

2014 PLSO Conference

Water Rights 101 - A refresher to Water Rights



Gerry Clark

Topics to be Covered

- Continuing Education Requirements
- Resources Available on WRD Web Site
 - CWRE Resource Page
 - Forms
 - Research
- Department Programs
 - New Applications
 - Transfers
 - Claims of Beneficial Use

Continuing Education for CWREs

- OAR 820-050-0010(a)
 - Certified Water Right Examiners are required to obtain 10 professional development hour (PDH) units in subjects related to the practice of water right examination.
 - “Water Right Examination” includes: courses or study related to water right applications and claims of beneficial use, Water Resources Department programs, water law, or other subjects related to the work of a Water Right Examiner.

Continuing Education for CWREs continued

- OAR 820-050-0010(b)
 - For persons who hold registration as an engineer, land surveyor, or both, the number of PDH units required shall remain 30 PDH units per renewal period “Water Right Examination” includes: courses or study related to water right applications and claims of beneficial use, Water Resources Department programs, water law, or other subjects related to the work of a Water Right Examiner.

Continuing Education Opportunities

- The Department offers training specifically to CWREs each fall. Notices are typically mailed out in July. Be sure keep your contact information up to date with the Department.
- The Department offers a Safety of Dams Conference every two years. The next workshop is tentatively planned for February of 2015. Notice of that workshop is posted on the Dam Safety portion of the Department's web site. If you are interested in receiving notice concerning that workshop, you can contact Arla Heard at arla.l.heard@wrd.state.or.us

Continuing Education Opportunities

- Water Law conference in Portland. It is offered on a yearly basis by Law Seminars International and typically held in November of each year.
- The Certified Water Right Examiner Resource Page will contain videos of Department presentations for viewing. As additional presentations are recorded, those presentations will be added to this page.

WRD Web Resources

Important pages for CWREs

■ CWRE Resource Page:

http://www.oregon.gov/owrd/pages/wr/cwre_info.aspx

- Claim of Beneficial Use Forms
- Calculators (pumps, sprinklers, gravity flow ditches and pipes)
- Compliance with Permit Conditions Advice
- Continuing Education Resources
- Links to other resources
 - Water Right Examiner Update Page
 - Statutes
 - Rules
 - OSEELS

WRD Web Resources

Important pages for CWREs

■ Forms

- Always begin a project with the most current form.

Index

[Fee Schedule for Application Forms](#)

[Water Right Application Forms](#)

[Supplemental Application Forms](#)

[Transfer of Water Right and Permit Amendment Forms](#)

[Instream Leasing Forms](#)

[Allocation of Conserved Water Form](#)

[Cancellation and Diminishment of Water Right Forms](#)

[Reporting Forms \(Water Use and/or Water-Level\)](#)

[Pump Test Forms](#)

[Well Identification Forms](#)

[Well Log Report Forms](#)

[Special Standards Request Form](#)

[Well Constructor Bond Forms](#)

[Well Constructor License Renewal Forms](#)

[Landowner Water Well Bond Form](#)

[Ground Water Forms](#)

[Dam Safety Forms](#)

[Other Forms](#)

[Application Criteria and Review](#)

WRD Web Resources

Important pages for CWREs

- Water Rights Information Search (WRIS)

Water Right Information Search

Welcome to the new and improved WRIS - Your source for water right information

The new WRIS (Water Rights Information System) is a warehouse of information pertaining to water right applications, permits, certificates, transfers, leases and related information. What we hope to provide is a relatively straightforward interface to very complex information.

The information reflected on these pages is derived by interpretations of paper records. Please refer to the actual water rights records for the details on any water right. Care was taken in the creation of the data but it is provided "*as is*". The Water Resources Department cannot accept any responsibility for errors, omission, or accuracy of the information. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this information. However, notification of any errors would be appreciated.

[Water Rights Information Query](#) [Platcard](#) [POU Summary Report](#) [POD Summary Report](#)

WRD Web Resources

Important pages for CWREs

- Water Rights Information Search (WRIS)

Water Rights Information Query

[Search by file id](#) | [Search by location](#) | [Search by name](#) | [Search by stream](#) | [Help](#)

Search by file ID

Application:

Permit:

Certificate:

Transfer: T

Claim:

Decree:

Order: Vol Page Page Char

WRD Web Resources

Important pages for CWREs

■ Water Rights Information Search (WRIS)

Water Right Information Query Results	
Contact Information	Documents View all scanned documents
▼ Current contact information OWNER: ▶ EMMET J/MILDRED LAHODA SPRAGUE RIVER, OR 97639	▶ Application: S 30623 ▶ Permit: S 24127 document ▼ Certificate: 27284 document , paper map ▶ Signature: 7/11/1960 ▶ Type: Original ▶ View right with Web Mapping ▶ View Places of Use from Water Rights in the Same Area
Water Right Information	
Status: Non-Cancelled County: Klamath File Folder Location: Salem Watermaster District: 17	
Point(s) of Diversion	
▶ POD 1 - SPRAGUE RIVER > WILLIAMSON RIVER	
Place(s) of Use Add TRS grouping	
▶ Use - IRRIGATION (Primary) - 80.7 acres; Priority Date: 3/26/1956	
Water Right Genealogy	
---No genealogy records available for this water right, try the family link below instead.	
View Water Rights in same Family	
Help understanding and working with the Water Rights Information System	
Report Errors with Water Right Data	
Return to WRIS Query	

WRD Web Resources

Important pages for CWREs

- Water Rights Information Search (WRIS)

Water Rights Platcard Report

Meridian: Township: South Range: East Section: Records per Page: [Platcards Maps!](#) [Learn about *](#) [View Map](#)

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unkwnn QQ
Select Claim:KA 645 * <u>Additional Info:</u> U.S. BUREAU OF INDIAN AFFAIRS Claim: KA645			ANADROMOUS AND RESIDENT FISH HABITAT									*	*		*	*				*	*		*	
Select Claim:KA 645 * <u>Additional Info:</u> U.S. BUREAU OF INDIAN AFFAIRS Claim: KA645			INSTREAM USES									*	*		*	*				*	*		*	
Select Cert:27284 OR * <u>Additional Info:</u> EMMET J/MILDRED LAHODA App: S30623 Permit: S24127 Cert: 27284		3/26/1956	IRRIGATION																	1.8	18.3	31.9	28.7	

WRD Web Resources

Important pages for CWREs

- Water Rights Mapping Tool

Oregon Water Resources Department

Water Rights Mapping Tool

Search By Location

Oregon Location:

Zoom to Water Right

Search for a Water Right [Advanced Search](#)

Application:

Permit:

Certificate:

Claim:

Transfer:

Zoom to Latitude Longitude (DMS)

Zoom to Latitude Longitude (DD)

Zoom to UTM

Zoom to Township/Range/Section

Zoom to Address

WRIS	Zoom	Water Right	Water Type	First Name	Last Name	Company	Use Descrip.	Priority Date	Supplemental	Applicatio
(Details)	Map WR	Cert:27284 OR * IR	SW	EMMET J/MILDRED	LAHODA		IRRIGATION	3/26/1956	<input type="checkbox"/>	S 30623

WRD Web Resources

Important pages for CWREs

■ Well Logs

The screenshot shows the 'Well Log Query' page from the Water Resources Department website. The page has a dark blue header with the department name and a logo. A left sidebar contains a 'menu' with links to various services. The main content area features a search form with several fields and a grid of section numbers.

Water Resources Department

menu

- [About Us](#)
- [Contact Us](#)
- [News and Events](#)
- [Adjudications](#)
- [Commission](#)
- [Forms](#)
- [Ground Water](#)
- [Links](#)
- [Maps](#)
- [Publications](#)
- [Surface Water](#)
- [Water Law](#)
- [Water Management](#)
- [Water Rights](#)

Well Log Query

Township: South
Range: West

Sections

6	5	4	3	2	1
<input type="checkbox"/>					
7	8	9	10	11	12
<input type="checkbox"/>					
18	17	16	15	14	13
<input type="checkbox"/>					
19	20	21	22	23	24
<input type="checkbox"/>					
30	29	28	27	26	25
<input type="checkbox"/>					
31	32	33	34	35	36
<input type="checkbox"/>					

Well Log:
Startcard:
Well Tag: L
Completed Date to
Received Date to
County
Bonded License# [Find a Driller](#)
Owner Last Name
Company Name
Completed Depth to
Taxlot
Type of Log

Records per Page:
[Frequently Asked Questions](#)

WRD Web Resources

Important pages for CWREs

- Resources for Relators

Resources for Realtors®

[Access Water Right Data and Maps](#)

[Find Out if a Property has a Water Right](#)

[White Paper: Water Right Transfers and Real Property Transactions](#)

[Water Right Ownership Updates](#)

[Assignments](#)

[Assignments: Frequently Asked Questions](#)



Water Resources Department

- About Us
- Contact Us
- Adjudications
- Commission
- Dam Safety
- File Pickup
- Forms**
- Groundwater
- Jobs at WRD
- Links
- Maps
- Publications
- Surface Water
- Transfers
- Water Law
- Water Management
- Water Rights
- Well Construction and Compliance

Oregon's Integrated Water Resources Strategy



The State of Oregon has launched its first Integrated Water Resources Strategy. Adopted by the Water Resources Commission on August 2, 2012, the Strategy provides a blueprint for understanding and meeting Oregon's water quantity, water quality, and ecosystem needs now and into the future. Using a process that involved extensive public outreach, the Strategy identifies the most critical water-related challenges facing communities throughout Oregon. It offers recommendations in 13 different issue areas to address these challenges.

