

Application for a Permit to Use Surface Water



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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OCT. 16 2014

SALEM, OR

Water-Use Permit Application Processing

1. Completeness Determination

The Department evaluates whether the application and accompanying map contain all of the information required under OAR 690-310-0040 and OAR 690-310-0050 (www.oregon.gov/owrd/law.oar). The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

2. Initial Review

The Department reviews the application to determine whether water is available during the period requested, whether the proposed use is restricted or limited by rule or statute, and whether other issues may preclude approval of or restrict the proposed use. An Initial Review (IR) containing preliminary determinations is mailed to the applicant. The applicant has 14 days from the mailing date to withdraw the application from further processing and receive a refund of all fees paid minus \$200. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

3. Public Notice

Within 7 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department at www.oregon.gov/owrd. The public comment period is 30 days from publication in the weekly notice.

4. Proposed Final Order Issued

The Department reviews any comments received, including comments from other state agencies related to the protection of sensitive, threatened or endangered fish species. Within 60 days of completion of the IR, the Department issues a Proposed Final Order (PFO) explaining the proposed decision to deny or approve the application. A PFO proposing approval of an application will include a draft permit, and may request additional information or outstanding fees required prior to permit issuance.

5. Public Notice

Within 7 days of issuing the PFO, the Department gives public notice in the weekly notice. Notice includes information about the application and the PFO. Protest must be received by the Department within 45 days after publication of the PFO in the weekly notice. Anyone may file a protest. The protest filing fee is \$350.00 for the applicant and \$700.00 for non-applicants. Protests are filed on approximately 10% of Proposed Final Orders. If a protest is filed the Department will attempt to settle the protest but will schedule a contested case hearing if necessary.

6. Final Order Issued

If no protests are filed, the Department can issue a Final Order within 60 days of the close of the period for receiving protest. If the application is approved, a permit is issued. The permit specifies the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate.

Application for a Permit to Use Surface Water



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725 Summer Street NE, Suite A
Salem Oregon 97301-1266
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www.wrd.state.or.us

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

NAME ROY VARDANEGA			PHONE (HM) 541-421-3036
PHONE (WK) 541-421-3036	CELL NA		FAX NA
ADDRESS 29495 HWY 305			
CITY FOX	STATE OR	ZIP 97856	E-MAIL * NA

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Organization Information

NAME NA			PHONE NA	FAX NA
ADDRESS NA			CELL NA	
CITY NA	STATE NA	ZIP NA	E-MAIL * NA	

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

AGENT / BUSINESS NAME NA			PHONE NA	FAX NA
ADDRESS NA			CELL NA	
CITY NA	STATE NA	ZIP NA	E-MAIL * NA	

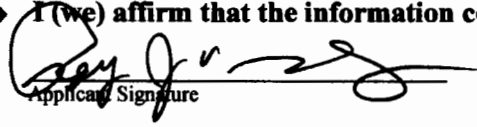
Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

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


Applicant Signature

Roy Vardanega
Print Name and title if applicable

9-22-14
Date

Applicant Signature

Print Name and title if applicable

Date

Revised

App. No. S-08023

For Department Use

Permit No. _____

Date _____

SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

☒ Yes

☒ There are no encumbrances.

☐ This land is encumbered by easements, rights of way, roads or other encumbrances.

☐ No

☐ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).

☐ Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

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SECTION 3: SOURCE OF WATER

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A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: POND #1

Tributary to: None

Source 2: & Pond # 2

Tributary to: None

Source 3: & Pond # 3

Tributary to: None

Source 4: NA

Tributary to: NA

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in item 3A above?

☒ Yes.

☐ No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

- ☐ By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:
- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
 - A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):
(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
Snowmelt & run off water	Irrigation	April 1 - Sept 30	17.2 ☐ cfs ☐ gpm ☒ af
Spring #1	Irrigation	April 1 - Sept 30	17.2 ☐ cfs ☐ gpm ☒ af
Spring #2	Irrigation	April 1 - Sept 30	☐ cfs ☐ gpm ☐ af
			☐ cfs ☐ gpm ☐ af

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For irrigation use only:

Please indicate the number of primary and supplemental acres to be irrigated.

