _____ Initials: _____	Date: 3/15/21	MAR 24 2021
FO	Date: 4/12/21 Initials: CC	Date: 4/15/21 Initials: Scott	Date: _____ Initials: _____	Date: 4/19/21 Initials: PKS	Date: 4/19/21 Initials: CC	Date: 5/10/21	5/19/2021

Special Issues: _____

Special Order Volume: Vol. 120 Pages 626

**Notice of Preliminary Determination for
Water Right Transfer T-13433**

T-13433 filed by Daryn Bundtrock, PO Box 773, Ontario, OR 97914, proposes an additional point of diversion under Certificate 47186. The right allows the use of 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre from the Malheur River in Sec. 2, T18S, R46E, WM for irrigation, domestic, and stock in Sec. 28, T17S, R47E, WM. The applicant proposes an additional point of diversion in Sec. 28, T17S, R47E, WM. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

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

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

STATE OF OREGON
COUNTY OF MALHEUR
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOS. J. BROSNAN
ONTARIO, OR 97914

confirms the right to use the waters of MALHEUR RIVER, a tributary of SNAKE RIVER for IRRIGATION of 32.5 ACRES, DOMESTIC , AND STOCK.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Malheur County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 8, at Page 228. The date of priority is AUGUST 25, 1902.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	BROSNAN DITCH - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

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

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	SW NW	2.0
17 S	47 E	WM	28	NE SW	3.5
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17 S	47 E	WM	29	NE SE	7.0
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17 S	47 E	WM	29	SE SE	5.0
Total					32.5

This certificate describes that portion of water right Certificate 47186, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered _____, approving Transfer Application T-13433.

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

95556

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

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

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

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13433, Malheur County	)	ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Findings of Fact

1. On May 8, 2020, DARYN BUNDTROCK filed an application for an additional point of diversion under Certificate 47186. The Department assigned the application number T-13433.
2. Notice of the application for transfer was published on May 19, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 30, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13433 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 31, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

4. On March 24, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13433 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 30, 2021, and in the Ontario Argus Observer newspaper on , 2021 pursuant to ORS 540.520 and OAR 690-380-4020. **No protests** were filed in response to the notice.

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

Certificate: 47186 in the name of THOS J BROSNAN (confirmed by MALHEUR RIVER Decree)
Use: IRRIGATION of 3.5 ACRES, DOMESTIC and STOCK
Priority Date: AUGUST 25, 1902
Rate/Duty: 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.
Source: MALHEUR RIVER, a tributary of SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	POD 1 - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION, DOMESTIC and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	NE SW	3.5

6. Transfer Application T-13433 proposes an additional point of diversion approximately 6.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	28	NE SW	3	POD 2 - 748 FEET SOUTH AND 348 FEET EAST FROM THE CENTER-WEST 1/16 CORNER OF SECTION 28

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

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

8. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13433.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Conclusions of Law

The additional point of diversion proposed in Transfer Application T-13433 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-13433 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 47186 and any related decree.
3. Water right Certificate 47186 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The combined quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

6. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

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

Mailing date: _____

COURCHANE Corey A * WRD

From: MARTIN Duff A * WRD
Sent: Friday, February 26, 2021 11:45 AM
To: COURCHANE Corey A * WRD
Cc: BAUSTIAN Julie C * WRD
Subject: RE: PD for Review

Hi Corey,

Transfer T-13433 has been reviewed by data, with no issues, and is ready to be signed.

Thanks,

Duff Martin

Data Tech 2

725 Summer St NE Salem, OR 97301



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

From: BAUSTIAN Julie C * WRD <Julie.C.Baustian@oregon.gov>
Sent: Tuesday, February 16, 2021 10:57 AM
To: MARTIN Duff A * WRD <Duff.A.Martin@oregon.gov>
Subject: PD for Review

Please see attached. ☺

Julie Baustian
Water Right Support
725 Summer Street NE Ste A
Salem, Oregon 97301 | Phone 503-986-0815



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

Transfer / Data Center ROUTE SLIP

(...in between PD Peer Review and PD issuance)

1. Transfer Caseworker:

- Attach PD and RR (if any) to the front of the Transfer file and give to Transfer Support

Transfer Number:	T-13433
Caseworker:	Corey C
Is a Living Certificate Involved? → If YES... list Living Certificate number(s) HERE: ☐ YES ☒ NO	
Date delivered to T-Support:	2/16/21

2. Transfer Support:

Date Received from Caseworker:	2/16/2021
☐ Update Transfer/Data Center Tracking Log (...file sent to Data Center)	
Date Delivered to Data Center:	2/16/2021

3. Data Center:

Date Received from T-Support:	
☐ WRIS entry and mapping in ARCGIS. Any discrepancies noted? ☐ YES ☐ NO → If YES... Data Center routes back to Caseworker for re-review. • Date file sent back to CW for re-review: _____ ☐ Modified OR ☐ Determined should not be modified • Date CW returns file to Data Center: _____ • Date WRIS entry & ARCGIS Mapping completed: _____	
Date Delivered to T-Support:	

4. Transfer Support:

Date Received from Data Center:	
☐ Update Transfer/Data Center Tracking Log (...file received back from Data Center)	
Date Delivered back to Caseworker:	

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13433, Malheur County	)	PROPOSING APPROVAL FOR AN
	)	ADDITIONAL POINT OF DIVERSION

Authority

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

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PO BOX 773
ONTARIO, OR 97914

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2. Notice of the application for transfer was published on May 19, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 30, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13433 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 31, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.
--

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

Certificate: 47186 in the name of THOS J BROSNAN (confirmed by MALHEUR RIVER Decree)
Use: IRRIGATION of 3.5 ACRES, DOMESTIC and STOCK
Priority Date: AUGUST 25, 1902
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Source: MALHEUR RIVER, a tributary of SNAKE RIVER

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Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	28	NE SW	3	POD 2 - 748 FEET SOUTH AND 348 FEET EAST FROM THE CENTER-WEST 1/16 CORNER OF SECTION 28

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

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

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13433.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13433 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13433 is approved, the final order will include the following:

- 1. The additional point of diversion proposed in Transfer Application T-13433 is approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 47186 and any related decree.*
- 3. Water right Certificate 47186 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The combined quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).*
- 5. Water use measurement conditions:*
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.*
 - b. The water user shall maintain the meters or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 6. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

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

Dated in Salem, Oregon on

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

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

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

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

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

Regular Transfer Review Checklist

T- 13433

Caseworker: Corey

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

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

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

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

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

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7/2

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

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

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7/2

Amended Application Pages and Maps

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



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

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

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TRANSFER REVIEW Criteria (OAR 690-380-4010)

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

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

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

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Additional Findings of Fact

CW	N/A		CW	N/A	SAMPLE FINDING
☐	☒	Add Finding for submission of amended application pages or amended map	☐	☐	On ____, the applicant submitted an amended application page/map clarifying
☐	☒	Add Finding for timely comments received	☐	☐	On (date), timely comments were received from (name), asserting (issues). The Department has considered the comments and finds: (do they assert injury/enlargement or forfeiture?)
☐	☒	Add Watermaster Review	☐	☐	The District 7 Watermaster reviewed the proposed transfer application and concluded the proposed transfer would not result in enlargement of the right or injury to existing water rights. OR would result in injury or enlargement of the right unless it was conditioned

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Additional Conditions and Provisions under Review Criteria

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

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

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Determination and Conclusions of Law

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

Determination and Conclusions of Law (Cont'd)

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

OR, if denial

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

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

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

OR

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

OR

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

☒ The application is complete. **OR**

☐ The application is incomplete

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

☐ The application is incomplete because . . .

Ensure all conditions are carried forward in Order section.

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☒ N/A

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

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

Describe the basis for the denial

☐

☐ Injury

☐ Enlargement

☐ Deficiencies not rectified

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

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

☐

Examples: consent to injury; amend application to remove well

☐ Yes Approve with conditions

☐ No Must be denied

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DRAFT PRELIMINARY DETERMINATION**Document Preparation**

☐	☐ N/A	Additional Supplemental Review Criteria Checklist attached	
CW		CW	
☒		☒	Add agent, receiving landowner, if applicable, etc.
☒		☒	Compare "from" lands with marked up Table 2 of Application and Certificate
☒		☒	Compare Proposed Place of Use with Table 2 of Application and Map
☒		☒	Compare Proposed PODs/POAs with Table 1 of Application and Map
☒		☒	Compare authorized PODs/POAs with marked up Certificate
☒		☒	Check tenses (Find and Replace (s), is/are, was/were

Cover Letter

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

Remaining Right Certificate(s)

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

COMMENTS

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PRELIMINARY DETERMINATION**Public/Newspaper Notice**

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

Ownership Verification

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

Document Preparation

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

Cover Letter

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

Remaining Right Certificate(s)

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

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

COMMENTS

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FINAL ORDER**Document Preparation**

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

Remaining Right Certificate

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

COMMENTS



Oregon
Kate Brown, Governor

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

November , 2020

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Reference: Water Right Transfer Application T-13433

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Transfer Application T-13433. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved.

