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PORTLAND, OREGON

503 226.9055  
FAX 503 226.3480  
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**RECEIVED**

OCT 04 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

October 1, 1999

Weisha Mize  
OWRD  
158 12<sup>th</sup> Street, NE  
Salem, OR 97310

Dear Weisha:

Regarding the proposed allocation of conserved water on Evans Creek in the Rogue Basin (application 9804), installation of the conserved water projects is complete and all the applicants are satisfied that they can live with the reduced amount of water allowed after implementation of the conservation measures.

Please do not hesitate to contact me if you have any questions or need more information.

Sincerely,

A handwritten signature in cursive script that reads "Andrew Purkey".

Andrew Purkey  
Executive Director



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Dorothy Berry  
10342 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Ms. Berry:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

from appearance of map

	<u>ac</u>	<u>cp</u>	<u>Cost</u>	<u>Remt</u>	<u>fact</u>
68497 Hilger	1.86 ac	0.014	5.94	.37	1.5
68497 Teague	$\frac{2.01}{387} ac$	$\frac{0.015}{.029}$	6.39		
32772 Lana	4.96	0.037	15.67		
" Scott	5.82	0.043	18.21		
" Berry	3.5	0.026	11.02		
" Burton	4.64	0.035	14.83		
" Jauker	$\frac{2.54}{21.46}$	$\frac{0.018}{.0159}$	7.96		
42921 Barnes	1.8	0.014	5.72		
" Loper	$\frac{1.2}{3.0}$	$\frac{0.009}{0.023}$	3.81		
			89.55		

4 ac total  
no surf.

49039 Burton 1.5

.2

Total <sup>orig.</sup> applied -	68497	32772	42921
	.077	.428	.06
			<del>.036</del>
Total reduced -	.048	.288	.037

Richard Wilson 585-5585 or 370 56781 370 5293



WATER RESOURCES DEPARTMENT  
OF OREGON

158 12<sup>th</sup> STREET NE  
SALEM, OR 97310

HERE'S THE MATERIAL YOU REQUESTED --- To: Weisha

Please replace your copy of Certificate 76182 (File T-4037) with this one. The correct maps are attached to this copy of the certificate.

*Jimmie Brandt*

(Name)

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

GEORGE BEERS  
ROGUE RIVER, OR 97537

and

KENNETH C. AND/OR DORA M. BAINES  
9876 E. EVANS CREEK ROAD  
ROGUE RIVER, OR 97537

confirms the right to use the waters of EVANS CREEK, a tributary of ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 3.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON COUNTY. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16, at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.05 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

WILLIAMS AND WHALEN DITCH - SE 1/4 SE 1/4, SECTION 6, TOWNSHIP 35 SOUTH, RANGE 3 WEST, W.M.; 475 FEET NORTH AND 860 FEET WEST FROM THE SE CORNER OF SECTION 6.

A description of the place of use to which this right is appurtenant is as follows:

NE 1/4 NE 1/4 1.5 ACRES

SE 1/4 NE 1/4 1.5 ACRES

SECTION 11

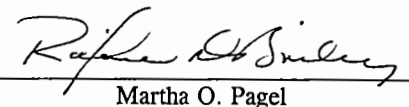
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered SEPTEMBER 15, 1978, and ALONG WITH THE UNMODIFIED PORTION OF CERTIFICATE 42921 NOT INVOLVED IN TRANSFER NO. 4037, supersedes Certificate 42921, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed JUNE 7, 1999.

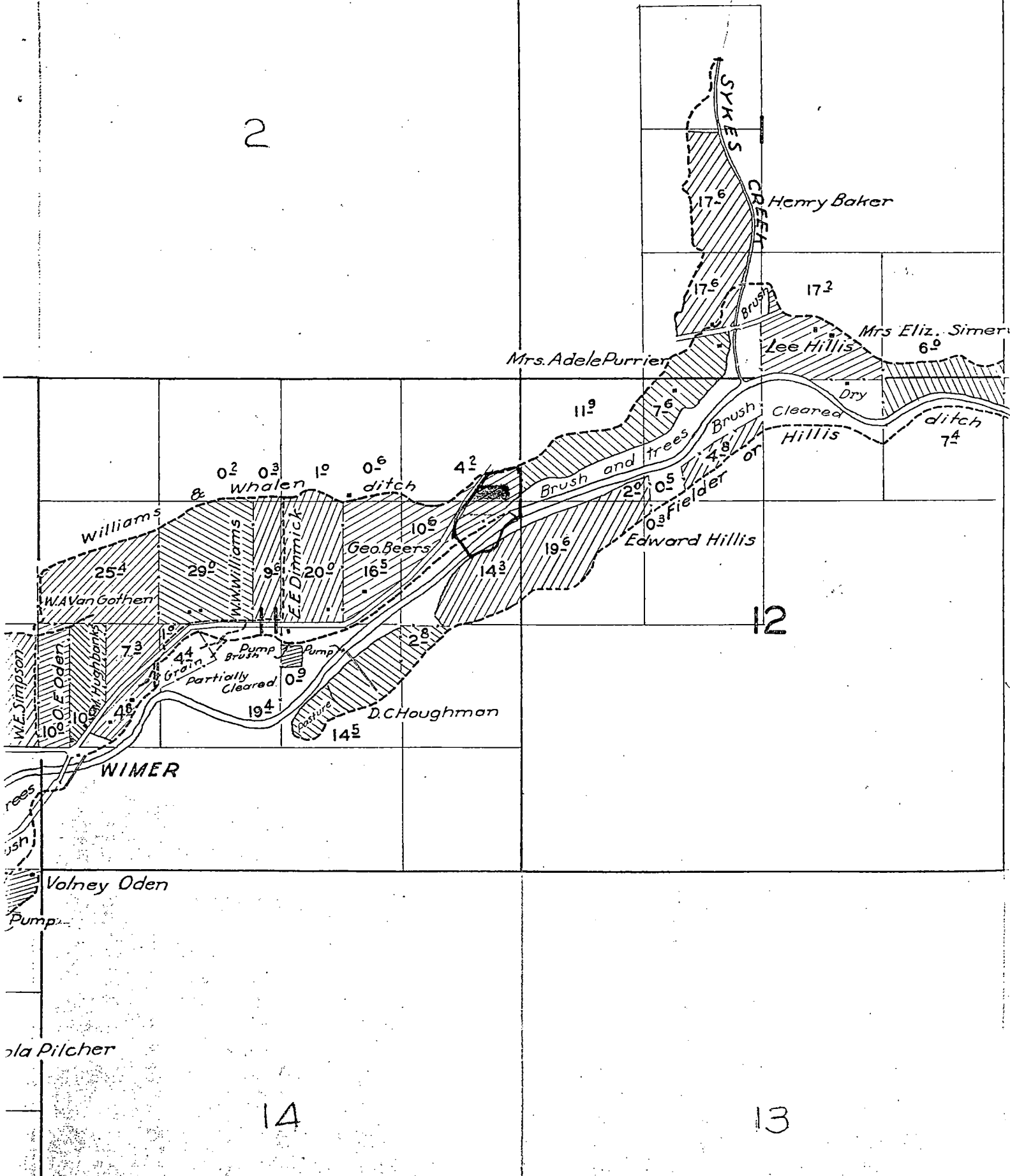
  
Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 76182.

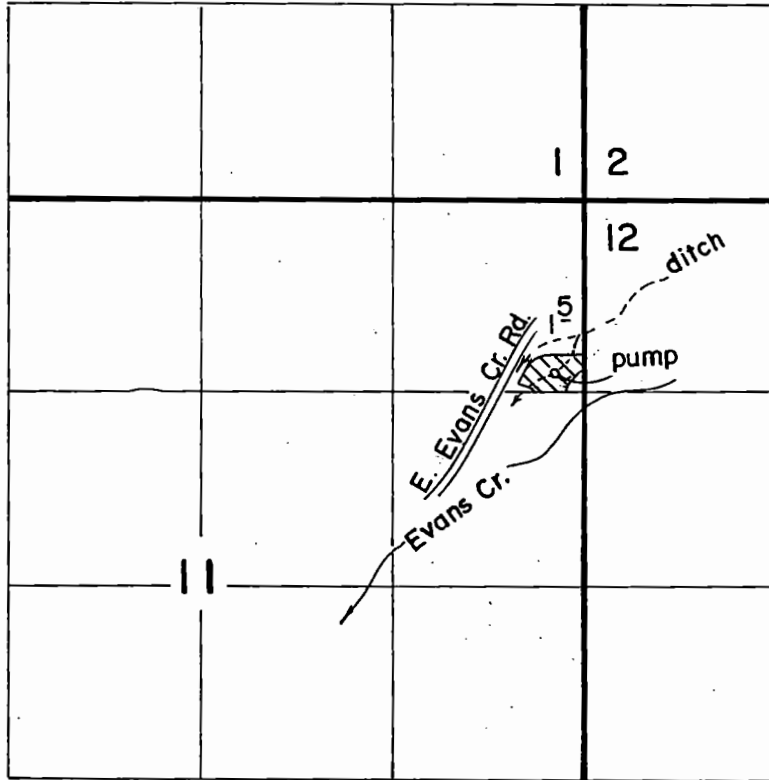
T-4037.SB

T. 35 S., R. 4 W., W.M.

2



T. 35 S., R. 4 W., W. M.



Scale: 1" = 1320'

**FINAL PROOF SURVEY**  
UNDER

TRANSFER NO. 4037

Application No. .... Permit No. ....  
IN NAME OF

KENNETH C. &/OR DORA M. BAINES

Surveyed JUN 15 1987, by B. S. JAMES.

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

GEORGE BEERS  
ROGUE RIVER, OR 97537

and

KENNETH C. AND/OR DORA M. BAINES  
9876 E. EVANS CREEK ROAD  
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NE 1/4 NE 1/4 1.5 ACRES  
SE 1/4 NE 1/4 1.5 ACRES

SECTION 11

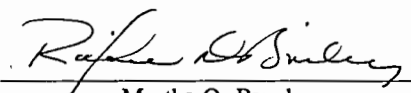
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered SEPTEMBER 15, 1978, and ALONG WITH THE UNMODIFIED PORTION OF CERTIFICATE 42921 NOT INVOLVED IN TRANSFER NO. 4037, supersedes Certificate 42921, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed JUNE 7, 1999.

  
Martha O. Pagel

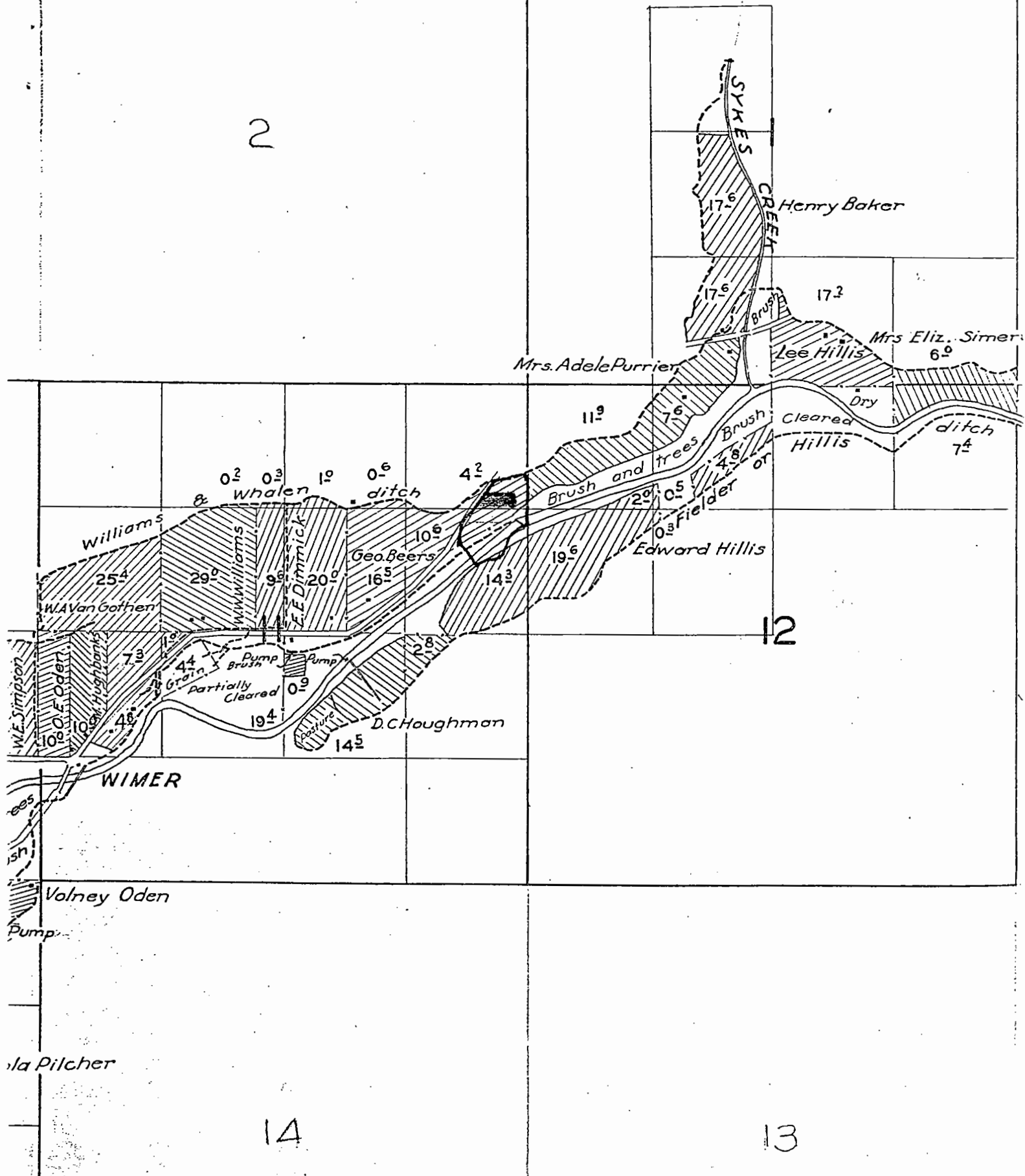
Recorded in State Record of Water Right Certificates numbered 76182.

T-4037.SB



T. 35 S., R. 4 W., W.M.

2

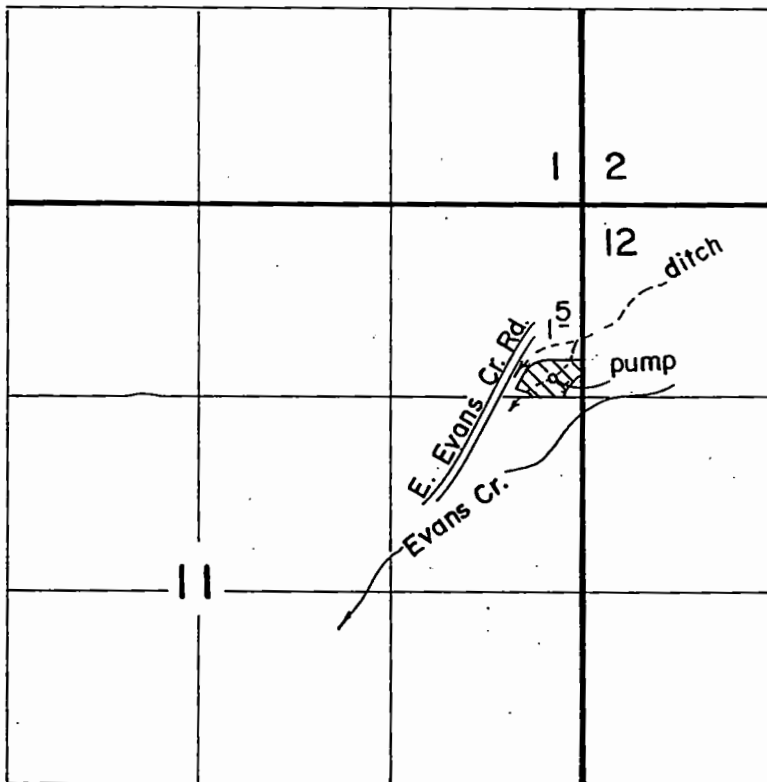


12

14

13

T. 35 S., R. 4 W., W. M.



Scale: 1" = 1320'

**FINAL PROOF SURVEY**  
UNDER

TRANSFER NO. 4037

Application No. .... Permit No. ....  
IN NAME OF

KENNETH C. &/OR DORA M. BAINES

Surveyed JUN. 15. 1987, by B. S. JAMES...



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

### MEMORANDUM

TO: MOP

FROM: WEISHA

RE: CORRECTED ORDER - NEW SIGNATURE PAGE NEEDED

DATE: August 31, 1999

Martha, attached you will find a new signature page in the Conserved Water application 98-04. Some time after you signed it on June 10, two typos were discovered on the signature page. One was an incorrect priority date in item 8 (said 1896, should have been 1975) and the other was an incorrect Q in item 7 (said 0.037, should have been 0.031). These have been corrected now but I need your signature again, with the June 10 date. Please sign and return. Thanks.



**Notice of Application for Allocation of Conserved Water, Application 98-04, and Notice of Proposed Associated Change in Point of Diversion for 1.5 acres in the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, T35S, R4W, Jackson County, Oregon**

Jerry N. Hilger, Gary and Alice Teague, Linda Lance, G.L. and Gwen Scott, Dorothy H. Berry, Robert and Elanor Burton, Jakob Jauker, Dora M. Baines, John W. and Irene E. Loper and the Oregon Water Trust have made application to the Oregon Water Resources Department for approval of a project to conserve water as provided by ORS 537.470. The application involves water rights for irrigation of contiguous or near-contiguous lands lying on the north side of Evans Creek in the SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> Section 1, the NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> and NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, the NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> and the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> Section 11 in Township 35 S, Range 04 W, WM.

The project involves Certificates 68497, 32772, 42921 and a portion of 42921 involved in Transfer 4037. Water has previously been diverted under the subject water rights from the Williams Whalen Ditch, and applied by flood irrigation. The amount diverted and applied under these three rights in this manner was 0.077 cfs under Certificate 68497, 0.4~~9~~8 cfs under Certificate 32772, and 0.06 cfs under Certificate 42921.

The applicants propose to change the point of diversion from the Williams Whalen Ditch to individual metered and screened pumps in Evans Creek adjacent to the individual applicants' properties, to deliver a reduced quantity of water to each property via pipe and apply water via sprinkler irrigation. The reduced amount of water required as a result of this conservation project will be 0.048 cfs under Certificate 68497, 0.288 cfs under Certificate 32772, and 0.037 cfs under Certificate 42921.

The applicants further propose to allocate 100% of the water conserved through these modifications, being 0.21 cfs (93.8 acre feet), to an instream water right beginning at river mile 11 and ending at river mile 8 on Evans Creek. The water conserved will be combined with the existing instream right for 0.055 cfs at this location, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853, and will have the same priority date of 1896 plus one minute.

In addition, applicants Robert and Elanor Burton have filed an application proposing to move the point of diversion for Certificate 49039 appurtenant to 1.7 acres in the from the Williams Whalen Ditch to the same pump to be utilized under this conserved water application for 4.64 acres owned by applicants in the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, T35S, R4W, under C. 32772. Applicants have voluntarily authorized cancellation for nonuse of the portion of the right appurtenant to 0.2 acre allowed under Certificate 49039, and seek approval of the new point of diversion and issuance of a remaining right certificate for irrigation of 1.5 acres.

Any interested person may submit comments on these applications. Comments must be received by the Water Resources Department by May 17, 1999. The Department will review any comments received when determining whether to allow the requested allocation of conserved water. A copy of the application and other information on the allocation of conserved water or the proposed change in point of diversion may be obtained from the Water Resources Department by calling Weisha Mize at 1-800-624-3199, ext. 311.

Run ~~4/14/4~~

4/14, 4/21 & 4/28

Regul. pins

541 582 1707

To: Kerry Kencairn  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
Subject: questions and answers  
Cc:  
Bcc:  
Attached:

At 08:43 PM 3/3/99 -0800, you wrote:

>Hi Weisha, I just wanted to let you know that we loved the way you resolved

>the Lacy order, thanks for working that through.

Thanks -- I was glad to get one completed, but I did feel a little uncomfortable because I feel that we really skipped a step that the rules impose under OAR 690-018-050(4) -- even if no comments have been filed in the earlier comment period, there still needs to be a 60-day waiting period between providing notice of the determination under subsection (3) (determination on the 10 points listed under this subsection) and issuing a final order allocating water. The reason there needs to be a 60-day waiting period is because the rules require it and anyone, whether they commented earlier or no, can file a protest and that time period can't be skipped. I talked about this in an email sent 12/7 but perhaps it wasn't clear.

>

>Williams Whalen applications can now be processed, the project is done.

Everything except for getting that sign-off from Jauker. It would be a shame to have the whole thing going and then have him come back and point out, rightfully so, in a lawsuit against WRD and/or the Trust that he had not acknowledged the loss of some acreage and authorized cancellation of a portion of his water right. I have been thinking about this a lot and it just has my gut in a knot. It seems like Mr. Jauker ought to be coming back pretty soon from Europe, perhaps if I contact Mr. -- oh, shoot, I was thinking that it was Mr. Hilger who was getting his mail and so forth, but does not have power of attorney, isn't it Hilger? -- I could find out when Jauker is definitely returning and go from there. I know it is frustrating to have this drag on, I would like it to have been done last year as well, but I can not in good legal conscience go ahead without a sign off from Jauker.

>What do we need to do to finalize the Menteer order as well?

The Menteer order was signed Jan. 6, I had our assistant send a copy of the order to you and to Andrew -- I'll have her send another to you for your files, ok? Sorry about that!

>I will be rewriting Drobcowits shortly, it seems the problem lies with me

>leaving out a section from my description.....will i be sending that to you?

Why don't you send it to Bob and I will work with him on it? It will probably come back in to my shop for some review but I don't want to tread in some one else's turf preemptively!

Thanks,

Weisha



# Oregon

John A. Kitzhaber, M.D., Governor

*file*  
Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

April 23, 1999

Bill and Alyssa Wallingford  
10735 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. and Mrs. Wallingford:

Enclosed please find the applications you requested for the Evans Creek / Williams - Whalen Ditch Conserved Water Project. I hope this is some assistance to you.

Bruce Sund forwarded your water right materials to Don Knauer here in Salem. Bruce tells me that these materials have now been returned to him and that staff will be working on sorting out your questions in the next few weeks.

Sincerely,

Weisha Mize, ALJ

cc: Bruce Sund, Watermaster, Dist. 14





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

### Memorandum

To: Kerry KenCairn, OWT

From: Weisha Mize, WRD

RE: Williams-Whelan conserved water applications

Date: November 5, 1998

Kerry, I am working through the applications and am running into some snags. I've tried to outline the history of several of the water rights involved, which have undergone some cancellations as a result of transfers, and to confirm that all lands covered by the applicable rights are accounted for. What I've come up with is diagramed on the following pages. but let me put a narrative to it that might help.

Short and sweet, water right certificate 16115 was cancelled as a result of a transfer and 3 new ones issued — one to Zellen, one to Smith, and one, #68497, to Taylor. The ones to Zellen and Smith have since been cancelled again as part of their conserved water application which was approved but is still waiting for new certificates to issue. The lands for which applications are made for Hilger and Teague are for the lands under Cert. 68497, rather than Cert. 16115 which is no longer in existence.

In addition, the total acreage under Cert. 68497 is 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 3.06 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12. The lands covered by the Hilger and Teague applications should be the same. However, even with taking into account the 0.37 ac recently removed from irrigation due to house, shop and driveway construction on the Hilger place, the lands involved in the Hilger and Teague conserved water applications only total 2.23 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.82 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12; there are 0.63 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12 which must be accounted for.

It may be that these lands have gone out of irrigation and production over the years and this is shown by Spero's mapping. It would be simple to just cancel these acres in the conserved water order; but to do so without the applicant's involvement and knowledge would be ill-advised, to say the least.

Similar problems are discovered with Certificates 32722 (Lance, Scott, Berry, Burton and Jauker) and with C.49039, the land involved in the Burton transfer. The attached sheet should be self-explanatory as to what amount of acreage unaccounted for under these certificates.

Give me a call and we can discuss this in more detail and figure out the best approach. Thanks!



~~C. 16115  
5 ac. SE 1/4 SE 1/4 § 1  
5 ac. NE 1/4 NE 1/4 § 12~~

T7261 Δ POD    T7271 Δ POD

~~C. 72139  
Smith  
1.12 ac. SE 1/4 SE 1/4 § 1  
0.68 ac. NE 1/4 NE 1/4 § 12~~

~~C. 72140  
Zellen  
1.07 ac. SE 1/4 SE 1/4 § 1  
1.21 ac. NE 1/4 NE 1/4 § 12~~

C. 688497  
M. Taylor  
2.86 ac. SE 1/4 SE 1/4 § 1  
3.06 ac. NE 1/4 NE 1/4 § 12

Conserved Water Application  
Special Order Vol. 50 p. 853  
0.055 cfs. instream  
*No cert. issued yet  
Combine w/ Wilms Whalen*

1.12 ac. SE 1/4 SE 1/4 § 1  
[0.37 ac. SE 1/4 SE 1/4 § 1]  
0.74 ac. NE 1/4 NE 1/4 § 12  
Hilger  
0.014 cfs conserved  
5.94 af water appl.

0.93 ac. SE 1/4 SE 1/4 § 1  
1.08 ac. NE 1/4 NE 1/4 § 12  
Teague  
0.014 cfs  
5.93 af

0.63 acre in SE 1/4 SE 1/4 § 1  
1.24 acres in NE 1/4 NE 1/4 § 12  
unaccounted for

C. 32767  
16.5 ac. E 1/2 SW 1/4 NE 1/4  
10.0 ac SE 1/4 NE 1/4 north of creek  
§ 11

T3022 Δ POD 23.5 ac.

