

**CLAIM OF
BENEFICIAL USE
for Transfers
Place of Use Only**



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

A fee of \$230 must accompany this form for any transfer final orders including a water right with a priority date of July 9, 1987, or later.

Example – A transfer involves 5 rights and one of the rights has a priority date of July 9, 1987, or later, the fee is required.

The \$230 fee is included with this COBU.

A separate form shall be completed for each transfer.

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at: <https://www.oregon.gov/OWRD/Forms/Pages/default.aspx>

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

"Section 7" of this form is intended to aid in the completion of this form and should not be submitted.

A claim of beneficial use includes both this report and a map. If the map is being mailed separately from this form, please include a note with this form indicating such.

If you have questions regarding the completion of this form, please call 503-979-9103.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see:

<https://www.oregon.gov/OWRD/programs/WaterRights/RA/Pages/default.aspx>

SECTION 1

GENERAL INFORMATION

Type of Authorized Change

This Claim is being submitted for a transfer where the only authorized change was a change in place of use.

YES NO

If additional changes were authorized, you will need to select a different form.

1. File Information

APPLICATION # **S-70215**

Received
OCT 11 2024

T-13455

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Bailey Nurseries, Inc.		PHONE NO. 503-457-6897	ADDITIONAL CONTACT NO.
ADDRESS PO Box 398			
CITY Dayton	STATE OR	ZIP 97114	E-MAIL jon.estes@baileynursery.com

If the current property owner is not the transfer holder of record, it is recommended that an assignment be filed with the Department. **Each** transfer holder of record must sign this form.

3. Transfer holder of record (this may, or may not, be the current property owner)

TRANSFER HOLDER OF RECORD Bailey Nurseries, Inc.		
ADDRESS PO Box 398		
CITY Dayton	STATE OR	ZIP 97114

4. Date of Site Inspection:

September 26, 2024*

*Full beneficial use of water was made prior to the October 1, 2023 "C" date and the water system has not been changed since beneficial use was made.

5. Person(s) interviewed and description of their association with the project:

NAME	DATE	ASSOCIATION WITH THE PROJECT
Jon Estes	9/26/2024	Water Resources Manager, Bailey Nurseries

6. County:

Yamhill

7. If any property described in the place of use of the transfer final order is excluded from this report, identify the owner of record for that property (ORS 537.230(5)):

OWNER OF RECORD N/A		
ADDRESS		
CITY	STATE	ZIP

Add additional tables for owners of record as needed

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OCT 11 2024

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**SECTION 2
SIGNATURES**

CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME Robyn Cook		PHONE NO. 971-200-8505	ADDITIONAL CONTACT NO.
ADDRESS GSI Water Solutions, Inc., 650 NE Holladay Street, Suite 900			
CITY Portland	STATE OR	ZIP 97232	E-MAIL rcook@gsiws.com

Transfer Holder of Record Signature or Acknowledgement

Each transfer holder of record must sign this form in the space provided below.

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	TITLE	DATE
	Jon Estes	Water Resources Manager, Bailey Nurseries	10/7/2024

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OCT 11 2024**

SECTION 3

EXTENT OF CHANGE COMPLETED

1. Claim Summary:

If Irrigation or Nursery Use:

THE # OF ACRES ALLOWED	THE # OF ACRES DEVELOPED
11.9	11.9

If the use(s) was not irrigation or nursery:

WAS THE NEW PLACE OF USE DEVELOPED TO THE FULL EXTENT AUTHORIZED UNDER THE ORDER? (INCLUDE THE LOCATION OF THE DEVELOPED PLACE USE ON THE CLAIM MAP)
YES NO NA

2. Variations:

Was the use developed differently from what was authorized by the transfer final order? YES NO

If yes, describe below.

(e.g. "The order authorized a change in place of use for 40 acres. The water user only developed 38 acres.")

None.

Received
OCT 11 2024

**SECTION 4
CONDITIONS**

All conditions contained in the transfer, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

1. Time Limits:

Describe how the water user has complied with each of the development timelines established in the transfer final order and any extensions of time issued for the transfer:

	DATE FROM TRANSFER	DATE THE AUTHORIZED CHANGE WAS COMPLETED *THIS DATE MUST FALL BETWEEN THE "ISSUANCE DATE" AND THE "COMPLETENESS DATE"
ISSUANCE DATE	June 8, 2022	
COMPLETENESS DATE FROM ORDER (C)	October 1, 2023	May 2023

* MUST BE WITHIN PERIOD BETWEEN TRANSFER FINAL ORDER, OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETE THE CHANGE

2. Is there an extension final order(s)? YES NO
If "NO", you may delete the following table. The table was deleted.

3. Measurement Conditions:

a. Does the transfer final order require the installation of a meter or approved measuring device? YES NO
If "NO", items b through f relating to this section may be deleted. Items b through f were deleted.

Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion or appropriation.

4. Other conditions required by the transfer final order:
a. Other conditions? YES NO

If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

N/A

**SECTION 5
ATTACHMENTS**

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
Attachment A	T-13455 Final Order
Attachment B	Claim of Beneficial Use Map

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OCT 11 2024
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SECTION 6

CLAIM OF BENEFICIAL USE MAP

A Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on polyester film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

For the purpose of this Claim, the map must identify the developed new place of use. The existing point(s) of diversion or point(s) of appropriation are required to be included on the Claim map, based on the locations described in the transfer final order.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.

The new place of use was visited during the site inspection. The extent of the place of use was located using aerial imagery (Google Earth, August 2024), a handheld GPS, and a field survey completed during the site inspection. The map was created using Geographic Information System (GIS) software and spatial datasets obtained from the Bureau of Land Management, Environmental Systems Research Institute, Oregon Water Resources Department, and United States Geological Survey. Additional information specific to the use of water under the water right described in this Claim of Beneficial Use report was obtained from the water right holder.

