

**\* APPLICATION FOR PERMIT**

**To Appropriate the Public Waters of the State of Oregon**

I, Earl G. Kerns and Elaine G. Kerns, husband and wife,  
(Name of applicant)  
of Route 5, Box 309, Klamath Falls, Oregon,  
(Mailing address)  
State of Oregon, do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, **SUBJECT TO EXISTING RIGHTS:**

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is Anna Creek ( through Shattuck Ditch )  
(Name of stream)  
a tributary of Wood River.

2. The amount of water which the applicant intends to apply to beneficial use is three-fifths (3/5)  
cubic feet per second, all from same source (in case of rotation not to exceed 3  
acre feet per acre for season)  
\*\*3. The use to which the water is to be applied is irrigation and domestic use  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. The point of diversion is located 320 ft. north and 315 ft. east from the northwest  
(N. or S.) (E. or W.)  
corner of the southeast quarter of the southwest quarter of Section thirty-  
one (31) in Township thirty-two (32), south of Range seven and one half  
(7 1/2) east of the Willamette Meridian, in Klamath County, Oregon, for  
diversion from Anna Creek, and 995 feet north and 640 feet east from  
the southwest corner of the southeast quarter of the southwest  
quarter of said Section, (If preferable, give distance and bearing to section corner)  
the Shattuck Ditch.

(If there is more than one point of diversion, each must be described. Use separate sheet if necessary.)  
being within the northeast quarter of SW quarter of Sec. 31-----, Tp. 32-----,  
(Give smallest legal subdivision) (N or S)  
R. 7 1/2 E.-----, W. M., in the county of Klamath from Anna Creek and in the SE 1/4 of SW 1/4  
of Section 31, in T. 32, S. Range 7 1/2 E. W. M., Klamath County, Oregon as to  
Shattuck Ditch. main ditch to be 1260 feet from Shattuck Ditch  
(Main ditch, canal or pipe line) (Miles or feet)  
in length, terminating in the Lot 4 (NW of NW) of Sec. six (6), Tp. 33, south  
(Smallest legal subdivision) (N or S)  
R. 7 1/2----- E, W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

**DESCRIPTION OF WORKS**

**Diversion Works—**

6. (a) Height of dam ..... feet, length on top ..... feet, length at bottom  
..... feet; material to be used and character of construction .....

(b) Description of headgate timber and plank, but concrete will be installed  
if suggested by Engineer's office. (Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description .....  
(Size and type of pump)  
.....  
(Size and type of engine or motor to be used, total head water is to be lifted, etc.)

\*A different form of application is provided where storage works are contemplated.  
\*\*Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) six feet at top, less at water line, three (3) feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.
- (b) At quarter miles from headgate: width on top (at water line) 6 feet at top, less at water line feet; width on bottom three (3) feet; depth of water 1 1/2 feet; grade abt. 1 foot fall per one thousand feet.
- (c) Length of pipe, ..... ft.; size at intake, ..... in.; size at ..... ft. from intake ..... in.; size at place of use ..... in.; difference in elevation between intake and place of use, ..... ft. Is grade uniform? ..... Estimated capacity, ..... sec. ft.

8. Location of area to be irrigated, or place of use Domestic use on Lot 4

Township	Range	Section	Forty-acre Tract	Number Acres To Be Irrigated
33	S 7 1/2 E.W.M.	6	Lot 4(NW of NW)	forty (40)
33	S 7 1/2 E.W.M.	6	Lot 3(NE of NW)	eight and 3/10(8.3)

All of Lot 4 is to be irrigated with the exception of a small corner in the northeast next to the Crater Lake Highway, but leaves a full 40 acres for irrigation. That portion of Lot 3 to be irrigated is described as follows: beginning at the southwest corner of said Lot 3, thence east along the south line of said Lot a distance of 620 feet, more or less, to the center of the Crater Lake Highway; thence, northwesterly along the center of said Highway a distance of 1,420 feet, more or less, to the east line of Lot 4; thence, south along the west line of said Lot 3 to the point of beginning, and all of which will be irrigated except the portion lying in said highway—said Highway being 60 feet wide. This description is taken from field notes of the survey on which the description in the deed from Geo. Denton and Wife to Earl Kerns and wife was based—said deed being hereinafter set out as to such description, but which includes other land on which there is already a water right.

(If more space required, attach separate sheet)

- (a) Character of soil pumice soil
- (b) Kind of crops raised blue grass and clover, red top, timothy and bromes grasses
- Power or Mining Purposes—
9. (a) Total amount of power to be developed ..... theoretical horsepower.
- (b) Quantity of water to be used for power ..... sec. ft.
- (c) Total fall to be utilized ..... (Head) feet.
- (d) The nature of the works by means of which the power is to be developed .....
- (e) Such works to be located in ..... of Sec. ....
- Tp. .... R. .... W. M. (No. N. or S.) (No. E. or W.)
- (f) Is water to be returned to any stream? ..... (Yes or No)
- (g) If so, name stream and locate point of return .....
- Sec. .... Tp. .... R. .... W. M. (No. N. or S.) (No. E. or W.)
- (h) The use to which power is to be applied is .....
- (i) The nature of the mines to be served .....

and to the Shattuck Ditch. No objection had or has been made to such use and the applicants herein assumed that there was a complete water right to all the lands that they were purchasing. Upon receipt of the abstract to the property the applicants by an inspection thereof learned that a recorded water right had been established to only eighty acres (for 40 acres in the southeast quarter of the northwest quarter and 40 acres in the northeast quarter of the southwest quarter of Section six (6) in Township Thirty-three (33), south of Range seven and one-half (7½), East of the Willamette Meridian, in Klamath County, Oregon,). Learning that no water right certificate had ever been issued for the lands herein applied for, the applicants immediately took steps to file therefor.