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Primary: 60 Acres

Supplemental: None Acres

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List the Permit or Certificate number of the underlying primary water right(s): NA

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 197.2 ac. ft.

180 ac. ft GW-- 17.2 ac. ft. Storage

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: NA
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

NA

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SECTION 5: WATER MANAGEMENT**A. Diversion and Conveyance**

What equipment will you use to pump water from your source?

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☒ Pump (give horsepower and type): 25☒ Other means (describe): Pump from Pond #1 to irrigate east field, then gravity flow via pipeline to wheel lines and hand lines.

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

Water will be collected from snow melt, runoff and two springs, all of which lie in a natural shallow draw, following the draw, three ponds will be constructed in the draw to collect the water. Water will be pumped from upper Pond #1 to irrigate the east field. Water will be delivered by a gravity flow pipeline to Middle Pond# 2, then delivered by a gravity flow pipeline to Lower Pond#3, then by a gravity flow pipeline to irrigate the lower (west) field.**B. Application Method**

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

Water will be pumped from Pond #1 to wheel lines and hand lines to irrigate the upper (east) field. Water will also be delivered by a buried pipeline to Pond #2, then by a gravity flow pipeline to Pond#3, then through a gravity flow pipeline to wheel lines and hand lines to irrigate the lower (west) field.**C. Conservation**

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

Through proper management of irrigation practices.**SECTION 6: RESOURCE PROTECTION**

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

☐ Diversion will be screened to prevent uptake of fish and other aquatic life.
Describe planned actions: NA☐ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: NA☐ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe: NA☐ Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe: NA

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SECTION 7: PROJECT SCHEDULE

Date construction will begin: 4/1/2015

Date construction will be completed: 4/1/2020

Date beneficial water use will begin: 4/1/2015

SECTION 8: WITHIN A DISTRICT

☐ Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name NA	Address NA	
City NA	State NA	Zip NA

SECTION 9: REMARKS

Use this space to clarify any information you have provided in the application.

The surface water will be blended with ground water from an existing well (GRAN 197). An Application for a Permit to Use Ground Water is submitted along with this application. Also an Application for a Permit to Store Water in a Reservoir is submitted with this application.

Ground Water application in conjunction with Surface Water applications comprise the whole project.

We plan to use available water to grow appropriate crops until water is exhausted. We plan to spread irrigation sets out to maximize available water late season.

Land Use Information Form

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Oregon Water Resources Department
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NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

Land Use Information Form

OCT. 16 2014

SALEM, OR



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

Applicant: Roy First WARDANEGA Last

Mailing Address: 29496

FOX City OR State 97856 Zip Daytime Phone: 541-421-3036

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	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
						☐ Diverted	☐ Conveyed	☐ Used	
		<u>SEE</u>		<u>ATTACHED</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:

GRANT COUNTY

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) snowmelt, runoff & springs

Estimated quantity of water needed: 1.5 ☐ 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:

snowmelt, runoff & 2 springs will be collected in 3 ponds then piped to field for sprinkler irrigation

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. →

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For Local Government Use Only

SALEM, OR

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): 604 + 606 GCLDC
- ☐ 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.

irrigation allowed use in farm zones.