C. 42921  
Rem. Rt.  
3.0 ac. SE 1/4 NE 1/4 § 11  
north of creek  
§ 11

C. 49032  
Conf. Rt.  
16.5 ac. E 1/2 SW 1/4 NE 1/4  
10.0 ac SE 1/4 NE 1/4 north of creek  
§ 11

*Pending*

T4037 Δ POU  
1.5 Ac. to NE 1/4 NE 1/4 § 11  
BAINES

*Loper  
1.5 ac*

C. 32722

10.00 ac. in SE  $\frac{1}{4}$  SE  $\frac{1}{4}$   
- 3.38 Lance  
- 0.34 Lance  
- 1.12 Scott  
- 0.12 Scott  
- 4.04 Purrier (not part of conserved water application)  
= 1.00 acre unaccounted for in SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

lying north of Evans Creek:

7.6 acres NE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
- 1.24 Lance  
- 1.58 Scott  
- 3.00 Scott  
- 0.6 Berry  
1.18 ac. unaccounted for in NE  $\frac{1}{4}$  NW  $\frac{1}{4}$

11.9 acres NW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
- 1.48 Berry  
- 1.42 Berry  
- 4.64 Burton  
- 2.54 Jauker  
1.82 ac. unaccounted for in NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ .

C. 49039 Transfer

Right is for 1.7 ac.

Transfer is for 1.5 ac.

.2 ac. unaccounted for

To: Kerry Kencairn

From: "Weisha R. Mize" <Weisha.R.MIZE@wrd.state.or.us>

Subject: check these out ;-)

Cc:

Bcc:

Attached: M:\wpdocs\consrved\abandonconfirm.wpd; M:\wpdocs\consrved\signoffletter.wpd;

Kerry, please check these two documents out and see if you are comfortable with them. I have prepared separate statements for each applicant with the cert. number and quarter-quarter information filled in, and will prepare separate cover letters for each of the applicants. With your ok, I will send them out to the individual applicants.

Weisha

To: Kerry Kencairn <kerrykai@mind.net>  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrdd.state.or.us>  
Subject: Re: Williams wahlen  
Cc:  
Bcc:  
Attached:

At 07:19 AM 11/16/98 -0800, you wrote:

>thanks for putting so much effort into this process!!!  
>Aw shucks, it weren't nothin', it's mah job, ma'am. ;-)

>The Williams Whalen landowners are well aware that they have less actual  
>acres than their original water right stated. we have gone through all of  
>this with them from the beginning. They understand that as part of the CWP  
>process their water rights would be re-assessed at actual irrigable acres  
>rather than their paper water right. In signing the CWP application they  
>accepted the new numbers as provided by the CWRE.

I'M NOT SHOUTING, JUST SETTING OFF MY RESPONSE SINCE I CAN'T DO A DIFFERENT TYPEFACE.  
Ok, whew, that's better. I think this is doable and I'm glad they know all this. I'm concerned, though, that they clearly express this acceptance and put it in writing. I would be happy to prepare owner affidavits voluntarily relinquishing the small difference or otherwise acknowledging the reduction through the CWRE mapping and indicating no objection to Department action taken in conjunction with the conserved water project whereby the unused portions of the rights are cancelled.

>I think the only problem here is the certificate issue for 16115 transfer to  
>68497, could we handle this through addendum?

We could do revised pages 1 and 3 for the Teague and Hilger applications under 16115 (now 68497) but there is still the problem of the 1.87 acres which must be cancelled off. There's also the problem (not a huge problem, just a little one ;-)) of the 2 ODFW Exhibits which refer to 16115. Again, I would be happy to make new statements with the correct number, or we could probably make the correction ourselves and it would be ok.

I am unable to locate Ex. B, the cover of the ECWC application. ;-( Can you send me another copy or is the one I thought goes to Lacey also for this application?

>I am leaving town first thing Tuesday morning, to return on Nov 24. I also  
>Have a wonderful time, where are you going?

Weisha

X-Sender: kerrykai@mail.mind.net (Unverified)  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.0.1  
Date: Mon, 16 Nov 1998 07:19:05 -0800  
To: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
From: Kerry Kencairn <kerrykai@mind.net>  
Subject: Re: Williams wahlen  
Cc: andrew@owt.org

Hi Weisha,

thanks for putting so much effort into this process!!!

The Williams Whalen landowners are well aware that they have less actual acres than their original water right stated. we have gone through all of this with them from the beginning. They understand that as part of the CWP process their water rights would be re-assessed at actual irrigable acres rather than their paper water right. In signing the CWP application they accepted the new numbers as provided by the CWRE.

I think the only problem here is the certificate issue for 16115 transfer to 68497, could we handle this through addendum?

I am leaving town first thing Tuesday morning, to return on Nov 24. I also will be in an all day meeting today. Please let me know today (if you can) what you think of this, if you can't get to it today and it needs to be resolved before I get back, you might want to talk to Andrew.

Kerry KenCairn  
KenCairn Environmental Design  
147 Central Avenue  
Ashland, Oregon 97520  
kerrykai@mind.net  
(541) 488-3194  
fax (541) 488-4903

X-Sender: kerrykai@mail.mind.net (Unverified)  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.0.1  
Date: Mon, 26 Oct 1998 10:30:38 -0800  
To: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
From: Kerry Kencairn <kerrykai@mind.net>  
Subject: Re: about the map

Hi Weisha,  
Let's see, old business.....KenCairn is a name created for my ex marriage. Ex hubby wanted to be Mountain Wind, we both had maiden names we were not attached to. I felt like being a little more subtle, but wanted to honor his general idea of choosing a new last name that would have some meaning in a larger sense of the world.

so....Ken is hexagram 54 from the I-Ching for 2 mountains meeting, Cairn is grave or trail marker in Celtic, Two mountains meeting and showing the way.....we tried, and now we do a better job of it solo.

I have mailed to you the proposed POD's on Williams Whalen, a correction for Teague (slip these 2 pages in front of the previous and pull out pages 3 and 4 and everything should be fine. Also a legal description of the portion of Burtons water right that is being transferred as part of the CWP, The Burtons will be sending you an affidavit of beneficial use directly, please let me know if you don't get it by the first week in November.

Thanks for all your work!

Kerry

At 03:45 PM 10/20/98 -0700, you wrote:

>Hi, Kerry -- You know, it would be perfectly adequate for the up-front map  
>to just estimate where the pumps are going to be dropped into the stream  
>and mark them on Evans Creek, using another copy of the preliminary map  
>Spero prepared. All I need right now is a rough estimate.

>  
>There is nothing in the rules or the statute that require submission of a  
>statement certifying that the water right has been exercised in the last 5  
>years, although it would be a good thing to have some indication of that  
>from each applicant. In this case, because the applications have already  
>been notarized, I would suggest just having an unnotarized addendum page  
>from each person stating that the named person certifies that the portion  
>of the right to which the application applies has been exercised within the  
>last 5 years according to the terms of the water right. I would be happy  
>to prepare this and send them on to you, send them out or something else if  
>this is problematic for you.

>  
>Weisha

>  
Kerry KenCairn  
Rogue Basin Coordinator  
Oregon Water Trust  
147 Central Avenue  
Ashland, Oregon 97520  
(541) 488-6906

To: Kerry Kencairn  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrd.state.or.us>  
Subject: about the map  
Cc:  
Bcc:  
Attached:

Hi, Kerry -- You know, it would be perfectly adequate for the up-front map to just estimate where the pumps are going to be dropped into the stream and mark them on Evans Creek, using another copy of the preliminary map Spero prepared. All I need right now is a rough estimate.

There is nothing in the rules or the statute that require submission of a statement certifying that the water right has been exercised in the last 5 years, although it would be a good thing to have some indication of that from each applicant. In this case, because the applications have already been notarized, I would suggest just having an unnotarized addendum page from each person stating that the named person certifies that the portion of the right to which the application applies has been exercised within the last 5 years according to the terms of the water right. I would be happy to prepare this and send them on to you, send them out or something else if this is problematic for you.

Weisha

To: Kerry Kencairn <kerrykai@mind.net>  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
Subject: Re: Williams wahlen  
Cc:  
Bcc:  
Attached:

At 08:05 AM 10/19/98 -0700, you wrote:  
>your questions a little later. I do believe that handling this all as one  
>project with 9 subs makes sense. Can't give you a new POD on Burton until  
>we finalize the CWP's for all the projects, at which time we will get a

Hi, Kerry -- i think what I'll need to do, in this case, is go ahead with the other Williams-Whalen CWP applications at this time and process the Burton one separately, because of the need for the map and the affidavit for the transfer.

Thanks,

Weisha

PS In looking at the map I see that on the far right, in the SE SE, to the right of the 0.76 acre owned by Teagues, there is a 0.17 acre parcel which appears to also be irrigated via the Williams & Whalen ditch. Do you know anything about this land? Is it part of the Teagues' property? Should it be included in the CWP application for their land?



X-Sender: kerrykai@mail.mind.net (Unverified)  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.0.1  
Date: Mon, 19 Oct 1998 08:05:15 -0700  
To: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
From: Kerry Kencairn <kerrykai@mind.net>  
Subject: Williams wahlen

Hi Weisha,

I just got back from Ontario and beyond, my plan is to deal with WW issues later on this afternoon. I will e-mail you back with some answer to all your questions a little later. I do believe that handling this all as one project with 9 subs makes sense. Can't give you a new POD on Burton until we finalize the CWP's for all the projects, at which time we will get a CWRE back out there. burton will sign an affidavit of beneficial use as soon as I get it to him, and we have some other problems to be worked out with his project before that can happen. well, I guess I tried to answer them now instead of later, but I will still get back to you later.

Be well, Kerry

At 02:56 PM 10/14/98 -0700, you wrote:

>The map does show the location of the original diversion point out of Evans  
>dreek and into the ditch. It is the new POD location which is needed on  
>both the map and the application. Thanks

>

>Weisha

>

Kerry KenCairn  
Rogue Basn Coordinator  
Oregon Water Trust  
147 Central Avenue  
Ashland, Oregon 97520  
(541) 488-6906

To: Kerry Kencairn  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrd.state.or.us>  
Subject: Burton transfer application portion of CWP app.  
Cc: Larry Nunn, Larry Menteer  
Bcc:  
Attached:

Hi, Kerry -- still a couple of things needed on this.

Per Larry's email: We need, as part of the conserved water application, the additional information required for a transfer application. This would include the full descriptions of the old POD, new POD, and the place of use (acres by  $\frac{1}{4}$ - $\frac{1}{4}$  section), written on both the application and on the map. The certificate for 49039 states the point of diversion for this right, but I can find no indication, either narrative or marked on the map with location/distance in feet from some quarter corner, of where the new POD will be. Assuming that the original of the map Spero prepared for all these applications is still in your possession, he could add such a notation and you could send me a new copy, together with a new page 1 of the application where the new POD is described (x feet north and y feet east from, say, the sw corner of the nw of the nw of section 12).

Also, we need evidence of use of the water within the last 5 years (or evidence that the right is not forfeited) -- this is usually accomplished through a notarized statement from the that the water right has been used according to its terms within the last 5 years.

Once I have these things then I can send out the notice(s). Let me know if I can do something to facilitate this. Thanks.

Weisha

To: Kerry Kencairn  
From: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
Subject: conserved water apps  
Cc:  
Bcc:  
Attached:

Hi, Kerry, I'm going through these applications, looking good. The map is really really helpful. I'm debating whether to assign each app. a number and notice it separately, or combine them all into one large app. and notice with 9 sub-parts since they all deal with the same ditch. Any thoughts?

In looking at the map I see that on the far right, in the SE SE, to the right of the 0.76 acre owned by Teagues, there is a 0.17 acre parcel which appears to also be irrigated via the Williams & Whalen ditch. Do you know anything about this land?

Thanks again for all your work -- I'll keep sending questions as I come up with them. I would hope to have this out in notice by Monday.

X-Sender: kerrykai@mail.mind.net (Unverified)  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.0.1  
Date: Tue, 29 Sep 1998 21:50:42 -0700  
To: "Weisha R. Mize" <Weisha.R.MIZE@wrд.state.or.us>  
From: Kerry Kencairn <kerrykai@mind.net>  
Subject: Re: Couple of things --

Hi Weisha,

I apologize, I did not realize you were waiting on me. I also thought we had clarified the issue with burtons, I recall discussing with you what might need to be added to the cwp as an addendum. I have been working on the items needed for the addendum, deed, water right certificates, maps, I am going to send you everything on Thursday. This package will include:  
8 cwp applications for Williams Whalen  
missing map for Lacy  
I will get Lu Anthony to send you a letter from the LBCWC  
I will be sending Burtons CWP and addenda, expecting that the information will not be sufficient, but knowing we still have to figure this one out.

OK?

I promise to keep you busy very soon,  
Kerry

At 04:21 PM 9/29/98 -0700, you wrote:

>Hi, Kerry -- on the Lacy conserved water allocation I need Exhibits A (map)  
>and B (cover letter for LBCWC app. to GWEB). I'll be publishing notice in  
>the Upper Rogue Independent as soon as I get those. (I especially need the  
>map as there is no identification of the location of the acres involved).  
>  
>  
>Also, please let me know if you got my previous email about combining both  
>rights on the other conserved water application, and whether you/your  
>clients are interested in submitting a revised app. to cover that? I  
>thought you were going to give me something at the conserved water meeting  
>we had a couple of weeks ago but maybe I misunderstood. THANKS!  
>

>Weisha

>  
Kerry KenCairn  
Rogue Basn Coordinator  
Oregon Water Trust  
147 Central Avenue  
Ashland, Oregon 97520  
(541) 488-6906

From: kerrykai@mind.net  
Date: Wed, 2 Sep 1998 17:07:38 -0700 (PDT)  
X-Sender: kerrykai@mind.net  
X-Mailer: Windows Eudora Version 1.4.3  
To: "Weisha R. Mize" <Weisha.R.MIZE@wrdd.state.or.us>  
Subject: Re: conserved water project

Weisha, I am sending you a copy of the application as an attachment. Hopefully Word will work for you. The issue is, they are part of the same application, but there will be no water savings off the younger right because it is already at the 1/80th cfs we are taking the other water rights to. anyway, here it comes, and maybe this will help.

>Kerry, I am trying real hard to get this to work. One problem is I think I  
>don't have enough information yet to provide sufficient facts to those who  
>will make the decision about whether or not a separate transfer application  
>will be required. It is being suggested very strongly that if the junior  
><2 ac. water right also takes from the ditch and is having the POD moved to  
>the same place as the other pod for that same piece of property, then  
>really it must have been an oversight that this little water right wasn't  
>included in the conserved water application and perhaps an amended  
>application should be submitted, since the same injury considerations will  
>have been given both rights. If the original source or new pod for the  
>little right is not the same as the other older right involved in the  
>conserved water project, however, then a transfer application would  
>probably be required. Let me know if there are more things I should know.  
>  
>

Attachment Converted: "M:\EUDORA\ATTACH\BURTON~1.DOC"

TMP Worldwide  
 5 Marine View Plaza 4th Floor  
 Hoboken, NJ 07030  
 (503) 224-5441  
 Prepared By: Kristin Talbott

ROGUE RIVER PRESS  
 105 GARDINER  
 ROGUE RIVER, OR 97537

T E R S H E E T			
For Insertion Order:		PL-03980	
Client No.	Client Name		
STA6 -265	Water Resource Depart		
Media No.	Classification		
21-0269	Public Notice		
Client Reference	Keyword		
Run Dates			
4/10, 4/17, 4/24			
Est X Depth	Responses	No of Hires	Cost per Hire

**PUBLIC NOTICE**  
**NOTICE OF APPLICATION**  
**FOR ALLOCATION OF**  
**CONSERVED WATER**

Larry and Helen Zellen, Carl and Jane Smith, and the Oregon Water Trust filed an application with the Water Resources Department for allocation of conserved water as provided by ORS 537.470.

Certificate 72139, in the name of Carl and Jane Smith, and Certificate 72140, in the name of Larry Zellen and Helen Bear-Zellen, included rights limited to 0.11 cubic foot per second from Evans Creek, with a priority date of 1896 for irrigation of 4.08 acres.

The points of diversion for these rights are in the NE1/4 NE1/4, Section 12, T 35 S, R 4 W, WM; Smith - 196' South and 616' East; Zellen - 385' South and 158' East, both from the NW corner, NE1/4 NE1/4, Section 12.

The applicants have completed a water conservation project. The law allows those completing a water conservation project to apply for allocation of the conserved water to other uses. The applicants propose to allocated all of the conserved water to an instream water right for the reach of Evans Creek from the diversion points to the mouth.

Any interested person may submit comments on the application. Comments on the proposed allocation of conserved water must be received by the Water Resources Department by May 17, 1996. The Department will review any comments received when determining whether to allow allocation of the conserved water.

A copy of the application and other information on the allocation of conserved water may be obtained from the Water Resources Department by calling Doug Parrow at 1-800-624-3199, extension 235.

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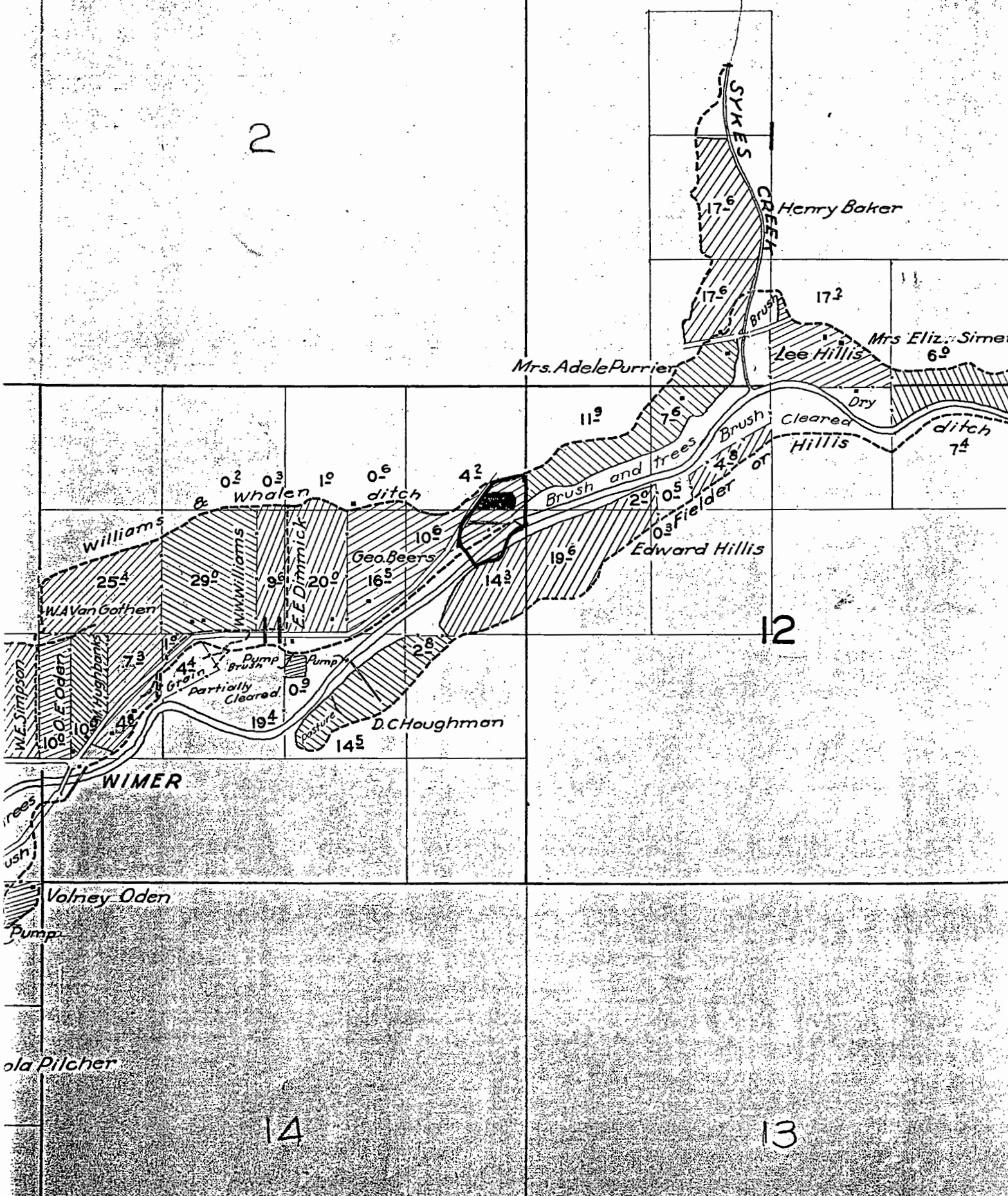
T. 35 S., R. 4 W., W.M.

14037

42921

Bainis

2



Henry Baker

Mrs. Adele Purrier

17.2

Mrs. Elizabeth Simer

Lee Hillis

6.9

Dry ditch  
7.4

Brush and trees  
11.9  
1.6  
2.0  
4.8

Edward Hillis  
0.3  
Fielder

Williams & Whalen  
0.2  
0.3  
1.0  
0.6  
ditch  
4.2

Geo. Beers

W.A. Van Cotten

Williams

E.E. Dimmick

10.6  
16.5  
14.3

19.5

12

WIMER

Pump  
Brush  
Pump  
Partially Cleared  
0.9  
19.4  
D.C. Houghman  
14.5

Volney Oden

Pump

ola Pilcher

14

13

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

In the Matter of the Proposed Allocation     )     CORRECTING FINAL ORDER  
of Conserved Water, Previously Numbered    )  
9804, Renumbered 6, for Certificates        )  
32772, 68497, 76182, and Associated        )  
Application for Change in Point of         )  
Diversion for Certificate 49039             )

Jerry N. Hilger, Gary and Alice Teague, Linda Lance, G.L. and Gwen Scott, Dorothy H. Berry, Robert and Eleanor Burton, Jakob Jauker, Dora M. Baines, John W. and Irene E. Loper and the Oregon Water Trust submitted a conserved water application and associated change in the point of diversion dated September 1, 1998. The Department issued an order approving the allocation of conserved water for Certificates 32772, 68497, 76182, and approving the associated change in the point of diversion for Certificate 49039 on June 10, 1999. The order was filed as Special Order Volume 53, pages 870-873.

Subsequent to issuance of the order, the Department has identified clerical errors in the assignment of irrigated acreage, the rates and duties, and priority dates of the associated rights established under the order.

The following information summarizes the results of the conserved water project. For each certificate involved in the application, a summary by quarter quarter section describes what acreage is part of the conserved water application, what acreage is not part of it, and what acreage will be canceled. A table then describes the irrigated acreage by landowner, the rate before and after the conserved water application, and the instream contribution.

*(Special Order Volume 53, p. 870 listed Certificate 49038 as part of the Conserved Water Application. This was a clerical error and should not have been included. Certificate 76182 was erroneously omitted from Special Order Volume 53, p. 870.)*

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-001-005 you may either petition for judicial review or petition the Director for reconsideration of this order.



**Summary of Conserved Water Application Water Rights Changes**

**Certificate 32772**

SE¼ SW¼ 10.00 acres  
 (4.96 acres - part of Conserved Water Application)  
 (3.72 acres Lance)  
 (1.24 acres Scott)  
 (4.04 acres - not part of Conserved Water Application)  
 (4.04 acres Purrier)  
 (1.00 acres to be canceled)

Section 1

NE¼ NW¼ 7.6 acres  
 (4.58 acres Scott)  
 (1.24 acres Lance)  
 (0.60 acres Berry)  
 (1.18 acres to be canceled)

NW¼ NW¼ 11.9 acres  
 (2.90 acres Berry)  
 (4.64 acres Burton)  
 (2.54 acres Jauker)  
 (1.82 acres to be canceled)

Section 12

T 35 S, R 4 W, W.M.

<b>Certificate 32772</b>	<b>Acres Irrigated</b>	<b>Rate Before CWA for Acres Irrigated (cfs) (1/59 cfs/acre)  <i>Priority Date of 1896</i></b>	<b>Rate After CWA (cfs) †(1/80 cfs/acre) *(1/59 cfs/acre)  <i>Priority Date of 1896</i></b>	<b>Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i></b>
Purrier	4.04	0.068	0.068*	0
Lance	4.96	0.084	0.062†	0.022
Scott	5.82	0.099	0.073†	0.026
Berry	3.50	0.059	0.044†	0.015
Burton	4.64	0.079	0.058†	0.021
Jauker	2.54	0.043	0.032†	0.011

Canceled	4.00	0.068	0	0
C-32772 (Total)	29.5	0.50	-	-
New Certificates	25.5	-	0.337	0.095

**Certificate 68497 (supercedes C-16115 in combination with C-72139 and C-72140)**

SE¼ SE¼            2.86 acres  
                           (2.05 acres - part of Conserved Water Application)  
                           (1.12 acres Hilger)  
                           (0.93 acres Teague)  
                           (0.53 acres - not part of conserved water application)  
                           (0.37 acres Hilger)  
                           (0.16 acres Tax Lot 108)  
                           (0.28 acres to be canceled)

Section 1

NE¼ NE¼            3.06 acres  
                           (1.82 acres - part of Conserved Water Application)  
                           (0.74 acres Hilger)  
                           (1.08 acres Teague)  
                           (0.23 acres - not part of conserved water application)  
                           (0.23 acre Tax Lot 108)  
                           (1.01 acres to be canceled)

Section 12

T 35 S, R 4 W, W.M.