The Strategy and its Executive Summary are now available online. [Click Here](#)

Agency Resources

- Resources For:
- Well Constructors
 - Exempt Use Water Well Recording
 - Realtors®**
 - Certified Water Right Examiners
 - Water Conservation
 - Drought Watch
 - Conservation and Supply Resources and Programs
 - Deschutes Basin Mitigation Program
 - Environmental Justice
 - Gold Mining: FAQ
 - Assignments and Ownership Updates

Lookup Information:

- Lookup Water Rights
- Find Out if a Property has a Water Right
- Find a Well Log
- Well ID Application Form
- Find a Document (Vault)
- Near Real Time Streamflow Data
- Ground Water Data
- Dams in Oregon
- Work Groups

Maps:

- Water Right Mapping Tool**
- Mapping Resources

Agency Spotlight

Public Comments Now Being Accepted

Water Conservation, Reuse & Storage Grant Requests

The Oregon Department of Water Resources is reviewing nine applications for a Water Conservation, Reuse or Storage grant. Grant funding requests total \$887,557. Entities that applied for a grant include cities & counties, irrigation districts, watershed councils and the university system. The Department will be soliciting public comment on these funding requests beginning December 3, 2013 and ending 5 pm January 3, 2014. This program was established by Senate Bill 1069 (2008) and is designed to fund the qualifying costs of planning studies, that evaluate the feasibility of developing water conservation, re-use or storage projects. For additional information, please [click here](#).

Klamath River Basin

The [Upper Klamath Basin Agreement in Principle \(AIP\)](#) and [Task Force Report](#) are available for review as of December 3, 2013. A one page summary of the AIP is available [here](#).

The Adjudicator's findings of fact and final order of determination were filed with the Klamath County Circuit Court on March 7th 2013.

- [Press Release](#)
- [FAQ](#)

[Adjudication Details](#)

[Klamath Task Force Presentation by Tom Paul - September 19, 2013](#)

Agency Success

In 2011, Water Resources Department enjoyed significant successes in the areas of Instream Flows and Process Improvement Accomplishment. For more information please click on a link below:

- [2012 Instream Accomplishments](#)
- [2011 Process Improvement Accomplishments](#)

Stay Informed

Sign up for our free announcements via email.

[Read more](#)

- Groundwater
- Surface Water
- Water Law
- Water Rights Quick Links
- Rulemaking
- OWRD Legislative Updates
- Public Records Request

Featured Links

- Fee Schedule
- Learn About Water Rights in Oregon
- Water Rights Public Notice
- Water Use Reporting
- Agency Performance Measures
- Locate My Local Watermaster



Water Rights

- What is a water right?
 - In law, a water right refers to the right of a user to use water from a water source, e.g., a river, stream, pond, reservoir, or groundwater.
 - A property right to make beneficial use of a particular amount of waters of the State with a specified priority date.
 - A legal right to put the waters of the State to beneficial use.

Water Rights

What
are the
elements
of a
water
right?

- Source
- Use
- Priority date
- Rate or quantity
- Season/Period of Use
- Point of diversion or appropriation location
- Rate and Duty
- Place of use location
- Conditions

Water Rights

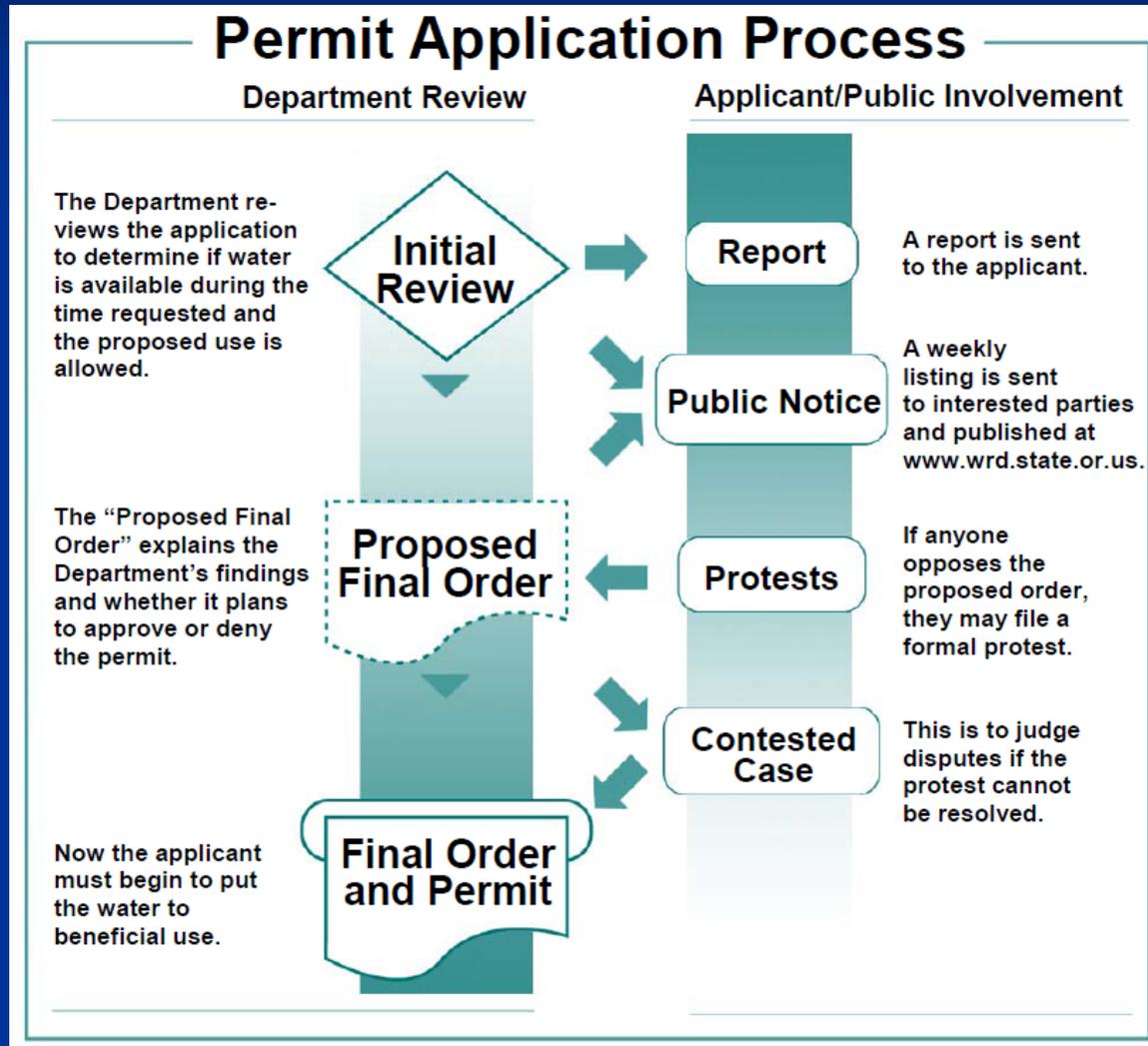
- Two ways water rights are established?
 - Through the Adjudication Process.
 - The Adjudication process is a legal process that is used to determine rights for uses of water that began before the Water Code went into effect.
 - Surface Water – February 24, 1909
 - Groundwater – August 4, 1955

Water Rights

- Through a three step process consisting of:
 - Requesting a water-use permit
 - Constructing the system and using the water
 - “Proving up” – demonstration of beneficial use

Water Rights

■ Step 1 - The Permit Process:



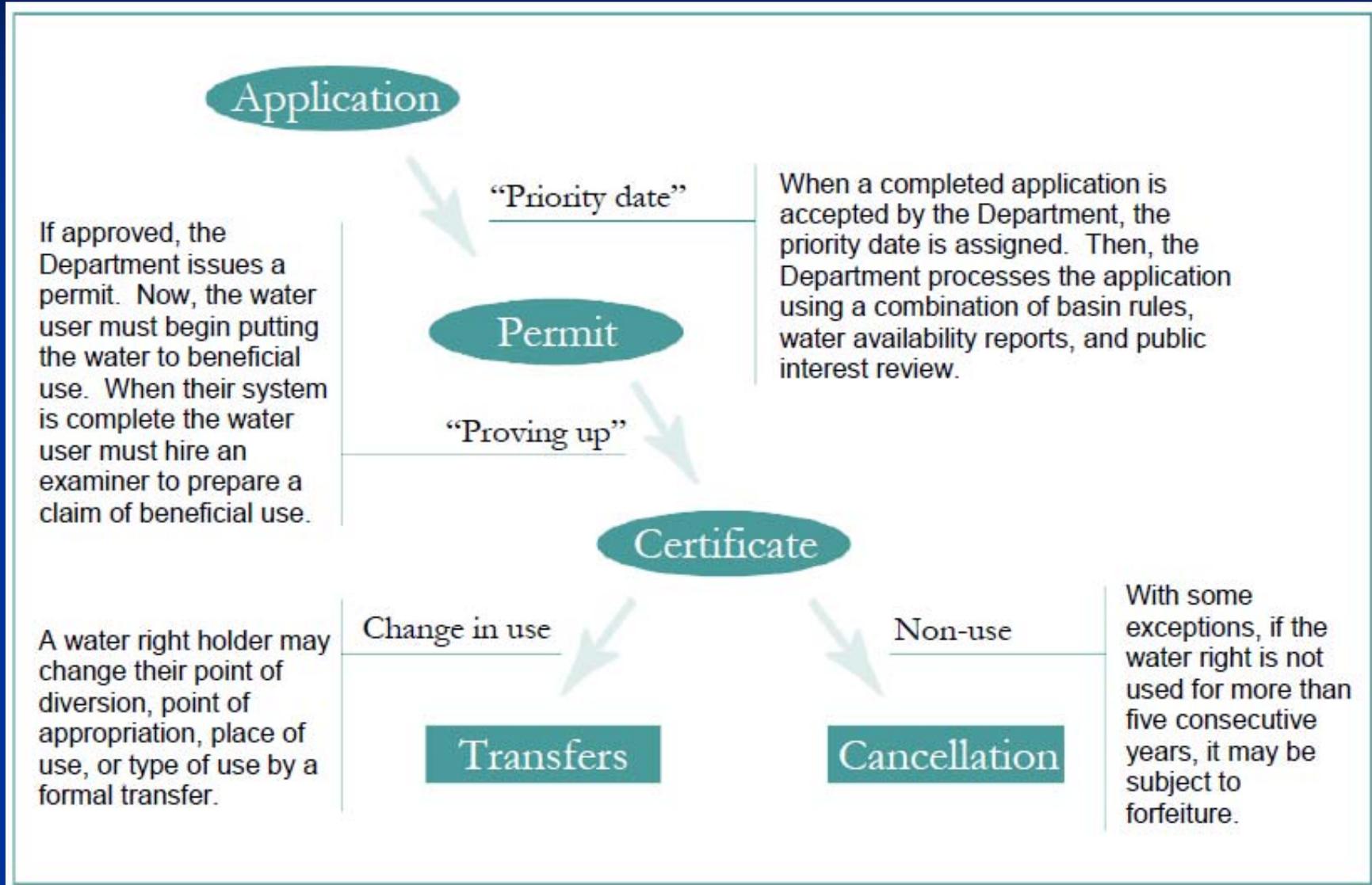
Water Rights

- Step 2 - Constructing the system and using the water
 - In most cases, the maximum time that can be authorized in a permit for a water user to develop the beneficial use is 5 years.
 - Beneficial Use is the use of water, for the allowed use(s), while complying with the conditions required by the permit or transfer final order.
- Use + Compliance = Beneficial Use
- Use - Compliance \neq Beneficial Use