Name: Shannon Springer Title: Assistant Planner
 Signature: Shannon Springer Phone: 541-575-1519 Date: 9/19/14
 Government Entity: Grant County Planning Department

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: _____

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Vardanega
11-29 TL 1301
11-30 TL 1303, 2501

Land Use Information Form

Attachment

Land and Location

Township	Range	Section	1/41/4	Tax Lot #	Plan Designation	Water to be:			Proposed Land Use
						Diverted	Conveyed	Used	
11S	29E	13	NENE	1301	EFU		X	X	IRRIGATION
		13	SENE	1301	EFU		X		IRRIGATION
		13	NWNE	1301	EFU		X	X	IRRIGATION
11S	30E	18	LOT 1	1303	EFU		X	X	IRRIGATION
		18	LOT 2	1303	EFU		X		
		18	LOT 3	1303	EFU		X		
		18	NESW	1303	MUR		X		
		18	SESW	1303	MUR		X		
		18	SWSE	1303	MUR	X	X	X	
		18	SESE	1303	MUR		X	X	IRRIGATION
		19	NENE	2501	MUR		X	X	
		19	NENE	1303	MUR	X	X	X	

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ROBERT D. BAGETT, PLS, CWRE

Certified Water Rights Examiner

217 North Canyon Blvd.

P.O. Box 476

John Day, Oregon 97845

Phone (541) 575-1251

Fax (541) 575-2707

e-mail bob@johndaysurveyors.com

Office Location – 217 N. Canyon Boulevard

September 20, 2014

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

Re: Water Right Application for Roy Vardanega

This cover letter is written on behalf of Roy Vardanega of Fox, Oregon

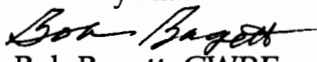
The applications contained in the enclosed packet are for Ground Water, Surface Water, and Storage Ponds. Each application is a part of Mr. Vardanega's overall project.

Consider all the applications together as one project contingent on approval.

Ponds 1, 2 and 3 are included as one application under the Standard Review Application process for storage.

Please contact me or Mr. Vardanega if you have any questions.

Thank you.


Bob Bagett, CWRE

S-00023

CONTRACT OF SALE

042889 OCT. 16 2014

PARTIES:

SALEM, OR

Sellers: Gazelle Land & Timber L.L.C., PO Box 310 Canyon City, Oregon 97820.
Hereinafter referred to as "Gazelle".

Purchaser: William Marks and Donna Marks, Trustees of the
William and Donna Marks Trust, 1230 Juneberry Place, Oxnard,
California, 93036. Hereinafter referred to as "Marks"



AGREEMENT:

Gazelle agrees to sell and Marks agrees to buy the following described real property:

That particular real property described in Exhibit "A" attached hereto and incorporated herein by reference.

It is further agreed that Gazelle shall reserve an easement for a well, reservoir, pipeline and electrical service to well located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, Township 11 South, Range 30 East of the Willamette Meridian, to provide and convey domestic water, including irrigation of a residential lawn, to the house situated upon Tax Lot 2501 in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian, together with the right of ingress and egress to maintain the well, reservoir, pipeline and electrical service. The easement shall be perpetual and inure to the benefit of Grantor, their heirs, successors and assigns and shall be appurtenant to the aforementioned NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian.

It is further agreed that the holder of the easement referenced above shall have the obligation to pay all costs and expenses in any way associated with said referenced easement, including but not limited to all electrical and maintenance costs for the well and pipeline and shall be solely responsible for maintenance of any and all rights of way to cross any public highway. The holder of the easement will hold the owner of the land on which the well is situated harmless from any and all claims in any way related to the easement.

PURCHASE PRICE:

The purchase price is agreed to be Two Hundred Thirty Two Thousand Five Hundred dollars, \$232,500.00.

DOWN PAYMENT:

\$150,000.00 on or before closing

19235

8-88023

042869

CONTRACT BALANCE AND TERMS:

The balance of \$82,500.00 shall be paid as follows:

- (a) The sum of \$82,500. including interest at the rate of 8% per annum on the principal amount of \$82,500.00 to Gazelle in 83 payments of \$690.06 per month beginning November 1, 2004 and the final payment due October 1, 2011 in the amount of \$67,040.20.
- (b) The 83 monthly payments shall be paid by the first day of each month and shall accrue a late fee of \$25 if received after the 10th of the month. Such late fee does not alter the default provisions contained within this contract of sale.
- (c) There shall be no pre-payment penalties associated with the Purchaser (Marks) paying off this contract before the term set forth herein.