Items needed before the next phase of processing...

1. Please review the draft carefully to see if it accurately reflects the changes you intend to make, and to become familiar with all proposed conditions. **You will need to respond in writing** by the deadline provided below, whether you agree with the proposed action and conditions. Also we will appreciate having you let us know if there are typographical errors that need to be corrected.
2. A report of landownership for the lands to which the water right(s) are appurtenant (the FROM lands) is required. **The report must be prepared by a title company and meet the criteria below.** (*Reports may be called by various names, such as Customer Service Report, Property Analysis Report (PAR), List Pack, Lot Book Report, etc.*)
 - a) The title company's report must either be:
 - i) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
 - ii) prepared within 3 months of recording of a water right conveyance agreement, or
 - iii) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
 - b) The ownership report shall include:
 - i) Date the ownership report was generated or prepared; and
 - ii) List of owners at that time; and
 - iii) Legal description of the property where the water right to be transferred is currently located.
 - c) You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the transfer application, or other information such as a water right conveyance agreement, if applicable.
3. Notice of this transfer will need to be published in a newspaper with general circulation in the area where the water rights are currently located. You will be responsible for the charges. Please confirm the Ontario Argus Observer as the newspaper you prefer to publish in so we can get an accurate estimate of the cost.

Conditions to your water right...

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

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

What happens next...

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

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

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

If we do not receive the items listed above by December , 2020, a Preliminary Determination may be issued denying the application as incomplete.

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

Sincerely,



Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-13433
Jered L. Hoshaw, District 9 Watermaster (*via e-mail*)

encs

**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 # **134631**

INVOICE # _____

RECEIVED FROM: Daryn S Bundtrock
BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>1-13433</u>

CASH: ☐ CHECK: # 163 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 127.87

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$
0207 OTHER: (IDENTIFY) Newspaper Notice \$ 127.87
0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201	SURFACE WATER	\$	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: **134631**

DATED: 2-26-2021 BY: Mindy Carda

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

RECEIVED

APR 12 2021

OWRD

AFFIDAVIT OF PUBLICATION

STATE OF OREGON)
:SS.
COUNTY OF MALHEUR)

MBrooke Watt

being first

duly sworn, deposes and says: that (he) (she) is the Agent to the Publisher of the
ARGUS OBSERVER newspaper, a newspaper of general circulation as defined by
ORS 193.010, printed and published at the City of Ontario in the aforesaid
County and State and the hereto attached

PRELIMINARY DETERMINATION
L-371722

was printed and published correctly in the regular and entire issue of said
ARGUS OBSERVER for 2 issue(s), that the first was made on the
26th day of March 2021 and the last publication thereof was

made on the 2nd day of April 2021 that said publication

was made on each of the following dates, to wit:

03/26/2021 04/02/2021

Request of OR DEPT OF WATER RESOURC

By Argus Observer

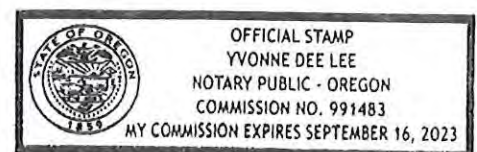
Subscribed and sworn to before me this 2nd day of April 2021

Yvonne Dee Lee

Notary public in and for the County of Malheur, State of Oregon

My commission Expires:

September 16, 2023



Notice of Preliminary Determination
Water Right Transfer T-13433

T-13433 filed by Daryn Bundtrock, PO Box Ontario, OR 97914, proposes an additional diversion under Certificate 47186. The right use of 1.5 acre feet per acre in any 30-day June 1st, 1 acre foot per acre in any 30 day June 1st, of each year, or 3 acre feet per acre season, diverted at a rate not to exceed one a cubic foot per second per acre from the M in Sec. 2, T18S, R46E, WM for irrigation, do stock in Sec. 28, T17S, R47E, WM. The app proposes an additional point of diversion in T17S, R47E, WM. The Water Resources De proposes to approve the transfer, based on requirements of ORS Chapter 540 and OAR 5000.

Any person may file, jointly or severally, a protesting statement within 30 days after the newspaper publication of this notice, 04/02/2021 (503) 986-0815 to obtain additional information. If protests are filed, the Department will issue a decision consistent with the preliminary determination.

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

Legal Number 371722
March 26 and April 2, 2021



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 24, 2021

DARYN BUNDTROCK

PO BOX 773

ONTARIO, OR 97914

SUBJECT: Water Right Transfer Application T-13433

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13433. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

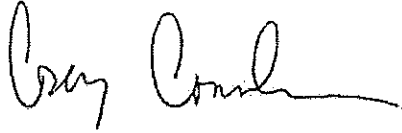
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with the first name "Corey" and last name "Courchane" clearly distinguishable.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13433
Jered L. Hoshaw, District 9 Watermaster (*via e-mail*)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13433, Malheur County	)	PROPOSING APPROVAL FOR AN
	)	ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Findings of Fact

1. On May 8, 2020, DARYN BUNDTROCK filed an application for an additional point of diversion under Certificate 47186. The Department assigned the application number T-13433.
2. Notice of the application for transfer was published on May 19, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 30, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13433 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 31, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.
--

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

Certificate: 47186 in the name of THOS J BROSANAN (confirmed by MALHEUR RIVER Decree)
Use: IRRIGATION of 3.5 ACRES, DOMESTIC and STOCK
Priority Date: AUGUST 25, 1902
Rate/Duty: 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.
Source: MALHEUR RIVER, a tributary of SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	POD 1 - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION, DOMESTIC and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	NE SW	3.5

5. Transfer Application T-13433 proposes an additional point of diversion approximately 6.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	28	NE SW	3	POD 2 - 748 FEET SOUTH AND 348 FEET EAST FROM THE CENTER-WEST 1/16 CORNER OF SECTION 28

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

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

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13433.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13433 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

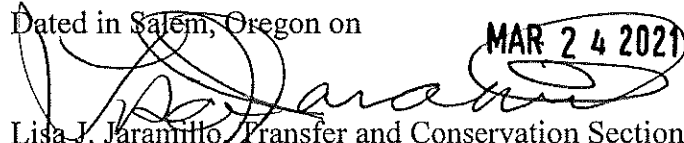
If Transfer Application T-13433 is approved, the final order will include the following:

- 1. The additional point of diversion proposed in Transfer Application T-13433 is approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 47186 and any related decree.*
- 3. Water right Certificate 47186 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The combined quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).*
- 5. Water use measurement conditions:*
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.*
 - b. The water user shall maintain the meters or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 6. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2022. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

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

Dated in Salem, Oregon on

MAR 24 2021


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

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

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

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

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



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

February 22, 2021

DARYN BUNDTROCK

PO BOX 773

ONTARIO, OR 97914

SUBJECT: Water Right Transfer Application T-13433

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

Items needed before the next phase of processing...

At this time you need to:

1. submit a check for \$127.87 (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. write **"for T-13433 NOTICE" on the front of your check**, and
3. submit it with the tracking stub at the bottom of this letter.

Mail the check to 725 Summer St. NE, Suite A, Salem, OR 97301-1266, **no later than March 24, 2021.**

What happens next...

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

If we do not receive payment for newspaper notice by March 24, 2021, a Preliminary Determination may be issued denying the application as incomplete.

✂-----

Attached is a check for \$127.87 (PCA #46118) for Newspaper Notice for Transfer T-13433 made out to Oregon Water Resources Department (or WRD)

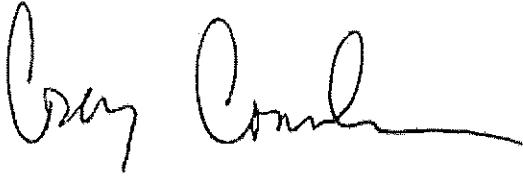
- **"for T-13433 NOTICE" written on front of check**

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

Caseworker: cc

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

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with the first name "Corey" and last name "Courchane" clearly distinguishable.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13433
Jered L. Hoshaw, District 9 Watermaster (*via e-mail*)

COURCHANE Corey A * WRD

From: PHILLIPS Stacy H * WRD
Sent: Thursday, February 18, 2021 8:50 AM
To: STARNES Patrick K * WRD
Cc: COURCHANE Corey A * WRD
Subject: RE: Newspaper Estimate for Transfer Application T-13433

Hey Corey,

The quote came in for this notice. Total cost will be \$127.87.