<b>Certificate 68497</b>	Acres Irrigated	Rate Before CWA for Acres Irrigated (cfs) (1/42 cfs/acre) <i>Priority Date of 1896</i>	Rate After CWA (cfs) †(1/80 cfs/acre) *(1/42 cfs/acre) <i>Priority Date of 1896 (1/42 cfs/acre)</i>	Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i>
Hilger (part of CWP)	1.86	0.044	0.023†	0.021
Hilger (not part of CWP)	0.37	0.009	0.009*	0
Teague	2.01	0.048	0.025†	0.023
Tax Lot 108 (not part of CWP)	0.39	0.009	0.009*	0

Canceled	1.29	0.030	0	0
C-68497 (Total)	5.92	0.14	-	-
New Certificates	4.63	-	0.066	0.044

**Certificate 76182 (supercedes C-42921, which superceded C-32767)**

NE¼ NE¼ 1.50 acres  
(1.50 acres Baines)  
SE¼ NE¼ 1.50 acres  
(0.30 acres Baines)  
(1.20 acres Loper)

Section 11  
T 35 S, R 4 W, W.M.

<b>Certificate 76182</b> (Supercedes Certificate 42921)	Acres Irrigated	Rate Before CWA for Acres Irrigated (cfs) (1/60 cfs/acre)  <i>Priority Date of 1896</i>	Rate After CWA (cfs) (1/80 cfs/acre)  <i>Priority Date of 1896</i>	Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i>
Baines	1.8	0.03	0.022	0.008
Loper	1.2	0.02	0.015	0.005
C-76182 (Total)	3.0	0.05	-	-
New Certificates	3.0	-	0.037	0.013

**Certificate 49039 (after point of diversion change)**

NW¼ NW¼ 1.70 acres  
(1.50 acres Burton)  
(0.20 acres to be canceled)

Section 12  
T 35 S, R 4 W, W.M.

<b>Certificate 49039</b>	Acres Irrigated	Rate Before POD for Acres Irrigated (cfs) <i>Priority Date of May 15, 1975</i>	Rate After POD (cfs) <i>Priority Date of May 15, 1975</i>	Instream Contribution After POD (cfs) <i>Priority Date of May 15, 1975</i>
Burton	1.5	0.018	0.018	0
Canceled	0.2	0.002	0	0
C-49039 (Total)	1.7	0.02	-	-
New Certificate	1.5	-	0.018	0

**Now, Therefore, It Is Ordered:** (*numbering corresponds to the numbering used in Special Order Volume 53, pages 872 - 873.*)

1. Certificate 32772 is hereby canceled. (*No significant changes from Special Order Vol. 53, page 872.*)
2. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.062 cfs, from Evans Creek, for domestic, stock and irrigation of 4.96 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

SE¼ SW¼      3.72 ACRES  
SECTION 1  
NE¼ NW¼      1.24 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 77 DEGREES 40 MINUTES EAST 1997 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.073 cfs, from Evans Creek, for domestic, stock and irrigation of 5.82 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

SE $\frac{1}{4}$  SW $\frac{1}{4}$  1.24 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NW $\frac{1}{4}$  4.58 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 47 MINUTES EAST 1832 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.044 cfs, from Evans Creek, for domestic, stock and irrigation of 3.50 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  0.60 ACRES  
NW $\frac{1}{4}$  NW $\frac{1}{4}$  2.90 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 54 DEGREES 23 MINUTES EAST 1766 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.058 cfs, from Evans Creek, for domestic, stock and irrigation of 4.64 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

NW $\frac{1}{4}$  NW $\frac{1}{4}$  4.64 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.032 cfs, from Evans Creek, for domestic, stock and irrigation of 2.54 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

NW¼ NW¼ 2.54 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 23 DEGREES 23 MINUTES EAST 1246 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a remaining right certificate with a priority date of 1896 for diversion and use of 0.068 cfs, from Evans creek for irrigation of 4.04 acres, at a rate of 1/59 cfs/acre, all lands lying north of Evans Creek, as follows:

SE¼ SW¼ 4.04 Acres  
Section 1  
Township 35 South, Range 4 West, W.M.

The Department shall cancel 4.00 acres of water rights.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped, the rate was changed and the issuance of a remaining right certificate for 4.04 acres is added. Five certificates for conserved water, with different points of diversion, shall be issued instead of one certificate.)*

3. It is further ordered that Certificate 68497 is hereby canceled. *(No significant changes from Special Order Vol. 53, page 872.)*
4. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.025 cfs from Evans Creek, for irrigation of 2.01 acres, domestic, and stock use at a reduced rate of 1/80 cfs/acres, all lands lying north of Evans Creek, as follows:

SE¼ SE¼ 0.93 ACRES  
SECTION 1  
NE¼ NE¼ 1.08 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NE¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 33 DEGREES 05 MINUTES WEST 318 FEET FROM THE NE CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.023 cfs from Evans Creek, for irrigation of 1.86 acres, domestic, and stock use at a reduced rate of 1/80 cfs/acres, all lands lying north of Evans Creek, as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.12 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  0.74 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 57 MINUTES WEST 461 FEET FROM THE NE CORNER,  
SECTION 12.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped and the acreage has been changed. Two certificates for conserved water, with different points of diversion, shall be issued instead of one certificate.)*

5. The Department shall issue a remaining right Certificate with a priority date of 1896 for diversion and use of 0.018 cfs from Evans Creek, for irrigation of 0.76 acre, at a rate of 1/42 cfs/acre, all lands lying north of Evans Creek, as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  0.53 ACRE  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  0.23 ACRE  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The Department shall cancel 1.29 acres of water rights as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  0.28 ACRE  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  1.01 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped; the rate was changed; and the cancellation of water rights was added.)*

6. It is further ordered that Certificate 76182 is hereby canceled. *(No significant changes from Special Order Vol. 53, page 873.)*
7. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.022 cfs from Evans Creek, for irrigation of 1.80 acres, domestic, and stock use, at a rate of 1/80 cfs/acres, all lands lying north of Evans Creek as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$  1.50 ACRES  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  0.30 ACRES

SECTION 11

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 00 DEGREES 24 MINUTES WEST 1305 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.015 cfs from Evans Creek, for irrigation of 1.20 acres, domestic, and stock use, at a rate of 1/80 cfs/acres, all lands lying north of Evans Creek as follows:

SE $\frac{1}{4}$  NE $\frac{1}{4}$  1.20 ACRES

SECTION 11

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 12 DEGREES 09 MINUTES WEST 1772 FEET FROM THE NW CORNER,  
SECTION 12.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 873 was dropped; the rate and legal description were amended.)*

8. It is further ordered that Certificate 49039 be canceled and a superseding certificate with a priority date of May 15, 1975, be issued showing the new point of diversion from Evans Creek as follows:

NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12.

The new certificate allows the diversion and use of 0.018 cfs, not to exceed 4.5 acre feet per acre, for irrigation of 1.5 acres at a rate of 1/80 cfs/acre, all lands lying north of Evans Creek as follows:



NW¼ NW¼ 1.5 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The Department shall cancel 0.20 acres of water rights.

*(Priority date, acreage, point of diversion and legal description amended from Special Order Vol. 53, page 873.)*

9. The Department shall issue a Certificate for an instream water right for the State's portion of the water conserved under this application, with a priority date of 1896 plus one minute for use of 0.152 cfs, to an instream water right beginning at their respective points of diversion and ending at river mile 8 (Wimer Bridge) on Evans Creek. The instream rights portions come from the following certificates:

·Certificate 32772	0.022 cfs ✓	
	0.026 cfs ✓	
	0.015 cfs	
	0.021 cfs	
	<u>0.011 cfs</u> ✓	
		0.095 cfs
Certificate 68497	0.023 cfs	
	<u>0.021 cfs</u>	
		0.044 cfs
Certificate 76182	0.008 cfs	
	<u>0.005 cfs</u>	
		<u>0.013 cfs</u>
Total		0.152 cfs

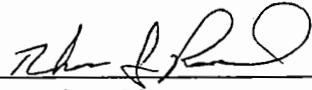
The conserved water will be combined with the existing instream right for 0.055 cfs at this location, established under a related conservation project (Conserved Water Application # 1) completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853, with a priority date of 1896 plus one minute. The instream rights portions come from the following certificates:

Certificate 72139 0.025 cfs  
Certificate 72140 0.030 cfs

Within the designated reaches of these rights, this total instream right of 0.207 cfs shall replace a portion of the existing instream water right for Evans Creek, evidenced by Certificate 73027, during the period from April 1 to October 31, of each year.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 873 was dropped; the rate and legal description were amended, clarifies that the right is not additive to the existing instream right.)*

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
FOR Paul R. Cleary

To: Alice.W.RAVIOLLO@wrld.state.or.us, Bruce.R.SUND@wrld.state.or.us, Denise.V.PEPPERLING@wrld.state.or.us, Larry.P.Menteer@wrld.state.or.us, Sue.A.WALDRON@wrld.state.or.us, andrew@owt.org  
From: Bob Rice <Robert.D.Rice@wrld.state.or.us>  
Subject: Re: Address Change RE: Williams and Whalen Ditch  
Cc: Weisha.R.MIZE@wrld.state.or.us, Dwight.W.FRENCH@wrld.state.or.us  
Bcc:  
Attached:

The Conserved Water Application number is: 9804  
For Certificates: 68497, 32772, 49038, and POD change for Certificate 49039

At 11:14 AM 8/30/99 -0700, Bob Rice wrote:

>The Department recently received a letter, with notarized property deed,  
>indicating that O.A. and Ellen C. Trippet have purchased the property  
>formerly owned by Gary I. and Alice A. Teague. The Teague's participated  
>in the Williams & Whalen Ditch to Evan Creek conserved water project and  
>the Trippet's would appreciate it if all correspondences regarding this  
>water right be sent to the new owners - the Trippet's. Their mailing  
>address is:

> O.A. Trippet  
> 11278 East Evans Creek Road  
> Rogue River, Oregon 97537  
> (541) 582-2333  
>  
>  
>  
>  
>

### ROUTING & REQUEST

Please...

Read

Handle

Approve

And...

Forward

Return

Keep or Recycle

Review with Me

To: Dwight  
Weisha  
Please file with  
Cons Water Appl. 9804  
(Williams Whalen Ditch)  
Thanks!

From: Bob

Post-Net 7664 ©3M 1995

Date: 8/30

O. A. TRIPPET



RECEIVED



AUG 23 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

11278 East Evans Creek Road  
Rogue River, Oregon 97537  
541-582-2333

August 18, 1999

Oregon Water Resources Department  
158 12th NE  
Salem, OR 97310

Gentlemen:

We have recently purchased the property belonging to Gary & Alice Teague, copy of warranty deed attached. The water rights point of diversion is in the process of being moved. Please see attached Order.

Would you please change your records to show us as the new owners, and confirm to us that you have done so.

Thank you for your attention.

Sincerely,

O. A. Trippet

Enclosures

99-05829

5

After recording return to:  
O.A. TRIPPET  
11278 EAST EVANS CREEK ROAD  
ROGUE RIVER, OR 97537

TITLE ORDER 03-37794  
KEY ESCROW 26-23042

RECEIVED

AUG 23 1999

RECORDED AT THE REQUEST OF WATER RESOURCES DEPT.  
KEY TITLE COMPANY SALEM, OREGON

Until a change is requested tax statements shall be sent to the following address:  
SAME AS ABOVE

37794

75  
10  
20

WARRANTY DEED -- STATUTORY FORM  
(INDIVIDUAL or CORPORATION)

GARY I. TEAGUE and ALICE A. TEAGUE, as tenants by the entirety Grantor,  
conveys and warrants to:

O.A. TRIPPET and ELLEN C. TRIPPET, as tenants by the entirety, Grantee,

the following described real property free of encumbrances except as specifically set forth herein:

SEE EXHIBIT "A" WHICH IS MADE A PART HEREOF BY THIS REFERENCE

Tax Account No: Map No:

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 \$170,500.00. However, if the actual consideration consists of or includes other property or other value given or promised, such other property or value was part of the/the whole of the (indicate which) consideration.

If grantor is a corporation, this has been signed by authority of the Board of Directors.

Dated this 15 day of FEBRUARY, 1999.

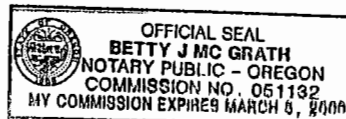
GRANTOR(S):  
*Gary I. Teague*  
GARY I. TEAGUE  
*Alice A. Teague*  
ALICE A. TEAGUE

STATE OF OREGON, County of JOSEPHINE ) ss.

This instrument was acknowledged before me on FEBRUARY 1, 1999, by GARY I. TEAGUE and ALICE A. TEAGUE

*Betty J. McGrath*  
Notary Public for Oregon

My commission expires: 3-8-2000



BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of the Proposed Allocation )  
of Conserved Water, Application 9804, for )  
Certificates 68497, 32772, 49038, and )  
Associated Application for Change in Point )  
of Diversion for Certificate 49039 )

ORDER  
APPROVING APPLICATION,  
ALLOCATING CONSERVED WATER  
and APPROVING CHANGE IN  
POINT OF DIVERSION

Jerry N. Hilger, Gary and Alice Teague, Linda Lance, G.L. and Gwen Scott, Dorothy H. Berry, Robert and Elanor Burton, Jakob Jauker, Dora M. Baines, John W. and Irene E. Loper and the Oregon Water Trust, have filed a conserved water application in which they propose to effect the conservation project by moving their points of diversion under the several water rights involved from the Williams & Whalen Ditch to Evans Creek, and reducing the amount of water diverted, appropriated and applied for irrigation of the subject lands. The applicants further proposed to allocation 100% of the water conserved to an instream right.

Pursuant to ORS 537.470 and OAR Chapter 690, Division 18, notice having been given and no comments filed within the time allowed, Conserved Water Application 98-04, together with the associated application to change a point of diversion filed by Robert and Elanor Burton, is APPROVED.

Findings of Fact

- 1) Certificate 32722 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 10 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1, 7.6 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 11.9 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed 0.50 cubic feet per second for said lands, under a priority of 1896.
- 2) The amount historically diverted under this Certificate is 0.448 cfs. Applicants owning land to which Certificate 32722 is appurtenant propose to reduce the amount appropriated and used from 0.448 cfs to 0.288 cfs, and to allocate the amount conserved, being 0.159 cfs, to an instream right with a priority of 1896 plus one minute. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.
- 3) Applicants owning land to which Certificate 32722 is appurtenant further requested that the Department permanently cancel from this Certificate the right to appropriate and use water for irrigation of 1 acre in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12 and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, T35 S, R 4 W, WM, which has been forfeited for nonuse.

- 4) Certificate 68497 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, and and 3.06 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed 0.14 cubic feet per second for said lands, under a priority of 1896.
- 5) The amount historically diverted under this Certificate is 0.077 cfs. Applicants owning land to which Certificate 68497 is appurtenant propose to reduce the amount appropriated and used from 0.077 cfs to 0.048 cfs, and to allocate the amount conserved, being 0.029 cfs, to an instream right with a priority of 1896 plus one minute. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.
- 6) Applicants owning land to which Certificate 68497 is appurtenant further requested that the Department permanently cancel from this Certificate the right to appropriate and use water for irrigation of 0.26 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, T35 S, R 4 W, WM, which has been forfeited for nonuse.
- 7) Applicant Hilger further withheld 0.37 acre from this conserved water application and requests that a remaining right certificate for 0.37 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, T35S R4W, be issued.
- 8) Certificate 76182 (previously C. 42921) was issued following approval of transfer application T4037 filed by applicant Baines for a change in place of use for 1.5 of the 3.0 acres allowed under Certificate 42921. Certificate 76182 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 1.5 acres in the the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  and 1.5 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 11, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed 0.05 cubic feet per second for said lands, under a priority of 1896.
- 9) The amount historically diverted under this Certificate was 0.06 cfs. Applicants owning land to which Certificate 76182 is appurtenant propose to reduce the amount historically appropriated and used by 38%, from 0.06 cfs to 0.037 cfs, and to allocate the amount conserved, being 0.023 cfs, to an instream right with a priority of 1896 plus one minute.
- 10) The maximum amount allowed under this Certificate is 0.05 cfs. A 38% reduction of 0.05 cfs, the maximum rate allowed, is 0.031 cfs, leaving 0.019 cfs for allocation to an instream right. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.

- 11) Certificate 49039 is appurtenant to 1.7 acres in the NW ¼ NW ¼ Section 12, owned by applicants Robert and Elanor Burton. Applicants Robert and Elanor Burton have filed an application proposing to move the point of diversion for Certificate 49039 from the Williams Whalen Ditch to the same pump to be utilized under C. 32772 for 4.64 acres owned by applicants in the NW¼ NW¼ Section 12, T35S, R4W, under this conserved water application. Applicants have further voluntarily authorized cancellation for nonuse of the portion of the right appurtenant to 0.2 acre allowed under Certificate 49039, and seek approval of the new point of diversion and issuance of a remaining right certificate for irrigation of 1.5 acres.
- 12) The applicants have filed a notice with the Department that the project is complete, and have requested a final allocation of the water conserved under this project.

#### Conclusions of Law

- 1) The allocation of the water conserved under this project will not injure existing water rights and no conserved water is needed to mitigate injury.
- 2) The allocation of conserved water is consistent with OAR 690-05-045.
- 3) The allocation of conserved water is consistent with ORS 537.455 to 537.500 and with OAR 690-18-010 to 690-018-050.

#### ORDER

NOW, THEREFORE, it is ORDERED:

1. Certificate 32722 be and the same is hereby cancelled.
2. The Department is directed to issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.288 cfs, from Evans Creek, not to exceed 122.8 acre feet, for irrigation of 21.46 acres, being 9 acres in the SE¼ SW¼ Section 1, 6.42 acres in the NE¼ NW¼ and 10.08 acres in the NW¼ NW¼ Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek, representing the reduced rate and duty and the cancellation of 4 acres.
3. It is further ordered that Certificate 68497 be and the same is hereby cancelled.
4. The Department is further directed to issue a superseding Certificate for diversion and use of 0.048 cfs from Evans Creek, not to exceed 20.47 acre feet, for irrigation of 2.86 acres in the SE¼ SE¼ Section 1, and and 3.06 acres in the NE¼ NE¼ Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek, with a priority date of 1896.
5. The Department is further directed to issue a remaining right Certificate for diversion and use of 0.007 cfs from Evans Creek, not to exceed 3.0 acre feet during the irrigation season, for irrigation of .37 acre lying north of Evans Creek in the SE¼ SE¼ of Section 1, Township 35 South, Range 4 West, WM, under a priority of 1896.



6. It is further ordered that Certificate 76182 be and the same is hereby cancelled.
7. The Department is further directed to issue a superseding Certificate for diversion and use of 0.031 cfs from Evans Creek, not to exceed 15.78 acre feet, for irrigation of 1.5 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 1.5 acres lying north of Evans Creek in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 11, Township 35 South, Range 4 West, WM, with a priority date of 1896.
8. It is further ordered that Certificate 49039 be cancelled and a superseding certificate be issued showing the new point of diversion from Evans Creek, allowing the diversion and use of 0.019 cfs, not to exceed 4.5 acre feet per acre, for irrigation on 0.9 acre lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and 0.59 acre lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12, Township 35 South, Range 4 West, WM, with a priority date of 1975, and representing the cancellation of 0.2 acre as requested by the applicant.
9. The Department is further directed to issue a Certificate for an in-stream water right for the State's portion of the water conserved under this application, being 0.21 cfs (93.8 acre feet), to an instream water right beginning at river mile 11 and ending at river mile 8 on Evans Creek. The water conserved will be combined with the existing instream right for 0.055 cfs at this location, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853, with a priority date of 1896 plus one minute.

Witness the signature of the Water Resources Department Director, affixed 6/10/99

  
\_\_\_\_\_  
Martha O. Pagel

NOTICE: This is a final order in other than a contested case. You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Pursuant to the provisions of ORS 183.484, judicial review is by the Marion County Circuit Court or to the circuit court for the county in which the petitioner resides or has a principal place of business.



# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

## Memorandum

To: Kerry KenCairn, OWT

From: Weisha Mize, WRD

RE: Williams-Whelan conserved water applications

Date: November 5, 1998

Kerry, I am working through the applications and am running into some snags. I've tried to outline the history of several of the water rights involved, which have undergone some cancellations as a result of transfers, and to confirm that all lands covered by the applicable rights are accounted for. What I've come up with is diagrammed on the following pages. but let me put a narrative to it that might help.

Short and sweet, water right certificate 16115 was cancelled as a result of a transfer and 3 new ones issued — one to Zellen, one to Smith, and one, #68497, to Taylor. The ones to Zellen and Smith have since been cancelled again as part of their conserved water application which was approved but is still waiting for new certificates to issue. The lands for which applications are made for Hilger and Teague are for the lands under Cert. 68497, rather than Cert. 16115 which is no longer in existence.

In addition, the total acreage under Cert. 68497 is 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 3.06 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12. The lands covered by the Hilger and Teague applications should be the same. However, even with taking into account the 0.37 ac recently removed from irrigation due to house, shop and driveway construction on the Hilger place, the lands involved in the Hilger and Teague conserved water applications only total 2.23 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.82 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12; there are 0.63 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12 which must be accounted for.

It may be that these lands have gone out of irrigation and production over the years and this is shown by Spero's mapping. It would be simple to just cancel these acres in the conserved water order; but to do so without the applicant's involvement and knowledge would be ill-advised, to say the least.

Similar problems are discovered with Certificates 32722 (Lance, Scott, Berry, Burton and Jauker) and with C.49039, the land involved in the Burton transfer. The attached sheet should be self-explanatory as to what amount of acreage unaccounted for under these certificates.

Give me a call and we can discuss this in more detail and figure out the best approach. Thanks!

72139 72140

26 adding .37  
for Kenn  
rt.

1.5 for.

~~C. 16115  
5 ac. SE 1/4 SE 1/4 § 1  
5 ac. NE 1/4 NE 1/4 § 12~~

T7261 Δ POD T7271 Δ POD

~~C. 72139  
Smith  
1.12 ac. SE 1/4 SE 1/4 § 1  
0.68 ac. NE 1/4 NE 1/4 § 12~~

~~C. 72140  
Zellen  
1.07 ac. SE 1/4 SE 1/4 § 1  
1.21 ac. NE 1/4 NE 1/4 § 12~~

C. 68497  
M. Taylor  
2.86 ac. SE 1/4 SE 1/4 § 1  
3.06 ac. NE 1/4 NE 1/4 § 12

Conserved Water Application  
Special Order Vol. 50 p. 853  
0.055 cfs. instream  
*No cert. issued yet  
Combine w/ Wilbur Whalen*

1.12 ac. SE 1/4 SE 1/4 § 1  
[0.37 ac. SE 1/4 SE 1/4 § 1]  
0.74 ac. NE 1/4 NE 1/4 § 12  
Hilger  
0.014 cfs conserved  
5.94 af water appl.

0.93 ac. SE 1/4 SE 1/4 § 1  
1.08 ac. NE 1/4 NE 1/4 § 12  
Teague  
0.014 cfs  
5.93 af

0.63 acre in SE 1/4 SE 1/4 § 1  
1.24 acres in NE 1/4 NE 1/4 § 12  
unaccounted for

C. 32767  
16.5 ac. E 1/2 SW 1/4 NE 1/4  
10.0 ac SE 1/4 NE 1/4 north of creek  
§ 11

T3022 Δ POD 23.5 ac.

*oper  
1.5*

C. 42921 .05 cfs  
Rem. Rt.  
3.0 ac. SE 1/4 NE 1/4 § 11  
north of creek  
§ 11

*Pending*

T4037 Δ POU  
1.5 Ac. to NE 1/4 NE 1/4 § 11  
BAINES

C. 49032  
Conf. Rt.  
16.5 ac. E 1/2 SW 1/4 NE 1/4 0.28 cfs  
10.0 ac SE 1/4 NE 1/4 north of creek  
7 § 11

*0.12 cfs*

C. 32722

10.00 ac. in SE  $\frac{1}{4}$  SE  $\frac{1}{4}$   
- 3.38 Lance  
- 0.34 Lance  
- 1.12 Scott  
- 0.12 Scott  
- 4.04 Purrier (not part of conserved water application)  
= 1.00 acre unaccounted for in SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

lying north of Evans Creek:

7.6 acres NE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
- 1.24 Lance  
- 1.58 Scott  
- 3.00 Scott  
- 0.6 Berry  
1.18 ac. unaccounted for in NE  $\frac{1}{4}$  NW  $\frac{1}{4}$

11.9 acres NW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
- 1.48 Berry  
- 1.42 Berry  
- 4.64 Burton  
- 2.54 Jauker  
1.82 ac. unaccounted for in NW  $\frac{1}{4}$  NW  $\frac{1}{4}$

C. 49039 Transfer

Right is for 1.7 ac.

Transfer is for 1.5 ac.

.2 ac. unaccounted for



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 9, 1998

Chris Allen  
Evans Creek Watershed Council Representative  
2455 West Evans Creek Road  
Rogue River OR 97537

Dear Ms. Allen:

I am writing to you as the Council's coordinator of the Williams-Whalen Conserved Water Project, to request your assistance. I recently sent the enclosed letter and statement, which I need signed and returned quickly, to Jakob Jauker at the address listed on his application. The documents were returned marked 'forwarding order expired.' In order to continue processing the Williams-Whalen conserved water application I need to have this statement signed by Mr. Jauker and returned to the file. Would you please send the enclosed envelope on to Mr. Jauker at his current address? That would be a great help. If you could also call me at 1-800-624-3199, ext. 238, and update with his new/current address, I can send any future correspondence to him directly.

Thank you in advance for your timely assistance!