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POSSESSION:

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Marks shall be entitled to possession of the property upon closing.

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MAINTENANCE OF LIENS:

During the life of this contract Marks agrees that they will permit no liens or encumbrances to attach to the premises which are or claim to be prior and superior to the interests of the Seller (Gazelle).

PAYMENT TO THIRD PARTIES:

If Marks fails to pay when due any amounts required of purchaser to be paid to third parties hereunder, including but not limited to , taxes and mortgage payments, Seller, Gazelle, may pay any or all such amounts, and any amounts so paid by seller shall be immediately due and payable. Such amounts will be secured by this contract. Payments will bear interest at ten percent (10%) per annum from the date of the payment. Any payments so made by seller shall not constitute a waiver of Seller's rights to declare Purchaser in default of this contract.

HAZARDOUS MATERIALS WARRANTY:

Seller warrants that:

The property has never been used for the storage or disposal of any hazardous material or waste. There are no environmentally hazardous materials or waste contained on or under the Property and the Property has not been identified by any governmental agency as a site upon which environmentally hazardous materials have been located or deposited.

REPRESENTATIONS AND CONDITION OF PROPERTY:

Purchasers acknowledge:

042887

- 1) Sellers or their agents have made no representations and extended no warranties, other than those expressly set forth herein and Purchaser is purchasing said realty pursuant to their own independent examination, study and inspection.
- 2) The Purchasers take said property and improvements thereon in their present condition, AS IS.
- 3) THIS INSTRUMENT WILL 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(S) ACCEPTING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY, OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.
- 4) No warranty has been made as to the exact boundary locations and Purchasers are aware that the fence lines may or may not be on the exact property lines.

TITLE INSURANCE:

Gazelle and Marks agree that within 30 days after the execution of this agreement the Marks will be furnished with an owners standard form title insurance policy in the amount of \$232,500, which said policy shall be subject to the usual printed exceptions contained in such policies, and exceptions as contained in said title report.

It is further agreed that Gazelle and Marks shall share equally in the cost of said Title Insurance policy.

ESCROW:

The parties hereto do hereby make, constitute and appoint Land Title of Grant County located at 103 W Main Street, in John Day, Oregon 97845, their escrow agent. Sellers shall deliver to said escrow agent a warranty deed conveying marketable title to the property sold hereunder, subject to the escrow instructions authorizing delivery of the instruments after satisfaction of the payments due herein.

PRIOR AGREEMENTS:

This document is the final agreement of the parties pertaining to this sale and purchase of the property and supersedes and replaces all written and oral agreements previously made or existing between the parties hereto.

DEFAULT PROVISIONS:

Contract of Sale - Gazelle Land & Timber L.L.C. to William and Donna Marks Trust

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In the event the Purchaser (Marks) shall fail to perform any of the terms of this contract, time of the payment and performance being of the essence, said Seller (Gazelle) shall, at the Seller's option, subject to the requirements of notice as herein provided, and in addition to any other claims for relief provided by law, have the following rights:

- 1) Declare the entire balance of the purchase price and interest immediately due and payable.
- 2) Foreclose this contract by suit in equity.
- 3) Specifically enforce the terms of the contract by suit in equity.

Purchaser shall not be deemed in default for failure to perform any covenant or condition of this contract until notice of said default has been given by Seller to Purchaser and Purchaser shall have failed to remedy said default within thirty (30) days after giving notice.

WAIVER:

Failure of Seller at any time to require performance by Purchaser of any of the provisions herein shall not limit Seller's right to enforce them, nor shall any waiver by Seller of any breach be held to be a waiver of any succeeding breach or a waiver of this clause.

COSTS AND ATTORNEY FEES:

In the event Seller or Purchasers shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this contract, the prevailing party shall be entitled to recover from the other party all expenses which they may reasonably incur in taking such action, including but not limited to costs incurred in searching records, the cost of title reports or foreclosure reports and attorney fees, whether incurred in suit or action or appeal from a judgement or decree therein or in connection with non-judicial action.