Water Rights

- Step 3 - “Proving up” – demonstration of beneficial use
 - The water user submits a Claim of Beneficial Use to the Department.
 - Prepared by a CWRE and describes the maximum amount of use and water developed and compliance with conditions contained in the permit.
 - Exceptions from CWRE Claims of Beneficial Use are certain small reservoirs and Irrigation District Transfers.

The Life of a Water Right



Transfers

- What is a transfer?
 - The process used to change a water right.
 - The place of use.
 - The point of diversion or appropriation (well).
 - To add additional points of diversion or appropriation.
 - To change the character of use.

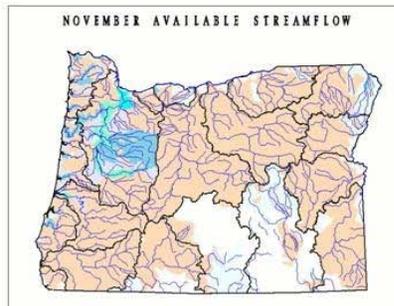
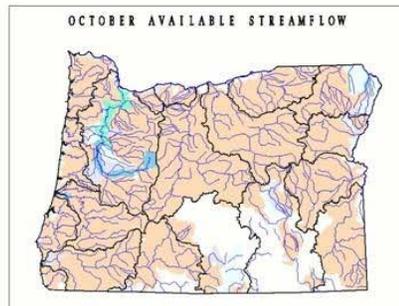
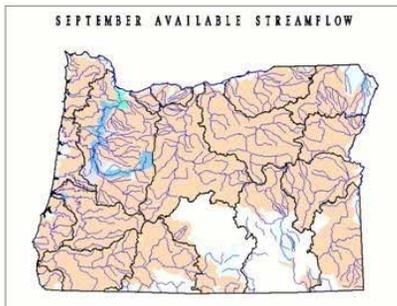
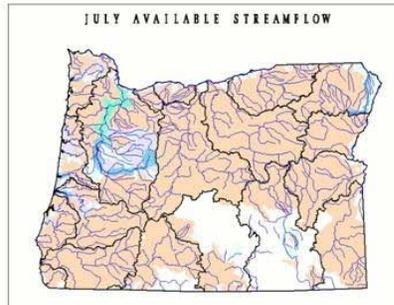
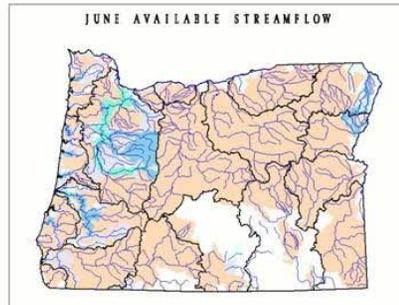
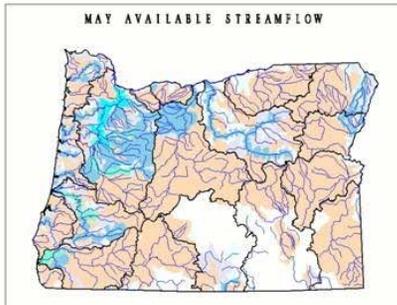
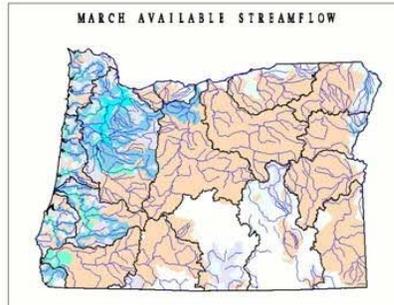
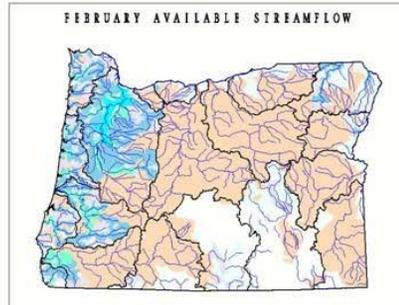
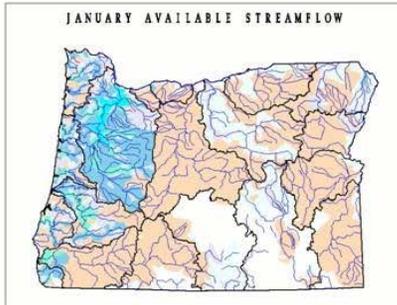
Transfers

- Why are transfers becoming more important in Oregon?
 - “New” water is unavailable
 - Type of water use is changing
 - Transfers are a tool to provide flexibility

New water is unavailable

AVAILABLE STREAMFLOW BY MONTH FOR OREGON

Streamflow calculated at 80 percent exceedance

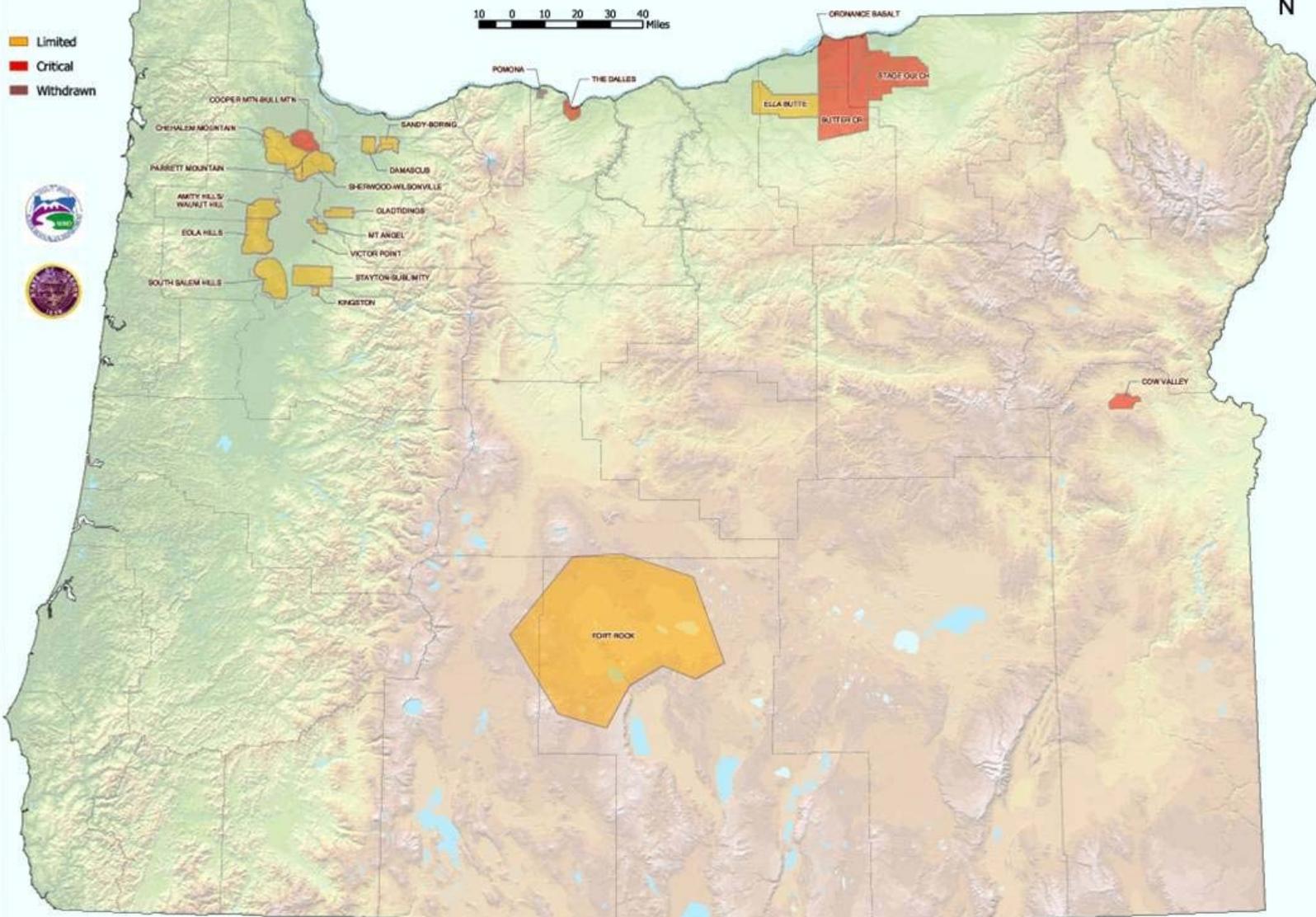


The map is provided by the Oregon Water Resources Department. Some of the data may not be available in the data source or may be outdated. The Oregon Water Resources Department is not responsible for any errors or omissions in this map or its use.

