



## Affidavit of Voluntary Cancellation or Diminution of a Water Right Certificate

**VOLUNTARY CANCELLATION** is how the legal holder(s) of a water right certificate may cancel an abandoned water right or an abandoned portion of a water right. Abandonment means water use has or will have ceased under the cancellation. A cancellation can apply to an entire certificate or to a specific place of use and acreage. The rate of water must be proportionately cancelled to match the portion of the right being cancelled. If a certificate is partially cancelled, a remaining water right certificate will be issued describing the uncanceled portion.

[see also Oregon Revised Statute (ORS) 540.621 and Administrative Rule (OAR) 690-017-0100.]

**VOLUNTARY DIMINUTION** is how the legal holder(s) of a water right certificate may diminish an entire water right or a portion of it from a primary purpose to a supplemental purpose. The overall authorized rate of water on the certificate will remain the same, but the proportions between primary use and supplemental use will change. In the diminution process, the originating water right will be cancelled, and a new water right will be issued describing the diminution. [see also Oregon Administrative Rule (OAR) 690-330-0040.]

**Describe in your own words what you want to accomplish with this affidavit: Cancel the portion of Certificate 6816 associated with land owned by Aspen Way West LLC.**

### Certificate of Water Right Information:

Certificate Number: 6816

Issued for use within the State of Oregon, County of Yamhill.

Issued in the name of: F.D Baron.

Date of priority: 1850

Rate or Volume on entire certificate: "amount which may be reasonably and beneficially used for said purposes" (cubic foot per second *or* gallons per minute *or* acre-feet).

Source(s) of water on certificate: Mill [Hess] Creek.

Use(s) of water listed on certificate: Stock and Domestic (purposes),

If for irrigation (IR), total number of acres on certificate for primary IR n/a, supplemental IR n/a.

### Statements of Oath:

I/We (or authorized agent), Aspen Way West LLC,

residing at 3113 Crestview Drive, Newberg, OR 97132,

with a mailing address of (if different) same,

and a telephone number of (503) 537-1000, being first duly sworn depose and say:

1. I/We are the legal owners of property appurtenant to all  or  a portion (**check one box**) of the water right described above. My/Our property is described on a recorded property deed in my/our/an entity name(s). The property is located within the following legal description [*must include at a*

**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

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*minimum, township(s), range(s), section number(s), quarter- quarter(s) and tax lot number(s)].*

Examples:

- Township 3 South, Range 5 East, Section 12, NW¼, NW¼ SW¼ & SW¼ SW¼; Section 13 NWNW, SWNW, all within Tax Lot 700.
- T16S, R18E, Sec18, SWSE & SESE, TL 1700
- T6N, R35E, Sec 27, S½, TL 1100

Enter legal description here: Township 3 South, Range 2 West, Section 8, SWNE and NWSE, tax lots 5600, 5500, 5700, and 5800 (Note: these are the parcels of land with riparian zone [100-ft] access to Hess Creek within the QQs stated on the water right certificate).

2. I/We are requesting a [**check one box - the affidavit will be returned if more than one box is checked**]:

voluntary cancellation of and have abandoned any and all interest in the ENTIRE water right Certificate # \_\_\_\_\_.

voluntary cancellation of and have abandoned any and all interest a PORTION of water right Certificate # **6816**.

voluntary diminution of the ENTIRE water right Certificate # \_\_\_\_\_.

voluntary diminution of a PORTION of water right Certificate # \_\_\_\_\_.

3. The appurtenant water right  is **or**  is not (**check one box**) located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (district). If the right is located within a district or reclamation project, name it here: \_\_\_\_\_.

a. The water right, or portion thereof, being  cancelled **or**  diminished (**check one box**) is in the name of or served by a district. The signature of district manager on the line below documents the concurrence of the district to the changes to the water right specified in this affidavit, for the portion of the water right in the name of or served by the district.