NOTICE:

Any notice under this contract shall be in writing and shall be effective when deposited in the United States Mail, certified, return receipt requested, and addressed to the party given notice at their last known post office address, as shown herein:

SELLER

Gazelle Land & Timber L.L.C.
PO Box 310 Nelson Road
Canyon City, Oregon 97820

PURCHASER

William and Donna Marks Trust
% William Marks
1230 Juneberry Place
Oxnard, California 93036

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042887

ASSIGNMENT:

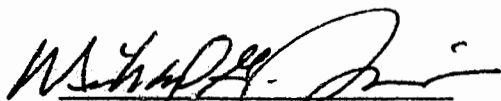
This agreement is personal to Purchaser and Purchaser shall not voluntarily or involuntarily assign or transfer any of their interest in and to the property or this contract without the prior written consent of the Seller, which consent shall not be unreasonably withheld.

BINDING EFFECT AND ASSIGNMENT:

This contract shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns of the parties hereto; provided that nothing contained in this paragraph shall alter the restrictions hereinabove contained relating to assignment.

In witness whereof the parties have caused this agreement to be executed this ___ day of September, 2004.

SELLER

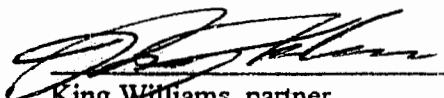


Michael G. Smith, partner
Gazelle Land & Timber L.L.C.

PURCHASER



William G. Marks, Trustee
William and Donna Marks Trust



King Williams, partner
Gazelle Land & Timber L.L.C.



Donna R. Marks, Trustee
William and Donna Marks Trust

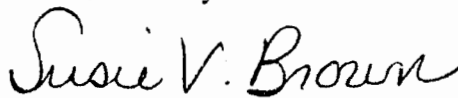
RECEIVED BY OWRD

STATE OF OREGON)
)ss.
COUNTY OF GRANT)

OCT. 16 2014

SALEM, OR

On this 30 day of Sept, 2004, personally appeared the above named Michael G. Smith and acknowledged the foregoing instrument to be his free and voluntary act and deed.



Notary Public in and for the State of Oregon
My commission expires 5/12/2008

STATE OF OREGON)
)ss.
COUNTY OF GRANT)

042889

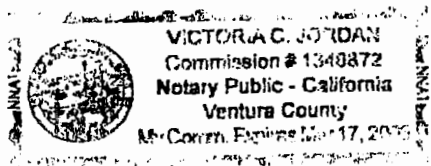
On this 30 day of Sept, 2004, personally appeared the above named King Williams and acknowledged the foregoing instrument to be his free and voluntary act and deed.



Susie V. Brown
Notary Public in and for the State of Oregon
My commission expires 5/12/2008

STATE OF CALIFORNIA)
)ss.
COUNTY OF VENTURA

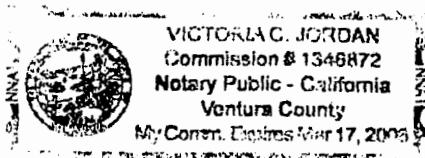
On this 1st day of Oct, 2004, personally appeared the above named William A. Marks , Trustee** and acknowledged the foregoing instrument to be his free and voluntary act and deed.
**of the William and Donna Marks Trust,



Victoria C. Jordan
Notary Public in and for the State of California
My commission expires March 17, 2006

STATE OF CALIFORNIA)
)ss.
COUNTY OF VENTURA

On this 1st day of Oct, 2004, personally appeared the above named Donna R. Marks , Trustee** and acknowledged the foregoing instrument to be his free and voluntary act and deed.
**of the William and Donna Marks Trust,



Victoria C. Jordan
Notary Public in and for the State of California
My commission expires March 17, 2006

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OCT 16 2014

SALEM, OR

042889

Section 17: $S\frac{1}{2}S\frac{1}{2}$.