Map provided courtesy of NWRI. NWRI.org



OREGON WATER RESOURCES DEPARTMENT GROUND WATER RESTRICTED AREAS



-OWRD GIS 01. 01/15/2006. stam/gwrz_pagemap.mxd

Population increases bring change in water needs



Transfers give water users flexibility

- Surface water point of diversion to ground water point of appropriation (ORS 540.531)
- Substitution of supplemental ground water right for primary surface water right.
- Temporary Transfers
- Transfers within Irrigation Districts
- Transfers to Instream Use

What water rights can be transferred?

Water rights subject to transfer:

- A water use established by:
 - An **adjudication** under ORS Chapter 539 as evidenced by a court decree
 - A water right **certificate**
 - A water use **permit** for which a request for issuance of a water right certificate (**COBU**) has been received *and approved* by OWRD.

Transfer Criteria

OAR 690-380-4010(2)

- Has right been used over past 5 years or not subject to forfeiture?
- Is user ready, willing and able to use right?
- Would change not enlarge the right?
- Would change not injure other rights?



What are the conditions for approving a transfer?

■ No injury

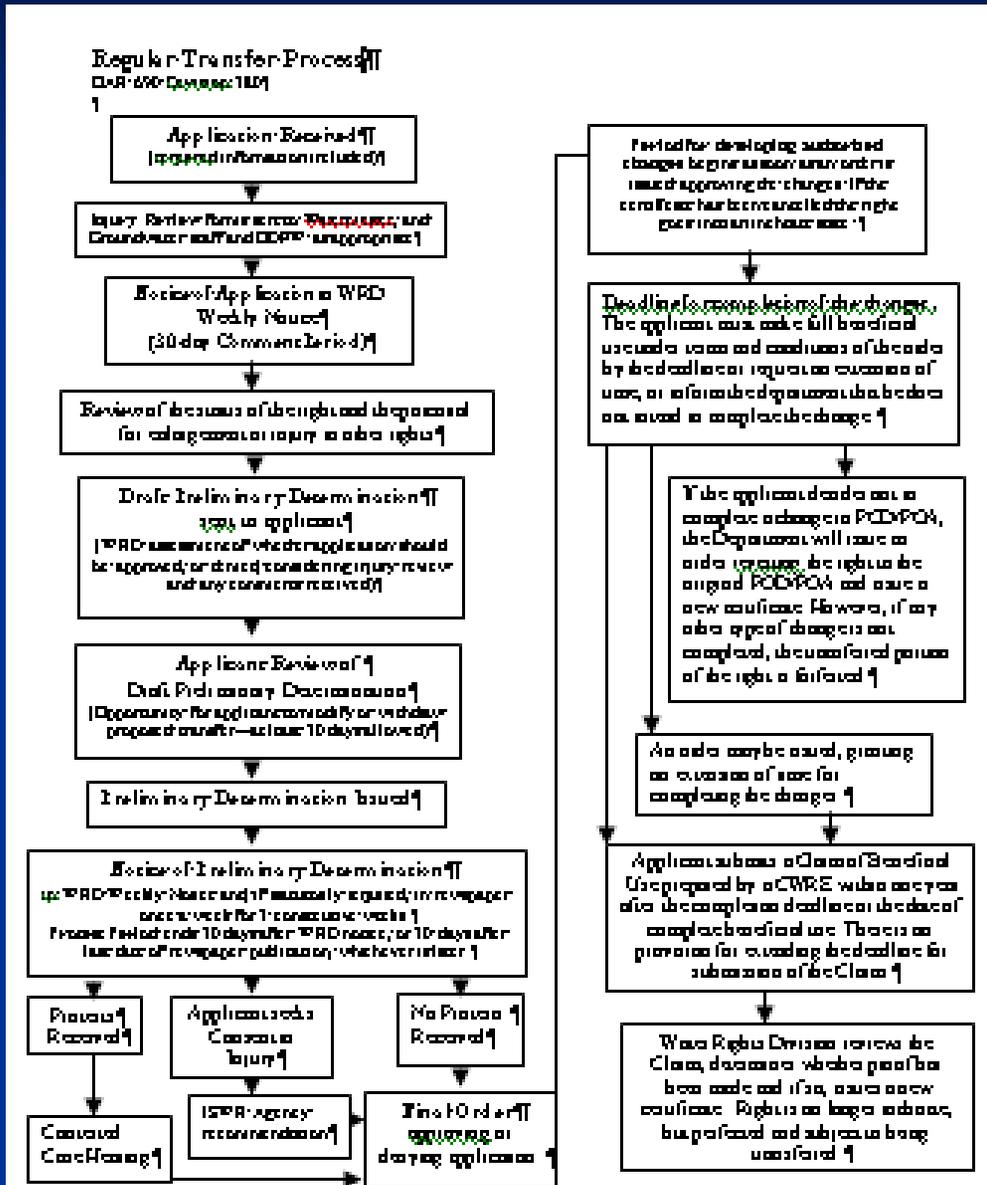
- Injury means: *“a proposed transfer would result in another, existing water right not receiving previously available water to which it is legally entitled.”*

■ No enlargement of the water right being transferred.

- Enlargement means: *An expansion of the water right and includes but is not limited to:*
 - Using a greater rate or duty
 - Increasing the acreage irrigated under the right
 - Failing to keep the original place of use from receiving water from the same source.

Map of the Process

OAR 690-380



Injury Review

- Watermaster reviews use, history of regulation, location of return flows, diversions of other water users, and potential effects of proposed change to enlarge the right or injure other rights
- Groundwater hydrogeologists review whether new well taps the same source, and effects on other surface & GW rights
- ODFW considers impacts to fish (screens/by-pass and instream WRs)

Public Notice of the Application

OAR 690-380-4000

Public may comment on the application for 30 days

Transfer Applications: Regular

The holder of a water right may apply to permanently change an existing water use subject to transfer as defined in ORS 540.505(4). An application may involve any of the following changes: Point of diversion or appropriation (POD; POA); Additional point of diversion or appropriation (APOD; APOA); Historic POD (HIST); Place of use (POU); Character of use (USE); Instream (ISWR); Substitution (SUB); or Exchange (EXCH).

The Department seeks public comment on the recently-filed transfer applications listed below. Any person may comment on a transfer application. Comments must be received by the Department on or before September 26, 2013. Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time.

County:	MARION
Transfer:	11651
Water Right:	CERT 88043
Priority Date:	MARCH 12, 1982
Name:	DALE FESSLER 12666 MONITOR MCKEE RD WOODBURN, OR 97021
Change:	additional point of appropriation
Source:	A WELL

Draft Preliminary Determination

Department's
proposed action
to approve or
deny the
application,
based on the
criteria

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-10316, Klamath County)

D R A F T
PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINT OF
APPROPRIATION

Authority

CRS 517.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 390 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Findings of Fact

Background

- On February 8, 2007, _____ filed an application to transfer the point of appropriation under Certificate 74895. The Department assigned the application number T-10316.
- The right to be transferred is as follows:
Certificate: 74895 in the name of CHARLES V SHUCK (perfected under Permit O-5457)
Use: IRRIGATION of 37.60 ACRES
Priority Date: SEPTEMBER 14, 1971
Rate: 0.47 CUBIC FOOT PER SECOND
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.
This use may be regulated if analysis of data available discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of this right or as those quantities may be subsequently reduced.
Limit/Quantity: ONE-EIGHTIETH cfs per acre, not to exceed 5 acre-feet per acre per year
Source: A WELL in the LOST RIVER

Authorized Point of Appropriation:

Prop.					Survey Coordinates	
Trsp.	Eng.	Mile	Sec.	Q-adj.		
48 S	11 E	W/4	31	SW NE	40 FEET NORTH & 60 FEET EAST FROM C/O-4 CORNER, SECTION 31	

T-10316.v6 Page 1 of 3

Applicant Review of DPD

Applicant has
At least 30
days to review
the document
and respond



*Applicant may request changes to the draft,
amend the application, withdraw it, or request
to proceed*

Preliminary Determination

OAR 690-380-4010

Department's
proposed action
to approve or
deny the
application,
based on the
criteria, signed by
the Director's
office

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

In the Matter of Transfer Application)
T-18316, Klamath County) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN POINT OF
) APPROPRIATION

Authority
ORS 537.703 and 540-500 to 540-580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Findings of Fact

Background

1. On February 8, 2007, _____ filed an application to transfer the point of appropriation under Certificate 74895. The Department assigned the application number T-18316.

2. The right to be transferred is as follows:
Certificate: 74895 in the name of CHARLES V SHUCK (perfected under Permit G-5437)
Use: IRRIGATION of 37.60 ACRES
Priority Date: SEPTEMBER 14, 1971
Rate: 0.47 CUBIC FOOT PER SECOND
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.
This use may be regulated if analysis of data available discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of this right or as those quantities may be subsequently reduced.
Limit/Duty: ONE EIGHTEETH cfs per acre, not to exceed 3 acre-feet per acre per year
Source: A WELL in the LOST RIVER

Authorized Point of Appropriation:

Trsp	Ang	Mag	Sec	Q-D	Survey Coordinates
40S	11E	50M	32	SW SE	48 FEET NORTH & 608 FEET EAST FROM C14 CORNER, SEC. 18EN 3E

Pursuant to OAR 690-380-4010, any person may file a protest or standing statement within 60 days after the last date of publication of notice of this preliminary determination.