Thanks,

Stacy H. Phillips

Restoration Program Technician

725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898

Email: stacy.h.phillips@oregon.gov



OREGON
WATER
RESOURCES
DEPARTMENT

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

From: STARNES Patrick K * WRD <Patrick.K.Starnes@oregon.gov>
Sent: Wednesday, February 17, 2021 10:18 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Cc: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: Newspaper Estimate for Transfer Application T-13433

Hi Stacy –

Corey will need a quote for the attached TRANSFER Application notice to run in the Ontario Argus Observer. Run time is two weeks.

Thanks!

Kelly

Kelly Starnes, Transfer Program Analyst
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301-1271
Telephone: 503-986-0886 Fax: 503-986-0903
E-mail: patrick.k.starnes@oregon.gov

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

Date: January 5, 2021

TO: **Oregon, Water Resources Department**

503-986-0900

Fax: 503-986-0904

Attn: Corey Courchane

Re: **Transfer Application file T-13433 Response**

I, Daryn Bundtrock, do agree with the proposed action and conditions. I am in contact with Malheur County Title Company, in Ontario, OR and will get the report of land ownership ASAP. I do agree to pay for the charges for publication of the transfer in the Ontario Argus Observer

I appreciate your consideration of this water rights transfer, if there is anything else you need or need me to do, please give me a call at 919-8007 on my cell phone.

Very truly yours,

Daryn Bundtrock
Property Owner

Invoice

Malheur County Title Co.
81 S. Oregon St., Ontario, OR 97914
541-889-7625 – FAX 541-889-3785

DATE	INVOICE NO.
1/5/2021	34506

BILL TO:

DARYN BUNDTROCK
DBUNDTROCK@QWESTOFFICE.NET

Received by OWRD
JAN 05 2021
Salem, OR

Borrower/Lender

BUNDTROCK

[illegible]

Malheur County Title Company, Inc.

81 SOUTH OREGON STREET ONTARIO, OREGON 97914

(541) 889-7625 FAX (541) 889-2927

TOLL FREE 1-888-783-2826

Ownership Report

Date: January 5, 2021

For:

DARYN BUNDTROCK

DBUNDTROCK@QWESTOFFICE.NET

Order No. 34506

Regarding:

DARYN BUNDTROCK

MAP 17S4728 TAX LOT 200

This ownership report is based on the condition of the title as of the effective date shown in Schedule A.

NOTE: NO Oil, Gas & Mineral, etc. matters have been researched. This is not a complete report.

This report is for the exclusive use of the parties that requested it, and the company does not have any liability to any third parties nor any liability until the full fee is paid.

Any questions concerning this report can be directed to:

Dana Lirgg

Title Officer

(541) 889-7625

SCHEDULE A

The effective date of this report is:

January 04, 2021 at 8:00 a.m.

The fee simple title to the real property is vested in:

DARYN BUNDTROCK, a single man

BY DEED RECORDED June 07, 2018 as Instrument No. 2018-2186
official records of Malheur County, Oregon.

Received by OWRD
JAN 05 2021
Salem, OR

The real property in this report is described as follows:

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Sec. 28: A parcel of land in Govt. Lot 3 described as follows:

Commencing at the Northwest corner of said Lot 3;

thence N. 90° E., coincident with the North boundary of Lot 3, 41.97 feet to the Easterly right of way boundary of Highway 201;

thence S. 0° 40' 50" W., coincident with said Easterly boundary, 241.30 feet to the centerline of a certain drain ditch, which point is the Point of Beginning;

thence coincident with said centerline the following courses and distances, to-wit:

thence S. 17° 53' E., 179.70 feet;

thence S. 35° 59' E., 259.50 feet;

thence S. 47° 50' E., 151.10 feet;

thence S. 62° 14' E., 79.60 feet, which point is the intersection of said ditch centerline and the Northwesterly bank of the Malheur River;

thence S. 20° 23' 30" W., coincident with said river bank, 260.90 feet;

thence S. 22° 51' W., coincident with said river bank, 330.52 feet, more or less, to a point on the South boundary of said Lot 3;

thence S. 90° W., coincident with said South boundary, 68.55 feet to a point on the Easterly right of way of said highway;

thence coincident with said highway right of way the following courses and distances, to-wit:

thence 48.62 feet, coincident with a spiral curve to the right which long chord bears

N. 23° 03' 50" W., 48.62 feet to a O.S.H.D. right of way monument;

thence N. 23° 26' 05" W., 136.73 feet to a O.S.H.D. right of way monument;

thence N. 6° 07' 05" W., 272.23 feet to a O.S.H.D. right of way monument;

thence N. 1° 19' 25" W., 198.75 feet to a O.S.H.D. right of way monument;

thence N. 0° 38' 05" E., 429.12 feet to the Point of Beginning.

Tax Assessor Information:

Account No.: [REDACTED]
Code No.: 15
Map No.: 17S4728
Tax Lot No.: 200

THIS IS NOT A TITLE REPORT, since no examination has been made of all matters/encumbrances affecting the title to the herein described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. The liability in connection with this service is expressly limited to the sum paid therefore, and the issuing company will not otherwise be responsible for errors and omissions therein. The charge for this service will not include supplemental reports. Fee: \$85.00, minimum. Additional fees may be added depending the extent of the examination of record title, such as extra chains of title.

Malheur County Title Company, Inc.



Dana Lirgg
Title Officer

Received by OWRD
JAN 05 2021
Salem, OR

COURCHANE Corey A * WRD

From: Daryn Bundtrock <dbundtrock@qwestoffice.net>
Sent: Tuesday, January 05, 2021 2:30 PM
To: COURCHANE Corey A * WRD
Subject: RE: T-13433 Application Response
Attachments: Oregon Property Owner Report.pdf

Here you go, again thanks for the help.



Every accomplishment starts with the decision to try,
Motivation is what gets you started, Habit is what keeps you going.

Daryn S. Bundtrock 919-8007
GB Redi-mix, Sales Manager
ICAPA, Board of Directors
NRMCA, Board Member

From: COURCHANE Corey A * WRD [mailto:Corey.A.Courchane@oregon.gov]
Sent: Tuesday, January 05, 2021 2:34 PM
To: Daryn Bundtrock <dbundtrock@qwestoffice.net>
Subject: RE: T-13433 Application Response

Daryn,

Thank you for the response. As soon as I receive the title report, I will proceed to the next step.

Thank you,

Corey

From: Daryn Bundtrock <dbundtrock@qwestoffice.net>
Sent: Tuesday, January 05, 2021 10:56 AM
To: COURCHANE Corey A * WRD <Corey.A.Courchane@oregon.gov>
Subject: T-13433 Application Response

Thanks for your help.



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Motivation is what gets you started, Habit is what keeps you going.

Invoice

Malheur County Title Co.
81 S. Oregon St., Ontario, OR 97914
541-889-7625 – FAX 541-889-3785

DATE	INVOICE NO.
1/5/2021	34506

BILL TO:
DARYN BUNDTROCK
DBUNDTROCK@QWESTOFFICE.NET

RECEIVED

JAN 05 2021

OWRD

Borrower/Lender
BUNDTROCK

DATE	ITEM	DESCRIPTION	AMOUNT
01/05/2021	Ownership	Ownership Report	\$85.00
			Total \$85.00

Malheur County Title Company, Inc.

81 SOUTH OREGON STREET ONTARIO, OREGON 97914
(541) 889-7625 FAX (541) 889-2927
TOLL FREE 1-888-783-2826

Ownership Report

Date: January 5, 2021 ✓

For:
DARYN BUNDTROCK
DBUNDTROCK@QWESTOFFICE.NET

Order No. 34506

Regarding:

DARYN BUNDTROCK
MAP 17S4728 TAX LOT 200 ✓

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Dana Lirgg
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(541) 889-7625

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BY DEED RECORDED June 07, 2018 as Instrument No. 2018-2186
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RECEIVED
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OWRD

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TL
200 ✓
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thence S. 0° 40' 50" W., coincident with said Easterly boundary, 241.30 feet to the centerline of a certain drain ditch, which point is the Point of Beginning;

thence coincident with said centerline the following courses and distances, to-wit:

thence S. 17° 53' E., 179.70 feet;

thence S. 35° 59' E., 259.50 feet;

thence S. 47° 50' E., 151.10 feet;

thence S. 62° 14' E., 79.60 feet, which point is the intersection of said ditch centerline and the Northwesterly bank of the Malheur River;

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thence S. 22° 51' W., coincident with said river bank, 330.52 feet, more or less, to a point on the South boundary of said Lot 3;

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thence 48.62 feet, coincident with a spiral curve to the right which long chord bears

N. 23° 03' 50" W., 48.62 feet to a O.S.H.D. right of way monument;

thence N. 23° 26' 05" W., 136.73 feet to a O.S.H.D. right of way monument;

thence N. 6° 07' 05" W., 272.23 feet to a O.S.H.D. right of way monument;

thence N. 1° 19' 25" W., 198.75 feet to a O.S.H.D. right of way monument;

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Order No. 34506

Tax Assessor Information:

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Code No.: 15
Map No.: 17S4728
Tax Lot No.: 200

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Malheur County Title Company, Inc.