\_\_\_\_\_  
Signature of district manager

\_\_\_\_\_  
Printed Name

Date \_\_\_\_\_

4. **Complete this item (#4) only if this is a CANCELLATION for a PORTION of the water right.**

I/We have abandoned any and all interest in and wish to cancel the following portion(s) of the water right certificate number listed in Item #2, above:

A place of use, or use.

• For the use of (specify irrigation, domestic, etc.) Stock and Domestic

• *IF FOR IRRIGATION OR NURSERY USE:* Total number of acres to be cancelled n/a

• In the amount of "amount which may be reasonably and beneficially used for said purposes" cubic foot per second

• From the water source (s) Mill [Hess] Creek

• At the following location(s) (*attach a larger table if needed*):

**Affidavit for the VOLUNTARY CANCELLATION or DIMINUTION of a Water Right Certificate**

ABANDONED PORTION TO BE CANCELLED										
Township	N or S	Range	E or W	Mer	Section #	DLC #	G-LOT #	Quarter-Quarter	Acres	Tax Lot #
3	S	2	W	WM	8	47	--	SWNE	--	5600, 5500, 5700
3	S	2	W	WM	8	47	--	NWSE	--	5500, 5700, 5800

- Locations of the place of use or acres being cancelled are clearly identified on a copy of the certificate map of record (decree map, final proof map, or claim of beneficial use map); or, if there is no certificate map of record, then an alternate map is being submitted with information sufficient to determine the lands on which the right is to be cancelled)
- Locations of the place of use or acres **NOT** being cancelled are clearly identified on a copy of the certificate map of record; or if there is no certificate map of record, then an alternate map is being submitted with information sufficient to determine the lands on which the right is NOT to be cancelled.

**AND/OR (less common)**

- One or more of the authorized points of diversion (surface water) or points of appropriation (groundwater) authorized under the certificate.
- For the use of (specify irrigation, domestic, etc.) \_\_\_\_\_
  - From the water source (s) \_\_\_\_\_
  - Located within the \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ (N or S), Range \_\_\_\_\_ (E or W, W.M.
  - Location Description (if given on the certificate) \_\_\_\_\_

**N/A 5. Complete this section (Item #5a-c) for a DIMINUTION of ALL or a PORTION of the water right.**

- I/We have found a more dependable source of primary water, and therefore request the water right certificate  in its entirety, **or**  as described in Item #6, below, (check one box) be diminished from a right for primary use to a right for supplemental use.
- I/We agree that if this change is approved, it is permanent and the right to the use of water from \_\_\_\_\_ (source) cannot be changed back to the primary use unless otherwise provided by law.
- I/We also agree that so long as there is sufficient water available from the new primary source, I am/we are not entitled to use any water from \_\_\_\_\_ (source of water) for primary use on these lands.

**N/A 6. Complete this item (#6) for a DIMINUTION of a PORTION of the water right.**

I/We, being the legal owners of the property described below are requesting a partial diminution of the water right certificate (identified in Item #2 above in the amount of \_\_\_\_\_ (cfs) from \_\_\_\_\_ (sources) for irrigation (if applicable) of \_\_\_\_\_ acres at the following location(s) as listed on the certificate (attach a larger table if needed):

PORTION TO BE DIMINISHED FROM PRIMARY TO SUPPLEMENTAL IRRIGATION										
Township	N or S	Range	E or W	Mer	Section #	DLC #	G-LOT #	Quarter-Quarter	Acres	Tax Lot #
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	WM	_____	_____	_____	_____	_____	_____

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Signatures and Notary:



Austin Industries LLC, an Oregon  
limited liability company, its Manager

Signature of legal owner as listed on deed, or authorized agent

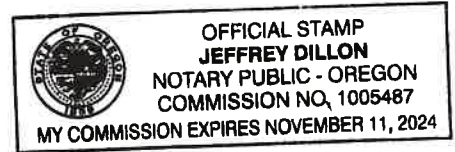
Printed Name Brian Naffin

Date 05/24/2024

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

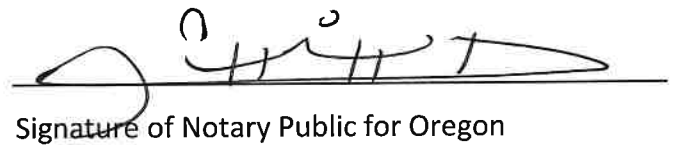
Printed Name \_\_\_\_\_

Date \_\_\_\_\_



Subscribed and Sworn to Before Me this 24 day of MAY, 2024.