Sincerely,

Weisha Mize  
SW Region Liaison



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Robert and Elanor Burton  
707 N. Fredric Street  
Burbank, CA 91505

Dear Mr. and Mrs. Burton:

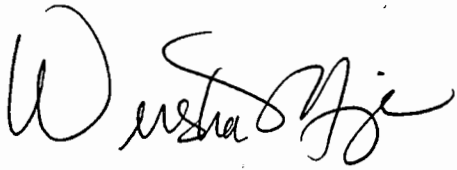
I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 (which is appurtenant to your land and to four other adjoining properties) is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

In addition, you have filed an associated transfer application to change the point of diversion for C. 49039, the water right appurtenant to the northern-most part of your property lying north of the Williams-Whalen ditch. The certificate is for 1.7 acres, while the map and application only cover 1.5 acres, leaving 0.2 acre which will need to be cancelled as part of processing the transfer application.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statements and verify your understanding that these 'unaccounted for' acres are to be cancelled. Please sign and return them. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water rights which will be issued as a result of your conserved water project and confirming the change in point of diversion for the transfer.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

A handwritten signature in black ink, appearing to read 'Weisha Mize'. The signature is fluid and cursive, with the first name 'Weisha' being more prominent than the last name 'Mize'.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. In conjunction with this conserved water application, we have also submitted an application for a change in point of diversion for water right 49039, which is appurtenant to our property. We are asking to locate the points of diversion for both these water rights at the same place. Certificate 49039, however, is not a part of the conserved water project and we are not asking for any change in the amount of water allowed under this right.

As part of our application, we submitted a copy of our deed together with a map prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of C. 32772 appurtenant to our property, and also showing the lands under Certificate 49039. We are and have been aware 0.2 acre of the larger 1.7 acres allowed under C. 49039 has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that.

We understand that when the transfer application is approved, the Department will cancel Certificate 49039 and issue a new certificate showing the new point of diversion. It is and has been our expectation that the 0.2 acre portion of Certificate 40939 which has not been exercised would be permanently cancelled off the right and not included in the subsequently-issued certificate confirming the right and the new point of diversion.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our application, and to further confirm that we have abandoned any interest in the unexercised portion of the above water right appurtenant to 0.2 acre of our property located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. We request the Department permanently cancel that portion of the right through the processing of our application for a change in point of diversion.

Thank you for your consideration of this acknowledgment and request.

\_\_\_\_\_  
Robert Burton

\_\_\_\_\_  
Date

\_\_\_\_\_  
Elanor Burton

\_\_\_\_\_  
Date



To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of our application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that We have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

\_\_\_\_\_  
Robert Burton

\_\_\_\_\_  
Date

\_\_\_\_\_  
Elanor Burton

\_\_\_\_\_  
Date



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Dorothy Berry  
10342 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Ms. Berry:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

---

Dorothy H. Berry

Date



# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Jakob Jauker  
10128 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. Jauker:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

---

Jakob Jauker

Date



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

G.L. and Gwen Scott  
10454 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. and Mrs. Scott:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1 and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of our application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that We have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

\_\_\_\_\_  
G. L. Scott

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gwen G. Scott

\_\_\_\_\_  
Date



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Linda R. Lance  
10612 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Ms. Lance:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13



To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> Section 1 and the NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

---

Linda R. Lance

Date



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Jerry Hilger  
11200 E. Evans Creek Rd.  
Rogue River OR 97537

Gary and Alice Teague  
11278 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. and Mrs. Teague and Mr. Hilger:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the paper water right had allowed. For example, the water right certificate appurtenant to your properties is for 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 3.06 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, but the actual irrigable lands involved in your applications only total 2.23 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.82 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12. This leaves 0.63 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12 that have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 68497 (previously Certificate 16115) which is appurtenant to our property located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of our application, we had a map prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 68497 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that we have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

Sincerely,

---

Gary Teague

Date

---

Alice Teague

Date



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Jerry Hilger  
11200 E. Evans Creek Rd.  
Rogue River OR 97537

Gary and Alice Teague  
11278 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. Hilger and Mr. and Mrs. Teague:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the paper water right had allowed. For example, the water right certificate appurtenant to your properties is for 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 3.06 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12, but the actual irrigable lands involved in your applications only total 2.23 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.82 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12. Consequently, this leaves 0.63 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 12 that have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely

Weisha Mize  
SW Region Liaison

cc: Kerry KenCairn, OWT  
Watermaster, District 13

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 68497 (previously Certificate 16115) which is appurtenant to my property located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 68497 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

Sincerely,

---

Jerry Hilger

Date

Jerry Hilger  
11200 E. Evans Creek Rd.  
Rogue River OR 97537

Gary and Alice Teague  
11278 E. Evans Creek Rd.  
Rogue River OR 97537

Linda R. Lance  
10612 E. Evans Creek Rd.  
Rogue River OR 97537

G.L. and Gwen Scott  
10454 E. Evans Creek Rd.  
Rogue River OR 97537

Dorothy Berry  
10342 E. Evans Creek Rd.  
Rogue River OR 97537

Jakob Jauker  
10128 E. Evans Creek Rd.  
Rogue River OR 97537

Robert and Elanor Burton  
707 N. Fredric Street  
Burbank, CA 91505

**WATER RIGHT TRANSFER APPLICATION MAP**

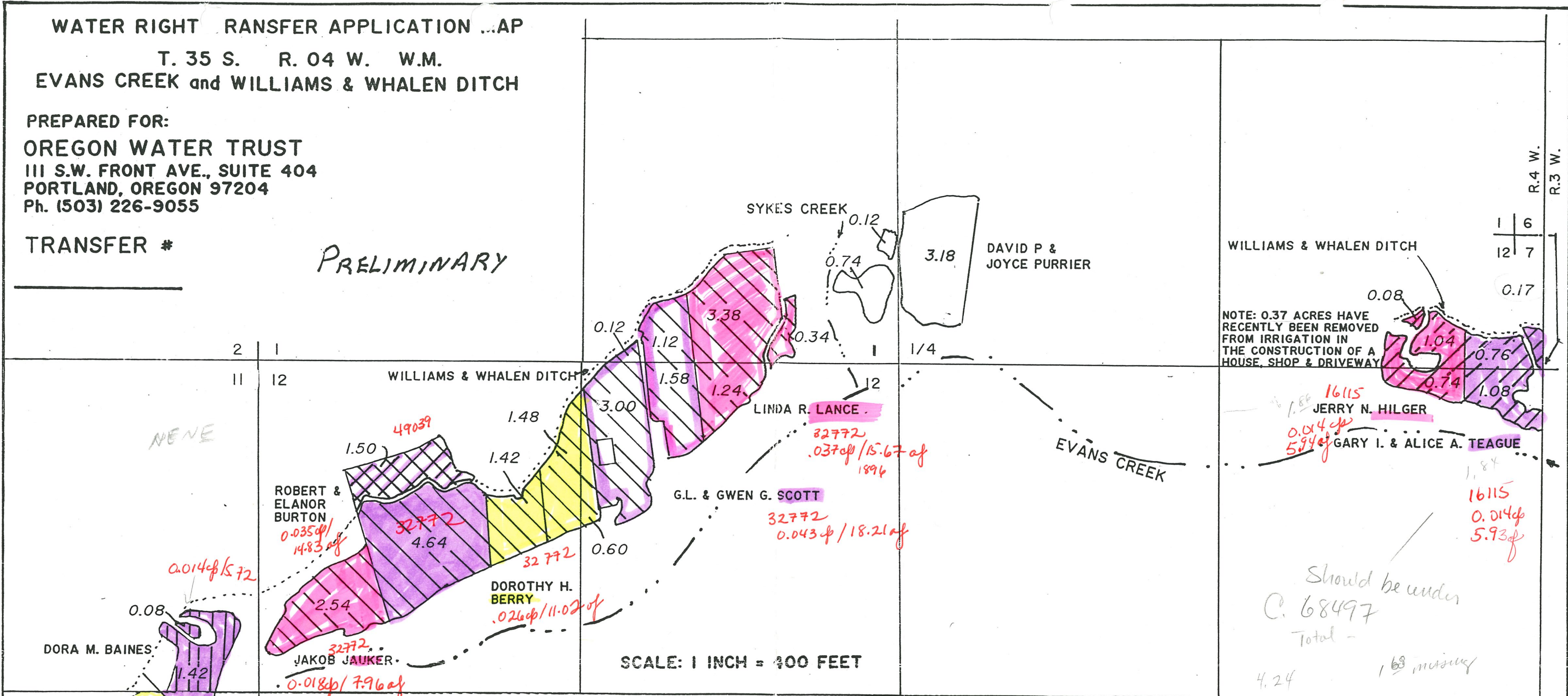
**T. 35 S. R. 04 W. W.M.  
EVANS CREEK and WILLIAMS & WHALEN DITCH**

PREPARED FOR:

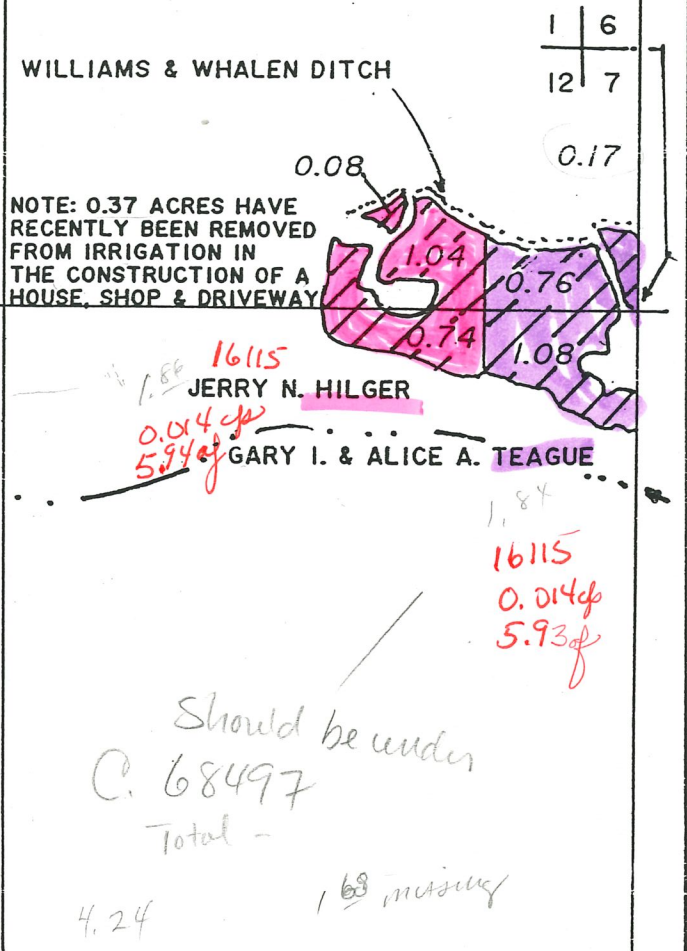
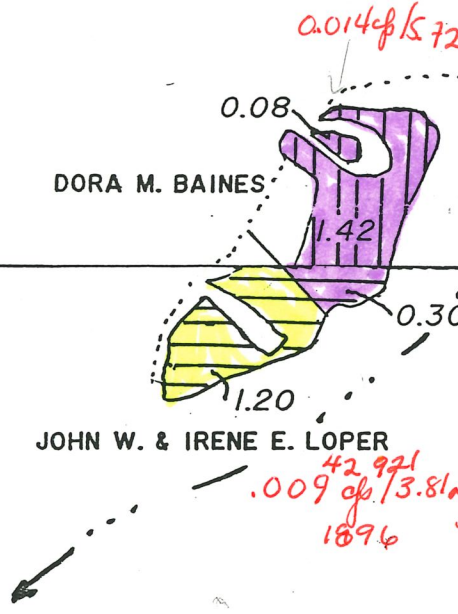
**OREGON WATER TRUST**  
111 S.W. FRONT AVE., SUITE 404  
PORTLAND, OREGON 97204  
Ph. (503) 226-9055

TRANSFER # \_\_\_\_\_

*PRELIMINARY*



SCALE: 1 INCH = 400 FEET

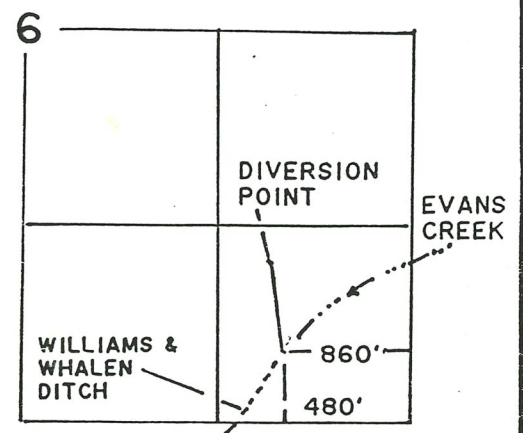


- DECREE 32772
- CERT. 42921
- CERT 42921 THRU TRANSFER T-4037
- CERT. 49039
- DECREE 16115

PREPARED BY:  
**JONATHAN C. SPERO C.W.R.E. 123**  
1002 KINCAID RD./P.O. BOX 16  
WILLIAMS. OREGON 97544  
PH. (541) 846-6845

THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY, AND IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

JANUARY 26, 1998



SCALE: 1 INCH = 1320 FEET

*Add to ISWR Vol 50 p 853 11/16/96 for 0.055 af from intake near RM 11 to RM 18 Add 0.21 af 89.1 af*

## STATE OF OREGON

COUNTY OF JACKSON

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** ISAIAS AND/OR HELEN F. DURAN

of 10296 E. Evans Creek Road, Rogue River, State of Oregon 97537, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of irrigation of 1.7 acres

under Permit No. 38772 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from May 15, 1975

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.02 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, T. 35 S., R. 3 W., W.M.; 480 feet North and 860 feet West from SE Corner Section 6

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

1.5  
Burton  
Transfer

1.7 acres NW $\frac{1}{4}$  NW $\frac{1}{4}$   
Section 12  
T. 35 S., R. 4 W., W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. February 25, 1980

*James E. Larson*  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 42, page 49039



STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That GEORGE BEERS

of Rogue River, State of Oregon, 97537, has a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of domestic, stock, and irrigation of 3.0 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16, at page 523; that the priority of the right thereby confirmed dates from 1896

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.05 cubic foot of water per second.

The point of diversion is located in the SE 1/4 SE 1/4, Section 6, T. 35 S., R. 3 W., W. M.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

SE SE  
Loper 1.2  
Baines 0.3

3.0 acres in that part of the SE 1/4 NE 1/4  
North of Evans Creek  
Section 11  
T. 35 S., R. 4 W., W. M.

NE NE 1.42, 0.08  
Baines

An order of the State Engineer entered August 9, 1974, approved a change in point of diversion for the irrigation of 23.5 acres. This certificate is issued to confirm the remaining right not involved in the change and supersedes the certificate heretofore issued to George Beers and recorded at page 32767, State Record of Water Right Certificates.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date April 21, 1976

James E. Sexson  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 34, page 42921

## STATE OF OREGON

COUNTY OF JACKSON

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** MILDRED I. RHOTEN AND HARRY E. WARDLE

of 8916 East Evans Creek Road, Rogue River, State of Oregon, 97537, has  
a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of  
irrigation of 23.5 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16, at page 523; that the priority of the right thereby confirmed dates from February 20, 1896 for 0.28 cubic foot per second and 16.5 acres; 1896 for 0.12 c.f.s. and 7.0 acres that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.40 cubic foot per second, if available at the original point of diversion, Williams and Whalen Ditch, SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, T. 35 S., R. 3 W., W.M., 475 feet North and 860 feet West from SE Corner, Section 6

The point of diversion is located in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 11, T. 35 S., R. 4 W., W.M., 800 feet North and 840 feet West from E $\frac{1}{4}$  Corner, Section 11

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

16.5 acres E $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 11

7.0 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 11  
T. 35 S., R. 4 W., W.M.

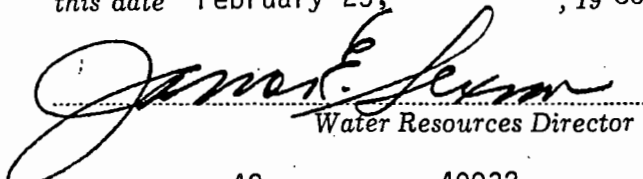
This certificate is issued to confirm a change in point of diversion approved by an order of the Water Resources Director entered August 9, 1974, and together with certificate of water right recorded at page 42921, Volume 34, State Record of Water Right Certificates supersedes certificate of water right recorded at page 32767, Volume 24, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

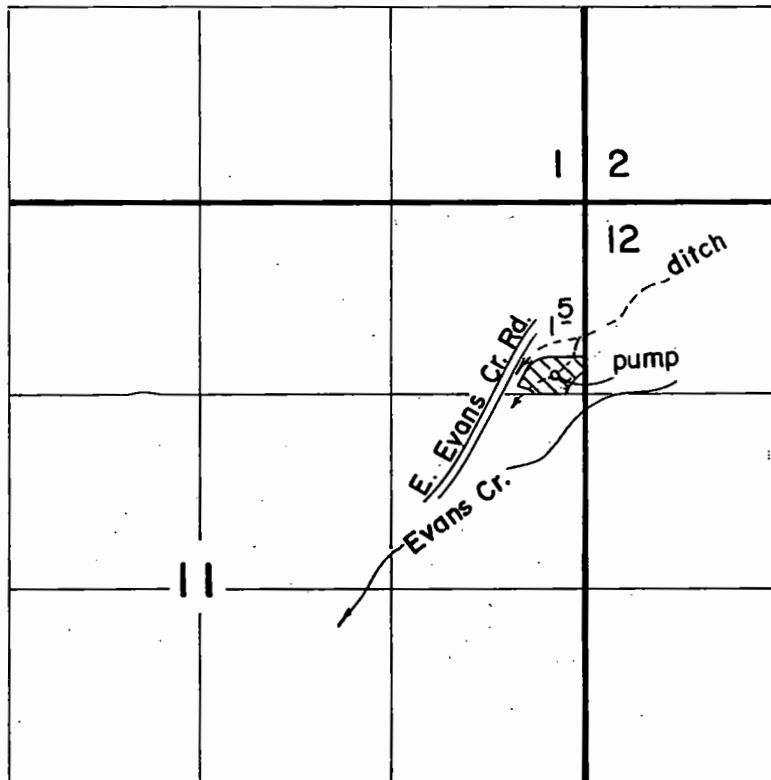
WITNESS the signature of the Water Resources Director, affixed

this date February 25, 1980.

  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 42, page 49032

T. 35 S., R. 4 W., W. M.



Scale: 1" = 1320'

**FINAL PROOF SURVEY**

UNDER

TRANSFER NO. 4037

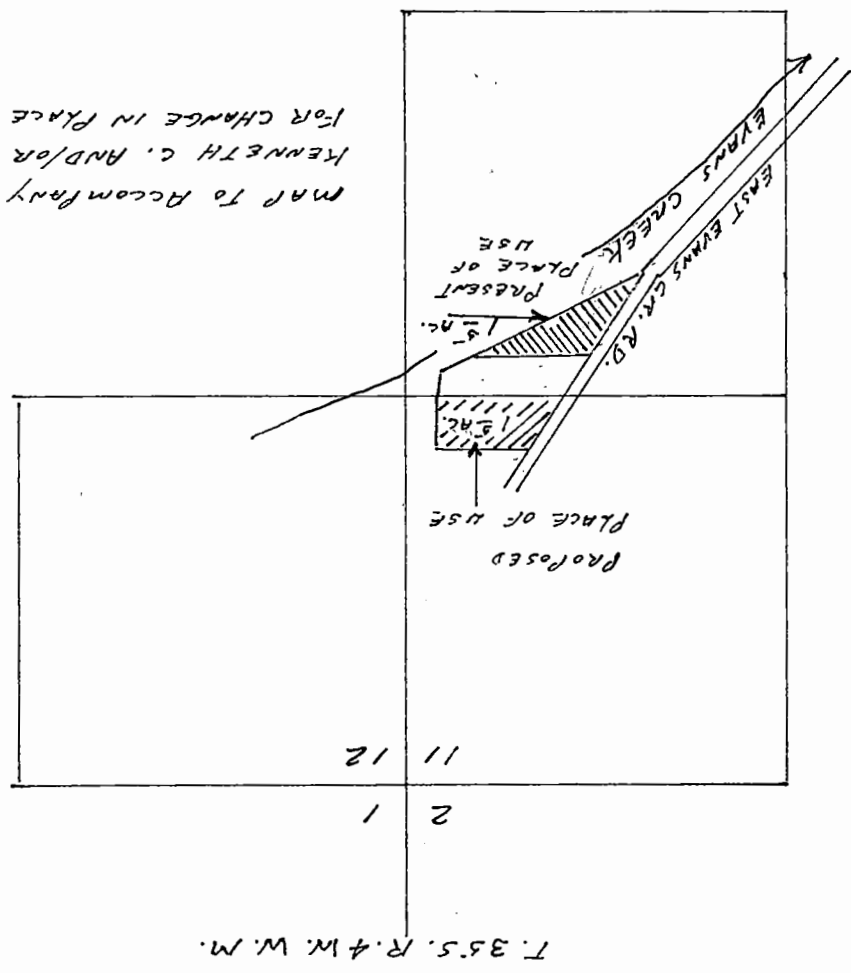
Application No. .... Permit No. ....

IN NAME OF

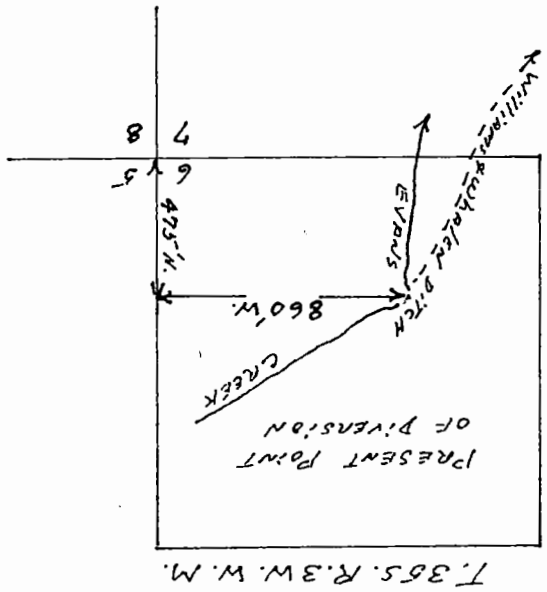
KENNETH C. ... &/OR ... DORA M. BAINES

Surveyed JUN. 15. 1987., by B. S. JAMES...

SCALE 8"=1 MILE  
 9-5-78  
 MAP TO ACCOMPANY APPLICATION OF  
 KENNETH C. AND/OR DORA M. BAINE'S  
 FOR CHANGE IN PLACE OF USE



THIS MAP PREPARED BY:  
 FROM INFORMATION FURNISHED BY  
 THE APPLICANT.



RECEIVED  
 SEPT 1978  
 WATER RESOURCES DEPT.  
 SALT LAKE COUNTY

T-4037

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That GEORGE BEERS,

of Rogue River, State of Oregon, has a right  
to the use of the waters of Evans Creek

9753)

a tributary of Rogue River for the purpose of  
domestic, stock and irrigation of 26.5 acres  
and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Jackson County, and the said decree entered of record at Salem, in the Order Record of  
the STATE ENGINEER, in Volume 16, at page 523; that the priority of the right thereby  
confirmed dates from February 20, 1896 for 0.28 c.f.s. and 16.5 acres; 1896 for  
0.17 c.f.s. and 10.0 acres;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed 0.45 cubic foot per  
second.

The point of diversion is located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, T. 35 S., R. 3 W., W.M.

A description of the place of use under the right, and to which such right is appurtenant, is as  
follows:

\* 16.5 16.5 acres in E $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 11,

\* 10.0 10.0 acres in that part of the SE $\frac{1}{4}$  NE $\frac{1}{4}$   
North of Evans Creek  
Section 11,  
T. 35 S., R. 4 W., W.M.

\* Ch. Pt. of Div. for 23.5 ac.  
Sp. Or. Vol. 25 p 71 Tr. 3022

And said right shall be subject to all other conditions and limitations contained in said decree.  
The right to the use of the water for the purposes aforesaid is restricted to the lands or place  
of use herein described. —

WITNESS the signature of the State Engineer, affixed

this date January 5, 19 66.

CHRIS L. WHEELER  
State Engineer

C  
of

**STATE OF OREGON**  
**COUNTY OF JACKSON**  
**PROPOSED AND FINAL ORDER**  
**FOR ALLOCATION OF CONSERVED WATER**

Pursuant to ORS 537.470 and OAR Chapter 690, Division 18, after notice was given and no comments were filed, this order approves, as conditioned or limited herein, an application for allocation on conserved water submitted by:

Larry and Helen Zellen 11020 E. Evans Creek Rd. Rogue River, OR 97537	Carl and Jane Smith 11172 E. Evans Creek Rd. Rogue River, OR 97537	Oregon Water Trust 111 S.W. Front Ave., Suite 404 Portland, OR 97204
---	--	--

**Background**

The application for the allocation of conserved water proposes a reduction in the maximum rate of diversion allowed under Certificate 72139 in the name of Carl and Jane Smith and Certificate 72140 in the name of Larry and Helen Zellen. The water right holders (adjoining property owners) previously irrigated from the Williams and Whalen Ditch using flood irrigation. In 1995, they completed a conservation project involving a change in their points of diversion and the conversion of their method of application from flood to sprinkler irrigation.

The water right holders now pump water directly out of Evans Creek and into their respective irrigation systems. Each water right holder operates and maintains their own pumps and pipelines. The locations of the new diversions are on the water right holders' respective properties adjoining Evans Creek near River Mile (RM) 11. The conversions to sprinkler irrigation were accomplished by the installation of buried P.V.C. and aluminum pipe and sprinklers. These changes have produced a 50 percent reduction in the rates of diversion needed by the water right holders.

During normal flow years, Evans Creek contains water from the Williams and Whalen Ditch point of diversion at RM 12 to its mouth. During years when streamflows are below normal, surface flow in Evans Creek disappears at approximately RM 8. Flow reappears at the confluence with Pleasant Creek. Distribution activities on Evans Creek frequently require regulation of all post-1902 water rights. Streamflows from Pleasant Creek mask the extent to which water saved by the conservation project would normally flow to the mouth of Evans Creek.