They are informed that there is ample and full water supply to allow them the water herein applied for. In this connection, attention is called to stipulation, agreement and the decree based thereon in the Adjudication of Anna Creek and Wood River wherein and whereby it was stipulated and agreed and so decreed that in the event that the waterusers from the Melhase Ditch should transfer their use from the Shattuck Ditch from Anna Creek to Wood River that their water as therein adjudicated to them should revert to and be turned back to the users under the Shattuck Ditch in proportion as to the water that they should be able to take from Wood River; applicants are informed and believe and therefore state that the said users under the Melhase ditch have since constructed or had constructed a ditch direct to Wood River and that they are now and have been for a long time taking water therefrom instead of Anna Creek and that as a consequence there is ample water in Anna Creek to supply the needs of the applicants for water as herein applied for. The allowance of water to the applicants herein as requested will in no way injure or harm any one and will prove highly beneficial to the public in putting such water to a useful purpose, whereas, if the right is denied it can only result in loss of crops and can in no way add to the benefit of another as the water would only go to waste and flow on down Anna Creek into Wood River and thence into the Pacific Ocean as there is adequate water supply at all points below said diversion point to supply the demands of prior users.

26319

Municipal or Domestic Supply—

10. (a) To supply the city of \_\_\_\_\_

County, having a present population of \_\_\_\_\_

(Please set)

and an estimated population of \_\_\_\_\_ in 19\_\_\_\_\_

(b) If for domestic use state number of families to be supplied \_\_\_\_\_

(Answer questions 11, 12, 13, and 14 in all cases)

- 11. Estimated cost of proposed works, \$ 75.00 (ditches are already in and have been for over 20 years.)
- 12. Construction work will begin on or before All ditches already in have been in for over 20 years. Will build headgates to control at once on permit.
- 13. Construction work will be completed on or before sixty days after permit is granted.
- 14. The water will be completely applied to the proposed use on or before immediately upon issuance of permit.

*Earl H. Kerson*  
 (Signature of applicant)  
 Earl H. Kerson

Remarks: On January 18, 1946, the applicants herein purchased from George M. Denton and Olive W. Denton, husband and wife, the following-described realty, to-wit:

Beginning at the northwest corner of Township 33 South, Range 7 $\frac{1}{2}$  East, Willamette Meridian; thence south along the range line, a distance of 1357 feet, more or less, to the southwest corner of Lot 4, Section 6 of said township and range; thence East, 1344 feet, more or less to the southeast corner of said Lot 4; thence South, 2640 feet, more or less, to the southwest corner of the northeast one quarter of the southwest one quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of said Section 6; thence East, 1320 feet, more or less, to the southwest corner of said northeast one quarter of the southwest one quarter of said Section 6; thence North, 1930 feet, more or less, along the north and south centerline of said Section 6, to the centerline of the Crater Lake Highway; thence North 0 deg. 08 min. West 760 feet along the centerline of said highway; thence Northwesterly, 1740 feet, more or less, along the center line of said highway, to a point on the north line of said Section 6, which is 1317 feet, more or less, East from the northwest corner of said township; thence West, 1317 feet to the point of beginning, being all of the northeast one quarter of the southwest one quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ ) and all that portion of Lots 3 and 4, and the southeast quarter of the northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ ) lying southwesterly from the Crater Lake Highway, all in Section 6, Township 33 South, Range 7 $\frac{1}{2}$  East, Willamette Meridian, containing 123.5 acres, more or less, including 1.7 acres in said highway; all in Klamath County, State of Oregon;

They had gone into possession of said lands prior thereto under a contract of purchase. At the time of their contract and purchase of said land there was located thereon an irrigation system, substantially as shown on applicants' map herein. All of the land was under irrigation and the applicants were informed that said lands had been continuously irrigated for a period of over twenty years. All the ditches were completed, though no head gates have been installed. The water had been used from such ditches to irrigate the lands in question with full knowledge and acquiescence of all landowners having any water right in and to the waters of Anna Creek and in

STATE OF OREGON, }  
 County of Marion, } ss

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for \_\_\_\_\_

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before \_\_\_\_\_ 194 \_\_\_\_\_

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_ 194 \_\_\_\_\_

PERMIT

STATE OF OREGON,

County of Marion,

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This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 0.60 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Anna Creek.

The use to which this water is to be applied is Irrigation.

If for irrigation, this appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is December 6, 1960

Actual construction work shall begin on or before November 20, 1960 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1961

Complete application of the water to the proposed use shall be made on or before October 1, 1961

WITNESS my hand this 22th day of November, 1960

Stanley STATE ENGINEER

Permits for power development are subject to the payment of annual fees as provided in sections 1 and 2, chapter 74, Oregon Laws 1933

Application No. 22125-
Permit No. 26319

PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

This instrument was first received in the office of the State Engineer at Salem, Oregon, on the 6th day of December, 1960, at 1:00 o'clock P. M.

Returned to applicant:

Corrected application received:

Approved:

Recorded in book No. 1 of Permits on page 26319

STATE ENGINEER

Drainage Basin No. 17 Page 27

Fees Paid