



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

Application for Water Right Transfer

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

1. TYPE OF TRANSFER APPLICATION

Please check one

<input checked="" type="checkbox"/> Permanent Transfer	<input type="checkbox"/> Instream Transfer
<input type="checkbox"/> Temporary Transfer (1 to 5 yrs.)	<input type="checkbox"/> Permanent
• total number of years: _____	<input type="checkbox"/> Time-Limited
(begin year: _____)	<input type="checkbox"/> Drought Transfer
(end year: _____)	<input type="checkbox"/> Other

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2. APPLICANT INFORMATION

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Name: Hillsboro Landfill, Inc., c/o Mark Reeves, Landfill Engineer
First Last

Address: 7227 NE 55th Avenue

Portland Oregon 97218
City State Zip

Phone: (503) 493-7832
Home Work Other

Fax: _____ E-Mail address: mreeve12@wm.com

3. AGENT INFORMATION

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

Name: David T. Mustonen, P.E., C.W.R.E.
First Last

Address: CH2M Hill 2020 S.W. 4th Avenue, Suite 300

Portland Oregon 97201
City State Zip

Phone: (503) 872-4699
Home Work Other

Fax: (503) 736-2000 E-Mail address: david.mustonen@ch2m.com

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

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

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

	Application / Decree	Permit / Previous Transfer	Certificate
1.	G-12343	G-12247	85423
2.			
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

- Place of Use Point of Diversion (POD) Additional Point of Diversion
- Character of Use Point of Appropriation (POA, or well) Additional POA
- Instream Transfer Surface Water POD to Ground Water POA
- Substitution of Supplemental Groundwater right for Primary Surface water right
- Historic POD change Other

- Reason(s) for change(s): To utilize the transferred portion of the water right for industrial uses associated at a materials recovery and handling facility, and dust suppression at a solid waste landfill owned and operated by Hillsboro Landfill, Inc. (HLI) that is located adjacent to the current authorized place of use.

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5. WATER DELIVERY SYSTEM

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

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

There are currently 6 groundwater wells constructed in accordance with the permit. The wells have been used beneficially based on submitted claim of beneficial use report and the Water Right Certificate No. 85423 issued in March 2009. This transfer application involves transferring water produced from groundwater wells NW 5 and NW 3. Well NW 5 was pump tested in November 2008 with existing equipment installed in the Well and was measured to

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have a capacity of 85 GPM. Upon approval of this transfer application, Hillsboro Landfill, Inc. (HLI) will install the necessary additional pumps in Well No. 3, and piping to convey and utilize the full amount of the transferred water right to the proposed new place of use.

6. EVIDENCE OF BENEFICIAL WATER USE

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

7. AFFECTED DISTRICTS

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

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

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8. LOCAL GOVERNMENTS

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- List the name and mailing address of all local governments (i.e., each county, city, municipal corporation, or tribal government within whose jurisdiction water will be diverted, conveyed or used).

Washington County, Oregon

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9. LAND OWNERSHIP

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

If "No", provide the following information. **For Temporary Transfers**, also include a **notarized statement granting consent** to the transfer from **each** of the landowners (for Permanent Transfers see Section 12(c)):

Names of Current Landowner(s): City of Hillsboro, Oregon
First Last

Address: Administration, 150 East Main Street, Civic Center, 5th Floor

Hillsboro Oregon 97123
City State Zip

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

If "No", provide the following information:

Names of Receiving Landowner(s): _____
First Last

Address: _____

City State Zip

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

10. Other Remarks (optional)

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11. ATTACHMENTS

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

Supplemental Form A –

Description of Proposed Change(s) to a Water Right

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

Supplemental Form B –

Evidence of Use Affidavit(s)

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

The Evidence of Use Affidavit **must** be accompanied by **supporting documentation**.

Map

Water Right Transfer
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.

Temporary Transfer or Historical POD Change
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

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

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

N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

Land Use Information For Proposed Changes:

For Instream Transfers:

Notice of the intent to file an instream transfer application has been provided to each affected local government along the proposed reach, and copies of the notices are enclosed. (*For instream transfers a Land Use Information Form is not required.*)

For All Other Transfers:

- Land Use Information Form is enclosed; *or*
- All of the following criteria are met, therefore a Land Use Information Form is not required:
 - ① In EFU zone or irrigation district,
 - ② Change in place of use only,
 - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ④ Irrigation only.

Fees:

Amount enclosed: \$ 800
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.

Instream Water Right Transfers, also include:

**Supplemental Form C –
Instream Water Right Transfer**

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

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Temporary Transfers, also include: WATER RESOURCES DEPT
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Recorded Deed:

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

Affidavit of Consent:

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

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

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

12. SIGNATURES

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

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

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

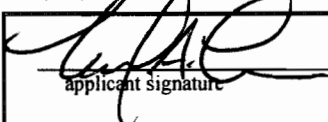
I (we) affirm that interest in the water right has been conveyed to someone other than the landowner, and documents, including a water right conveyance agreement, report of ownership and lien information, and any required lienholder notification are enclosed, demonstrating that I am (we are) authorized to pursue the transfer. I (we) understand that we may be required to provide additional information upon receipt of the draft Preliminary Determination.