Dana Lirgg
Title Officer

RECEIVED
JAN 05 2021
OWRD



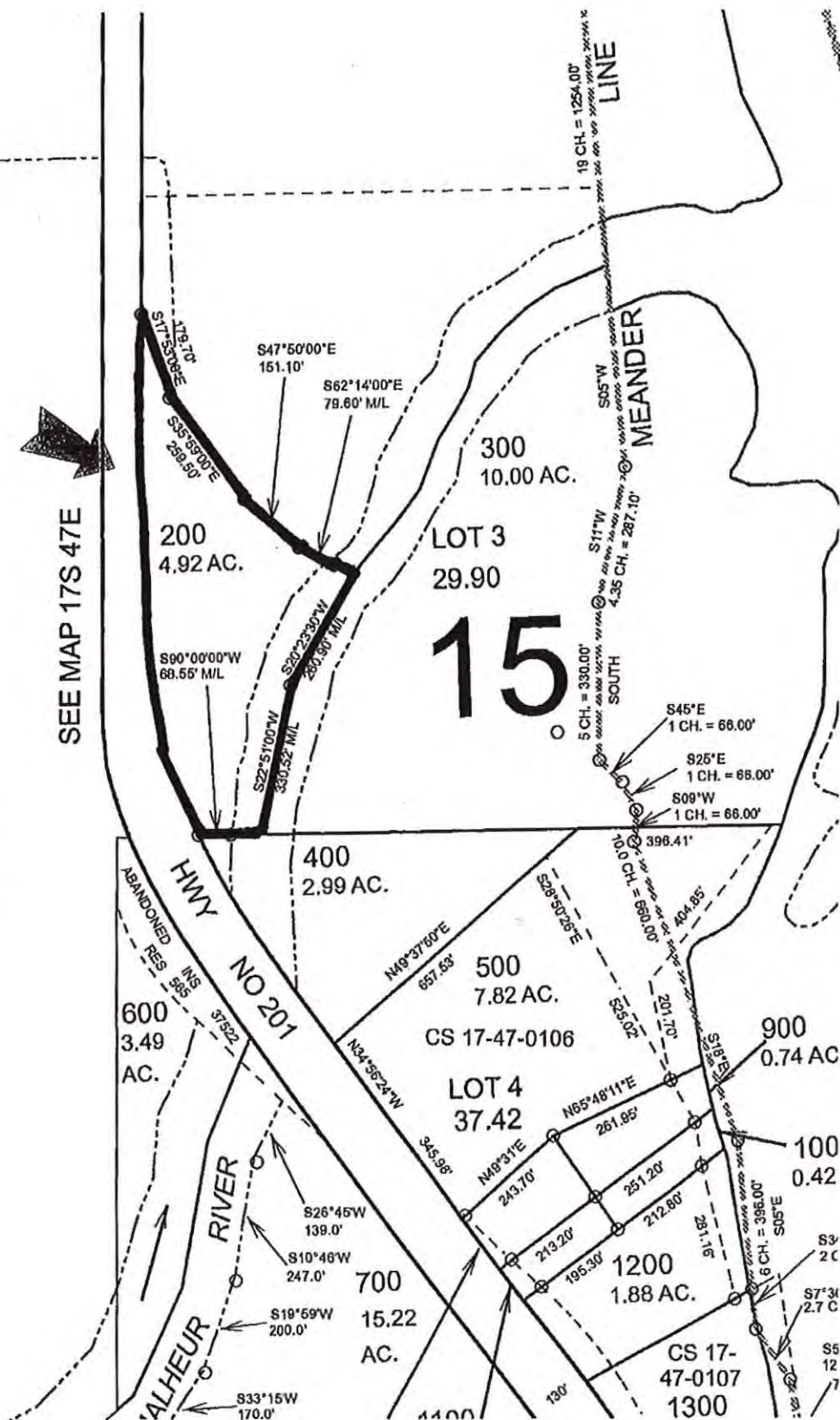
Compliments of
MALHEUR COUNTY
TITLE COMPANY, INC
Map No. 174728
Tax Lot 200

This sketch is furnished
to assist in property
location and the company
assumes no liability
for inaccuracies.

RECEIVED
JAN 05 2021
OWRD

INTERSTATE

SEE MAP 17S 47E



After recording, return to:
Malheur County Title Company, Inc.
81 South Oregon Street
Ontario, OR 97914

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

Daryn Bundtrock

2405 NE 10th Ave.
Payette, ID 83661

File No.: 32753 B
Date: June 5, 2018

THIS SPACE RESERVED FOR RECORDER'S USE

MALHEUR COUNTY, OR
D-ST WD

2018-2186

06/07/2018 01:49:00 PM

Cnt=1 Pgs=3

\$102.00

I, Gayla V. Trotter, County Clerk for Malheur County, Oregon certify
that the instrument identified herein was recorded in the Clerk
records.

Gayla V. Trotter - County Clerk

STATUTORY WARRANTY DEED

MEL WIEDRICH AND YVONNE WIEDRICH, husband and wife, Grantor, conveys and
warrants to, DARYN BUNDTROCK, a single man, Grantee, the following described real property
free of liens and encumbrances, except as specifically set forth herein:

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION.

Account No.: [REDACTED] Code No.: 15 Map No.: 174728 Tax Lot No.: 200

This property is free from liens and encumbrances, EXCEPT:

Current general taxes, easements, restrictions and rights of way, if any, affecting title, which may appear in the
public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is \$40,000.00 (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE
SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS ORS 195.300, 195.301 AND 195.305
TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007 AND SECTIONS 2 TO 9 AND 17,
CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY
ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF
THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST
PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING
PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.303 TO 195.336 AND SECTIONS 5 TO 11,
CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND
SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 6 day of June, 2018.

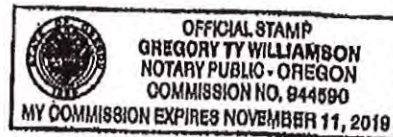
Mel Wiedrich
Mel Wiedrich

Yvonne Wiedrich
Yvonne Wiedrich

STATE OF OREGON County of Malheur)ss

On June 6th, 2018, personally appeared before me, Mel Wiedrich, who acknowledged to me that he executed the same as his voluntary act and deed.

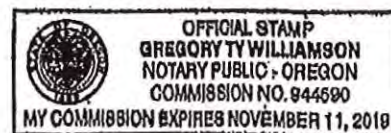
[Signature]
Notary Public for Oregon
My Commission Expires: 11/11/2019



STATE OF OREGON County of Clackamas)ss

On June 6th, 2018, personally appeared before me, Yvonne Wiedrich, who acknowledged to me that she executed the same as her voluntary act and deed.

[Signature]
Notary Public for Oregon
My Commission Expires: 11/11/2019



RECEIVED
JAN 05 2021
OWRD

EXHIBIT 'A'

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Sec. 28: A parcel of land in Govt. Lot 3 described as follows:

Commencing at the Northwest corner of said Lot 3;

thence N. 90° E., coincident with the North boundary of Lot 3, 41.97 feet to the Easterly right of way boundary of Highway 201;

thence S. 0° 40' 50" W., coincident with said Easterly boundary, 241.30 feet to the centerline of a certain drain ditch, which point is the Point of Beginning;

thence coincident with said centerline the following courses and distances, to-wit:

thence S. 17° 53' E., 179.70 feet;

thence S. 35° 59' E., 259.50 feet;

thence S. 47° 50' E., 151.10 feet;

thence S. 62° 14' E., 79.60 feet, which point is the intersection of said ditch centerline and the Northwesterly bank of the Malheur River;

thence S. 20° 23' 30" W., coincident with said river bank, 260.90 feet;

thence S. 22° 51' W., coincident with said river bank, 330.52 feet, more or less, to a point on the South boundary of said Lot 3;

thence S. 90° W., coincident with said South boundary, 68.55 feet to a point on the Easterly right of way of said highway;

thence coincident with said highway right of way the following courses and distances, to-wit:

thence 48.62 feet, coincident with a spiral curve to the right which long chord bears N. 23° 03' 50" W., 48.62 feet to a O.S.H.D. right of way monument;

thence N. 23° 26' 05" W., 136.73 feet to a O.S.H.D. right of way monument;

thence N. 6° 07' 05" W., 272.23 feet to a O.S.H.D. right of way monument;

thence N. 1° 19' 25" W., 198.75 feet to a O.S.H.D. right of way monument;

thence N. 0° 38' 05" E., 429.12 feet to the Point of Beginning.