STATE OF OREGON  
COUNTY OF YAMHILL

  
Signature of Notary Public for Oregon

My Commission Expires NOV. 11, 2024

**REQUIRED ATTACHMENTS (LEGIBLE COPIES):**

- 1) A recorded property deed which lists landowner(s) and includes a legal description of lands affected by this affidavit of cancellation or diminution.
- 2) An adjudication map, water right final proof map, or a tax lot map that clearly shows:
  - a. Location and acreages within each township, range and quarter-quarter of the lands described on the water right being cancelled or diminished, and
  - b. the remaining locations and acreages within each township, range and quarter-quarter of the lands described on entire water right NOT being cancelled or diminished, if any.
- 3) A list of names and addresses of other property owners with lands appurtenant to portions of the water right certificate not legally owned by the person(s) signing the affidavit.
- 4) If acting as an authorized agent, include a copy of the Power of Attorney or other documents granting authority to act on behalf of legal owner(s) as listed on the deed.

**MISSING ATTACHMENTS WILL RESULT IN THE AFFIDAVIT BEING RETURNED, AND NO ACTION TAKEN ON THE AFFIDAVIT.**

## Attachment 1 Property Deed

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AFTER RECORDING, RETURN TO:  
Stoel Rives LLP  
760 SW Ninth Avenue, Suite 3000  
Portland, OR 97205  
Attention: Margaret B. Kushner

Until a change is requested, all tax statements shall be sent to the following address:  
Aspen Way West LLC  
3113 Crestview Drive  
Newberg, OR 97132

Yamhill County Official Records	<b>201618832</b>
<b>DMR-DDMR</b>	<b>12/05/2016 01:53:59 PM</b>
Str=0 SUTTONS	
2Pgs \$10.00 \$11.00 \$5.00 \$20.00	<b>\$46.00</b>
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

**STATUTORY BARGAIN AND SALE DEED**

**SPRINGBROOK PROPERTIES, INC.**, an Oregon corporation, Grantor, conveys to **ASPEN WAY WEST LLC**, an Oregon limited liability company, Grantee, Lots 1, 2, 3, 4 and 5, and Tracts A, B, C, D, E, F, G, H, AA, BB, CC, DD and EE, **SPRINGBROOK DISTRICT**, in the City of Newberg, Yamhill County, Oregon, according to the plat thereof recorded August 19, 2011, at Plat Volume 15, Page 2, Yamhill County, Oregon.

The true consideration for this conveyance is NONE. This conveyance is a contribution to capital of Grantee.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, 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

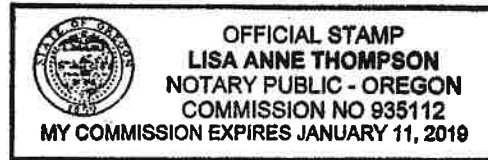


OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this 1st day of December, 2016.

**SPRINGBROOK PROPERTIES, INC.**,  
an Oregon corporation

By: George K. Austin, Jr.  
Name: George K. Austin, Jr.  
Title: President



STATE OF OREGON )  
 )ss.  
COUNTY OF Washoula )

This instrument was acknowledged before me on December 1st, 2016, by George K. Austin, Jr., as President of **SPRINGBROOK PROPERTIES, INC.**, an Oregon corporation, on its behalf.