The applicants propose regulation for the instream water right from conserved water only during periods in which surface flows do not disappear in Evans Creek. The instream water right can not be protected below the point at which the creek disappears. In addition, seepage losses from the Williams and Whalen Ditch and runoff from lands which were flood irrigated likely returned to Evans Creek above RM 8. Allocation and protection of this water below RM 8 for instream purposes could result in harm to existing downstream water rights.

There is an existing instream water right for the purpose of supporting aquatic life and minimizing pollution on Evans Creek from Pleasant Creek to the mouth. The right is evidenced by certificate 59705. The date of priority is November 3, 1983. Applications for two instream water rights have been filed by the Oregon Department of Fish and Wildlife for flows in Evans

Creek. If issued, the rights would protect streamflows in Evans Creek from Morrison Creek at RM 25.7 to the mouth. The dates of priority for the rights would be December 7, 1990.

ORS 537.470 requires the Commission to allocate to the state a percentage of conserved water equal to the percentage of the public funds used to complete the project, up to a maximum of 75 percent, unless the applicants propose a higher allocation to the state. Public funds contributed 48 percent of the construction costs. However, the applicants have proposed that 100 percent of the conserved water be allocated to an instream water right in Evans Creek for the purpose of supporting aquatic life. No increase in out-of-stream use is proposed.

The first right modified under this order was confirmed by decree of the Circuit Court of the State of Oregon for Jackson County as evidenced by Certificate 72139 in the name of Carl and Jane Smith. The decree is recorded in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1896.

That water right allows the use of Evans Creek, a tributary of the Rogue River, for irrigation of 1.80 acres. The amount of water which may be used under this right is limited to an amount actually beneficially used and shall not exceed 0.05 cubic feet per second or its equivalent in case of rotation, if available, measured at the authorized point of diversion from the source: NE 1/4 NE 1/4, Section 12, T 35 S, R 4 W, WM; 196 feet south and 616 feet east from the NW corner of the NE 1/4 NE 1/4, Section 12. The authorized place of use is SE 1/4 SE 1/4, Section 1 (1.12 acres) and NE 1/4 NE 1/4, Section 12 (0.68 acres), T 35 S, R 4 W, WM.

The second right modified under this order was confirmed by decree of the Circuit Court of the State of Oregon for Jackson County as evidenced by Certificate 72140 in the name of Larry and Helen Zellen. The decree is recorded in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1896.

That water right allows the use of Evans Creek, a tributary of the Rogue River, for irrigation of 2.28 acres. The amount of water which may be used under this right is limited to an amount actually beneficially used and shall not exceed 0.06 cubic feet per second or its equivalent in case of rotation, if available, measured at the authorized point of diversion from the source: NE 1/4 NE 1/4, Section 12, T 35 S, R 4 W, WM; 385 feet south and 158 feet east from the NW corner of the NE 1/4 NE 1/4, Section 12. The authorized place of use is SE 1/4 SE 1/4, Section 1 (0.67 acres) and NE 1/4 NE 1/4, Section 12 (1.61 acres), T 35 S, R 4 W, WM.

The right to use water for the above purposes is restricted to beneficial use on the lands described and is subject to all other conditions and limitations contained in the decree.

### **Findings**

1. The conservation projects yielded a 50 percent reduction in the rates of diversion required to meet the beneficial uses under the original water rights. The reduction is a result of eliminating seepage losses in the ditch and changing irrigation practices from flood irrigation to sprinklers.
2. It appears that the proposed allocation of conserved water to an instream water right will not cause harm to existing rights, if limited to the reach of Evans Creek between RM 12 and RM 8.
3. The proposed allocation is consistent with the requirements of OAR 690-05-045.
4. No conserved water is needed to mitigate harm to existing water rights.

5. No duty was established for these water rights. The rate for the remaining rights shall be 0.025 cubic feet per second in the names of Carl and Jane Smith and 0.03 cubic feet per second in the names of Larry and Helen Zellen. The rights may be used in rotation to allow each water right holder the use of up to 0.055 cubic feet per second, provided the total diverted by both water right holders shall not exceed 0.055 cubic feet per second.
6. The 0.055 cubic feet per second of conserved water is needed to support instream uses in Evans Creek. There is an instream water right on Evans Creek from Pleasant Creek (at approximately RM 8) to the mouth. There are no existing instream water rights on Evans Creek between RM 12 and RM 8.
7. The amount of water allocated is consistent with ORS 537.470 (3).
8. No conserved water will be used out-of-stream. The state's portion of the conserved water will be dedicated to an instream water right on Evans Creek from RM 12 to RM 8.
9. The project was constructed and completed in 1995 and conserved water may be allocated under OAR 690-18-014 (2). The applicants have filed notice of completion of the conservation measures and no additional time has been requested or is needed to finalize the allocation.
10. The conditions listed in the order below, in addition to the conditions and limitations provided under the decree and subsequent modifications in the rights, will protect existing water rights and shall be included in the respective water right certificates.

#### Order

Now, therefore, it hereby is ordered that:

1. Certificates 72139 and 72140 are canceled.
2. A new certificate describing the remaining portion of the existing water right evidenced by Certificate 72139 shall be issued in the name of Carl and Jane Smith. The water right shall allow for the use of Evans Creek, a tributary of the Rogue River, for irrigation of 1.80 acres. The amount of water which may be used under the right shall be limited to an amount actually beneficially used and shall not exceed 0.025 cubic feet per second or its equivalent in case of rotation, if available, measured at the authorized point of diversion from the source. The date of priority is 1896.

The authorized point of diversion is NE 1/4 NE 1/4, Section 12, T 35 S, R 4 W, WM; 196 feet south and 616 feet east from the NW corner of the NE 1/4 NE 1/4, Section 12. The authorized place of use is SE 1/4 SE 1/4, Section 1 (1.12 acres) and NE 1/4 NE 1/4, Section 12 (0.68 acres), T 35 S, R 4 W, WM.

In addition to the conditions and limitations provided under the decree and any subsequent modifications in the rights, the following condition shall be included on this right:

This right may be used in rotation with the certificate recorded at page (the right described in 3. below), State Record of Water Right Certificates, to allow the diversion and use of up to 0.055 cfs, provided the total diverted under both water rights shall not exceed 0.055 cfs. The rotation shall be in accordance with an agreement filed with and acceptable to the Watermaster. This condition shall not limit the ability of the water right holder to enter into any other rotation allowed by law.



3. A new certificate describing the remaining portion of the existing water right evidenced by Certificate 72140 shall be issued in the name of Larry and Helen Zellen. The water right shall allow for the use of Evans Creek, a tributary of the Rogue River, for irrigation of 2.28 acres. The amount of water which may be used under the right shall be limited to an amount actually beneficially used and shall not exceed 0.03 cubic feet per second or its equivalent in case of rotation, if available, measured at the authorized point of diversion from the source. The date of priority is 1896.

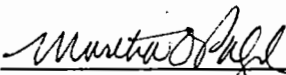
The authorized point of diversion is NE 1/4 NE 1/4, Section 12, T 35 S, R 4 W, WM; 385 feet south and 158 feet east from the NW corner of the NE 1/4 NE 1/4, Section 12. The authorized place of use is SE 1/4 SE 1/4, Section 1 (0.67 acres) and NE 1/4 NE 1/4, Section 12 (1.61 acres), T 35 S, R 4 W, WM.

In addition to the conditions and limitations provided under the decree and any subsequent modifications in the rights, the following condition shall be included on this right:

This right may be used in rotation with the certificate recorded at page (the right described in 2. above), State Record of Water Right Certificates, to allow the diversion and use of up to 0.055 cfs, provided the total diverted under both water rights shall not exceed 0.055 cfs. The rotation shall be in accordance with an agreement filed with and acceptable to the Watermaster. This condition shall not limit the ability of the water right holder to enter into any other rotation allowed by law.

4. A new certificate confirming the instream water right shall be issued in the name of the Water Resources Department to be held in trust for the benefit of the people of the State of Oregon. The instream water right shall be for 0.055 cfs to be maintained for the purposes of supporting aquatic life and minimizing pollution during the period from April 1 to November 1 of each year, in Evans Creek, tributary to the Rogue River, from RM 12 (near the original point of diversion, the Williams and Whalen Ditch in the SE 1/4 SE 1/4, Section 6, T 35 S, R 3 W, WM) to River Mile 8, in Section 15, T 35 S, R 4 W, WM, with a priority date of 1896 plus one minute.

Witness the signature of the Water Resources Director, affixed Nov. 13 1996.

  
Martha O. Pagel, Director

If no protest is filed within 60 days of the date of this order, the order becomes final.

August 14, 1996

Carl C. Smith  
11172 E. Evans Creek Road  
Rogue River, OR 97537

Larry Zellen  
11020 E. Evans Creek Road  
Rogue River, OR 97537

Dear Mr. Smith and Mr. Zellen:

Thank you for your letter of May 21, 1996; and Mr. Zellen, for your appearance before the Water Resources Commission in June. I realize the transfer process can be a frustrating and daunting process, especially when it involves a transfer that appears to be fairly simple. I am sorry that you did not have a more positive experience in working with the Water Resources Department. As we discussed at the Commission meeting, I am hopeful that recent changes in our rules and procedures may help avoid some of the problems you encountered.

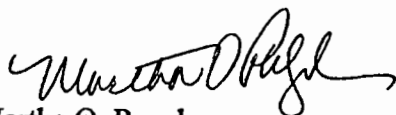
Since a transfer deals with a legal right to use water, I am sure you appreciate having a process in place that protects your legal rights. A very important part of any transfer is the maps and Final Proof Survey. As you are aware, a Certified Water Right Examiner (CWRE) completes these items. CWREs function at the private level and as such, our department has no jurisdiction over what a CWRE charges. Your suggestion to provide information about the required use of CWREs is a good idea. We are in the process of producing a brochure that includes suggestions for hiring and using CWREs. This brochure will be available to all applicants.

Your letter contains good comments concerning the change in point of diversion process. Our department is currently reviewing and updating the transfer process, so I have passed your comments on to the people involved in the review.

The gentlemen who visited you in May 1995 were members of the cooperative group working to enhance stream flows through conservation. Since your project was one of the first to be completed, this group was quite interested to see how it was progressing. They do not have the authority to do a Final Proof Survey, but I can understand how you would feel that their visit was duplicative of the final proof process.

Again, I am sorry for the problems you encountered. Thank you for taking the time to write and to attend our Commission meeting. Please contact me at the address below if you have further questions.

Sincerely,



Martha O. Pagel  
Director

MOP/dr

T-7271  
T-7261

# Oregon

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WATER  
RESOURCES  
DEPARTMENT

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Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

RECEIVED

MAY 24 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

Larry Zellen & Carl Smith

Telephone (541) 582-4169

11020 & 11172 E. Evans Crk. Rd.  
Rogue River, Or 97537

May 21, 1996

Water Resources Department  
158 12th St. NE  
Salem, Oregon 97310-0210

Dear Martha Pagel:

In October 1994, we decided to change our irrigation system from flood irrigation to sprinkler irrigation thus changing our point of diversion (POD).

At the time we applied for our permit at the Water Resources Department (at the cost of \$205.00 each) we were told we needed to hire a Certified Water Examiner (CWE). We did at the cost of \$491.00 which we feel was not necessary as this information can be acquired off of our title deeds.

We were also required to place an article in the local paper to run three weeks with regard to our intent to change our POD, which we did.

In May 1995 our POD was completed. The system was then inspected by Douglas Parrow from the Water Resources Department of Salem, Alan Cook, Regional Water Resources Manager, Andrew Perkey, Oregon Water Trust and Bob Pierce, Watershed Technician (no longer with the program).

The unused water was to remain instream for fish and wildlife habitat. We did not ask for more water or to water land we had not already been watering prior to installation of the new system. This was just a simple POD and because of problems within the Water Resources Department we were inconvenienced and had to wait (we feel) an unreasonable amount of time to be paid as we were inspected and reinspected many times.

With regard to the CWE, we are very upset as we should have been told from the very beginning the total cost. Instead we were charged \$491.00 and upon completion and inspections we were told before we would receive our "Certificate of Water Right" we needed the CWE to come and do a final surveyor's report which cost us \$1600.00 more that we did not anticipate and was not included in the grant.

MAY 24 1996  
WATER RESOURCES DEP  
SALEM, OREGON

Page 2


It is our opinion that to cut down on expenses and paperwork, a surveyor is not necessary where:

1. Neither an increase or decrease in the amount of property to be irrigated.
2. The property has been surveyed before.
3. Narrow down the departments involved to save in confusion.

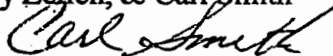
We feel that very few current and future landowners will be interested in changing POD's with this much unnecessary expense, time and confusion within departments of the Water Resources Department.

Should you have any questions regarding this letter or this POD process, please feel free to contact us at the addresses or phone listed above.

Sincerely,



Larry Zellen, & Carl Smith



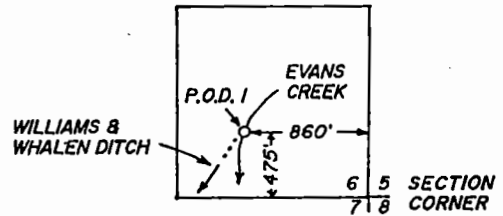
cc: Mark Grenbemer  
Bruce Sund  
Larry Nun  
Doug Parrow  
Phil Gremaud  
Andrew Perky (Oregon Water Trust)

LZ & CS/ca

SE1/4SE1/4 SEC. 1 AND NE1/4NE1/4 SEC. 12, T.35 S., R.4 W., W.M.

T7261

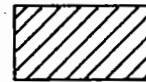
SE1/4SE1/4 SEC. 6, T.35 S., R.3 W., W.M.



EXISTING POINT OF DIVERSION DETAIL

SCALE: 1" = 1320'

LEGEND:



Existing Place of Use per Rogue River Decree 16115, priority date 1896. (5 Acres in NE1/4NE1/4, Sec.12) (5 Acres in SE1/4SE1/4, Sec. 1)

P.O.D. 1 = Existing Point of Diversion per Rogue River Decree 16115 (See Detail Above) Transfer From

P.O.D. 2 = Proposed Point of Diversion (175'S & 693'W of SE Cor. of the SE1/4SE1/4, Sec. 1, T.35 S., R.4 W., W.M.) Transfer To

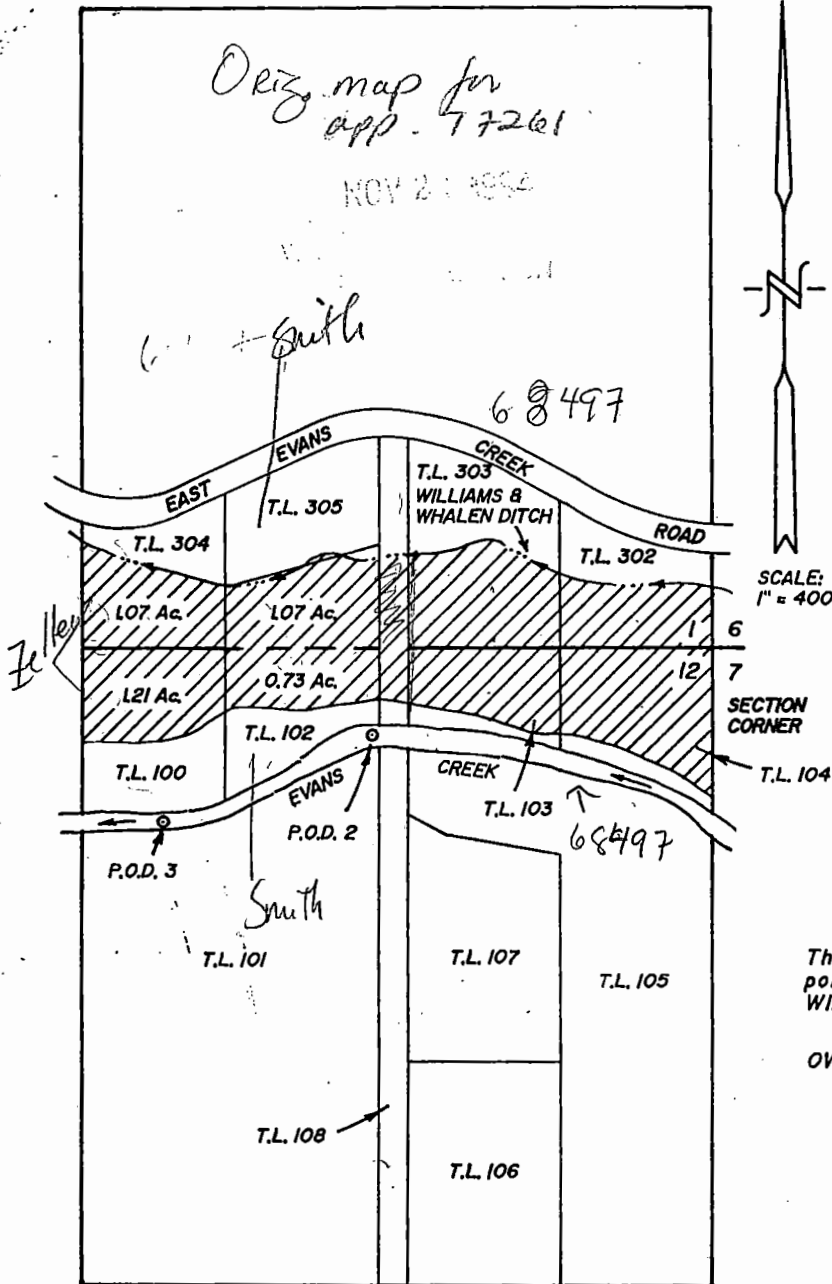
P.O.D. 3 = Proposed Point of Diversion (360'S & 1140'W of SE Cor. of the SE1/4SE1/4, Sec. 1, T.35 S., R.4 W., W.M.) Transfer To

The purpose of this transfer application is to change the point of diversion due to inadequate water flows in the Williams & Whalen ditch during irrigation season.

OWNERS: T.L. 100, Map No. 35-4-12  
T.L. 304, Map No. 35-4-1  
LARRY ZELLEN  
11020 E. EVANS CREEK RD.  
ROGUE RIVER, OR. 97537

T.L. 102, Map No. 35-4-1  
CARL C. SMITH  
11172 E. EVANS CREEK RD.  
ROGUE RIVER, OR. 97537

This plat was prepared for the purpose of identifying the location of the water right only. There is no intent to provide dimensions or locations of property ownership lines.

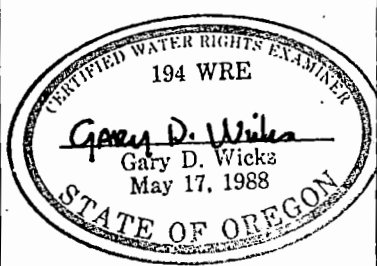


SCALE: 1" = 400'

T.35 S., R.4 W  
T.35 S., R.3 W

T7261 Old cut 16115 - Smith - 72139 -> " ->  
T7271 New cut - Zellen - 72140 -> Cancelled - 150 2853 Conserved H<sub>2</sub>O

PROJECT NO.	396-94-288
DRAWING NO.	52-8.5.11
DATE	11/14/94
SCALE	1" = 400'



**PLAT OF WATER RIGHT TRANSFER**  
LOCATED IN  
SE1/4SE1/4 SECTION 1 AND NE1/4NE1/4 SECTION 12,  
T.35 S., R.4 W., W.M.  
JACKSON COUNTY, OREGON

PREPARED FOR:  
LARRY ZELLEN  
11020 E. EVANS CREEK RD.  
ROGUE RIVER, OR. 97537  
TEL. 582-4169  
CARL C. SMITH  
11172 E. EVANS CREEK RD.  
ROGUE RIVER, OR. 97537  
TEL. 582-3825

PREPARED BY:  
WICKS ENGINEERING & SURVEYING  
406 N.E. "E" Street  
Grants Pass, OR 97526  
Tel. 479-3436

T7261

RECEIVED  
NOV 23 1995  
State of Oregon  
WATER RESOURCES DEPARTMENT  
APPLICATION FOR TRANSFER OF WATER RIGHT

Applicant: Carla Jane Smith  
 Mailing Address: 11172 E. Evans Creek Road  
Rogue River Or. 97537 5823825  
 City or town State Zip Phone

Type of change: Point of Diversion  
 (In point of diversion: place of use; use heretofore made of the water)

FROM 50  
POD 35  
85

1. WATER RIGHT

- A) Is the water right in your name? No If not, list name below:  
 (Yes, No)  
Margaret E. Taylor
- B) Was the water right determined by a court decree? Yes  
 (Yes, No)  
 1. If yes, list the title of the proceedings: Rogue River Decree  
 2. Certificate No: 16115
- C) Was the water right acquired by a water permit? No  
 (Yes, No)  
 1. If yes, list the Permit No: \_\_\_\_\_  
 2. Certificate No: \_\_\_\_\_
- D) Date of priority right: February 26, 198 96
- E) What are your reasons for the proposed changes? Inadequate Water Flow In Summer Months
- F) The water will be completely applied to the proposed use on or before: April 1, 1995

2. LOCATION OF AUTHORIZED USE

- A) What is the source of water (river, stream, well)? E. Evans Creek  
Via Williams Whalen Ditch
- B) Describe the authorized point of diversion:
- | Location in Reference to Survey Corner | 1/4, 1/4 of Section | Section  | Township   | Range     |
|--|---------------------|----------|------------|-----------|
| <u>475' 2860' W of SE COR Sec 6</u>    | <u>SESE</u>         | <u>6</u> | <u>35S</u> | <u>3W</u> |
- C) What is the name of the ditch used? Williams-Whalen Ditch
- D) What is the use to which the water is applied? ? Domestic, Irrigation, Livestock

E) Give the location of the authorized area irrigated or place of use other than for irrigation:

Township	Range	Section	1/4, 1/4 of Section	No. of acres irrigated
<u>35S</u>	<u>4W</u>	<u>1</u>	<u>SESE</u>	<u>1.67 Ac.</u>
<u>35S</u>	<u>4W</u>	<u>12</u>	<u>NENE</u>	<u>0.73 Ac.</u>

- F) Is the land within an irrigation district? Yes \_\_\_ No X  
 If Yes, which district? \_\_\_\_\_
- G) County Jackson

3. LOCATION OF PROPOSED USE:

NOTE: Answer question A only if the application is for a change in the point of diversion.

A) Describe the proposed point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
<u>175' 693' W of NE Cor Sec 12</u>	<u>NENE</u>	<u>12</u>	<u>35S</u>	<u>4W</u>

NOTE: Answer questions B, C, D, and E only if the application is for a change in use or place of use.

B) Are the lands from which you propose to transfer your water right free of all encumbrances? \_\_\_\_\_ (Yes, No)

C) If no, give the description below of existing encumbrances:

Encumbrance	Held by	Amount

D) What is the use to which the water will be applied? \_\_\_\_\_

E) Give the proposed location of the area irrigated, or place of use if other than for irrigation:

Township	Range	Section	1/4, 1/4 of Section	No. of acres irrigated

4. EXHIBITS

The following exhibits shall be attached to and made part of the application:

- OKs* A map prepared by a Certified Water Right Examiner showing the location of the present and proposed points of diversion, the authorized and proposed places of use and, if any, lands from the existing right that would not be subject to transfer.
- OKs* A copy of the current recorded deed to the subject lands.
- Need OK* Affidavits from any other landowners or encumbrance holders with interest in the original water right stating that they have no objection to the proposed transfer.
- Need OK* Evidence that the water has been used within the last five years.

5. NAME AND ADDRESS OF RECEIVING LANDOWNER(S) IF OTHER THAN APPLICANT:

\_\_\_\_\_

6. REMARKS:

\_\_\_\_\_

I (we) CARL SMITH, applicant(s), hereby swear that I (we) have read the above application for transfer of water right and that the statements made are true and correct. Dated and signed this 21 day of November, 1994.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

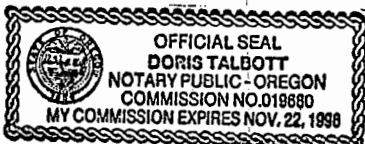
Carl Smith  
(Signature)

(Signature)

Subscribed and sworn to before me

Doris Talbott  
Notary Public for Oregon

(Notarial Seal)



My commission expires: 11-22-96

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CARL AND JANE SMITH  
11172 EAST EVANS CREEK ROAD  
ROGUE RIVER, OR 97537

**CANCELED**

confirms the right to use the waters of EVANS CREEK, a tributary of ROGUE RIVER, for IRRIGATING 1.8 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON COUNTY. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at Page 1. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.05 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE 1/4 NE 1/4, SECTION 12, T 35 S, R 4 W, W.M.; 196 FEET SOUTH AND 616 FEET EAST FROM THE NW CORNER OF NE 1/4 NE 1/4, SECTION 12.

A description of the place of use to which this right is appurtenant is as follows:

SE 1/4 SE 1/4 1.12 ACRES  
SECTION 1

NE 1/4 NE 1/4 0.68 ACRE  
SECTION 12

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The quantity of water diverted at the new point of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered MAY 23, 1995, and together with Certificate 68497, supersedes Certificate 16115, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 7 , 1996.

/s/ MARTHA Q. PAGED

Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 72139.

T-7261.JT

Canceled Sp.Or.Vol. 50 P. 853



STATE OF OREGON

COUNTY OF JACKSON

ORDER APPROVING A CHANGE IN POINT OF DIVERSION

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7261 submitted by

CARL AND JANE SMITH  
11172 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by a PORTION of Certificate 16115. The decree is recorded in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1896.

The right allows the use of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.8 ACRES. This right is limited to 0.05 cubic foot per second, if available at the authorized point of diversion: WILLIAMS-WHALEN DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.07 ACRES  
SECTION 1

NE $\frac{1}{4}$  NE $\frac{1}{4}$  0.73 ACRE  
SECTION 12

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to change the point of diversion to:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, T 35 S, R 4 W, WM; 175 FEET SOUTH AND 693 FEET WEST FROM THE SE CORNER, SECTION 1.