Oregon
Kate Brown, Governor

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

November 30, 2020

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Reference: Water Right Transfer Application T-13433

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Transfer Application T-13433. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved.

Items needed before the next phase of processing...

1. Please review the draft carefully to see if it accurately reflects the changes you intend to make, and to become familiar with all proposed conditions. **You will need to respond in writing** by the deadline provided below, whether you agree with the proposed action and conditions. Also we will appreciate having you let us know if there are typographical errors that need to be corrected.
2. A report of landownership for the lands to which the water right(s) are appurtenant (the FROM lands) is required. **The report must be prepared by a title company and meet the criteria below.** (*Reports may be called by various names, such as Customer Service Report, Property Analysis Report (PAR), List Pack, Lot Book Report, etc.*)
 - a) The title company's report must either be:
 - i) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
 - ii) prepared within 3 months of recording of a water right conveyance agreement, or
 - iii) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
 - b) The ownership report shall include:
 - i) Date the ownership report was generated or prepared; and
 - ii) List of owners at that time; and
 - iii) Legal description of the property where the water right to be transferred is currently located.
 - c) You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the transfer application, or other information such as a water right conveyance agreement, if applicable.
3. Notice of this transfer will need to be published in a newspaper with general circulation in the area where the water rights are currently located. You will be responsible for the charges. Please confirm the Ontario Argus Observer as the newspaper you prefer to publish in so we can get an accurate estimate of the cost.

Conditions to your water right...

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

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

What happens next...

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

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

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

If we do not receive the items listed above by December 31, 2020, a Preliminary Determination may be issued denying the application as incomplete.

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

Sincerely,



Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-13433
Jered L. Hoshaw, District 9 Watermaster (*via e-mail*)

encs

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

In the Matter of Transfer Application
T-13433, Malheur County

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)

D R A F T

PRELIMINARY DETERMINATION
PROPOSING APPROVAL FOR AN
ADDITIONAL POINT OF DIVERSION

Authority

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

Applicant

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Findings of Fact

1. On May 8, 2020, DARYN BUNDTROCK filed an application for an additional point of diversion under Certificate 47186. The Department assigned the application number T-13433.
2. Notice of the application for transfer was published on May 19, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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

Certificate: 47186 in the name of THOS J BROSNAN (confirmed by MALHEUR RIVER Decree)

Use: IRRIGATION of 3.5 ACRES, DOMESTIC and STOCK

Priority Date: AUGUST 25, 1902

Rate/Duty: 1.5 acre feet per acre in any 30-day period to June 1st, 1 acre foot per acre in any 30 day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.

Source: MALHEUR RIVER, a tributary of SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	2	SE NE	POD 1 - 250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION, DOMESTIC and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	28	NE SW	3.5

4. Transfer Application T-13433 proposes an additional point of diversion approximately 6.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	28	NE SW	3	POD 2 - 748 FEET SOUTH AND 348 FEET EAST FROM THE CENTER-WEST 1/16 CORNER OF SECTION 28

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

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

6. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13433.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13433 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13433 is approved, the final order will include the following:

1. *The additional point of diversion proposed in Transfer Application T-13433 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 47186 and any related decree.*
3. *Water right Certificate 47186 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*

4. *The combined quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).*
5. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

D R A F T

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

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

Watermaster Review Form: Water Right Transfer



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

Transfer Application: T-13433

Review Due Date:

Applicant Name: Daryn Bundtrock

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

Reviewer(s): Jered Hoshaw

Date of Review: 10/20/2020

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☐ Yes ☒ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:

There is history of regulation on the source but according to the records I have found, this right (Cert. 47186) and the downstream rights have not been involved. The past regulation has occurred way upstream for much more senior rights and it is likely that these downstream rights have always benefited from return flows which has resulted in adequate water to satisfy them.
3. Have headgate notices been issued for the source that serves the transferred right(s)?
☐ Yes ☐ No ☒ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☐ Yes ☒ No If "Yes", explain:
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected:

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

☒ N/A

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

☐ N/A

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

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

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

10. For POU or USE changes: ☒ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?

☐ Yes ☐ No If "Yes", explain:

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

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

☐ Yes ☐ No If "Yes", explain:

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

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

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:
- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:
- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:
- iv. Do you have any other observations regarding the temporary transfer? ☐ Yes ☐ No If "Yes", describe:
- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

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

i. "Injury" will occur to other water rights that share the same source?
☐ Yes ☐ No If "Yes", explain:

ii. "Enlargement" of the water right being transferred will occur?
☐ Yes ☐ No If "Yes", explain:

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

☒ Yes ☐ No If "Yes", explain:

The quantity of water diverted at the new proposed POD shall not exceed the water available at the original POD and up to the limitations of the water right.

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

A condition in the order.

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

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

☐ A Headgate should be required prior to diverting water.

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

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

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

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

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

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

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

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

☐

Weir

☐

Submerged Orifice

☐

Parshall Flume

☐

Flow Restrictor

☐

Other: ____

Oregon Water Resources Department

Measurement Condition Information for the Applicant

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

Transfer #: T- 13433



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



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



at each new point of diversion/appropriation.

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

Watermaster name: **Jered Hoshaw**District: **9**Address: **251 B Street West**City/State/Zip: **Vale, OR 97918**Phone: **(541)473-5130**Email: **Jered.L.Hoshaw@oregon.gov**

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

Approval of an Alternate Measurement Device

T-

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

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

Watermaster signature

District

Date

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

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

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

Reference Transfer #: T-13433, Bundtrock

Date of review: 5/20/20

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

☐ The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on _____ [stream], tributary to _____, because _____.

(Please attach any available supporting information.)

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

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

☐ **1. Screen Maintain**

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

Note: This option will yield the following:

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

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

☐ **2. Screen Now**

[Option 2 should generally be selected if listed fish species are present at the point of diversion and/or the originating water right diversion is currently screened. If Option 2 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. The new diversion may be eligible for cost-share.]

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

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

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

☐ **3. Screen 2 Year**

[Option 3 may be checked if the change is from an unscreened diversion to a HISTORIC POD or an existing POD in use for another water right, and cost-share funds are not currently available. It should NOT be checked if listed fish species are present at the point of diversion, the originating water right diversion is screened, cost-share funds are currently available, or the diversion is not eligible for ODFW's cost-share program. Please provide contact information on the "Fish Screening and Passage Information" sheet.] If extraordinary circumstances are present, please explain: _____

Note: This option will yield the following:

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

Condition: By October 1, 20__ [Within two years after the date of this order] the water user shall install an approved fish screen at the new point of diversion. The water user may withdraw water at the new point of diversion without a screen until October 1, 20__. The water user shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

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

☒ **4. Screen Future**

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

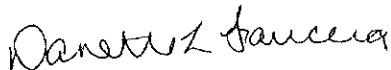
Note: This option will yield the following:

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

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

☐ **5. No Screen Needed**

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



Signature

Danette Faucera
Printed Name

(503) 947-6092

Phone

Water Policy Coordinator
Title

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

Transfer #: T-13433, Bundtrock

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

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

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

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

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

ODFW staff name: Danette Faucera

Address: 4034 Fairview Industrial Dr. SE

City/State/Zip: Salem, OR 97302

Phone: (503) 947-6092



Oregon
Kate Brown, Governor

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

May 19, 2020

DARYN BUNDTROCK
PO BOX 773
ONTARIO, OR 97914

Reference: Application T- 13433

On May 8, 2020, we received your water right Transfer application. The application was accompanied by \$1160.00. Our receipt number 132473 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change. A review form will also be sent to Oregon Department of Fish and Wildlife to determine if a fish screen is needed.