Section 19: That portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying Easterly of the Pendleton-John Day Highway.;

Section 20: That portion of the N $\frac{1}{2}$ N $\frac{1}{2}$ lying Easterly of the Pendleton-John Day Highway.

RESERVING THEREFROM an easement for a well, reservoir, pipeline and electrical service to well located in the NW¼NW¼ of Section 20, Township 11 South, Range 30 East of the Willamette Meridian, to provide and convey domestic water, including irrigation of a residential lawn, to the house situated upon Tax Lot 2501 in the NE¼NE¼ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian, together with the right of ingress and egress to maintain the well, reservoir, pipeline and electrical service. The easement shall be perpetual and inure to the benefit of Grantor, their heirs, successors and assigns and shall be appurtenant to the aforementioned NE¼NE¼ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian.
(Tax Acct's. 17 11-30 1305 & portions of 1300 & 1306; Ref's. 38410; 38411; 6868)

STATE OF OREGON

County of ~~Franklin~~ ^{Sevier}

SS

I certify that this indictment was received and recorded in the book of records of said county.

by John J. Deery Deputy.

DOC#: 100-28890 PAGES: 7
RCPT: 2889 53.50
10/25/2004

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OCT. 16 2014

SALEM, OR

STATUTORY WARRANTY DEED

Gazelle Land & Timber L.L.C., Grantor, convey(s) and warrant(s) to William Marks and Donna Marks, Trustees of the William and Donna Marks Trust, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

Township 11 South, Range 30 East, Willamette Meridian, Grant County, Oregon:

- Section 17: S $\frac{1}{2}$ S $\frac{1}{2}$.
 Section 18: That portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying Easterly of the Pendleton-John Day Highway.;
 Section 19: That portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying Easterly of the Pendleton-John Day Highway.;
 Section 20: That portion of the N $\frac{1}{2}$ N $\frac{1}{2}$ lying Easterly of the Pendleton-John Day Highway.

Together with
 RESERVING THEREFROM an easement for a well, reservoir, pipeline and electrical service to well located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, Township 11 South, Range 30 East of the Willamette Meridian, to provide and convey domestic water, including irrigation of a residential lawn, to the house situated upon Tax Lot 2501 in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian, together with the right of ingress and egress to maintain the well, reservoir, pipeline and electrical service. The easement shall be perpetual and inure to the benefit of Grantor, their heirs, successors and assigns and shall be appurtenant to the aforementioned NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Township 11 South, Range 30 East of the Willamette Meridian.

This property is free of liens and encumbrances, EXCEPT:

1. As disclosed by the tax roll the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property may be subject to additional taxes or penalties and interest.
2. Rights of the public in and to any portion of the herein described premises lying within the boundaries of streets, roads or highways.
3. Easement, including the terms and provisions thereof:

For	: Right of way easement for utility and incidental purposes thereto.
Granted to	: California-Pacific Utilities Company, a corp.
Recorded	: August 28, 1951
Book	: 63
Page	: 483
Affects	: NW1/4 of Sec. 20, Twp. 11 S, R. 30 E., W.M.
4. Easement, including the terms and provisions thereof:

For	: Right of way easement for utility and incidental purposes thereto.
Granted to	: California-Pacific Utilities Company, a corp.
Recorded	: August 28, 1951
Book	: 63
Page	: 484
Affects	: NE1/4NE1/4 of Sec. 19, and the E1/2SE1/4 of Sec. 18, Twp. 11 S., R. 30 E. W.M.
5. Easement, including the terms and provisions thereof:

For	: Right of way easement for utility and incidental purposes thereto.
Granted to	: California-Pacific Utilities Company, a corp.
Recorded	: December 19, 1951
Book	: 64
Page	: 319
Affects	: NW1/4NW1/4 of Sec. 20, Twp. 11 S., R. 30 E., W.M.