Lisa Anne Thompson

Notary Public  
My commission expires:  
Commission No.: Jan. 11, 2019

## **Attachment 2**

### **Water Right Certificate and Map**

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## STATE OF OREGON

COUNTY OF YAMHILL

## CERTIFICATE OF WATER RIGHT

This is to Certify, That F. D. BARON

of Newberg, State of Oregon has a right to the use of  
the waters of Mill Creek  
for the purpose of Stock and domestic

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Yamhill County, and the said decree entered of record at Salem, in the Order  
Record of the STATE ENGINEER, in Volume 8, at page 369; that the priority  
of the right thereby confirmed dates from that said right exists by virtue of owner-  
ship of land riparian to said stream, and is held in common with the rights of  
other riparian owners as determined by said decree;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed  
amount which may be reasonably and beneficially used for said purposes;

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

A description of the land in connection with which said right has been decreed,  
is as follows:

SW $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 8 T. 3 S., R. 2 W.W.M.

And said right shall be subject to all other conditions and limitations con-  
tained in said decree.

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

WITNESS the signature of the State Engineer,  
affixed this Twentieth day  
of December, 1926

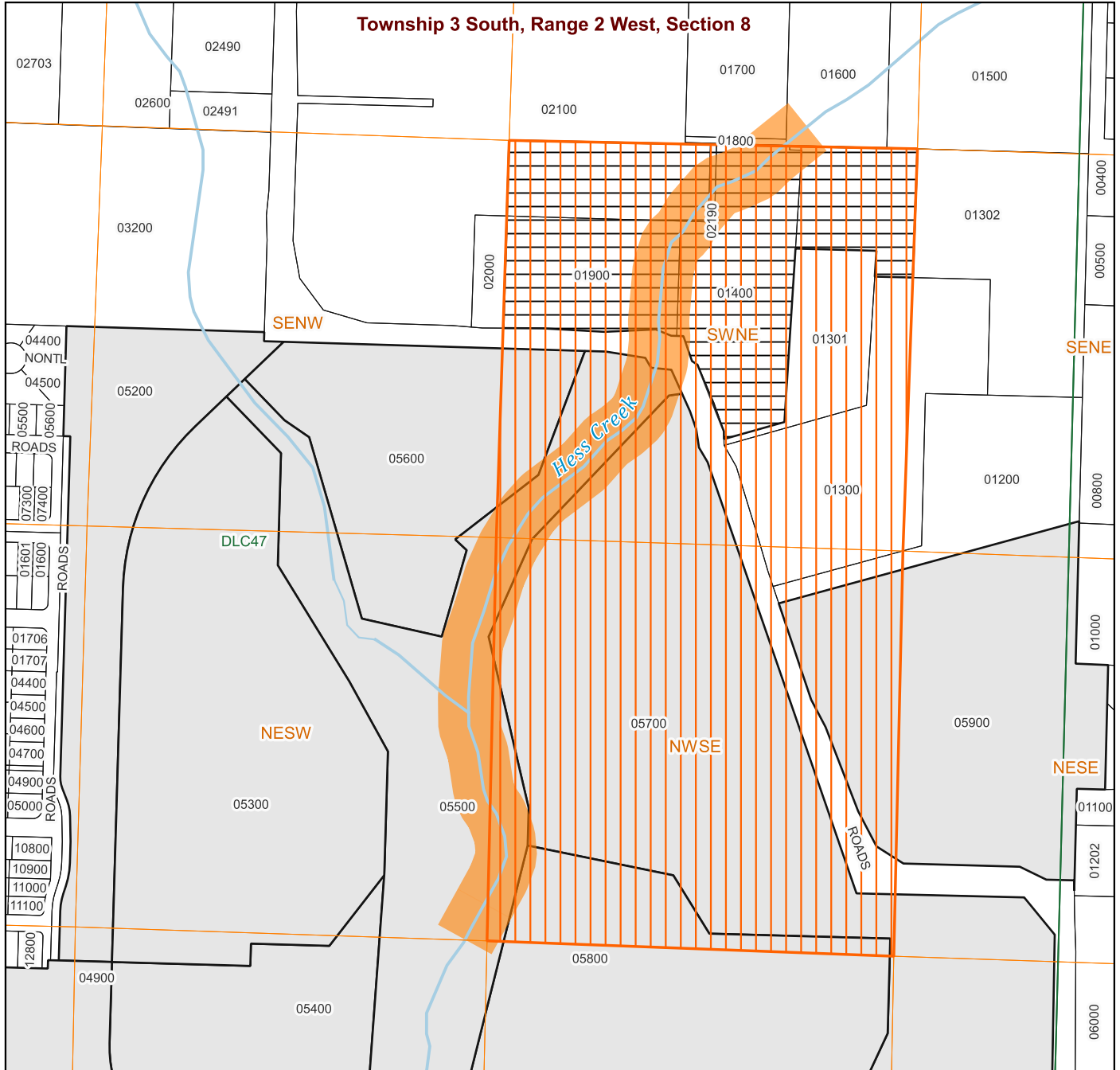
RITA LUPER  
State Engineer.