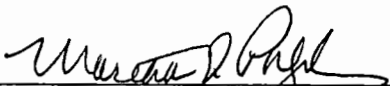
THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed change shall be completed on or before October 1, 1996.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

3. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Certificate 16115 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources Director,  
affixed May 23, 1995.

  
\_\_\_\_\_  
Martha O. Pagel, Director

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

CANCELED

THIS CERTIFICATE ISSUED TO

LARRY N. ZELLEN AND HELEN K. BEAR-ZELLEN  
11020 EAST EVANS CREEK ROAD  
ROGUE RIVER, OR 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATING 2.28 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON COUNTY. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at Page 1. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.06 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE 1/4 NE 1/4, SECTION 12, T 35 S, R 4 W, W.M.; 385 FEET SOUTH AND 158 FEET EAST FROM THE NW CORNER OF THE NE 1/4 NE 1/4, OF SECTION 12.

A description of the place of use to which this right is appurtenant is as follows:

SE 1/4 SE 1/4 0.67 ACRES  
SECTION 1

NE 1/4 NE 1/4 1.61 ACRES  
SECTION 12

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

} 2<sup>28</sup>

The quantity of water diverted at the new point of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered MAY 23, 1995, and together with Certificate 68497, supersedes Certificate 16115, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

SEE NEXT PAGE

T-7271.JT

CANCELED

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 7 ,  
1996.

CANCELED

/s/ MARTHA O. PAGEL

Martha O. Pagel

Canceled Sp.Or.Vol. 50 P. 853

Recorded in State Record of Water Right Certificates numbered 72140.

T-7271.JT

STATE OF OREGON  
COUNTY OF JACKSON  
ORDER APPROVING A CHANGE IN POINT OF DIVERSION

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7271 submitted by

LARRY N. ZELLEN AND HELEN K. BEAR-ZELLEN  
11020 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by a PORTION of Certificate 16115. The decree is recorded in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1896.

The right allows the use of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 2.28 ACRES. This right is limited to 0.06 cubic foot per second, if available at the authorized point of diversion: WILLIAMS-WHALEN DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.07 ACRES  
SECTION 1

NE $\frac{1}{4}$  NE $\frac{1}{4}$  1.21 ACRES  
SECTION 12

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to change the point of diversion to:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, T 35 S, R 4 W, WM; 360 FEET SOUTH AND  
1140 FEET WEST FROM THE NE CORNER, SECTION 12.


THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed change shall be completed on or before October 1, 1996.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

- 3 When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Certificate 16115 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources Director,  
affixed May 23, 1995.

  
\_\_\_\_\_  
Martha O. Pagel, Director

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARGARET E. TAYLOR  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 5.92 ACRES, DOMESTIC AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at Page 1. The date of priority is 1896.

The use is limited to 0.14 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

WILLIAMS WHALEN DITCH.

A description of the place of use to which this right is appurtenant is as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  2.86 ACRES  
SECTION 1

NE $\frac{1}{4}$  NE $\frac{1}{4}$  3.06 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 16115, State Record of Water Right Certificates, NOT modified by the provisions of orders of the Water Resources Director entered MAY 23 1995, approving Transfer Applications 7261 and 7271.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director,  
affixed MAY 23 1995.

vs/ MARTHA O. PAGEL

Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 68497.

T-7261 & 7271.LHN

STATE OF OREGON

COUNTY OF JACKSON

CANCELED

CERTIFICATE OF WATER RIGHT

This Is to Certify, That Margaret E. Taylor

of Rogue River, State of Oregon 97537, has a right to the use of

the waters of Evans Creek, a tributary of Rogue River

for the purpose of irrigation of 10 acres, and Domestic and Stock use

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 4, at page 1; that the priority of the right thereby confirmed dates from 1896;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.25 cubic foot per second.

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

5 acres in NE 1/4 NE 1/4 Section 12, 5 acres in SE 1/4 SE 1/4 Section 1, T. 35 S., R. 4 W., W. M.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 30 day of September, 1949.

CHAS. E. STRICKLIN State Engineer

Recorded in State Record of Water Right Certificates, Volume 13, page 16115

Superseded by Cert. No. 68497 & 72139 & 72140

Smith Canceled

KOR

Felkey Canceled DPOD

T-7261

192 + 49 194 Canceled Sp.Or.Rec.Vol. P. 194



Williams/Whole  
Cons Water Order

C-32722

- ✓ Right of record is 0.5 cfs for 29.5 acres or  $1/59^{\text{th}}$  per acre.
- ✓ 4.04 acres of the right is held by Purrier and excluded from the application, leaving right of record of 0.431 cfs for 25.46 acres.
- ✓ Actual use is 0.364 cfs for 21.46 acres ( $1/59^{\text{th}}$ ), with 4 acres being voluntarily cancelled by applicants.
- ✓ After conservation, right is for 0.268 cfs for 21.46 acres ( $1/80^{\text{th}}$ ).
- ✓ Instream right is 0.96 cfs.
- ✓ Purrier is issued remaining right certificate for 4.04 acres at  $1/59^{\text{th}}$ .

C-68497

- ✓ Right of record is <sup>0.14</sup>0.12 cfs for 5.92 acres or  $1/50^{\text{th}}$  per acre.
- ✓ 0.37 acre is being withheld by Hilgers and excluded from the application, leaving a right of record of <sup>0.13</sup>0.11 cfs for 5.55 acres.
- ✓ Actual use is <sup>0.077</sup>0.077 cfs for 3.87 acres ( $1/50^{\text{th}}$ ), with 1.68 acres being voluntarily cancelled by applicants.
- ✓ After conservation, right is for <sup>0.046</sup>0.048 cfs for 3.87 acres ( $1/80^{\text{th}}$ ).
- ✓ Instream right is <sup>0.029</sup>0.029 cfs.
- ✓ Hilger is issued remaining right certificate for 0.37 acres at  $1/50^{\text{th}}$ .

C-76182

- ✓ Right of record and actual use is 0.05 cfs for 3 acres or  $1/60^{\text{th}}$  per acre.
- ✓ After conservation, right is for 0.031 cfs for 3 acres ( $1/96^{\text{th}}$ ).
- ✓ Instream right is 0.019 cfs.

0.013

214 day irrigation season

	Ac. (App.)	Ac. (Real)	Orig. Rate (App.)	Orig. Rate (Real)	Post Rate (App.)	Post Rate (Real)	IWR (App.)	IWR-r (Real)	IWR-v (Real)
<b>C-68497</b>									
Teague	1.84	2.01	0.037	0.040	0.023	0.025	0.014	0.015	
Hilger	1.86	1.86	0.037	0.037	0.023	0.023	0.014	0.014	
<b>Subtotal</b>	<b>3.70</b>	<b>3.87</b>	<b>0.074</b>	<b>0.077</b>	<b>0.046</b>	<b>0.048</b>	<b>0.028</b>	<b>0.029</b>	<b>12.32</b>
<b>C-32772</b>									
Lance	4.96	4.96	0.099	0.084	0.062	0.062	0.037	0.022	
Scott	5.82	5.82	0.116	0.099	0.073	0.073	0.044	0.026	
Berry	3.5	3.5	0.070	0.059	0.044	0.044	0.026	0.016	
√Burton	4.64	4.64	0.093	0.079	0.058	0.058	0.035	0.021	
√Jauker	2.54	2.54	0.051	0.043	0.032	0.032	0.019	0.011	
<b>Subtotal</b>	<b>21.46</b>	<b>21.46</b>	<b>0.43</b>	<b>0.364</b>	<b>0.268</b>	<b>0.268</b>	<b>0.161</b>	<b>0.0955</b>	<b>40.53</b>
<b>C-76182</b>									
Baines	1.8	1.5	0.036	0.025	0.023	0.0156	0.014	0.009	
Loper	1.2	1.5	0.024	0.025	0.015	0.0156	0.009	0.009	
<b>Subtotal</b>	<b>3.00</b>	<b>3.00</b>	<b>0.060</b>	<b>0.050</b>	<b>0.038</b>	<b>0.0318-7</b>	<b>0.023</b>	<b>0.0193</b>	<b>7.96</b>
<b>TOTAL</b>	<b>28.16</b>	<b>28.33</b>	<b>0.56</b>	<b>0.491</b>	<b>0.352</b>	<b>0.348</b>	<b>0.211</b>	<b>0.143</b>	<b>60.81</b>
								0.137	58

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of the Proposed Allocation )  
of Conserved Water, Application 9804, for )  
Certificates 68497, 32772, 49038, and )  
Associated Application for Change in Point )  
of Diversion for Certificate 49039 )

ORDER  
APPROVING APPLICATION,  
ALLOCATING CONSERVED WATER  
and APPROVING CHANGE IN  
POINT OF DIVERSION

Jerry N. Hilger, Gary and Alice Teague, Linda Lance, G.L. and Gwen Scott, Dorothy H. Berry, Robert and Elanor Burton, Jakob Jauker, Dora M. Baines, John W. and Irene E. Loper and the Oregon Water Trust, have filed a conserved water application in which they propose to effect the conservation project by moving their points of diversion under the several water rights involved from the Williams & Whalen Ditch to Evans Creek, and reducing the amount of water diverted, appropriated and applied for irrigation of the subject lands. The applicants further proposed to allocation 100% of the water conserved to an instream right.

Pursuant to ORS 537.470 and OAR Chapter 690, Division 18, notice having been given and no comments filed within the time allowed, Conserved Water Application 98-04, together with the associated application to change a point of diversion filed by Robert and Elanor Burton, is APPROVED.

Findings of Fact  
*Purrier - 4.04 - Remaining Right*

- 1) *29.5 acres*  
*1/59th* Certificate 32722 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 10 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1, 7.6 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 11.9 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed 0.50 cubic feet per second for said lands, under a priority of 1896.
- 2) *0.268* The amount *by the applicants* historically diverted under this Certificate is *0.364* *to irrigate 21.46 acres* ~~0.448 cfs~~. Applicants owning land to which Certificate 32722 is appurtenant propose to reduce the amount appropriated and used *0.364* from ~~0.448 cfs~~ to ~~0.288 cfs~~, and to allocate the amount conserved, being ~~0.159 cfs~~, to an *0.096* instream right with a priority of 1896 plus one minute. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.
- 3) Applicants owning land to which Certificate 32722 is appurtenant further requested that the Department permanently cancel from this Certificate the right to appropriate and use water for irrigation of 1 acre in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12 and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, T35 S, R 4 W, WM, which has been forfeited for nonuse.

*Sp. Order Vol 53*  
*870-873*

- 4) Certificate 68497 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 2.86 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, and and 3.06 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed ~~0.14~~ <sup>0.12</sup> cubic feet per second for said lands, under a priority of 1896. 0.85 / 4.24 acres
- 5) The amount historically diverted under this Certificate is 0.077 cfs. <sup>to irrigate 3.87</sup> Applicants owning land to which Certificate 68497 is appurtenant propose to reduce the amount appropriated and used from 0.077 cfs to 0.048 cfs, and to allocate the amount conserved, being 0.029 cfs, to an instream right with a priority of 1896 plus one minute. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.
- 6) Applicants owning land to which Certificate 68497 is appurtenant further requested that the Department permanently cancel from this Certificate the right to appropriate and use water for irrigation of ~~0.26~~ <sup>0.44</sup> acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 1 and 1.24 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, T35 S, R 4 W, WM, which has been forfeited for nonuse.
- 7) Applicant Hilger further withheld 0.37 acre from this conserved water application and requests that a remaining right certificate for 0.37 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, T35S R4W, be issued.
- 8) Certificate 76182 (previously C. 42921) was issued following approval of transfer application T4037 filed by applicant Baines for a change in place of use for 1.5 of the 3.0 acres allowed under Certificate 42921. Certificate 76182 allows the use of waters of Evans Creek, tributary to the Rogue Basin, for irrigation of 1.5 acres in the the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  and 1.5 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 11, Township 35 South, Range 4 West, WM, all lying north of Evans Creek. The amount of water to which this right is entitled is limited to an amount actually beneficially used for irrigation and shall not exceed 0.05 cubic feet per second for said lands, under a priority of 1896.
- 9) The amount historically diverted under this Certificate was 0.06 cfs. Applicants owning land to which Certificate 76182 is appurtenant propose to reduce the amount historically appropriated and used by 38%, from 0.06 cfs to 0.037 cfs, and to allocate the amount conserved, being 0.023 cfs, to an instream right with a priority of 1896 plus one minute.
- 10) The maximum amount allowed under this Certificate is 0.05 cfs. A 38% reduction of 0.05 cfs, the maximum rate allowed, is 0.031 cfs, leaving 0.019 cfs for allocation to an instream right. The amount so allocated will be combined with the existing instream right for 0.055 cfs beginning at river mile 11 and ending at river mile 8 on Evans Creek, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853.

- 11) Certificate 49039 is appurtenant to 1.7 acres in the NW ¼ NW ¼ Section 12, owned by applicants Robert and Elanor Burton. Applicants Robert and Elanor Burton have filed an application proposing to move the point of diversion for Certificate 49039 from the Williams Whalen Ditch to the same pump to be utilized under C. 32772 for 4.64 acres owned by applicants in the NW¼ NW¼ Section 12, T35S, R4W, under this conserved water application. Applicants have further voluntarily authorized cancellation for nonuse of the portion of the right appurtenant to 0.2 acre allowed under Certificate 49039, and seek approval of the new point of diversion and issuance of a remaining right certificate for irrigation of 1.5 acres.
- 12) The applicants have filed a notice with the Department that the project is complete, and have requested a final allocation of the water conserved under this project.

Conclusions of Law

- 1) The allocation of the water conserved under this project will not injure existing water rights and no conserved water is needed to mitigate injury.
- 2) The allocation of conserved water is consistent with OAR 690-05-045.
- 3) The allocation of conserved water is consistent with ORS 537.455 to 537.500 and with OAR 690-18-010 to 690-018-050.

ORDER

NOW, THEREFORE, it is ORDERED:

1. Certificate 32722 be and the same is hereby cancelled.
2. The Department is directed to issue a superseding Certificate with a <sup>0.268</sup> priority date of 1896 for diversion and use of ~~0.288~~ cfs, from Evans Creek, not to exceed ~~122.8~~ <sup>113.76</sup> acre feet, for irrigation of 21.46 acres, being ~~2~~ <sup>4.96</sup> acres in the SE¼ SW¼ Section 1, 6.42 acres in the NE¼ NW¼ and 10.08 acres in the NW¼ NW¼ Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek, representing the reduced rate and duty and the cancellation of 4 acres.   
• and remaining right of 4.04 acres be issued to Purrier @ 1/3<sup>th</sup>
3. It is further ordered that Certificate 68497 be and the same is hereby cancelled.
4. The Department is further directed to issue a <sup>3</sup> superseding Certificate for diversion and use of 0.048 cfs from Evans Creek, not to exceed 20.47 acre feet, for irrigation of ~~2.86~~ <sup>2.05</sup> acres in the SE¼ SE¼ Section 1, and ~~3.06~~ acres in the NE¼ NE¼ Section 12, Township 35 South, Range 4 West, WM, all lying north of Evans Creek, with a priority date of 1896.   
<sup>1.82</sup>
5. The Department is further directed to issue a remaining right Certificate for diversion and use of 0.007 cfs from Evans Creek, not to exceed 3.0 acre feet during the irrigation season, for irrigation of .37 acre lying north of Evans Creek in the SE¼ SE¼ of Section 1, Township 35 South, Range 4 West, WM, under a priority of 1896.

6. It is further ordered that Certificate 76182 be and the same is hereby cancelled.

7. The Department is further directed to issue a superseding Certificate for diversion and use of 0.037 cfs from Evans Creek, not to exceed <sup>13.16</sup> 15.78-acre feet, for irrigation of 1.5 acres lying north of Evans Creek in the NE¼ NE¼ and 1.5 acres lying north of Evans Creek in the SE¼ SE¼ of Section 11, Township 35 South, Range 4 West, WM, with a priority date of 1896.

8. It is further ordered that Certificate 49039 be cancelled and a superseding certificate be issued showing the new point of diversion from Evans Creek, allowing the diversion and use of 0.019 cfs, not to exceed 4.5 acre feet per acre, for irrigation on 0.9 acre lying north of Evans Creek in the NW¼ NW¼ and 0.6 acre lying north of Evans Creek in the NE¼ NW¼ of Section 12, Township 35 South, Range 4 West, WM, with a priority date of 1896, and representing the cancellation of 0.2 acre as requested by the applicant. <sup>1975</sup>

9. The Department is further directed to issue a Certificate for an in-stream/water right for the State's portion of the water conserved under this application, being <sup>0.137</sup> ~~0.21~~ cfs (<sup>50</sup> ~~93.8~~ acre feet), to an instream water right beginning at river mile 11 and ending at river mile 8 on Evans Creek. The water conserved will be combined with the existing instream right for 0.055 cfs at this location, established under a related conservation project completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853, with a priority date of 1896 plus one minute. <sup>60.81</sup>

Witness the signature of the Water Resources Department Director, affixed 6/10/99



Martha O. Pagel

NOTICE: This is a final order in other than a contested case. You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Pursuant to the provisions of ORS 183.484, judicial review is by the Marion County Circuit Court or to the circuit court for the county in which the petitioner resides or has a principal place of business.

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARGARET E. TAYLOR  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 0.76 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4 at Page 1. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.018 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:  
WILLIAMS WHALEN DITCH

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

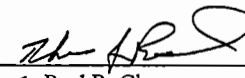
SE $\frac{1}{4}$  SE $\frac{1}{4}$       0.53 ACRE  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$       0.23 ACRE  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76658, 76659 and 76664, supersedes Certificate 68497, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
For Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76660.

CWA#6 RR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

ROBERT & ELEANOR BURTON  
10296 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.50 ACRES.

This right was perfected under Permit 38772. The date of priority is MAY 15, 1975. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.018 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, OR ITS EQUIVALENT FOR EACH ACRE IRRIGATED AND SHALL BE FURTHER LIMITED TO A DIVISION OF NOT TO EXCEED 4½ ACRE FEET PER ACRE FOR EACH ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:


NW¼ NW¼ 1.5 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and supersedes Certificate 49039, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
For Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76663.

CWA#6 CR.BR



STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JOHN W. & IRENE E. LOPER  
9868 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.20 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.015 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 12 DEGREES 09 MINUTES WEST 1772 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

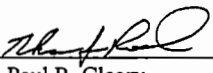
SE $\frac{1}{4}$  NE $\frac{1}{4}$  1.20 ACRES  
SECTION 11  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76661 and 76664, supersedes Certificate 76182, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76662.

CWA#6 CR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DORA M. BAINES  
9876 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.80 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.022 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 00 DEGREES 24 MINUTES WEST 1305 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

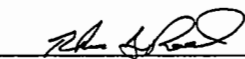
NE $\frac{1}{4}$  NE $\frac{1}{4}$  1.50 ACRES  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  0.30 ACRES  
SECTION 11  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76662 and 76664, supersedes Certificate 76182, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
for Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76661.

CWA#6 CR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JERRY N. HILGER  
11200 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.86 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4 at Page 1. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.023 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 57 MINUTES WEST 461 FEET FROM THE NE CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

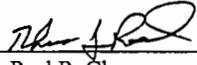
SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.12 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  0.74 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76658, 76660 and 76664, supersedes Certificate 68497, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
For Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76659.

CWA#6 CR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

GARY I. & ALICE A. TEAGUE  
11278 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 2.01 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4 at Page 1. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.025 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 33 DEGREES 05 MINUTES WEST 318 FEET FROM THE NE CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

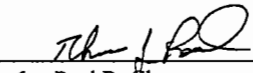
SE $\frac{1}{4}$  SE $\frac{1}{4}$  0.93 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  1.08 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76659, 76660 and 76664, supersedes Certificate 68497, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76658.

CWA#6 CR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MRS. ADELE PURRIER  
933 N. TUJUNJA AVE  
BURBANK, CALIFORNIA

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 4.04 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.068 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 6, TOWNSHIP 35 SOUTH, RANGE 3 WEST, W.M.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

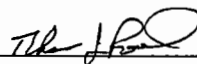
SE $\frac{1}{4}$  SW $\frac{1}{4}$  4.04 ACRES  
SECTION 1  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76652, 76653, 76654, 76655, 76656 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
For Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76657.

CWA#6 RR.BR

STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JAKOB JAUKER  
10128 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 2.54 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.032 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 23 DEGREES 23 MINUTES EAST 1246 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

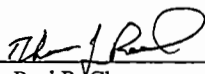
NW¼ NW¼ 2.54 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76652, 76653, 76654, 76655, 76657 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
for Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76656.

CWA#6 CR.BR

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

ROBERT & ELEANOR BURTON  
10296 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 4.64 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.058 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

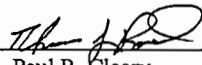
NW¼ NW¼ 4.64 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76652, 76653, 76654, 76656, 76657 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76655.

CWA#6 CR.BR

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DOROTHY H. BERRY  
10342 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 3.50 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.044 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 54 DEGREES 23 MINUTES EAST 1766 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

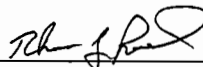
NE $\frac{1}{4}$  NW $\frac{1}{4}$  0.60 ACRES  
NW $\frac{1}{4}$  NW $\frac{1}{4}$  2.90 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76652, 76653, 76655, 76656, 76657 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76654.

CWA#6 CR.BR



STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

G.L. & GWEN G. SCOTT  
10454 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 5.82 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.073 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 47 MINUTES EAST 1832 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

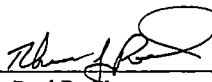
SE $\frac{1}{4}$  SW $\frac{1}{4}$  1.24 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NW $\frac{1}{4}$  4.58 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76652, 76654, 76655, 76656, 76657 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
for Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76653.

CWA#6 CR.BR

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

LINDA R. LANCE  
10612 EAST EVANS CREEK ROAD  
ROGUE RIVER, OREGON 97537

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 4.96 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.062 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 77 DEGREES 40 MINUTES EAST 1997 FEET FROM THE NW CORNER,  
SECTION 12

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

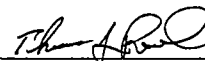
SE $\frac{1}{4}$  SW $\frac{1}{4}$  3.72 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NW $\frac{1}{4}$  1.24 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered FEBRUARY 16, 2001, and together with Certificates 76653, 76654, 76655, 76656, 76657 and 76664, supersedes Certificate 32772, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
For Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76652.

CWA#6 CR.BR

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

GEORGE BEERS and  
ROGUE RIVER, OR 97537

KENNETH C. AND/OR DORA M. BAINES  
9876 E. EVANS CREEK ROAD  
ROGUE RIVER, OR 97537

confirms the right to use the waters of EVANS CREEK, a tributary of ROGUE RIVER, for DOMESTIC, STOCK AND IRRIGATION OF 3.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON COUNTY. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16, at Page 523. The date of priority is 1896.

The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.05 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

WILLIAMS AND WHALEN DITCH - SE 1/4 SE 1/4, SECTION 6, TOWNSHIP 35 SOUTH, RANGE 3 WEST, W.M.; 475 FEET NORTH AND 860 FEET WEST FROM THE SE CORNER OF SECTION 6.

A description of the place of use to which this right is appurtenant is as follows:

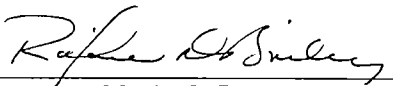
NE 1/4 NE 1/4 1.5 ACRES  
SE 1/4 NE 1/4 1.5 ACRES  
SECTION 11  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered SEPTEMBER 15, 1978, and ALONG WITH THE UNMODIFIED PORTION OF CERTIFICATE 42921 NOT INVOLVED IN TRANSFER NO. 4037, supersedes Certificate 42921, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed JUNE 7, 1999.

  
Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 76182.

T-4037.SB

Cancelled by final  
order 6-10-99

76182

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
SALEM, OREGON 97310

confirms the right to use the waters of EVANS CREEK, a tributary of THE ROGUE RIVER, to maintain instream flow for INSTREAM USES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at Page 1. The date of priority is 1896, plus one minute.

The use is limited to 0.021 CUBIC FOOT PER SECOND, not to exceed 8.9 acre-feet during the period of the irrigation season commencing subsequent to the 1<sup>st</sup> of April and terminating before the 1<sup>st</sup> of November of each year, if available at the original point of diversion of the right being at the head of the WILLIAMS AND WHALEN DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source. The quantity of water at the upstream point of the instream right, shall not exceed the quantity of water available at the original point of diversion.

The reach of the instream right is described as follows:

Upstream point (River Mile 9 - Evans Creek) - NW 1/4 SW 1/4, SECTION 11, T 35 S, R 4 W, W.M.; 370 FEET NORTH AND 80 FEET WEST FROM THE SE CORNER OF THE NW 1/4 SW 1/4 OF SECTION 11.

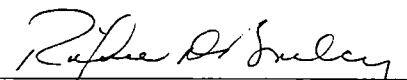
Downstream point (River Mile 0 - Evans Creek and the confluence with the Rogue River) - SE 1/4 SE 1/4, SECTION 16, T 36 S, R 4 W, W.M.; near the East 1/16 Corner Sections 16 and 21.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER approved by an order of the Water Resources Director entered JANUARY 6, 1999, and together with Certificate 76034, supersedes Certificate 68635, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed APRIL 6, 1999.