T-18316-06 Page 1 of 3

Notice of Preliminary Determination

OAR 690-380-4020

Notice of Preliminary Determination for Water Right Transfer T-10216

T-10216 filed by _____, P.O. Box _____, OR 97____, proposes a change in point of appropriation under Certificate 74095. The right allows the use of 0.47 cfs (priority date SEPTEMBER 14, 1971) from a well in Sec. 32, T40S, R11E, W3M. (Lost River Basin) for IRRIGATION in Sections 32 and 33. The applicant proposes to change the point of appropriation to a well approximately 1/2 mile east (Sec. 33, T40S, R11E, W3M.). The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 549 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 596-6652. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

- ❖ Posted on WRD public notice
- ❖ May require publishing 2 weeks in newspaper

Protest Period

OAR 690-380-4030

Opportunity to protest the

| **Determination and
Proposed Action**

Ends 30 days from posting on WRD public notice
or
30 days after last publication date

Final Order

OAR 690-380-5000

Approve = applicant is authorized to make
the change or

Deny = change cannot legally be made

Based on consideration of:

- ❖ Action proposed in PD
- ❖ Input from protests
- ❖ Agency recommendations
for consent to injury

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10316, Klamath County) CHANGE IN POINT OF
APPROPRIATION)

Authority
ORS 537.705 and 540.595 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 300 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Findings of Fact

Background
1. On February 8, 2007, _____ filed an application to transfer the point of appropriation under Certificate 74895. The Department assigned the application number T-10316.
2. The right to be transferred is as follows:
Certificate: 74895 in the name of CHARLES V SHUCK (perfected under Permit G-5457)
Use: IRRIGATION of 27.60 ACRES
Priority Date: SEPTEMBER 14, 1971
Water: 0.47 CUBIC FOOT PER SECOND
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.
This use may be regulated if analysis of data available discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of this right or as those quantities may be subsequently reduced.
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 5 acre-feet per acre per year
Source: A WELL in the LOST RIVER

This is an order in other than a contested case. This order is subject to judicial review under ORS 181.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 181.464(2). Pursuant to ORS 538.075 and OAR 117-200-0000, you may either 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.

T-10316.0/c Page 1 of 3 Special Order Volume 73 Page 7/6

Deadline for completion of the changes OAR 690-380-5140



Generally one to five years
May apply for an extension of time

Claim of Beneficial Use

Claim and Map

- Produced by a Certified Water Rights Examiner
- Documents beneficial use under terms and conditions of the transfer order



When the transfer
COBU has been
approved . . .

The water right is
again subject to
transfer.



Permit Amendments

ORS 537.211

- Change POU
 - Move to adjacent land
 - Land owned by permit holder
- Change or add POD/POA
- (Cannot change character of use)

Permit Amendment Department Review

- Is the permit valid (non-cancelled)?
- Does the permit have time remaining for development?
- Has the right been used in the last 5 years?
- Will the proposed POD or POA access the same source of water?
- Follows same process steps of a regular transfer.

Claims of Beneficial Use

- Claims of Beneficial Use
 - Reports
 - Mapping

What is a Claim of Beneficial Use?

- A Claim of Beneficial Use is both a report and a map, prepared by a Certified Water Right Examiner, that identifies the extent of use developed and describes how the conditions included in the permit or transfer final order were complied with.
- Exception One – Claims for qualifying reservoirs under ORS 537.409 can be prepared by the permit holder of record.
- Exception Two – Claims for certain Irrigation District transfers (POU only).

Reservoir Claims of Beneficial Use Permit Holder VS CWRE Claim

ORS 537.409
allows a
Permit
Holder to
self certify
their
reservoir
permit if:

- The reservoir was filed for and processed under ORS 537.409; and
- The developed capacity of the reservoir is less than 9.2 acre feet; and
- A permit has not been issued to appropriate the water stored in the reservoir.

Claims of Beneficial Use

- The most current forms are available on the CWRE Resource Page.
- Always check for the current version prior to beginning a new claim.
- New forms were posted to the Resource page in July of last year.
- http://www.oregon.gov/owrd/pages/wr/cwre_info.aspx

CWRE Resource Page

Claim of Beneficial Use Forms and Completeness Checklist

Claims of Beneficial Use submitted to the Department must be completed on a form provided by the Department. The current versions of the Claim of Beneficial Use form are available for downloading below in Word and PDF form (non-interactive).

Claim of Beneficial Use Forms for:

Permits claiming more than 0.1 cfs and All Transfers	[DOC 1.8 MB]	[PDF 164 KB]
Ground Water Permits claiming 0.1 cfs or less	[DOC 1.1 MB]	[PDF 108 KB]
Surface Water Permits claiming 0.1 cfs or less	[DOC 1.1 MB]	[PDF 109 KB]
Reservoir Permits by CWRE's (not self-certified) for reservoirs storing more than 9.2 acre-feet of water or with a secondary surface water permit	[DOC 1.7 MB]	[PDF 143 KB]
Self-certified Reservoir Permits issued under ORS 537.409 for reservoirs storing less than 9.2 acre-feet of water and with no secondary surface water permit.	[DOC 78 KB]	[PDF 27 KB]
Checklist used by the Department to review the Claim of Beneficial Use map and site report.		[PDF 62 KB]

Exclusive Use of Stored Water

Selecting the Correct Form

Determine the maximum instantaneous rate of diversion of the stored water:

- If the maximum rate of diversion is 0.1 cfs or less, use the “Surface Water Permits Claiming 0.1 cfs or less” form.
- If the maximum rate of diversion is greater than 0.1 cfs, use the “Permits Claiming More than 0.1 cfs and all Transfers” form.

What does the Department use the Claim for?

To determine the extent of beneficial use developed.

A complete Claim allows the Department to:

- Determine the uses developed;
- Determine the rate developed for each use;
- Determine where water was used; and
- Determine if conditions were satisfied.

To Claim or not to Claim, that is the question.

- Has the water user made beneficial use?
- How do you decide whether it is time to prepare a Claim or file for an extension of time?

Has the water user made Beneficial Use?

- What is Beneficial Use?
 - Beneficial Use is the use of water, for the allowed use(s), while complying with the conditions required by the permit or transfer final order.
- Use + Compliance = Beneficial Use
- Use – Compliance \neq Beneficial Use

**Important Concept – Most conditions are time sensitive.

File a Claim or an Extension?

- How do you decide whether it is time to file a Claim or to file for an extension of time?
 - By reading the permit or transfer final order.
 - By interviewing the water user.
 - By determining the window of time within which the water user was required to make use of the water.
 - By determining whether the water user complied with conditions during the window of time authorized by the permit or transfer final order.

Should a Claim be submitted if conditions have not been met?

- No, a Claim should not be submitted until all the conditions have been met.
- Scenario 1 – “C” Date is January 15, 2015. The water user has fully developed the water use, but has not installed the required meter. The submittal of the Claim should be delayed until the meter has been installed and use made with the meter in place.

Should a Claim be submitted if conditions have not been met?

- No, until all conditions have been complied with, a Claim should not be submitted.
- Scenario 2 – “C” Date is January 15, 2011. The water user fully developed the water use, but has not installed the required meter or suitable measuring device. The water user should be advised that they need to apply for an extension of time. Following approval of the extension, installation of the measuring device, and use of the water, the Claim can then prepared and submitted.

Purpose of the Claim

- To demonstrate the extent of beneficial use developed under the permit or transfer.
- Key Concept:
 - A Claim that indicates that a time-sensitive condition was not complied with demonstrates that the water user has not made beneficial use and should not be submitted.

What happens when a Claim is received?

A
cursory
review
of the
Claim is
made.

- Not all elements of the Claim are reviewed.
- Here is a list of the things that we check:
 - Is the map on polyester film?
 - Are both the map and report stamped and signed by the CWRE?
 - Is the Claim on a current Department form?
 - Is the Claim signed by the holder of record?
- We do not check for condition(s) compliance.

Claim of Beneficial Use Form

Section 1 – General Information

Section 1
of the
Claim
provides
information
related to:

- File information.
- Current property ownership.
- Current permit or transfer holder of record.
- A listing of the owners of lands included in the permit or transfer final order that are not included in the Claim.
- Separate Claims may be submitted for each holder of record. CBU fee is required for each Claim.

Claim Preparation

- A separate Claim is required for each Permit.
- In cases where the permit has been amended, only one Claim needs to be submitted, but the Claim must indicate the Permit Amendment Number(s) (T-XXXXXX).
- A separate Claim is required for each Transfer Final Order.

Claim of Beneficial Use Form

Section 2 – Signatures

Section
2 of the
Claim is
the
signature
page:

- CWRE Stamp, signature and contact information.
- Permit or transfer holder(s) of record signatures.
- Missing signatures are the number one reason for the Department returning a Claim.

Signatures - Hints

Be sure this section of the Claim is complete.

- Stamped and signed by you, the CWRE
- Signed by all permit or transfer holders of record
 - Claim will be returned if not properly signed.
 - Include title of person signing the Claim.

Things to look for:

- “and”
- “or”
- Northwest Farm Credit Services

Signatures – Hints

Check WRIS to confirm the current permit or transfer holder.

- Newer Assignments are included in WRIS under ‘View all scanned documents’

May require an Assignment prior to or with the Claim.

Claim of Beneficial Use Form

Section 3 – Claim Description

Section 3 of the Claim provides a general overview of what the claim demonstrates:

- The points of diversion or appropriation
- Source
- Developed uses information
- General narrative of the distribution system
- Variations
- Summary of what is being claimed

Claim of Beneficial Use Form Variations

Use the Variations Section of the Claim to describe changes between the permit or transfer final order and what was developed.

- Changes in the number of acres developed
- Changes in the footprint and distribution of the acres developed
- Changes in the number or location of the PODs or POAs developed
- To identify uses not developed

Claim of Beneficial Use Form

Variations - Examples

- “The permit authorized the development of 40 acres. The water user developed 35.6 acres”.
- “The water user is using the well authorized under the transfer. The survey and inspection found the location to be different from that described in the transfer order.”

Claim of Beneficial Use Form Variations - Examples

- “The permit/transfer authorized use for irrigation, commercial and industrial use. The water user did not develop the irrigation use.”
- “The water user developed two of the four wells that were authorized by the permit.”
- “The transfer authorized an additional point of diversion. The water user no longer uses the original point of diversion.”