Recorded in State Record of Water Right Certificates, Volume 7, page 6816







# Voluntary Partial Cancellation Certificate 6816

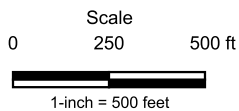
A Water Right held by Aspen Way West LLC  
Yamhill County

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## LEGEND

-  Tax Lots
-  Aspen Way West LLC Tax Lots
-  Hydrology
-  Listed QQ of use per certificate
-  Remaining land with riparian zone access to Hess Creek
-  Riparian Zone (100-ft)



Date: 5/24/2024  
Data Sources: BLM, OWRD, USGS, Yamhill County.  
Disclaimer: This map is not intended to provide legal dimensions or property ownership lines.



## **Attachment 3**

### **List of Other Property Owners**

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**Other owners of land with riparian zone [100-ft] access to Hess Creek within the QQs stated on the water right certificate**

<b>Tax Lot</b>	<b>Owner</b>	<b>Site Address</b>	<b>Mailing Address</b>
R3208 01900	Robert Simokovic Terri Simokovic	3612 NE Aspen Way Newberg, OR 97132	Same
R3208 02100	Rain Dane Ranch Vineyard LLC	4000 NE Aspen Way Newberg, OR 97132	PO Box 1060 Newberg, OR 97132
R3208 02190	Aspen Way LLC	None	1100 Thore Lane Lewisburg, KY 42256
R3208 01400	Aspen Way LLC	3512 NE Aspen Way Newberg, OR 97132	1100 Thore Lane Lewisburg, KY 42256
R3208 01302	Richard H Warner, Trustee Deborah Warner-Dobbins, Trustee Warner R&D Family Trust	3470 NE Aspen Way Newberg, OR 97132	1834 SE Exeter Drive Portland, OR 97202

Owner information per Yamhill County GIS tax lot data

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## Business Entity Data

05-22-2024

09:37

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
1271233-96	DLLC	ACT	OREGON	12-01-2016	12-01-2024	
<b>Entity Name</b>	ASPEN WAY WEST LLC					
<b>Foreign Name</b>						

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## Associated Names

<b>Type</b>	PPB	PRINCIPAL PLACE OF BUSINESS			
<b>Addr 1</b>	3113 CRESTVIEW DR				
<b>Addr 2</b>					
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

<b>Type</b>	AGT	REGISTERED AGENT	<b>Start Date</b>	10-30-2020	<b>Resign Date</b>	
<b>Of Record</b>	<a href="#">952919-94</a>	AUSTIN INDUSTRIES LLC				
<b>Addr 1</b>	3113 CRESTVIEW DRIVE					
<b>Addr 2</b>						
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA	

<b>Type</b>	MAL	MAILING ADDRESS			
<b>Addr 1</b>	AUSTIN INDUSTRIES				
<b>Addr 2</b>	3113 CRESTVIEW DRIVE				
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA

<b>Type</b>	MGR	MANAGER	<b>Resign Date</b>		
<b>Of Record</b>	<a href="#">952919-94</a>	AUSTIN INDUSTRIES LLC			
<b>Addr 1</b>	3113 CRESTVIEW DR				
<b>Addr 2</b>					
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA











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## Name History

Business Entity Name	<a href="#">Name Type</a>	<a href="#">Name Status</a>	Start Date	End Date
ASPEN WAY WEST LLC	EN	CUR	12-01-2016	

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## Summary History

Image Available	Action	Transaction Date	Effective Date	<a href="#">Status</a>	Name/Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	11-17-2023		FI		
	AMENDED ANNUAL REPORT	10-25-2022		FI		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	11-04-2021		FI		
	AMENDED ANNUAL REPORT	10-15-2021		FI		
	AMENDED ANNUAL REPORT	10-30-2020		FI	Agent	
	AMENDED ANNUAL REPORT	11-18-2019		FI		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	05-14-2019		FI		
	AMENDED ANNUAL REPORT	10-31-2018		FI		
	AMENDED ANNUAL REPORT	11-01-2017		FI		
	ARTICLES OF ORGANIZATION	12-01-2016		FI	Agent	

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### Business Entity Data

05-22-2024

09:37

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
952919-94	DLLC	ACT	OREGON	07-24-2013	07-24-2024	
<b>Entity Name</b> AUSTIN INDUSTRIES LLC						
<b>Foreign Name</b>						

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### Associated Names

<b>Type</b>	PPB	PRINCIPAL PLACE OF BUSINESS			
<b>Addr 1</b>	3113 E CRESTVIEW DR				
<b>Addr 2</b>					
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

<b>Type</b>	AGT	REGISTERED AGENT		<b>Start Date</b>	07-13-2020	<b>Resign Date</b>	
<b>Name</b>	BRIAN	NAFFIN					
<b>Addr 1</b>	3113 CRESTVIEW DR						
<b>Addr 2</b>							
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA		

<b>Type</b>	MAL	MAILING ADDRESS				
<b>Addr 1</b>	3113 CRESTVIEW DR					
<b>Addr 2</b>						
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA	

<b>Type</b>	MGR	MANAGER		<b>Resign Date</b>		
<b>Name</b>	BRIAN	NAFFIN				
<b>Addr 1</b>	3113 CRESTVIEW DR					
<b>Addr 2</b>						
<b>CSZ</b>	NEWBERG	OR	97132	<b>Country</b>	UNITED STATES OF AMERICA	

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### Name History

Business Entity Name	Name	Name	Start Date	End Date
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	<a href="#">Type</a>	<a href="#">Status</a>		
AUSTIN INDUSTRIES LLC	EN	CUR	07-24-2013	

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## Summary History

<b>Image Available</b>	<b>Action</b>	<b>Transaction Date</b>	<b>Effective Date</b>	<b>Status</b>	<b>Name/Agent Change</b>	<b>Dissolved By</b>
	AMENDED ANNUAL REPORT	06-20-2023		FI		
	AMENDED ANNUAL REPORT	06-09-2022		FI		
	AMENDED ANNUAL REPORT	07-14-2021		FI		
	AMENDED ANNUAL REPORT	07-13-2020		FI	Agent	
	AMENDED ANNUAL REPORT	06-24-2019		FI		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	05-14-2019		FI		
	AMENDED ANNUAL REPORT	06-14-2018		FI		
	AMENDED ANNUAL REPORT	06-16-2017		FI		
	AMENDED ANNUAL REPORT	06-14-2016		FI		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	06-07-2016		FI		
	ANNUAL REPORT PAYMENT	06-25-2015		SYS		
	AMENDED ANNUAL REPORT	06-30-2014		FI		
	ARTICLES OF ORGANIZATION	07-24-2013		FI	Agent	

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