This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water from the new point of diversion until a final order approving the transfer application has been issued by the Department. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

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

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

Cc: Watermaster Dist. #9 (*via email*)
Malheur County

Enclosure

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **132473**

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

INVOICE # _____

RECEIVED FROM: Daryn S. Lindtrock
BY: _____

APPLICATION	
PERMIT	
TRANSFER	1-13433

CASH: ☐ CHECK: # 40031 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,160.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

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

EXAM FEE	
\$	0202
\$	0204
\$ <u>1,160.00</u>	
EXAM FEE	
\$	0219
	0220

RECORD FEE	
\$	
\$	

LICENSE FEE	
\$	
\$	

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: **132473**

DATED: 5/8/2020 BY: [Signature]

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

Application for Permanent Water Right Transfer

Part 1 of 5 – Minimum Requirements Checklist



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

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

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

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: Additional POD** 47186 ✓
Please include a separate Part 5 for each water right. (See instructions on page 6)

Attachments:

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

(For Staff Use Only)

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

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

Other/Explanation _____

Staff: _____ 503-986-0 _____

Date: ____/____/____

Part 2 of 5 – Transfer Application Map

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

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

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

Part 3 of 5 – Fee Worksheet

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)			
1	Base Fee (includes one type of change to one water right for up to 1 cfs)	1	\$1,160
	Types of change proposed: ☐ Place of Use ☐ Character of Use ☐ Point of Diversion/Appropriation Number of above boxes checked = _____ (2a) Subtract 1 from the number in line 2a = _____ (2b) <i>If only one change, this will be 0</i>		RECEIVED MAY 08 2020 OWRD
2	Multiply line 2b by \$930 and enter » » » » » » » » » » » » » » » »	2	0
3	Number of water rights included in transfer _____ (3a) Subtract 1 from the number in 3a above: _____ (3b) <i>If only one water right this will be 0</i> Multiply line 3b by \$520 and enter » » » » » » » » » » » » » » » »	3	0
4	Do you propose to add or change a well, or change from a surface water POD to a well? ☐ No: enter 0 » ☐ Yes: enter \$410 »	4	0
5	Do you propose to change the place of use or character of use? ☐ No: enter 0 on line 5 » ☐ Yes: enter the cfs for the portions of the rights to be transferred (see example below*): _____ (5a) Subtract 1.0 from the number in 5a above: _____ (5b) If 5b is 0 or less, enter 0 on line 5 » If 5b is greater than 0, round up to the nearest whole number: _____ (5c) and multiply 5c by \$350, then enter on line 5 » » » » » » » » » » » » » » » »	5	0
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6	1160
7	Is this transfer: ☐ necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? ☐ endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat? If one or more boxes is checked, multiply line 6 by 0.5 and enter on line 7 » If no box is applicable, enter 0 on line 7 »	7	0
8	Subtract line 7 from line 6 » » » » » » » » » » » » » » » » Transfer Fee:	8	\$1160

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

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

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

Part 4 of 5 – Applicant Information and Signature

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Applicant Information

APPLICANT/BUSINESS NAME Daryn Bundtrock		PHONE NO. 208-741-9591	ADDITIONAL CONTACT NO.
ADDRESS PO Box 773		FAX NO.	
CITY Ontario	STATE OR	ZIP 97914	E-MAIL dbundtrock@qwestoffice.net
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

AGENT/BUSINESS NAME		PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS		FAX NO.	
CITY	STATE	ZIP	E-MAIL
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:

This transfer is to provide an additional POD, without loss of priority, for the 4.92 acres I bought in 2018. The issue is the Brosnan Ditch is no longer useable because of Highways and other property changes along its route. Hence, an additional POD is needed. I would like to establish a pump station on the Malheur River, within my property boundaries.

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

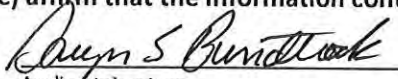
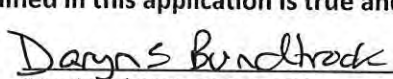
Check One Box

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

By my signature below, I confirm that I understand:

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

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




5-4-20.

Applicant signature Print Name (and Title if applicable) Date

 Applicant signature Print Name (and Title if applicable) Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? ☒ Yes ☐ No If NO, include signatures of all deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.

Check the following boxes that apply:

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

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

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

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

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

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

Describe any special ownership circumstances here:

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

IRRIGATION DISTRICT NAME	NA			ADDRESS	
CITY	STATE		ZIP		

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

ENTITY NAME	NA			ADDRESS	
CITY	STATE		ZIP		

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

ENTITY NAME	Malheur County			ADDRESS		251 B Street West	
CITY	Vale		STATE		Oregon	ZIP	97918

ENTITY NAME				ADDRESS			
CITY			STATE			ZIP	

Part 5 of 5 – Water Right Information

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

CERTIFICATE # 47186

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Description of Water Delivery System

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

unknown gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. _____

(See Attachment 4)

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

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

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-____)	Twp	Rng	Sec	¼	¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD 1	☒ Authorized ☐ Proposed	NA	18 S	46 E	2	SE	NE		From E1/4 corner, 250 ft North 225 ft. West.
POD 2	☐ Authorized ☒ Proposed	NA	17 S	47 E	28	NE	SW	3	From Center-West 16th cor: South 748 ft, East 348 ft.
	☐ Authorized ☐ Proposed								
	☐ Authorized ☐ Proposed								

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

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

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

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

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

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

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

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

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.											Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.														
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date						
EXAMPLE																										
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901
														2	S	9	E	2	SW	NW	500		5.0		POD #6	1901
17	S	47	E	28	NE	SW	200	3	3.5	Irrigation	POD# 1	1902	APOD	17	S	47	E	28	NE	SW	200	3	3.5	Irrigation	POD# 2	1902
										domestic Livestock														livestock		
TOTAL ACRES:											TOTAL ACRES:															

Additional remarks:

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13433

For Place of Use or Character of Use Changes

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

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



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

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

Ground water supplemental Permit or Certificate #_____;

Surface water primary Certificate #_____.

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For a change from Supplemental Irrigation Use to Primary Irrigation Use

Identify the primary certificate to be cancelled. Certificate # _____

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

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

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

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

AND/OR

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

Table 3. Construction of Point(s) of Appropriation

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

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

Attachments

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- Attachment 1: NA
- Attachment 2: Land Use Information Form, 3 pages
- Attachment 3: Evidence of Use Affidavit, 2 pages, 4 photos
- Attachment 4: Description of Water Delivery System, (pg. 7 of 9)
- Attachment 5: Discussion of irrigated area in T17S, R47E, Sec 28,
NE/SW, Govt Lot 3: 1 page, 1 photo

13433

Application for Water Right Transfer

Evidence of Use Affidavit



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

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

State of Oregon)

County of Malheur) ss

I, Vernon Pritchard, in my capacity as CWRE,

mailing address PO Box 134, Vale OR 97918

telephone number (541) 473-3642, being first duly sworn depose and say:

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

☐ Personal observation

☒ Professional expertise

2. I attest that:

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

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

Certificate #	Township		Range		Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)
47186	17	S	47	E	WM	28	NE/SW	3	3.5

OR

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

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

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

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

(continues on reverse side)

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

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

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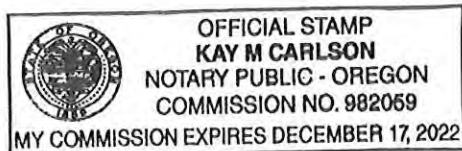
MAY 08 2020

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Signature of Affiant

Date

Signed and sworn to (or-affirmed) before me this 24 day of April, 2020.



Notary Public for Oregon

My Commission Expires: 12-17-2022

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

Attachment 4:

Description of the Water Delivery System in place at some time during the last 5 years. This system was in place and used during the 2016, and possibly the 2017 irrigation seasons.

Water was pumped from the POD for T 3876. The pump is located on the North side of the Malheur River just upstream of the I-84 Freeway Bridge at Hwy Mile Post 373.8. The water flows through a pipe under the freeway, and is delivered into a ditch system on the east side of the freeway. The flow was directed thru the earth irrigation ditch system to an inverted siphon under Hwy 201. The inverted siphon has a concrete head box on each end and is composed of an 18 inch diameter steel pipe.

Once within the authorized place of use, it appears that some type of movable pipe system delivered water for surface row irrigation.

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Attachment 5:

Certificate of Water Right, 6867, was adjudicated on Feb 1, 1927, and has a priority date of August 25, 1902, and included 338 acres. The certificate shows 21 irrigated acres in the NE1/4, SW1/4, of Section 28, T17S, R47E, WM. On Dec. 22, 1978, transfer T 3876, included 14 acres in the NE/SW (Lot 3) of section 28. This transfer was for an additional point of diversion.

The remaining irrigated lands from Certificate 6867, were included in Certificate 47186, which identifies 7 acres in NE/SW of Section 28. The new certificate was recorded on Jan. 19, 1979.

Use the CWRE map included with this document to review the various parcels of land within the NE/SW of Section 28.

Bundtrock (TL 200): 3.5 Ac. Irrigated area

0.8 Ac. River bank and area in the river

0.5 Ac. Area along the old Brosnan ditch drain.

Total 4.8 Ac

ODOT Highway 201 1.8 Ac Area within the NE/SW quarter covered by the highway.

Thayer (TL 100) 9.5 Ac. Irrigated area

1.6 Ac River bank and area out to the Malheur River centerline.

Total 11.1

The total of all these parcels adds to approximately 17.7 Ac. Obviously, this does not equal the 21 Ac. shown as irrigated in the original water right certificate. It is likely that the river has moved far enough over the course of the last 118 years to account for this discrepancy. A review of the Snake River Meander line surveys indicates some significant movement of the river channels.