Gazelle - Marks Deed - Page 1 of 2

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OCT. 16 2014

SALEM, OR

S-88023

STATE OF OREGON
 County of Grant

I certify that this instrument was received and recorded in the book and records of said county.

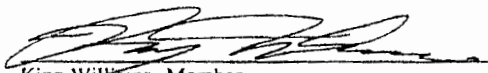
by *KATHLEEN KENNON*, Deputy,
 Grant County Clerk
 DOC# 0290602120 PAGES 2
 RCPT# 029060212 28.58
 1/31/2006 0026 PM

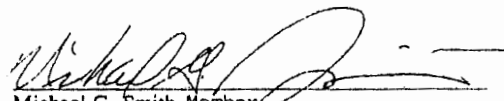
060212

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$232,500.00.

DATED: Oct. 26, 2004.

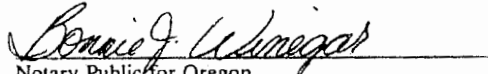

King Williams, Member
For Gazelle Land & Timber L.L.C.


Michael G. Smith Member
For Gazelle Land & Timber L.L.C.

STATE OF Oregon, County of Grant) ss.

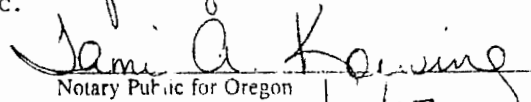
The foregoing instrument was acknowledged before me on October 26, 2004, by King Williams as a member of Gazelle Land & Timber, LLC.




Notary Public for Oregon
My Commission Expires: 11-2-07

STATE OF Oregon, County of Grant) ss.

The foregoing instrument was acknowledged before me on January 30, 2004, by Michael G. Smith, as a member of Gazelle Land & Timber, LLC.


Notary Public for Oregon
My Commission Expires: 11/20/07

AFTER RECORDING, RETURN TO:

Land Title Company
103 West Main
John Day, Oregon 97845

SEND TAX STATEMENTS TO:
William & Donna Marks Trust
1230 Juneberry Place
Oxnard, California 93036



RECEIVED BY OWRD

OCT 16 2014

SALEM, OR

STATE OF OREGON ss
County of Grant

I certify that this instrument was received
and recorded in the book of records of
said county.

BRENDA PERCY Grant County Clerk

by [Signature] Deputy

DOC# 12-20560
RCPT: 13.50

Sf 10/02/2012 3:30 PM

After recording return to: (Name, Address, Zip)
Land Title Company of Grant County, Inc.
145 NE Dayton St.
John Day OR 97845

Until requested otherwise, send all tax statements to:
(Name, Address, Zip)
Roy J. Vardanega
29456 Hwy 395 North
Long Creek, OR 97856

WARRANTY DEED
(Individual Grantor)

ANDREW R. WILBURN and MITSIE WILBURN, husband and wife, Grantor, conveys and warrants to Roy J. Vardanega and Sherri L. Vardanega, as tenants by the entirety, Grantee, the following described real property free of encumbrances, except as specifically set forth herein situated in Grant County, State of Oregon, described as follows, to-wit:

See Exhibit 'A' attached hereto and by this reference incorporated herein

Subject to and excepting: Matters of record

23082 "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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009."

The true and actual consideration for this conveyance is \$415,000.00 is pursuant to an IRC 1031 Tax Deferred Exchange on behalf of the Grantor. (Here comply with requirements of ORS 93.030.)

Dated this 1 day of October, 2012.

[Signature]
Andrew R. Wilburn

[Signature]
Mitsie Wilburn

STATE OF OREGON }

County of Grant }

This instrument was acknowledged before me on this 1 day of October, 2012 by Andrew R. Wilburn and Mitsie Wilburn.