Claim of Beneficial Use Form

Dealing with Transfers

- A Claim for a transfer must describe how use was made consistent with the transfer order. Since the order cancelled the right, each element (point of diversion/appropriation and place of use) must be addressed.
 - If the order was for an additional point of diversion, or appropriation, the Claim needs to describe both the new point, the original point (if used), and the place of use.

Claim of Beneficial Use Form

Section 4 – System Description

Section 4
of the
Claim
provides
information
related to:

- Specifics about the diversion and delivery system including:
 - Pumps
 - Mainlines
 - Sprinklers
 - Wells and Sumps
 - Storage tanks, bulges, and reservoirs
 - Gravity flow pipes
 - Ditches / Canals

Claim of Beneficial Use Form

Section 4 – Calculations

- Theoretical calculations of the system are required regardless of whether actual measurements were taken.
- Department calculators are available on the CWRE Resource page.

CWRE Resource Page

Calculations and Calculators

Claims of Beneficial Use submitted to the Department must include calculations indicating the maximum capacity of the system. The calculation instructions below describe the calculations used by the Department to determine the theoretical capacity of pumps, sprinklers, ditches and canals, gravity flow pipes, and small reservoirs (those not requiring as-built plans). The Department has prepared a series of calculators (Excel spreadsheets) to help determine the theoretical capacity of pumps, sprinklers, ditches and canals, and gravity flow pipes. Those calculators are available to download below.

[Calculation instructions](#) (PDF 98 KB)

[Pump](#) (XLS 16 KB)

[Sprinklers](#) (XLS 20 KB)

[Ditch](#) (XLS 16 KB)

[Pipe](#) (XLS 16 KB)

Claim of Beneficial Use Form

Section 5 – Conditions

- This section of the form provides information describing how the water user complied with conditions in the permit or transfer final order.
- All conditions contained in the permit or transfer must be addressed.
- Common conditions are identified in the first portion of this section.
- “Other” less common conditions are identified at the end of this section.

Section 5 – Conditions

Time Limits

	DATE FROM PERMIT OR TRANSFER	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	August 21, 1998		
BEGIN CONSTRUCTION (A)	August 21, 1999	Constructed prior to permit issuance 1991+/-	
COMPLETE CONSTRUCTION (B)	NA		
COMPLETE APPLICATION OF WATER (C)	October 1, 2002	August 30, 1998	Meter installed and use of water made.

Claim of Beneficial Use Form

Section 5 – Conditions

Time Limits

- If the use, or any portion of the use, was developed after the “C” Date, the water user will need to obtain an extension of time in order to claim those areas or uses.
- If the water user did not comply with conditions from the permit or transfer final order by the “C” Date, they will need to obtain an extension of time to come into compliance with the conditions.

Section 5 – Conditions

Time Limits – Extensions

Transfers

- If an extension of time has been issued for a transfer, there will be a volume and page associated with the extension approval.
- You are able to view the order through WRIS, under “View all scanned documents”, or through the vault, assuming you have the volume and page.

Section 5 – Conditions

Time Limits – Extensions

Permits

- Permit extensions of time are issued a final order approving the extension, however, there is not a volume and page associated with the approval.
- Newer extension final orders are scanned and available through WRIS under the “View all scanned documents” link.

Section 5 – Conditions

Fish Screening and By-Pass

- When addressing fish screening and by-pass devices in the Claim, be sure to address both portions of the condition.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water.

- No longer an option for permits and transfer orders issued on or after February 1, 2011

Section 5 – Conditions

Fish Screening Self-Certification

- Self certification of fish screens only.
 - Does not apply to by-pass or fish passage.
- Only applies to pump diversions.
 - Does not apply to gravity flow systems regardless of their size.
- Only applies to permits and transfer final orders issued prior to February 1, 2011.

Section 5 – Conditions

Fish Screening Self-Certification

The following forms and links are available on the “Forms” page under “Other Forms”:

- “Small Pump Screen Self Certification”
- “ODFW & OWRD Fish Screen Inspection Form”
- Link to the portion of ODFW’s web site that discusses fish screening and contacts for their screening coordinators in Central Point, John Day, and The Dalles.

Section 5 – Conditions

Pump Tests

- Not required to be completed by the “C” Date.
- May be exempted under certain circumstances (OAR 690-217).
- May qualify for a multiple well exemption (OAR 690-217).
- Department does not review a Claim until the pump test has been approved or exempted.

Section 5 – “Other” Conditions

11. Other conditions required by permit, permit amendment final order, extension final order, or transfer final order

- | | |
|---|-----|
| a. Were there special well construction standards? | NO |
| b. Was submittal of a ground water monitoring plan required? | NO |
| c. Was the water user required to restore the riparian area if it was disturbed? | NO |
| d. Was a <u>fishway</u> required? | NO |
| e. Was submittal of a letter from an engineer required prior to storage of water? | YES |
| f. Was submittal of a water management and conservation plan required? | NO |
| g. Other conditions? | YES |

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

“e” A letter from an engineer was required to be submitted prior to storage of water in the reservoir. The letter was submitted to the Department on January 7, 2010.

“g” The water user was required to install fencing at the reservoir to exclude livestock from the reservoir area. The water user has installed fencing to exclude the livestock.

Section 5 – “Other” Conditions

- Examples of “Other” conditions:
 - The well shall be cased and sealed a minimum of X feet below land surface.
 - The water user is required to develop a plan to monitor the affect of their ground water appropriation.
 - Prior to use, the water user is required to affix a Well ID tag to the well.

Claim of Beneficial Use (COBU) Map

COBU Mapping Checklist



Map Checklist

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

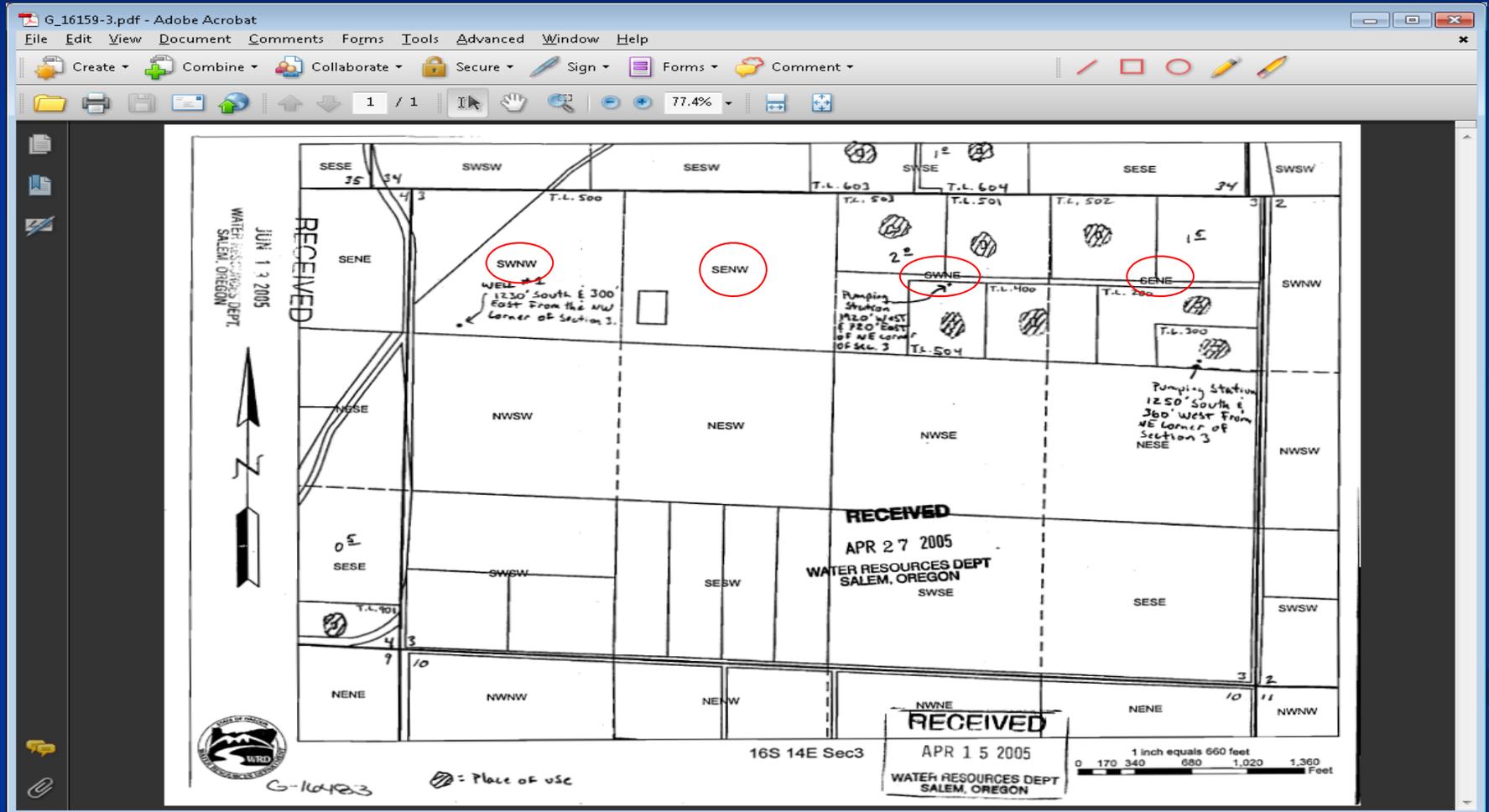
(Reminder: Incomplete maps and/or claims may be returned.)