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

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

I (we) affirm that this is a temporary transfer and a copy of the deed for the "from" land (and affidavits of consent from any other landowners, if applicable) is enclosed.

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

 applicant signature	MARK A. REEVES name and title if applicable (print)	5/15/09 date
_____ applicant signature	_____ name and title if applicable (print)	_____ date

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Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

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

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

Certificate Number or other identifying number:	85423
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1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

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

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2. CURRENT WATER RIGHT INFORMATION

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

<input checked="" type="checkbox"/> Certificated Right	85423	G-12247
	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right		
	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved		
	Permit Number	Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed		
	Previous Transfer Number	Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: Oregon Garden Products
- County: Washington
- Authorized Use(s) to be Affected by Transfer: Nursery Operations
- Priority Date(s): December 13, 1990

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

- Source(s) of Water to be Affected by Transfer: Groundwater: produced from Wells NW 3 and NW 5 which pump from a confined alluvium aquifer consisting of a fine to coarse sand water bearing zone that extends from 95 to 179 feet.

Tributary to: none

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

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

- Are there **Other Water Rights, Permits or Ground Water Registrations** associated with this land?

Yes No N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? R-11928, S-52620, Certificate 38745, Certificate 31296, Certificate 72440, Certificate 65343

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

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▪ Certificate Number or other identifying number: 85423

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

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

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

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
# 3 – 89 (NW-3)	Groundwater 12/13/1990	1S	2W		7	NESE	1202	1870 Ft North, 360 Ft East Section Corner
#5 -89 (NW-5)	Groundwater 12/13/1990	1S	2W		7	NESE	1201	2440 ft North, 330 ft East of Section Corner

▪ Does the water right being transferred involve a ground water source(s)?

Yes No (Surface water source only.)

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

A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

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

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

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

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 85423

Will the ENTIRE water right be affected by this transfer? Yes No

If "Yes", the remainder of this page does not need to be completed. Go on to the next page.

If "No", the following information **must be provided** only for those places of use that **are involved in the transfer** (i.e., list only the portion of the water right to be affected by the change.)
Attach additional pages as necessary.

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

Location of Existing Authorized Place of Use to be Affected:

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
GW, NW 3, and NW 5, 12/13/1990	1S	2W		7	NE SE	1201, 1202	4.8 Acres
GW, NW 3 and NW 5, 12/13/1990	1S	2W		8	NW SW	1300, 1202, 2100	4.8 Acres

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▪ Certificate Number or other identifying number: 85423

3. PROPOSED CHANGES TO THE WATER RIGHT

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

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

(i.e., the "TO" point(s) of diversion or appropriation) N/A – Instream Water Right Transfer

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

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)

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

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

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

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

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

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 85423

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

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

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
GW, Wells NW 3, NW 5	1S	2W		8	NW SW	1200	NA
GW, Wells NW 3, NW 5	1S	2W		8	SW SW	1200, 1400, 1600	NA
GW, Wells NW 3, NW 5	1S	2W		7	NE SE	1100, 1200	NA
GW, Wells NW 3, NW 5	1S	2W		7	SE SE	1100, 1200, 1400, 1500, 1600, 1700, 1701	NA
GW, Wells NW 3, NW 5	1S	2W		7	SW SE	1100	NA
GW, Wells NW 3, NW 5	1S	2W		7	NW SE	1100, 1200	NA
GW, Wells NW 3, NW 5	1S	2W		7	SW NE	1200	NA
GW, Wells NW 3, NW 5	1S	2W		7	SE NE	1200	NA
GW, Wells NW 3, NW 5	1S	2W		18	NE NE	1700, 100, 200, 300, 401, 400, 500, 1901, 1000	NA
GW, Wells NW 3, NW 5	1S	2W		18	NW NE	1000	NA
GW, Wells NW 3, NW 5	1S	2W		18	NE NW	1000	NA
GW, Wells NW 3, NW 5	1S	2W		18	SW NE	1000	NA
GW, Wells NW 3, NW 5	1S	2W		18	SE NW	1000	NA

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Remarks: Water will be used for industrial uses to support landfill operations.

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Presumption of Forfeiture for Non-Use Rebuttal under ORS 540.610 (2)

The portion of the water right under Oregon Garden Products Water Right Certificate 85423 that is the subject of this transfer application is the authorized place of use in tax lot numbers 1201, 1202, 1300, and 2100. The City of Hillsboro has owned this property and its associated water right confirmed under Certificate 85423 since 1997, when it acquired the property and its water right for municipal purposes. Any finding that this water right has been forfeited would impair and eliminate the City's right to use this water, making the water unavailable not only for this proposed transfer but also for any direct use by the City itself. These factors provide sufficient rebuttal under ORS 540.610(2)(a) and (b) against any presumption of forfeiture from non-use. An additional factor establishing that there has been no forfeiture from non-use is that the March 20, 2009 Notice of issuance of Water Right Certificate 85423 established usage of the water right and essentially reset the forfeiture timeline. Attached is the City of Hillsboro property deed for Tax Lots 1202, 1300, and 2100, and Title Report illustrating City of Hillsboro ownership of the Water Right Certificate 85423. Also attached is a copy of the Notice of Water Right Certificate Issuance for Certificate 85423.

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