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Daryn Bundtrock
PO Box 773
Ontario, OR 97914
April 24, 2020

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

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Certificate: 47186

Dear Sirs:

Attached is an Application for Permanent Water Right Transfer and supporting documents. The purpose of this application is to establish an additional Point of Diversion on the Malheur River for a portion of the area covered by certificate 47186. I do not want to release the existing POD 1, which is located upstream in T18S, R46E, Sec 2, SE/NE, WM

Also included is a check for \$1,160 for fees.

Please contact me if you have any questions about this document and map (208-741-9591).

Sincerely,



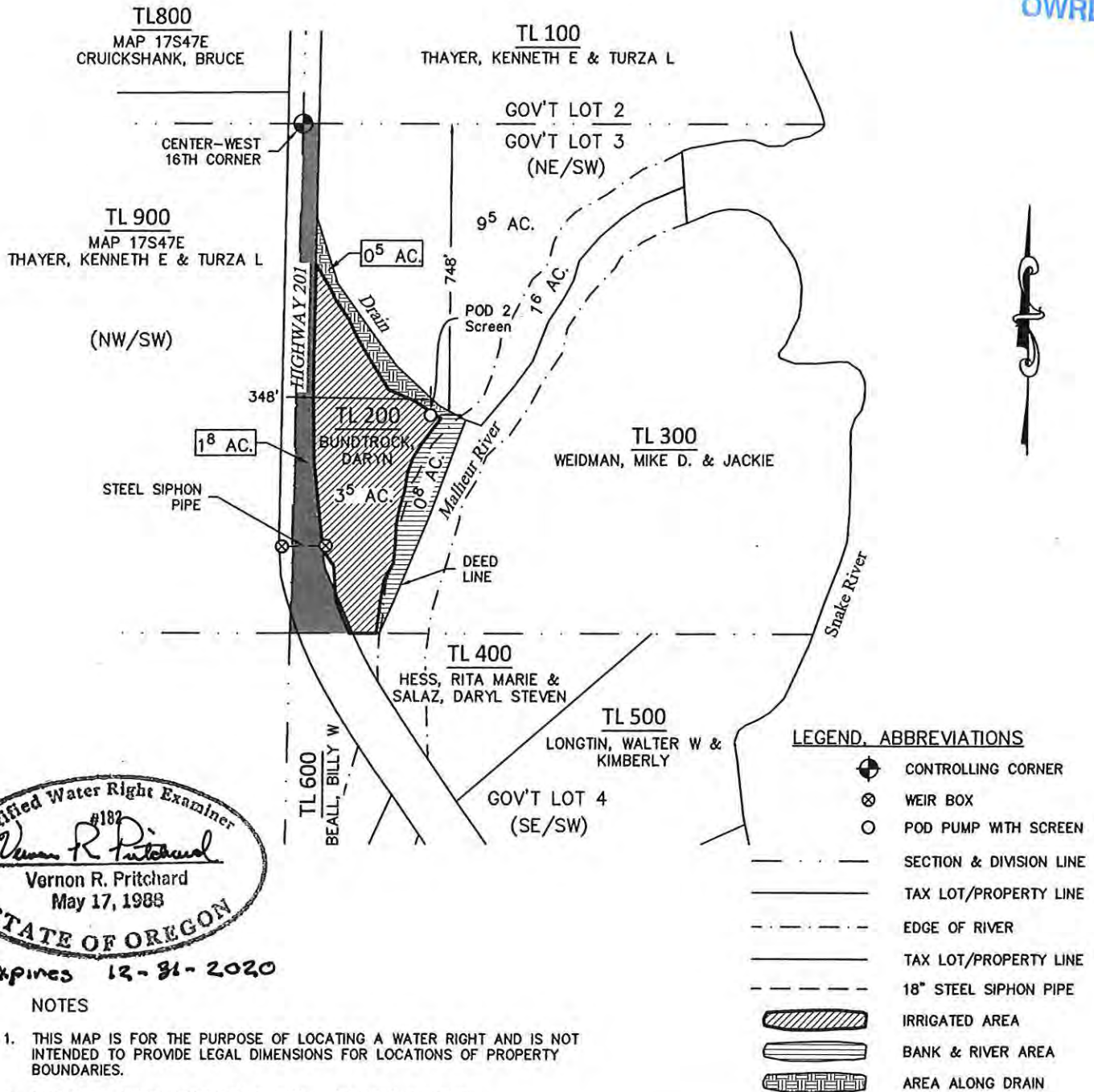
Daryn Bundtrock

13433

PERMANENT WATER RIGHT TRANSFER

Legal Description: GOV'T LOT 3 IN THE NE1/4 SW1/4 OF SECTION 28, T17S, R47E, W.M.
(TAX LOT 200, MAP 17S47E28)

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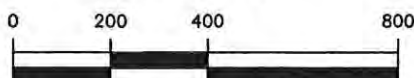


Expires 12-31-2020

NOTES

- THIS MAP IS FOR THE PURPOSE OF LOCATING A WATER RIGHT AND IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS FOR LOCATIONS OF PROPERTY BOUNDARIES.
- DISTANCES SHOWN WERE CALCULATED FROM FIELD SURVEYS.
- SECTION 28:
TAX LOT 200-DARYN BUNDTROCK
- THE EXISTING POD IS LOCATED IN THE SE1/4NE1/4, SEC. 2, T.18S., R.46E., W.M. BROSNAN DITCH -250 FEET NORTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 2.

SCALE: 1" = 400'



VERN PRITCHARD 541-473-3612
P.O. BOX 134
VALE, OR 97918

DARYN BUNDTROCK
PERMANENT WATER RIGHT TRANSFER
CERTIFICATE 47186

DRAWN: D. MCKROLA

SCALE: 1" = 400'