- 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
- If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- Locations of fish screens, fish by-pass devices, meters and measuring devices in relationship to point of diversion or appropriation.
- Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- 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")
- Application and permit number or transfer number
- North arrow
- Legend
- CWRE stamp and signature

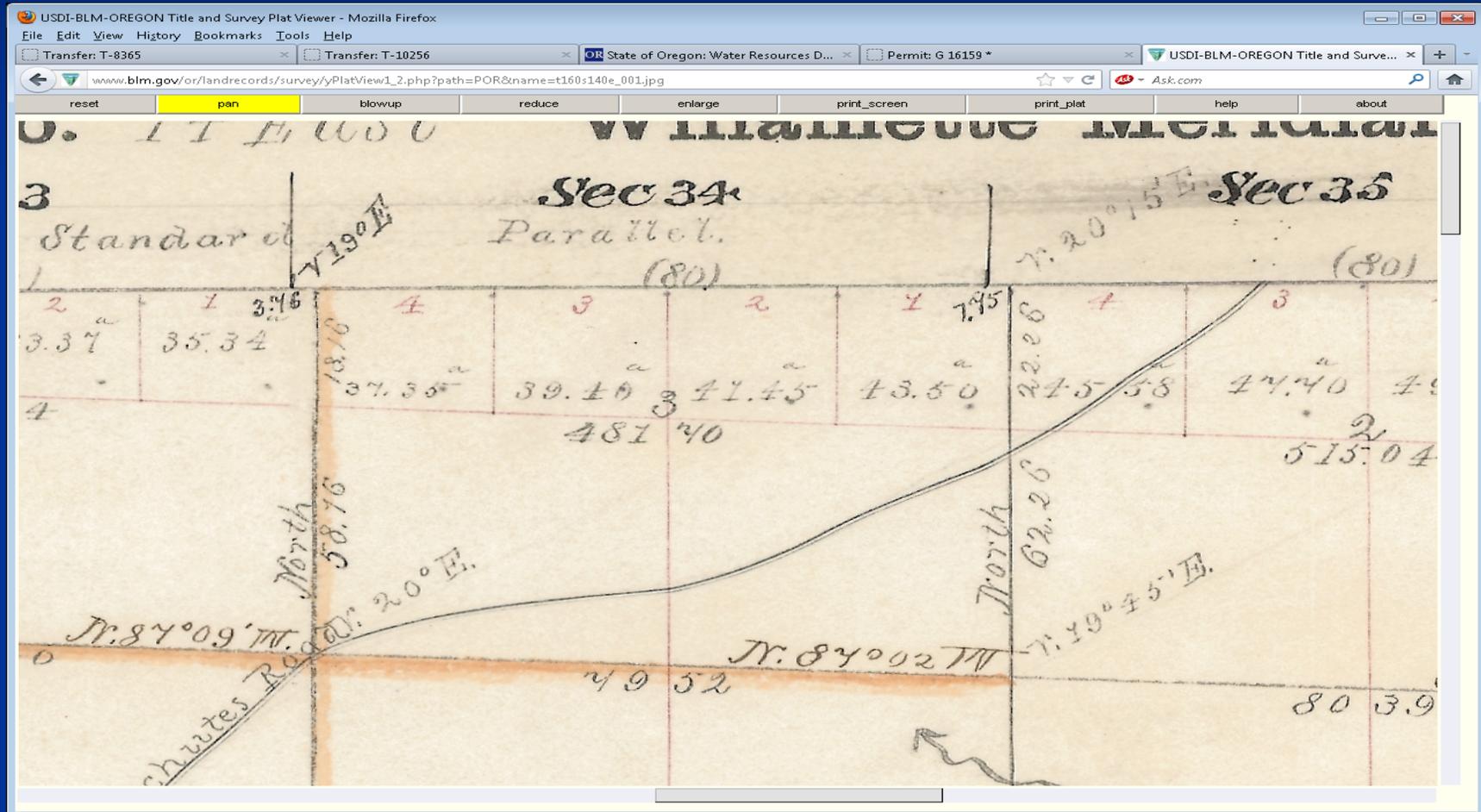
COBU Map

- The map must include Government Lots and Donation Land Claims, if applicable.
- You can attach copies of the maps you used to lay out the section(s) where the use or point of diversion/appropriation is located.
- Don't be fooled by the application map. It may not show the lots or the claims.