Map Checklist

Please be sure that the map you submit includes ALL the items listed below.

(Reminder: Incomplete maps and/or claims may be returned.)

- Map on polyester film.
- Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- Township, Range, Section, Donation Land Claims, and Government Lots
- N/A** Locations of fish screens and/or fish by-pass devices in relationship to point of diversion
- N/A** Locations of meters and/or measuring devices in relationship to point of diversion
- N/A** Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.) ***Not required for this type of Claim of Beneficial Use**
- Point(s) of diversion or appropriation (illustrated and coordinates)
- Tax lot boundaries and numbers
- Source illustrated if surface water
- Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- Transfer application number
- North arrow
- Legend
- CWRE stamp and signature

Attachment A

T-13455 Final Order

Claim of Beneficial Use – Bailey Nurseries, Inc.

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OCT 11 2024

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13455, Yamhill County) A CHANGE IN PLACE OF USE

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

BAILEY NURSERIES INC.
9855 NW PIKE RD
YAMHILL, OR 97148

Findings of Fact

1. On May 28, 2020, BAILEY NURSERIES INC. filed an application to change the place of use under Certificate 90079. The Department assigned the application number T-13455.
2. Notice of the application for transfer was published on June 16, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 23, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13455 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 23, 2021, 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.
4. On February 2, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13455 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 February 8, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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.

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OCT 11 2024

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

Certificate: 90079 in the name of BAILEY NURSERIES, INC. (perfected under Permit S-51934)

Use: AGRICULTURAL USE (NURSERY OPERATIONS) on 11.9 ACRES

Priority Date: MARCH 2, 1990

Rate: 0.10 CUBIC FEET PER SECOND

Period of

Allowed Use: NOVEMBER 1 THROUGH APRIL 30 FROM LIVE FLOW AND STORED WATER;

MAY 1 THROUGH OCTOBER 31 FROM STORED WATER ONLY

Limit/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of in ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at any time of the year the use is beneficial. For the irrigation of any other crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Source: SALT CREEK AND FIDEL BROTHERS RESERVOIR, tributary to the NORTH YAMHILL RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
2 S	4 W	WM	31	NE NE	55	DIVERSION POINT A - 1265 FEET NORTH AND 1360 FEET WEST FROM THE SE CORNER OF DLC 55
2 S	4 W	WM	31	NE NE	55	DIVERSION POINT B - 1255 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF DLC 55
2 S	4 W	WM	31	SE NE	55	DIVERSION POINT C - 675 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF DLC 55
2 S	4 W	WM	31	SE NE	55	DIVERSION POINT D - 220 FEET NORTH AND 1380 FEET WEST FROM THE SE CORNER OF DLC 55
2 S	4 W	WM	31	SE SE	54	DIVERSION POINT E - 660 FEET NORTH AND 2780 FEET WEST FROM THE SE CORNER OF DLC 61

Authorized Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS)						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	4 W	WM	31	NE SE	54	5.8
2 S	4 W	WM	31	NW SE	54	3.6
2 S	4 W	WM	31	SW SE	54	2.0
2 S	4 W	WM	31	SE SE	54	0.5
Total:						11.9

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OCT 11 2024

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6. Transfer Application T-13455 proposes to change the place of use of the right to:

AGRICULTURAL USE (NURSERY OPERATIONS)						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	4 W	WM	31	NE SE	54	3.0
2 S	4 W	WM	31	SE SE	54	1.8
2 S	4 W	WM	32	SW NW	54	3.5
2 S	4 W	WM	32	SW NW	54	1.5
2 S	4 W	WM	32	NW SW	54	1.9
2 S	4 W	WM	32	NW SW	54	0.2
Total:						11.9

Transfer Review Criteria [OAR 690-380-4010(2)] *SOS 8 0 MUL*

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 pump, pipeline, and sprinkler system 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-13455.
9. The proposed change would not result in enlargement of the right. *SOS 8 0 MUL*
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Conclusions of Law

The change in place of use proposed in Transfer Application T-13455 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

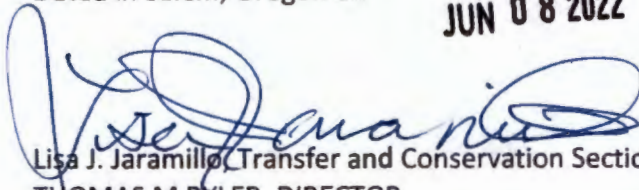
1. The change in place of use proposed in Transfer Application T-13455 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 90079 and any related decree.
3. Water right Certificate 90079 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.

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OCT 11 2024
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4. The former place of use of the transferred right shall no longer receive water under the right.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

JUN 08 2022



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

Mailing date: **JUN 09 2022**

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Attachment B

Claim of Beneficial Use Map

Claim of Beneficial Use – Bailey Nurseries, Inc.

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October 7, 2024

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

RE: Claim of Beneficial Use for Transfer T-13455

Gerry:

On behalf of Bailey Nurseries, Inc., please find enclosed a Claim of Beneficial Use report for Transfer T-13455.

Please do not hesitate to contact me at 541-753-0933 with questions about the enclosed COBU.

Sincerely,

A handwritten signature in blue ink that reads "Zach Pike-Urliacher".

Zach Pike-Urliacher
Water Resources Consultant

A handwritten signature in blue ink that reads "Robyn Cook".

Robyn Cook, RG, PG, CWRE
Principal Hydrologist

Enclosures:
Claim of Beneficial Use for Transfer T-13455 and \$230 fee

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OCT 11 2024
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