[Signature]
Notary Public for Oregon
My commission expires: November 20, 2015



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OCT 16 2014

SALEM, OR

5-00023

Exhibit A
LEGAL DESCRIPTION

File Number: 23082

20122052

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OCT. 16 2014

SALEM, OR

Township 11 South, Range 29 East, Willamette Meridian, Grant County, Oregon:
Section 13: NE1/4; SAVE & EXCEPT the North 80 feet of the said NE1/4, conveyed to Grant County, Oregon, by deed dated Aug. 22, 1956, recorded Sept. 11, 1956 in Book 75, page 333, Deed Records of Grant County, Oregon.
(Tax Acct. 17-3 11-29 TL1301; Ref. 38402)

Township 11 South, Range 29 East, Willamette Meridian, Grant County, Oregon:
Section 13: E1/2SE1/4.
(Tax Accts. 17-3 11-29 TL1300, TL1302; Ref's. 6828, 38403)

Township 11 South, Range 29 East, Willamette Meridian, Grant County, Oregon:
Section 24: NE1/4NE1/4.
(Tax Acct. 17-3 11-29 TL1303; Ref. 38404)

Township 11 South, Range 29 East, Willamette Meridian, Grant County, Oregon:
Section 13: W1/2SE1/4.
(Tax Acct. 17-3 11-29 TL1304; Ref. 38405)

Township 11 South, Range 30 East, Willamette Meridian, Grant County, Oregon:
Section 18: Government Lots 1 and 2; SAVE & EXCEPT the North 80 feet of said Government Lot 1, conveyed to Grant County, Oregon, by deed dated Aug. 22, 1956, recorded Sept. 11, 1956 in Book 75, page 333, Deed Records of Grant County, Oregon.
(Tax Acct. 17-3 11-30 TL1302; Ref. 38407)

Township 11 South, Range 30 East, Willamette Meridian, Grant County, Oregon:
Section 18: Government Lots 3 and 4; E1/2W1/2; SW1/4NE1/4 and all that portion of the SE1/4 and the SE1/4NE1/4 lying Westerly of the John Day-Pendleton Highway
Section 19: Government Lot 1; NE1/4NW1/4; NW1/4NE1/4; and All that portion of NE1/4NE1/4 lying Westerly of the John Day-Pendleton Highway.
Section 20: All that portion of the NW1/4NW1/4 lying Westerly of the John Day-Pendleton Highway.

SAVE & EXCEPT the following parcels:

- (a) That portion of the SE1/4SE1/4 of Sec. 18, and NE1/4NE1/4 of Sec. 19, conveyed to the State of Oregon, by and through its State Highway Commission, by Deed dated Aug. 25, 1938, recorded Sept. 8, 1938, in Book 42, page 583, Deed Records of Grant County, Oregon, for highway right of way.
- (b) That portion of the NW1/4NW1/4 of Sec. 20, conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated Aug. 25, 1938, recorded Sept. 30, 1938 in Book 42, page 606, Deed Records of Grant County, Oregon, for highway right of way.
- (c) That portion of the NE1/4SE1/4, SW1/4NE1/4 of Sec. 18, Twp. 11 S., R. 30 E., W.M., conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated June 29, 1938, recorded July 9, 1938, in Book 42, page 532, Deed Records of Grant County, Oregon, for highway right of way.
- (d) The North 80 feet of the NE1/4NW1/4 of Sec. 18, Twp. 11 S., R. 30 E., W.M., conveyed to Grant County, Oregon, by deed dated Aug. 22, 1956, recorded Sept. 11, 1956, in Book 75, page 332, Deed Records of Grant County, Oregon.

(Tax Accts. 17-3 11-30 TL1303, TL2501; Ref's. 38408, 6872)

Township 11 South, Range 30 East, Willamette Meridian, Grant County, Oregon:
Section 18: NW1/4NE1/4, SAVE & EXCEPT that portion conveyed to Grant County, Oregon, by deed dated Aug. 22, 1956, recorded Sept. 11, 1956, in Book 75, page 334, Deed Records of Grant County, Oregon.
(Tax Acct. 17-3 11-30 TL1304 Ref. 38409)