Application Map Example



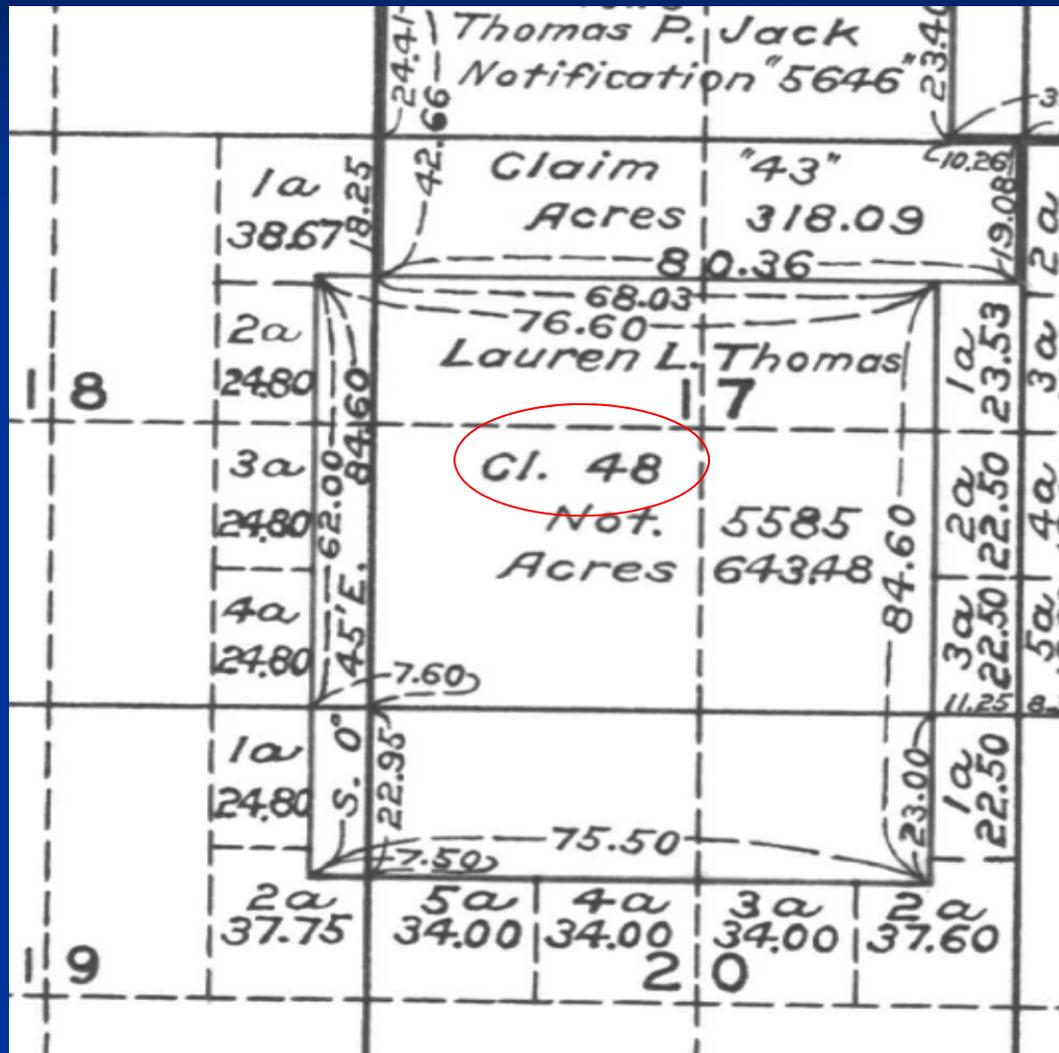
What the GLOs Indicate



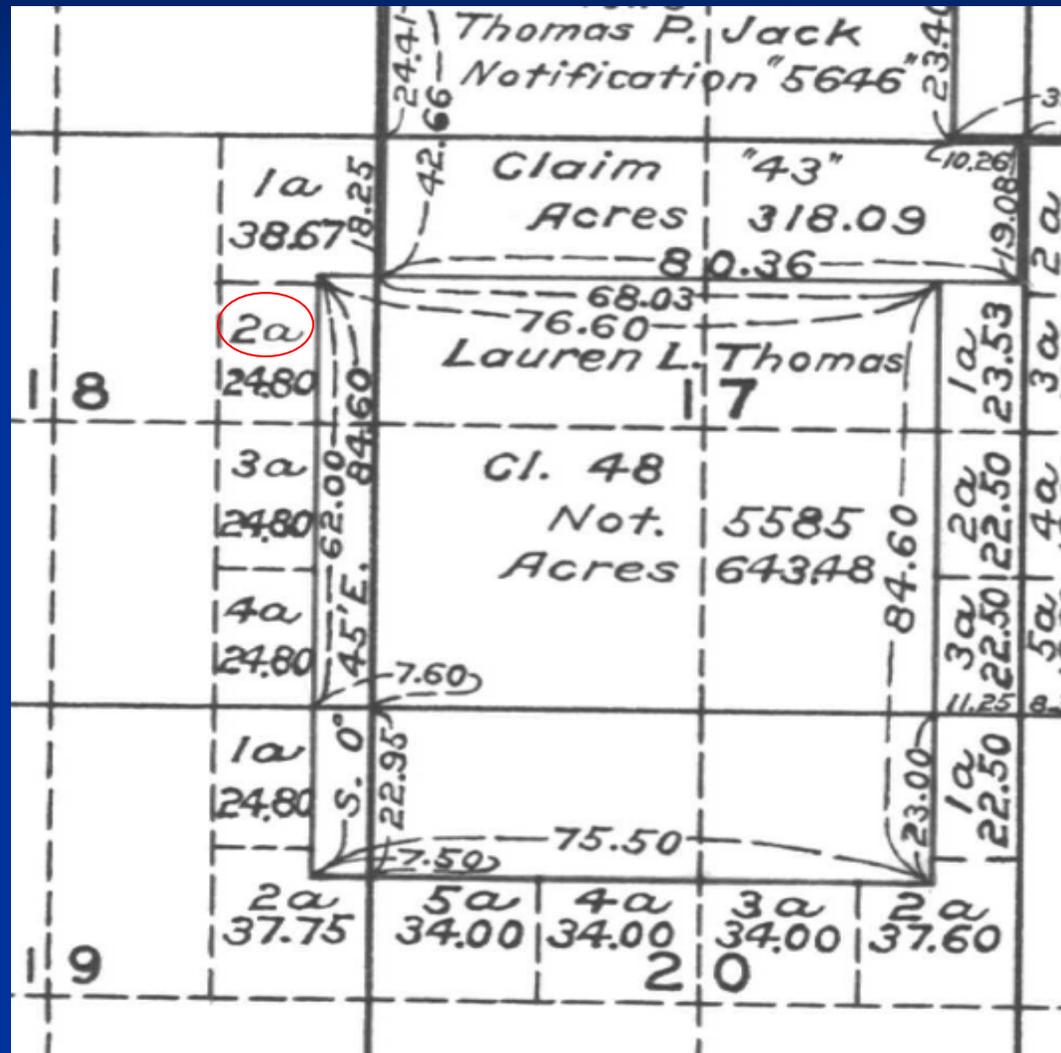
COBU Map

- Copies of the Government Land Office records (GLOs) can be found through the Bureau of Land Management's web site at:
- <http://www.blm.gov/or/landrecords/survey/ySrvy1.php>

COBU Map - DLCs



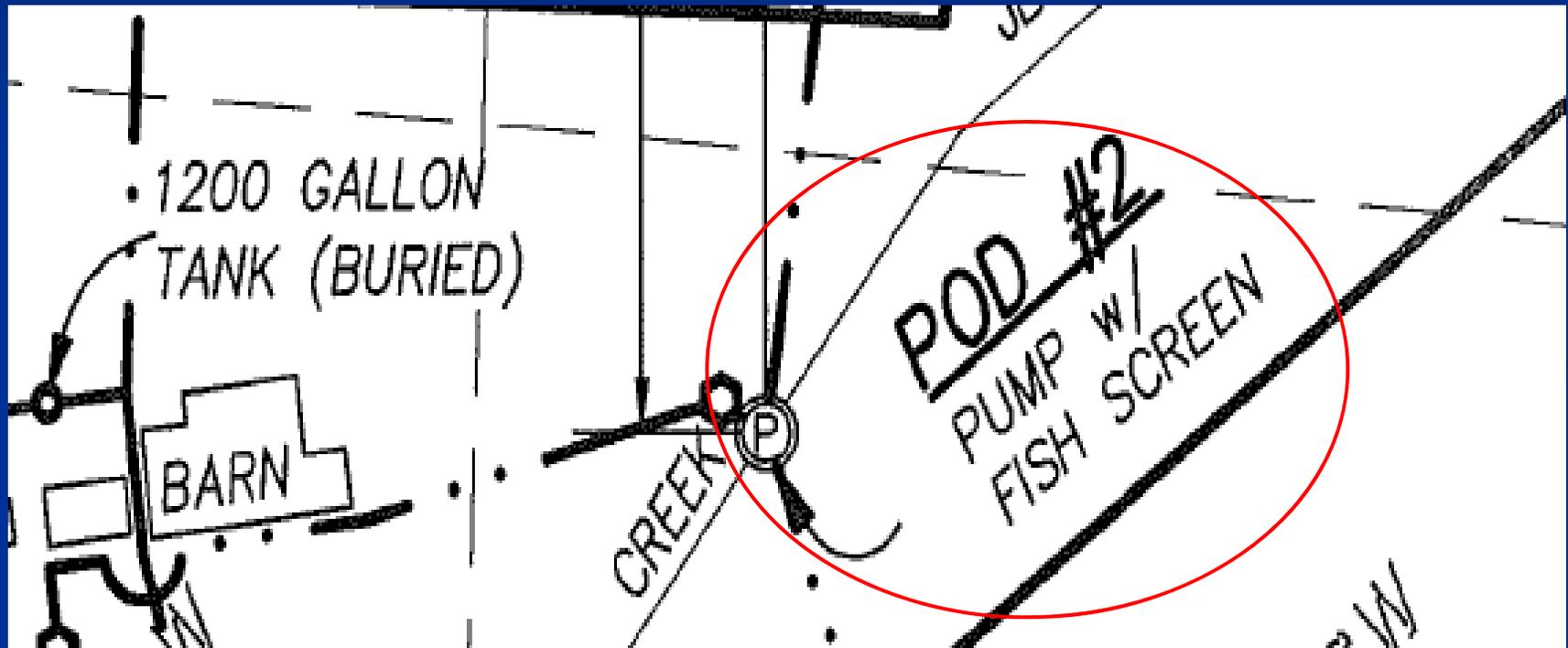
COBU Map – Gov Lots



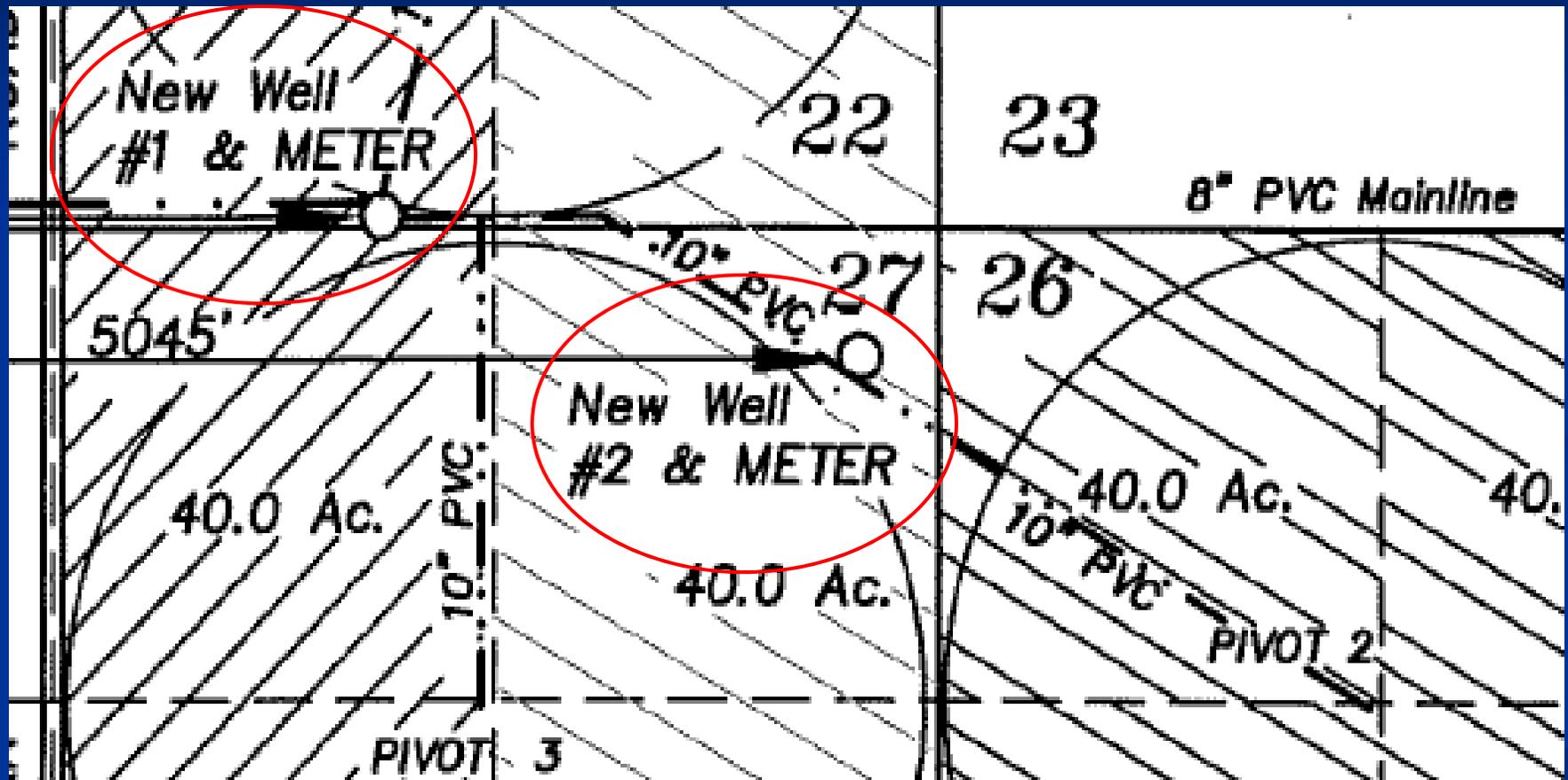
COBU Map

- The map must provide the location of any required meters or measuring devices in relationship to the point of diversion or point of appropriation.
- The map must provide the location of any required meters or measuring devices in relationship to the point of diversion or point of appropriation.

COBU Map



COBU Map



COBU Map

- The map must provide the location and number of the tax lot(s) involved.
 - Both the tax lot lines and numbers should be included on the map.

COBU Map

- Include a legend on your map.
- Although not required, it is extremely helpful.

	<i>POINT OF DIVERSION (POD)</i>
	<i>STOCK WATER</i>
<i>MFG</i>	<i>MANUFACTURING / COMMERCIAL USE</i>
	<i>EXISTING WATER MAIN PIPES</i>
	<i>PROPERTY BOUNDARY LINE</i>
	<i>TAX LOT LINE</i>
	<i>1/16TH SECTION</i>

CWRE Resource Page

- Information Available:
 - Claim of Beneficial Use Forms
 - Information regarding calculations
 - Calculators
 - Information regarding compliance with conditions
 - Links to other resources:
 - OSBEELS
 - CWRE Address update utility page
 - Statutes
 - Rules