APPROVED: *Vern Pritchard*

DWG No. 016

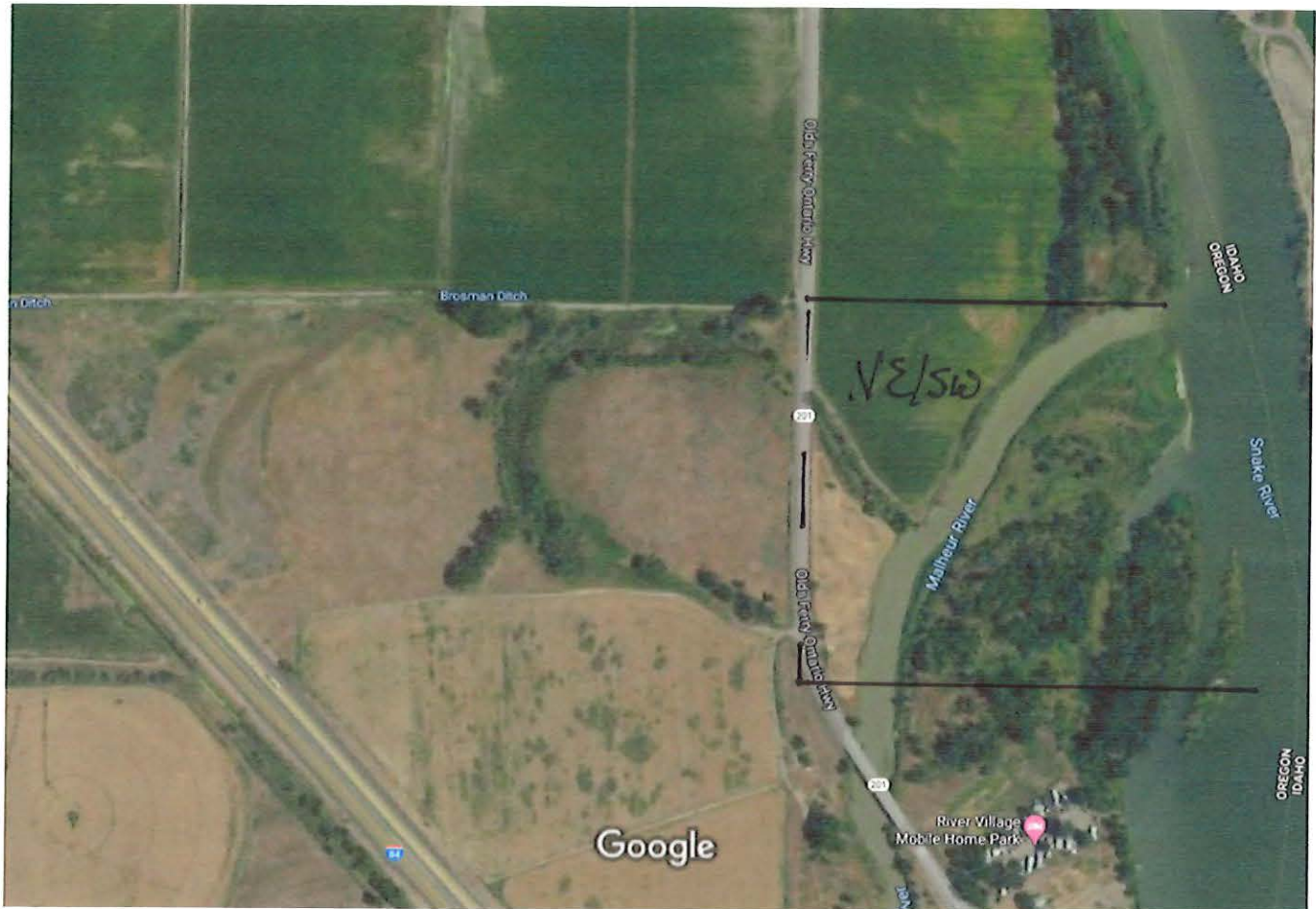
DATE: APRIL 30, 2020

SHEET 1 OF 1

13433 Certificate 47186

Google Maps

July 2018



Imagery ©2020 Maxar Technologies, State of Oregon, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2020 200 ft

T17S R47E Sec 28 NE/SW (Lot 3)

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April 2015

Legend

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300 ft

Google Earth

June 2014

Legend

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Google Earth



300 ft

April 2016

Legend

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Google Earth



300 ft

June 2017

Legend

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Google Earth



300 ft

July 19 2018

Write a description for your map.

Legend

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Google Earth

© 2020 Google



300 ft

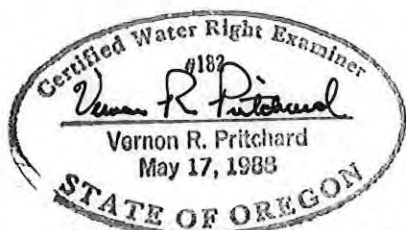
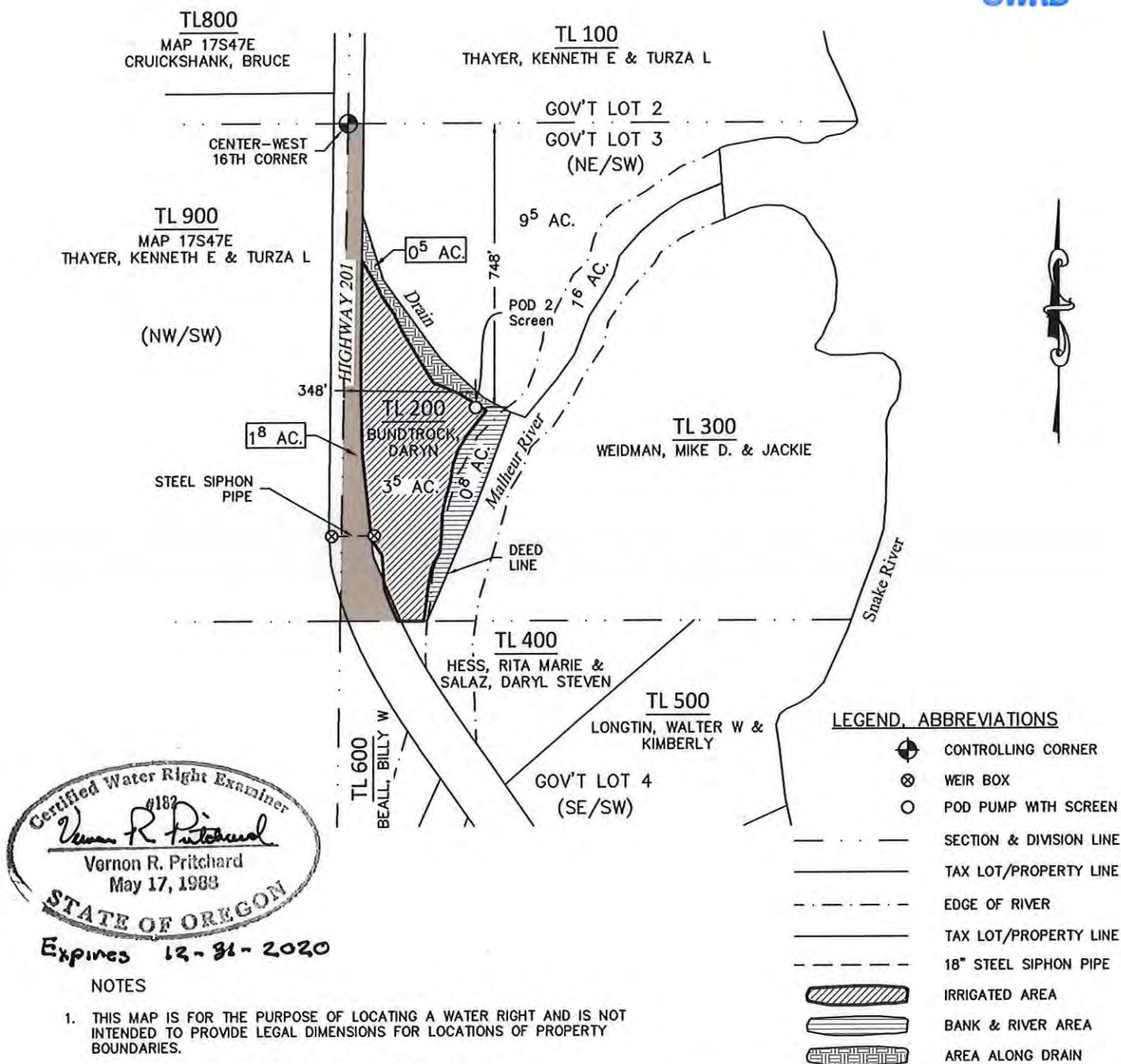
PERMANENT WATER RIGHT TRANSFER

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(TAX LOT 200, MAP 17S47E28)

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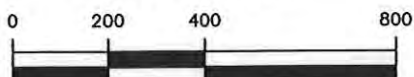


Expires 12-31-2020

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SCALE: 1" = 400'



VERN PRITCHARD 541-473-3612
P.O. BOX 134
VALE, OR 97918

DARYN BUNDTROCK

PERMANENT WATER RIGHT TRANSFER
CERTIFICATE 47186

DRAWN: D. McKROLA

SCALE: 1" = 400'

APPROVED: *Vern Pritchard*

DWG No. 016

DATE: APRIL 30, 2020

SHEET 1 OF 1

Certificate 47186-
13433

Land Use Information Form



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

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Applicant: Daryn Bundtrock
Firm Last

Mailing Address: PO Box 773

Ontario
City

OR
State

97914
Zip

Daytime Phone: 208-741-9591

A. Land and Location

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

Township	Range	Section	1/4 1/4	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>175</u>	<u>47E</u>	<u>28</u>	<u>GL 3</u>	<u>200</u>		☐ Diverted	☐ Conveyed	☒ Used	<u>Crop Production</u>
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	

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

Malheur County, Oregon

B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) Malheur River

Estimated quantity of water needed: 110 ☐ 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:

The transfer is to create an additional point of diversion for pumping irrigation and stock water using a portable pump. The point of diversion will be located on the river bank at the NE corner of the 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 at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): MC6-3A-2(A)(1)
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

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

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

Name: Eric Evans Title: Planning Director
 Signature:  Phone: 541-473-5185 Date: 4/13/2020
 Government Entity: Malheur County

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Regular Permanent Water Right Transfer Application Checklist

Checked by Joan Date 5-14-20

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

☒ 1. Page 1 of application: Are all attachments that have been checked actually included?
If not, what is missing? _____

☒ 2. Are fees included and correct? Fee paid: 1160.00
If not, the correct fee would be: _____, so the amount missing is: _____

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

*NOTE: [POD/APOD, POA/APOA, SW to GW, Gov Action] are all counted as one type
POU is counted as one type
[USE or (Supplemental to Primary)] are counted as one type

☒ 3. Page 3 of application: Have all the applicants listed at the top of the page signed?
If no, whose signature is missing? _____

☒ 4. Are all listed certificates or permits shown by WRIS as non-cancelled?
If no, which are cancelled? _____
For each cancelled certificate, if there has been a remaining right certificate issued that covers the lands in the left side of Table 2, list its number _____ and check the #4 box at left on this checklist.

☒ 5. If any certificate is in the name of a "district", is a Supplemental Form D from that district enclosed?
☒ N/A ☐ Form D needed from _____ (district)

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

Certs & acres involved: _____

Changes: _____

cfs involved: _____

Source: _____

T-13433