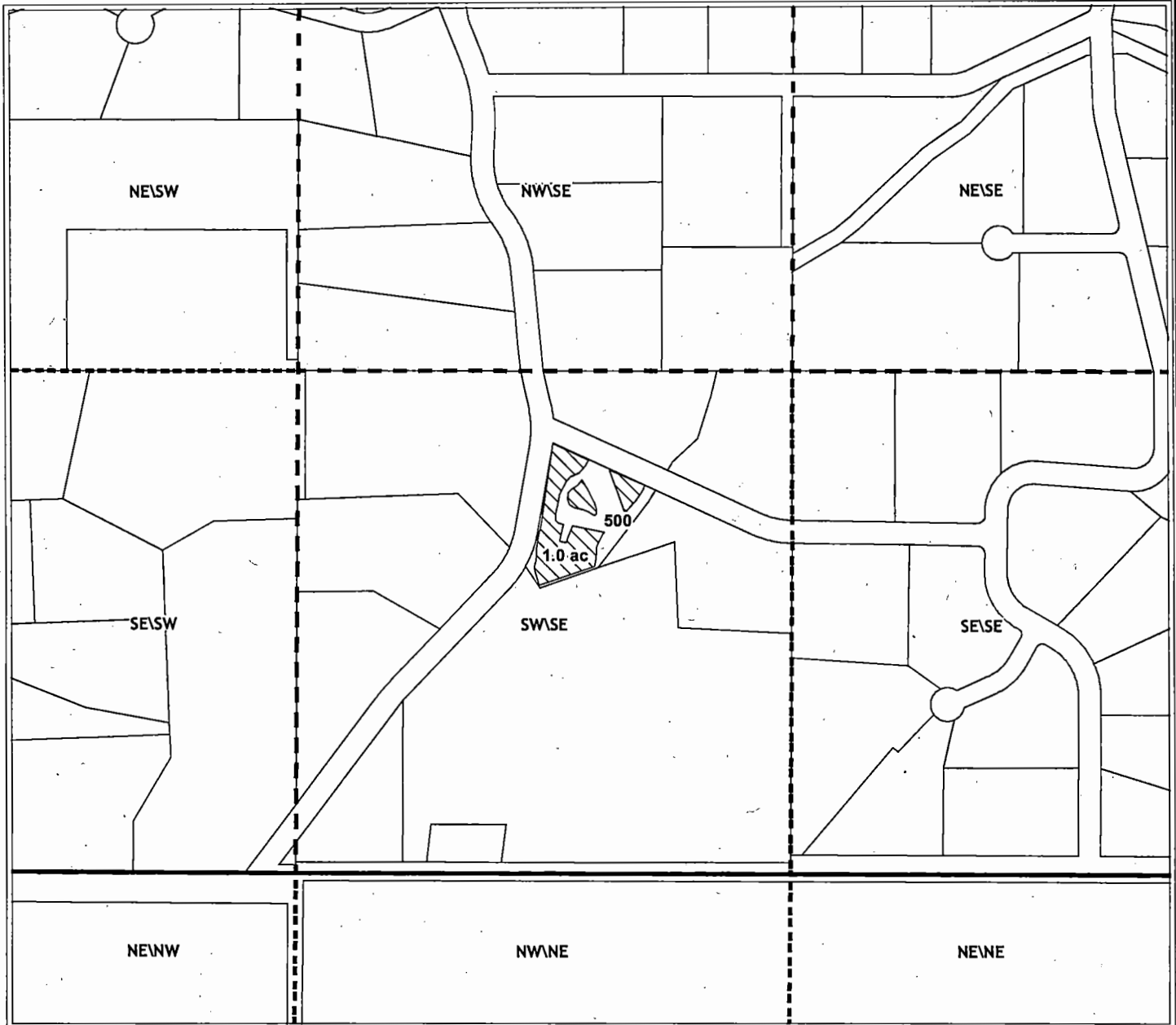
  
Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 76035.

CWA9802B.SB

# INSTREAM LEASE MAP

T17S. R12E. SECTION 15



## APPLICATION FOR INSTREAM LEASE

for

**Topliff, Robert Glenn & Dana Lynn**

**Tax Lot 500 - 1.0 Acres**

**RECEIVED**

APR 30 2004

WATER RESOURCES DEPT  
SALEM, OREGON



**Geo-Spatial Solutions, Inc.**

[www.geospatialolutions.com](http://www.geospatialolutions.com)

Date Created: April 1, 2004



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# Deschutes County

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Account: 108875 Map/TL: R 1-003 171215 DC 00500

\* \* \* Ownership Information ONLY

TOPLIFF FAMILY REVOCABLE TRUST  
\*\* TOPLIFF, ROBERT GLENN TRUSTEE  
\*\* TOPLIFF, DANA LYNN TRUSTEE  
195 HAMPTON RD  
MARTINEZ CA 94553

THRU: Wells Fargo Real Estate Tax Services, LLC  
AGENT: WFR (P)

Site Address: 21059 COUNTRY SQUIRE RD BEND 97701

Assessor Property Description  
COUNTRY VIEW ESTATES Lot: 4 Block: 2

Prop Cls:101 MA:3 VA:35 Vol-Page: 2002-73236  
Asmt Zone:SR CDD Zone:SR2.5 (SUBURBAN LOW DENSITY RESIDENTIAL - BEND UGB)

**RECEIVED**

**APR 30 2004**

**WATER RESOURCES DEPT  
SALEM, OREGON**

[Contact Us](#) | [Disclaimer](#) | [Privacy Statement](#) | [webmaster@co.deschutes.or.us](mailto:webmaster@co.deschutes.or.us)

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NW¼ NW¼	200	IRR	0.100	3 & 15	Bratton, Dana & Nancy
NW¼ NW¼	300	IRR	0.500	3 & 15	Lower, John H. & Karen C.
NW¼ NW¼	1400	IRR	3.600	3 & 15	McKim, Dr. Frank & Nancy
NW¼ NW¼	1500	IRR	4.200	3 & 15	McKim, Dr. Frank & Nancy
NW¼ NW¼	1700	IRR	2.200	3 & 15	McKim, Dr. Frank & Nancy
NW¼ NW¼	1800	IRR	2.000	3 & 15	Hoch Axel & Salli
NW¼ NW¼	1900	IRR	3.000	3 & 15	Hamilton, Philip S. & Holly G.
NW¼ NW¼	2600	IRR	2.000	3 & 15	Cottings, Mike
NW¼ NW¼	2700	IRR	3.000	3 & 15	Ross, B. Neil & Christine
SW¼ NW¼	700	IRR	1.000	3 & 15	Ettinger, Richard & Margorie
SW¼ NW¼	2000	IRR	3.000	3 & 15	Austin, Ned & Donna
SW¼ NW¼	2100	IRR	3.000	3 & 15	Straka, Edward & Carleen
SW¼ NW¼	2200	IRR	3.000	3 & 15	Yandle, Elaine L.
SW¼ NW¼	2300	IRR	2.200	3 & 15	Ettinger, Richard & Margorie
SW¼ NW¼	2400	IRR	3.600	3 & 15	Ettinger, Richard & Margorie
SW¼ NW¼	2500	IRR	4.000	3 & 15	Hanson, Kenneth & Lora
SW¼ NW¼	2600	IRR	2.000	3 & 15	Cottings, Mike
SE¼ NW¼	500	IRR	1.800	3 & 15	Bellot, John & Trudy
SE¼ NW¼	600	IRR	3.000	3 & 15	Jensen, Loel (Schouw)
SE¼ NW¼	700	IRR	3.000	3 & 15	Fowler, Joel H.
SE¼ NW¼	800	IRR	3.000	3 & 15	Hasart, Raymond & Anita
SE¼ NW¼	900	IRR	0.500	3 & 15	Vail, Barbara
SE¼ NW¼	1000	IRR	3.500	3 & 15	Francis, Paul R. & Tami F.
SE¼ NW¼	1100	IRR	2.000	3 & 15	Cheney Jr., Dale R. & Florence L.
NE¼ SW¼	100	IRR	14.100	3 & 15	Clausen, Earl H.
NE¼ SW¼	100	PND	0.400	3 & 15	Clausen, Earl H.
NW¼ SW¼	101	IRR	2.300	3 & 15	Reorganized Latter Day Saints Ch.
NW¼ SW¼	102	IRR	1.000	3 & 15	Reorganized Latter Day Saints Ch.
SW¼ SW¼	102	IRR	8.500	3 & 15	Reorganized Latter Day Saints Ch.
SW¼ SW¼	200	IRR	1.400	3 & 15	Shideler, Genevee
SW¼ SW¼	300	IRR	5.300	3 & 15	Shideler, Genevee
SE¼ SW¼	400	IRR	4.700	3 & 15	Wilson et al, Jimmy
SE¼ SW¼	400	PND	0.300	3 & 15	Wilson et al, Jimmy
SE¼ SW¼	500	IRR	5.000	3 & 15	Dickey, Robert
SE¼ SW¼	600	IRR	2.600	3 & 15	Pieratt, Dean
SE¼ SW¼	700	IRR	0.400	3 & 15	Pieratt, Dean
NE¼ SE¼	6700	IRR	3.500	3 & 15	Brewer Family Trust et al
NE¼ SE¼	6800	IRR	10.500	3 & 15	Brewer, Paul
NW¼ SE¼	100	IRR	3.000	3 & 15	Beard, Walter & Donna
NW¼ SE¼	201	IRR	1.900	3 & 15	Prior, Richard & Daphne
SW¼ SE¼	201	IRR	0.100	3 & 15	Prior, Richard & Daphne
SW¼ SE¼	2900	IRR	0.500	3 & 15	Bilyeu, Mike
SW¼ SE¼	3000	IRR	0.500	3 & 15	Charmon, Calvin & Wilma
SW¼ SE¼	3200	IRR	0.500	3 & 15	Goldsmith, Vern
SW¼ SE¼	3300	IRR	0.500	3 & 15	Stierwalt, James & B.J.
SW¼ SE¼	3700	IRR	0.500	3 & 15	Hinkle, Garland & Helen
SW¼ SE¼	3800	IRR	0.500	3 & 15	Shehan, Geter
SW¼ SE¼	3900	IRR	0.500	3 & 15	Hove, David George & Tammie Lynn
SW¼ SE¼	4100	IRR	0.100	3 & 15	Pulido, Jacinto C.
SW¼ SE¼	4200	IRR	0.100	3 & 15	Bush, Anna
SW¼ SE¼	4400	IRR	0.250	3 & 15	Lewis, Mark & Deborah
SW¼ SE¼	4600	IRR	0.250	3 & 15	Christen, Brian & Patricia
SE¼ SE¼	6700	IRR	2.100	3 & 15	Brewer Family Trust et al

Section 9

NW¼ SW¼	200	IRR	1.000	3 & 15	Raymond, Glen & LeeAnn
SW¼ SE¼	200	IRR	1.000	3 & 15	Kamperman, David & Judith
SW¼ SE¼	300	IRR	2.000	3 & 15	Leventhal, Steven H. & Gilead S.
SW¼ SE¼	500	IRR	1.000	3 & 15	Lauziere, Eugene & LaVaune

SEE NEXT PAGE

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APR 30 2004

WATER RESOURCES DE  
SALEM, OREGON

**WATER RIGHT TRANSFER APPLICATION MAP**

**T. 35 S. R. 04 W. W.M.  
EVANS CREEK and WILLIAMS & WHALEN DITCH**

PREPARED FOR:  
**OREGON WATER TRUST**  
111 S.W. FRONT AVE., SUITE 404  
PORTLAND, OREGON 97204  
Ph. (503) 226-9055

TRANSFER # \_\_\_\_\_

*PRELIMINARY*

**X = PROPOSED NEW  
P.O.D.**  
TO BE VERIFIED AS  
PART OF FINAL SURVEY

**RECEIVED**

OCT 30 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

R. 4 W.  
R. 3 W.

WILLIAMS & WHALEN DITCH

1	6
12	7
	0.17

NOTE: 0.37 ACRES HAVE  
RECENTLY BEEN REMOVED  
FROM IRRIGATION IN  
THE CONSTRUCTION OF A  
HOUSE, SHOP & DRIVEWAY



JERRY N. HILGER

GARY I. & ALICE A. TEAGUE

2 | 1  
11 | 12

WILLIAMS & WHALEN DITCH

SYKES CREEK

DAVID P &  
JOYCE PURRIER

LINDA R. LANCE

G.L. GWEN G. SCOTT

ROBERT &  
ELANOR  
BURTON

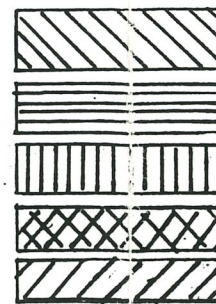
DOROTHY H.  
BERRY

DORA M. BAINES

JOHN W. & IRENE E. LOPER

EVANS CREEK

SCALE: 1 INCH = 400 FEET



DECREE 32772

CERT. 42921

CERT. 42921 THRU TRANSFER T-4037

CERT. 49039

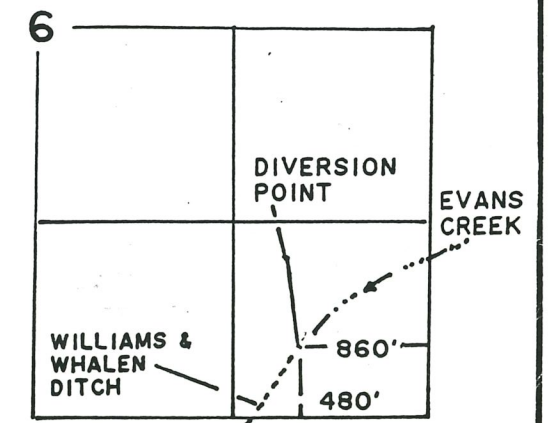
DECREE 16115



PREPARED BY:  
**JONATHAN C. SPERO C.W.R.E. 123**  
1002 KINCAID RD./P.O. BOX 16  
WILLIAMS, OREGON 97544  
PH. (541) 846-6845

THIS MAP IS FOR THE PURPOSE OF  
IDENTIFYING THE LOCATION OF THE  
WATER RIGHT ONLY, AND IS NOT  
INTENDED TO PROVIDE LEGAL DIMEN-  
SIONS OR LOCATIONS OF PROPERTY  
OWNERSHIP LINES.

JANUARY 26, 1998



SCALE: 1 INCH = 1320 FEET



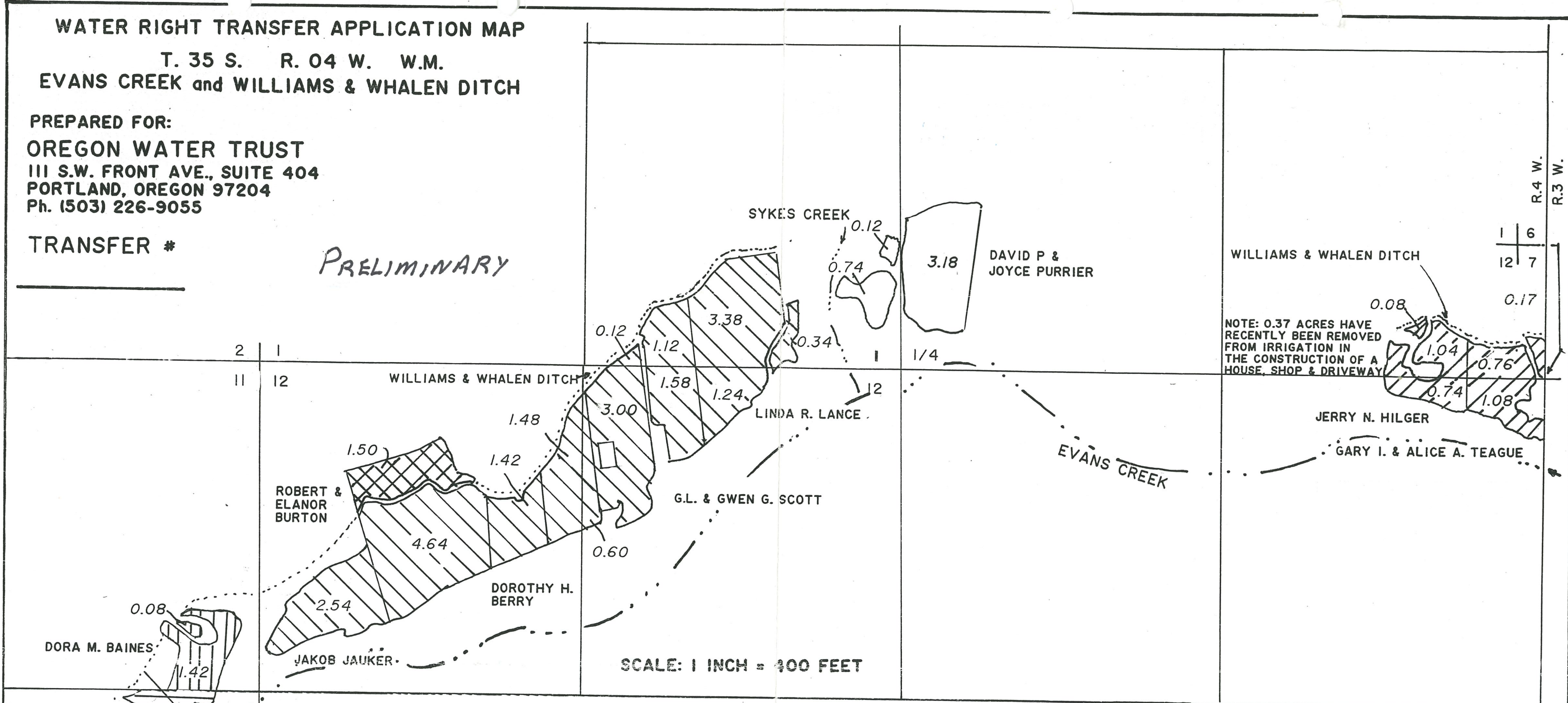
**WATER RIGHT TRANSFER APPLICATION MAP**

**T. 35 S. R. 04 W. W.M.  
EVANS CREEK and WILLIAMS & WHALEN DITCH**

**PREPARED FOR:  
OREGON WATER TRUST  
111 S.W. FRONT AVE., SUITE 404  
PORTLAND, OREGON 97204  
Ph. (503) 226-9055**

**TRANSFER #**

*PRELIMINARY*



**SCALE: 1 INCH = 400 FEET**

DORA M. BAINES

ROBERT & ELANOR BURTON

DOROTHY H. BERRY

JAKOB JAUKER

G.L. & GWEN G. SCOTT

LINDA R. LANCE

DAVID P & JOYCE PURRIER

JERRY N. HILGER

GARY I. & ALICE A. TEAGUE

NOTE: 0.37 ACRES HAVE RECENTLY BEEN REMOVED FROM IRRIGATION IN THE CONSTRUCTION OF A HOUSE, SHOP & DRIVEWAY

JOHN W. & IRENE E. LOPER

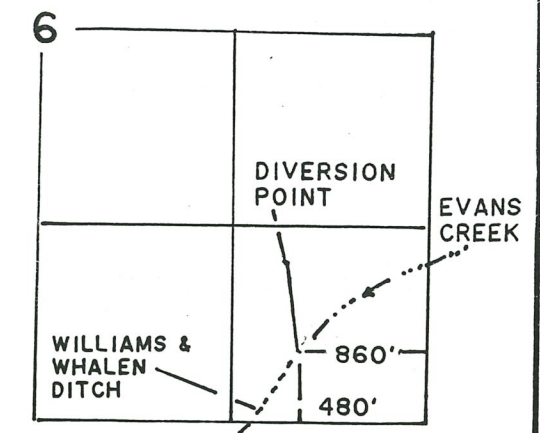


- DECREE 32772
- CERT. 42921
- CERT 42921 THRU TRANSFER T-4037
- CERT. 49039
- DECREE 16115

**PREPARED BY:  
JONATHAN C. SPERO C.W.R.E. 123  
1002 KINCAID RD./P.O. BOX 16  
WILLIAMS. OREGON 97544  
PH. (541) 846-6845**

THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY, AND IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

JANUARY 26, 1998



**SCALE: 1 INCH = 1320 FEET**

R.4 W.  
R.3 W.

1	6
12	7

# STATE OF OREGON

COUNTY OF JACKSON

## CERTIFICATE OF WATER RIGHT

This Is to Certify, That MRS. ADELE PURRIER,

91502

of 933 N. Tujunja Ave., Burbank, State of California, has a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of domestic, stock and irrigation of 29.5 acres and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 16, at page 523; that the priority of the right thereby confirmed dates from 1896;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.50 cubic foot per second.

The point of diversion is located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, T. 35 S., R. 3 W., W.M.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

Lane 3.38, 0.34  
Scott 112, 0.12  

---

4.96

10.0 acres in that part of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1, T. 35 S., R. 4 W., W.M. described as follows:

Purrier-4.04

Beginning at the SE corner of the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 1; thence North on the East line of said SE $\frac{1}{4}$  SW $\frac{1}{4}$  636.1 feet to the center of the county road; thence South 69° 27' West 216.6 feet along said road; thence South 79° 30' West 1,127.7 feet to the West line of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 1; thence South 356.4 feet to the SW corner of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 1; thence East to the point of beginning.

16  
15  
NW  
100  
Lane 1.24  
Scott 1.58, 3.00  
Berry 0.6  
Berry 1:48, 1:42  
Burton 4.64  
Jauker 2.54  

---

16.5

7.6 acres in that part of NE $\frac{1}{4}$  NW $\frac{1}{4}$  lying North of Evans Creek  
11.9 acres in that part of NW $\frac{1}{4}$  NW $\frac{1}{4}$  lying North of Evans Creek  
Section 12,  
T. 35 S., R. 4 W., W.M.

19.5  
30.7

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date January 5, 19 66.

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 24, page 32772

400



# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

March 20, 2001

Ellen Trippett  
(Formerly Teague Residence)  
11278 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Ms. Trippett:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

March 20, 2001

Jerry N. Hilger  
11200 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Mr. Hilger:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

---

March 20, 2001

Dora M. Baines  
9876 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Ms. Baines:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





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John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

March 20, 2001

John W. & Irene E. Loper  
9868 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Mr. and Ms. Loper:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

**Water Resources Department**

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

---

March 20, 2001

Robert & Eleanor Burton  
10296 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Mr. and Ms. Burton:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

March 20, 2001

Linda R. Lance  
10612 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Ms. Lance:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file







# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

March 20, 2001

Dorothy H. Berry  
10342 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Ms. Berry:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Mentee the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Mentee, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

March 20, 2001

G.L. & Gwen G. Scott  
10454 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Mr. and Ms. Scott:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Mentee the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Mentee, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file





# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

# Thank You

---

---

March 20, 2001

Jakob Jauker  
10128 East Evans Creek Road  
Rogue River, Oregon 97537

Dear Mr. Jauker:

Thank you for participating in the Conserved Water Program. I want to express appreciation for your cooperation in helping to improve streamflows for fish and aquatic life, and for your patience in waiting for new water right certificates to be issued.

Enclosed is your new water right certificate and a copy of the correcting final order. If you have any questions regarding either, please call Larry Menteer the Jackson County Watermaster at (541)774-6880 or me at (800) 624-3199 x 238.

Sincerely,

Bob Rice  
Field Services Division

c: Larry Menteer, Watermaster District 13  
Andrew Purkey, Oregon Water Trust  
file



STATE OF OREGON  
COUNTY OF JACKSON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON  
WATER RESOURCES DEPARTMENT  
SALEM, OREGON 97301

confirms the right to use the waters of EVANS CREEK, a tributary of the ROGUE RIVER, to maintain instream flow for INSTREAM USES.

The FIRST right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.022 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 77 DEGREES 40 MINUTES EAST 1997 FEET FROM THE NW CORNER, SECTION 12.

The SECOND right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.026 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 63 DEGREES 47 MINUTES EAST 1832 FEET FROM THE NW CORNER, SECTION 12.

The THIRD right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.015 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 54 DEGREES 23 MINUTES EAST 1766 FEET FROM THE NW CORNER, SECTION 12.

The FOURTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.021 CUBIC FOOT PER SECOND. The point of diversion for this right is: NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER, SECTION 12.

The FIFTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.011 CUBIC FOOT PER SECOND. The point of diversion for this right is: NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 23 DEGREES 23 MINUTES EAST 1246 FEET FROM THE NW CORNER, SECTION 12.

The SIXTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4 at Page 1. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.023 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 33 DEGREES 05 MINUTES WEST 318 FEET FROM THE NE CORNER, SECTION 12.

The SEVENTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4 at Page 1. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.021 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 63 DEGREES 57 MINUTES WEST 461 FEET FROM THE NE CORNER, SECTION 12.

The EIGHTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.008 CUBIC FOOT PER SECOND. The point of diversion for this right is: NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 00 DEGREES 24 MINUTES WEST 1305 FEET FROM THE NW CORNER, SECTION 12.

The NINTH right was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 16 at Page 523. The date of priority is 1896. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.005 CUBIC FOOT PER SECOND. The point of diversion for this right is: SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.; SOUTH 12 DEGREES 09 MINUTES WEST 1772 FEET FROM THE NW CORNER, SECTION 12.

The instream right created by these rights is limited to 0.152 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source, DURING THE PERIOD OF THE IRRIGATION SEASON OF APRIL 1 TO OCTOBER 31 OF EACH YEAR, if available at the original point of diversion of the rights. The date of priority is 1896 PLUS ONE MINUTE.

The reach of the instream right is described as follows:

Upstream point (Evans Creek) - from the respective points of diversion, described above  
Downstream point (River Mile 8 - Evans Creek) - Wimer Bridge

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

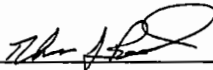
This instream right shall replace portions of and is not additive to the existing instream water rights for Evans Creek, evidenced by Certificate 73027.

This certificate is issued to confirm an ALLOCATION OF CONSERVED WATER. The ALLOCATION OF CONSERVED WATER (Conserved Water Application # 6) was approved by Special Order Volume 53, pages 870 - 873 by the Water Resources Director entered JUNE 10, 1999. A Correcting Order was approved by the Water Resources Director entered FEBRUARY 16, 2001. For the FIRST, SECOND, THIRD, FOURTH and FIFTH rights, this certificate together with Certificates 76652, 76653, 76654, 76655, 76656, and 76657, supercedes Certificate 32772, State Record of Water Right Certificates. For the SIXTH and SEVENTH rights, this certificate together with Certificates 76658, 76659, and 76660, supercedes Certificate 68497, State Record of Water Right Certificates. For the EIGHTH and NINTH rights, this certificate together with Certificate 76661, and 76662, supercedes Certificate 76182, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations in said decree.

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
for Paul R. Cleary

Recorded in State Record of Water Right Certificates numbered 76664.

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Jerry N. Hilger  
11200 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-3478-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 16115, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate:  $1/50^{\text{th}}$  (0.02) cfs per acre. Applied to 1.86 currently irrigable acres; 0.037 cfs, 15.70 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 1 1/2 horse power pump to divert water at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,200' of 1 1/4" class 200 pvc pipe. The water will be distributed on field with a portable #65 rainbird, the system will incorporate a pattern of risers with quick coupler attachments for the Rainbird. The system will discharge 10.31 gpm when fully operating, at the limit of the new paper water right of  $1/80^{\text{th}}$  (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.023 cfs; 9.76 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 1.86 acres being applied for under the conserved water program, 0.014 cfs /5.94 acre-feet, be allocated to the state as a permanent instream water right.

**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Hilger and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.014 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.



**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

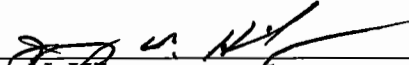
The place and type of use of the remaining right will remain the same as approved under Rogue River Decree No. 16115. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

**19 Applicant's Signatures**

We, Jerry N. Hilger and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

Jerry N. Hilger

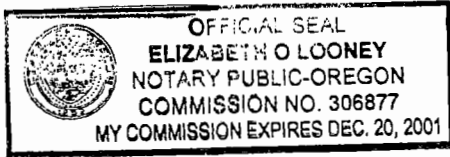
Oregon Water Trust

By:   
Jerry N. Hilger

By:   
Kerry KenCairn, Rogue Basin Coordinator

20 STATE OF OREGON )  
County of Josephine ) ss.

This instrument was acknowledged before me on this 24 day of Sept, 1998, by Jerry N. Hilger.



*Elizabeth Looney*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 12-20-01

STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2nd day of Sept, 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000





**Addendum to CWP**  
Applicant: Jerry N. Hilger  
11200 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-3478-Phone

**RECEIVED**

**DEC 14 1998**

**WATER RESOURCES DEPT.  
SALEM, OREGON**

This document stands as an addendum to the Conserved Water Project Application filed by Jerry Hilger and the Oregon Water Trust for the portion of Certificate 68497 appurtenant to the Hilger property located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 1 and the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12, Township 35 South Range 4 West. The number of acres applied for in the conserved water project application is 1.86 acres. This 1.86 acres reflects a loss of an undetermined fractional amount of acreage due to nonuse, and an exclusion of .37 acres on which a house and driveway was constructed in 1998. Jerry Hilger intends to transfer the portion of Certificate 68497 appurtenant to this 0.37 acre to other acreage under a separate application in 1999.

The intent of this document is to state that Jerry Hilger does not release to non-use the .37 acres associated with the land under his new house, and intends to transfer it. This .37 acres is not addressed in the application for conserved water submitted in 1998.

RECEIVED

JAN 11 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

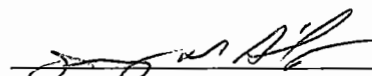
To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 68497 (previously Certificate 16115) which is appurtenant to my property located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 68497 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

Sincerely,

  
Jerry Hilger Date 1/7/99

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

## CITY/COUNTY LAND USE INFORMATION (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *Ch 254.040(8) Permitted Uses - Diversion - Points Per Irrigation with no structures in flood plain.*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson

Title: Planner II Jackson County Date: Sept 10 1998

• Must be authorized signature from your local City/County Planning Department

**EXHIBIT A**

**PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT**

I believe that the water rights described as Certificate No. 16115 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998

**RECEIVED**

OCT 30 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Gary I. & Alice A. Teague  
11278 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-1198-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 16115, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate: 1/50<sup>th</sup> (0.02) cfs per acre. Applied to 2.01 currently irrigable acres: 0.040 cfs, 17.03 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 2 horse power pump to divert water at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,400' of 1 1/4" class 200 pvc pipe. The water will be distributed on field with a portable #65 rainbird, the system will incorporate a pattern of risers with quick coupler attachments for the Rainbird. The system will discharge 11.67 gpm when fully operating, at the limit of the new paper water right of 1/80<sup>th</sup> (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

Rate: 1/80<sup>th</sup> (0.0125) cfs per acre. Applied to 2.01 currently irrigable acres: 0.025 cfs; 10.64 acre feet.

Teague

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 2.01 acres being applied for under the conserved water program, 0.015 cfs/6.39 acre-feet, be allocated to the state as a permanent instream water right.

**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998. The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Teague and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.014 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.



State of Oregon  
County of Josephine

on September 9, 1998, Gary & <sup>Alc</sup> Jeaguxlice Jeague  
personally appeared before me,

who is personally known to me

whose identity I proved on the basis of: \_\_\_\_\_

whose identity I proved on the oath/affirmation of:

\_\_\_\_\_, a credible witness,

to be the signer of the above document, and he/she acknowledged that  
he/she signed it.



Anni L. Cronenberg  
Notary Public

My commission expires on: Jan. 26, 2002

**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

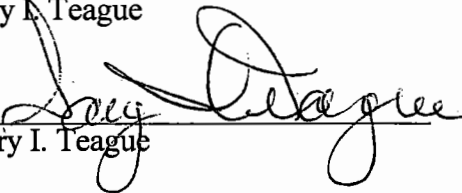
The place and type of use of the remaining right will remain the same as approved under Rogue River Decree No. 16115. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

**19 Applicant's Signatures**

We, Gary I. & Alice A. Teague, and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.


Gary I. Teague

Alice A. Teague

By:   
Gary I. Teague

By:   
Alice A. Teague

Oregon Water Trust

By:   
Kerry KenCairn,  
Rogue Basin Coordinator

20 STATE OF OREGON )  
County of Jackson ✓ ) ss.

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_, 1998, by Gary I. Teague.

NOTARY PUBLIC FOR OREGON  
My Commission Expires:

STATE OF OREGON )  
County of Jackson ✓ ) ss.

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_, 1998, by Alice A. Teague.

NOTARY PUBLIC FOR OREGON  
My Commission Expires:

STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept, 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



RECEIVED

DEC 24 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

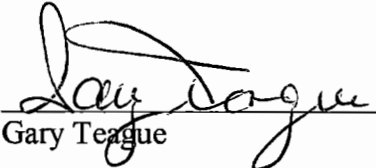
To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 68497 (previously Certificate 16115) which is appurtenant to our property located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1 and the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of our application, we had a map prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 68497 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that we have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

Sincerely,

  
\_\_\_\_\_  
Gary Teague                      Date      12-16-98

  
\_\_\_\_\_  
Alice Teague                      Date      12-16-98

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning official):

Please check below the one that applies:

This project is not regulated by the local comprehensive plan and zoning ordinance.

This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.)

*Ch 254.040(8) Permitted Use - Diversion Points for Irrigation with no structures in the flood plain.*

This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).

Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

\_\_\_\_\_

Conditional Use Permit

\_\_\_\_\_

Development Permit

\_\_\_\_\_

Plan Amendment

\_\_\_\_\_

Zone Change

\_\_\_\_\_

Other

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: \_\_\_\_\_

*Rene Jackson*

Title: \_\_\_\_\_

*Planner II Jackson County*

Date: \_\_\_\_\_

*Sept 10 1998*

• *Must be authorized signature from your local City/County Planning Department*

## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 16115 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Linda R. Lance  
10612 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-1219-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 32772, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate: 1/50<sup>th</sup> (0.02) cfs per acre. Applied to 4.96 currently irrigable acres: 0.099, 41.95 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 2 horse power pump to draw water directly out of Evans Creek at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,400' of 2" class 200 pvc pipe. The water will be distributed on field through a Kifco B 130 Traveler automatic hose-reel irrigator. The system will discharge 27.82 gpm when fully operating, at the limit of the new paper water right of 1/80<sup>th</sup> (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.062 cfs; 26.28 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 4.96 acres being applied for under the conserved water program, 0.037 cfs/15.67 acre feet, be allocated to the state as a permanent instream water right.



**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Lance and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.037 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.



**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**


The place and type of use of the remaining right will remain the same as approved under Certificate No. 32772. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

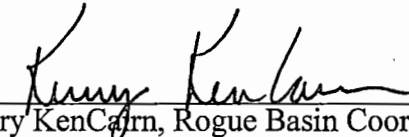
**19 Applicant's Signatures**

We, Linda R. Lance and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

Linda R. Lance

Oregon Water Trust

By:   
Linda R. Lance

By:   
Kerry KenCairn, Rogue Basin Coordinator

20 STATE OF OREGON )  
County of Josephine ) ss.

This instrument was acknowledged before me on this 22<sup>nd</sup> day of Sept., 1998,  
by Linda R. Lance.



*[Handwritten Signature]*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/00

STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept, 1998, by  
Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon  
nonprofit corporation.

*[Handwritten Signature: Julia A. Grimes]*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



RECEIVED

DEC 09 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1 and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

Linda R. Lance      12-8-98  
Linda R. Lance      Date

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *Ch 254,040(8) - Permitted Uses - Diversion Points for Irrigation with no structures in floodplain.*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: *Kate Jackson*

Title: *Planner II Jackson County* Date: *Sept 10 1997*

• *Must be authorized signature from your local City/County Planning Department*

## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 32772 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

<del>Garry E.</del> G.L. <del>Garry E.</del> & Gwen G. Scott 10454 East Evans Creek Road Rogue River, OR 97537 (541) 582-4579-Phone	Oregon Water Trust 147 Central Avenue Ashland, OR 97520 (541) 488-6906-Phone
--	---

**2 Water Right Certificate Number and Name**

Rogue River Decree 32772, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate:  $1/50^{\text{th}}$  (0.02) cfs per acre. Applied to 5.82 currently irrigable acres: 0.116 cfs, 49.15 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 2 horse power pump to draw water directly out of Evans Creek at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 2060' of 2" class 200 pvc pipe. The water will be distributed on field through a Kifco B 110 Traveler automatic hose-reel irrigator. The system will discharge 32.76 gpm when fully operating, at the limit of the new paper water right of  $1/80^{\text{th}}$  (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.073 cfs; 30.94 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 5.82 acres being applied for under the conserved water program, 0.043 cfs/18.21 acre feet, be allocated to the state as a permanent instream water right.

The logo for Scott, featuring the word "Scott" in a stylized, cursive font inside a black rectangular box.

**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Scott and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.043 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.

**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

The place and type of use of the remaining right will remain the same as approved under Certificate No. 32772. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

**19 Applicant's Signatures**

<sup>G.L.</sup>  
We, ~~Gary L.~~ & Gwen G. Scott, and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

~~Gary L. Scott~~  
G. L. Scott

Gwen G. Scott

By: *G. L. Scott*  
Gary L. Scott  
G. L. Scott

By: *Gwen G. Scott*  
Gwen G. Scott

Oregon Water Trust

By: *Kerry KenCairn*  
Kerry KenCairn,  
Rogue Basin Coordinator



20 STATE OF OREGON )  
County of ~~Josephine~~ Jackson ) ss.

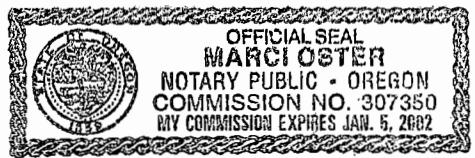
This instrument was acknowledged before me on this 8<sup>th</sup> day of Sept., 1998, by ~~Gary L. Scott~~ G. L. Scott



Marci Oster  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )  
County of ~~Josephine~~ Jackson ) ss.

This instrument was acknowledged before me on this 8<sup>th</sup> day of Sept., 1998, by Gwen G. Scott.



Marci Oster  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of ~~August~~ Sept., 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

Julia A. Grimes  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



RECEIVED

DEC 09 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 1 and the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of our application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to in-stream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for in-stream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that We have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

G. L. Scott 12-4-98  
G. L. Scott Date

Gwen G. Scott 12-5-98  
Gwen G. Scott Date

## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 32772 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *Ch 254.040(B) - Permitted Use: irrigation diversion points with no structures in floodplain*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson

Title: Planner II Jackson County Date: Sept 10 1998

• Must be authorized signature from your local City/County Planning Department

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Dorothy H. Berry  
10342 E. Evans Creek Road  
Rogue River, OR 97537  
(541) 582-4469-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 32772, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate:  $1/50^{\text{th}}$  (0.02) cfs per acre. Applied to 3.5 currently irrigable acres: 0.07 cfs, 29.66 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 2 horse power pump to draw water directly out of Evans Creek at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,065' of 2" class 200 pvc pipe. The water will be distributed on field through a Kifco B 100 Traveler automatic hose-reel irrigator. The system will discharge 19.75 gpm when fully operating, at the limit of the new paper water right of  $1/80^{\text{th}}$  (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.044 cfs; 18.64 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 3.5 acres being applied for under the conserved water program, 0.026 cfs /11.02 acre feet be allocated to the state as a permanent instream water right.



**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Berry and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.026 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.

**Witnessing or Attesting a Signature**

State of OREGON

County of Jackson

Signed or attested before me on 9/11, 19 98 by Jacqueline Smedegaard

Notary Public - State of Oregon

My commission expires: 7/5/2002

*Application to Water Resources  
Department dated 9/1/98*



**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

The place and type of use of the remaining right will remain the same as approved under Certificate No. 32772. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

**19 Applicant's Signatures**

We, Dorothy H. Berry and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

Dorothy H. Berry

Oregon Water Trust

By: Dorothy H. Berry By: Kerry KenCain  
Dorothy H. Berry Kerry KenCain, Rogue Basin Coordinator



20 STATE OF OREGON )  
                  JACKSON                    ) ss.  
County of ~~Josephine~~                )

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_, 1998,  
by Dorothy H. Berry.

NOTARY PUBLIC FOR OREGON  
My Commission Expires:

STATE OF OREGON                                )  
  ) ss.  
County of Jackson                                )

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept, 1998, by  
Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon  
nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



RECEIVED

DEC 07 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

Dorothy H. Berry 12-04-98  
Dorothy H. Berry Date

OK LOTLINE ADJUSTMENT FILE 8-50 LLA CORRECTION Deed 88-1 97 10:34 5.00  
JACKSON CO. PLANNING ~~AMENDMENT~~ BARGAIN AND SALE DEED 10.00

KNOW ALL MEN BY THESE PRESENTS, That ISAIAS DURAN and HELEN F. DURAN

hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto

DOROTHY H. BERRY

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Jackson, State of Oregon, described as follows, to-wit:

That portion of grantor's property lying within the following described boundaries:

RECEIVED

Berry Parcel

DEC 07 1998

WATER RESOURCES DEPT. SALEM, OREGON

Beginning at the Northwest corner of Section 12, Township 35 South, Range 4 West of the Willamette Meridian in Jackson County, Oregon; thence South 50° 50' 50" East along the North line of said Section 900.17 feet; thence South 213.05 feet to a 5/8-inch steel pin on the Southerly line of East Evans Creek Road, the true point of beginning of the herein described tract of land; thence South 5° 02' East 320.21 feet to a 5/8 inch steel pin; thence South 3° 22' 35" East 543 feet to a point in the center of Evans Creek; thence Easterly along the center of said creek 268 feet to the Southeast corner of a tract of land described in Document No. 82-03587, Official Records for Jackson County, Oregon; thence North 6° 50' 33" West 977.5 feet to the Northeast corner of said tract; thence South 63° 55' West 233.52 feet to the true point of beginning.

\* ADJUSTED TAX LOT 409 MAP 35-4W-12

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ LOTLINE ADJUSTMENT Co. Requirement

However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which). (The sentence between the symbols @, if not applicable, should be deleted. See ORS 93.030.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and individuals.

In Witness Whereof, the grantor has executed this instrument this 12th day of August, 1988; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

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.

Isaias Duran  
Helen F. Duran

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

(ORS 194.570)

STATE OF OREGON, County of Jackson ss.

The foregoing instrument was acknowledged before me this 12th day of August, 1988, by Isaias Duran and Helen F. Duran

Jeane D. Hawley Notary Public for Oregon My commission expires: 4/18/91

STATE OF OREGON, County of ) ss.

The foregoing instrument was acknowledged before me this

19, by president, and by secretary of

a corporation, on behalf of the corporation.

Notary Public for Oregon

My commission expires:

(SEAL)

(If executed by a corporation, affix corporate seal)

GRANTOR'S NAME AND ADDRESS  
GRANTEE'S NAME AND ADDRESS  
After recording return to:  
NAME, ADDRESS, ZIP  
Until a change is requested all tax statements shall be sent to the following address:  
Dorothy H. Berry 10342 E. Evans Creek Rd.  
Rogue River, OR 97537  
NAME, ADDRESS, ZIP

STATE OF OREGON  
Court  
Jackson County, Oregon  
Recorded  
OFFICIAL RECORDS  
10:34 AUG 15 1988 A.M.  
KATHLEEN S. BECKETT  
CLERK and RECORDER  
By Amanda Beckham, Deputy  
SPACE RESERVED FOR RECORDER'S USE  
in book page  
ment/n Record  
County  
By

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

## CITY/COUNTY LAND USE INFORMATION (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *On 254,040(8) Permitted Uses - Diversion Points for Irrigation with NO structures in floodplain.*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson  
 Title: Planner # Jackson County Date: 9/10/98

• Must be authorized signature from your local City/County Planning Department

## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 32772 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Robert & Eleanor Burton  
10296 E. Evans Creek Road  
Rogue River, OR 97537  
(541) 582-2346-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 32772 (4.64 acres), Williams Whalen Ditch  
Certificate 49039 (1.50 acres), Williams Whalen Ditch

**3 Priority Date and Source of Water**

32772: 1896; The source of water is Evans Creek, in the Rogue Basin.  
49039: 1975; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

32772 Rate: 1/50<sup>th</sup> (0.02) cfs. Applied to 4.64 currently irrigable acres; 0.093 cfs,  
39.4 acre feet.

49039 Rate: 1/80<sup>th</sup> (0.0125) cfs Applied to 1.50 currently irrigable acres; 0.019 cfs,  
8.05 acre feet

Total combined water available 0.112cfs 47.46 acre feet

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 2 horse power pump to draw water directly out of Evans Creek at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1160' of 1 1/2" class 200 pvc pipe. The water will be distributed on field through a Kifco B 130 Traveler automatic hose-reel irrigator. The system will discharge 32.63 gpm when fully operating, at the limit of the new (32772) and existing (49039) paper water rights, both at a rate of 1/80<sup>th</sup> (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.077 cfs; 32.63 acre-feet.

A black rectangular logo with the word "Burton" written in a white, stylized, cursive font.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 4.64 acres being applied for under the conserved water program, 0.035 cfs /14.83 acre feet, be allocated to the state as a permanent instream water right.

**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to the Burtons' and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.035 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.

**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

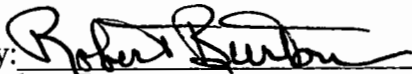
The place and type of use of the remaining right will remain the same as approved under Certificate No. 32772 and Certificate 49039. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

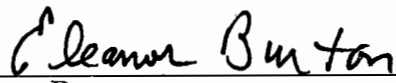
**19 Applicant's Signatures**

We, Robert & Eleanor Burton, and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

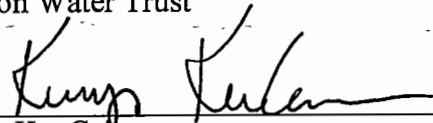
Robert Burton

Eleanor Burton

By:   
Robert Burton

By:   
Eleanor Burton

Oregon Water Trust

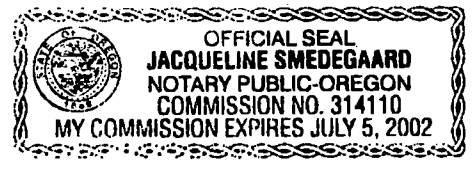
By:   
Kerry KenCairn,  
Rogue Basin Coordinator



20 STATE OF OREGON )  
County of Jackson ) ss.  
~~Josephine~~

This instrument was acknowledged before me on this 11 day of Sept, 1998, by Robert Burton.

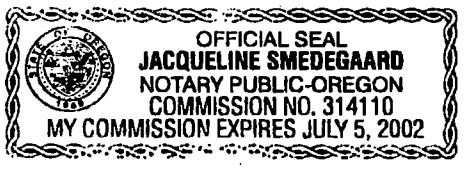
*Jacqueline Smedegaard*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7/5/2002



STATE OF OREGON )  
County of Jackson ) ss.  
~~Josephine~~

This instrument was acknowledged before me on this 11 day of Sept, 1998, by Eleanor Burton.

*Jacqueline Smedegaard*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7/5/2002



STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of ~~August~~ Sept., 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



RECEIVED

DEC 14 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, Township 35 South, Range West, WM. As part of our application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to our property. We are and have been aware since this conserved water project was initiated that a portion of the right appurtenant to our property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. We understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on our property. It is and has been our expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our conserved water application, and to further confirm that We have abandoned any interest in the unexercised portion of the above water right appurtenant to our property, and request the Department permanently cancel that portion of the right through the processing of our conserved water application.

Thank you for your consideration of this acknowledgment and request.

Robert Burton 12-6-98  
Robert Burton Date

Eleanor Burton 12-6-98  
Eleanor Burton Date

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *Ch 254.040(8) Permitted Uses in Floodplain - Diversion Ponds for irrigation with no structures.*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson

Title: Planner Jackson County Date: Sep 10 1998

• Must be authorized signature from your local City/County Planning Department

## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 32772 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

RECEIVED

DEC 14 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

To the Water Resources Department:

We are the applicants for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to our property located in the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, Township 35 South, Range West, WM. In conjunction with this conserved water application, we have also submitted an application for a change in point of diversion for water right 49039, which is appurtenant to our property. We are asking to locate the points of diversion for both these water rights at the same place. Certificate 49039, however, is not a part of the conserved water project and we are not asking for any change in the amount of water allowed under this right.

As part of our application, we submitted a copy of our deed together with a map prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of C. 32772 appurtenant to our property, and also showing the lands under Certificate 49039. We are and have been aware 0.2 acre of the larger 1.7 acres allowed under C. 49039 has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that.

We understand that when the transfer application is approved, the Department will cancel Certificate 49039 and issue a new certificate showing the new point of diversion. It is and has been our expectation that the 0.2 acre portion of Certificate 49039 which has not been exercised would be permanently cancelled off the right and not included in the subsequently-issued certificate confirming the right and the new point of diversion.

We are making this statement to confirm that we are aware of the difference in irrigated acreage between that allowed in our Certificate and that shown on the CWRE map prepared in support of our application, and to further confirm that we have abandoned any interest in the unexercised portion of the above water right appurtenant to 0.2 acre of our property located in the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 12, Township 35 South, Range West, WM. We request the Department permanently cancel that portion of the right through the processing of our application for a change in point of diversion.

Thank you for your consideration of this acknowledgment and request.

Robert Burton 12-6-98  
Robert Burton Date

Eleanor Burton -12-6-98  
Elanor Burton Date



DESCRIPTION OF WATER RIGHT TO BE MOVED TO A NEW P.O.D. ASSOCIATED WITH CWP

Applicant: OREGON WATER TRUST, on behalf of landowners, Robert and Elanor Burton

Mailing Address: OREGON WATER TRUST, 147 Central, Ashland, Oregon 97520 (541) 488-6906

Robert and Elanor Burton, 10296 E. Evans Creek Road, Rogue River, OR 97537 (541) 582-1198

Type of Change: Point of Diversion

LOCATION OF AUTHORIZED USE

What is the source of water ? Evans Creek, tributary to the Rogue River

Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
480 feet North and 860 feet West from the SE Corner, Section 6	SE ¼ SE ¼	6	35 S	4 W., W. M.

What is the name of the ditch used? Williams & Whalen

What is the use to which the water is applied? Irrigation

Give the location of the authorized area irrigated or place of use other than for irrigation:

Township	Range	Section	1/4, 1/4 of Section	No. of acres irrigated
35S	4 W, W.M.	12	NW¼ NW¼	.9 acres
35S	4 W, W.M.	12	NE¼ NW¼	.6 acres

F) Is the land within an irrigation district? Yes \_\_\_\_\_ No X

If Yes, which district?

G) County Jackson County

This application is for transfer of the above described water right Cert 49039, to a new P.O.D. to be associated with the water right on the adjoining 4.64 acres that is part of Decree 32772. The water on the 4.64 acres is part of a Conserved Water Project Application and will be reduced to a .0125 cfs per acre right. The water right for the transfer in question is currently set at .0125 cfs.

Here is the description  
 of Burtons smaller  
 water right









IRRIGATION RIGHTS  
35-4W-01-600  
10735 E. EVANS CREEK ROAD

- Tax Lot 35-4W-01-600 was broken out of Wm. P. and Betty Hillis property in 1946. V 272 page 318
  
- Water Rights Statement of Proof - 1896 see part 9 section A, Wm. Hillis has 1/8 interest in Williams and Whalen Ditch.
  
- Agreement and Deed: V 30 page 223, agreement between Wm. P / M Hillis and Wm. with Williams and Whalen for permission to construct ditch through their properties with 1/2 interest in water flowing through the ditch. In 1896.
  
- 1917 Map showing Wm. Hillis property and interest in water rights to Sykes Creek Ditch and Williams and Whalen Ditch. V 67 page 173
  
- 1953 Map showing Wm. Hillis property and water rights with Morris L. and Ida Raber property broken out. V 272 page 318.
  
- 3 Maps and Sykes Creek information from Water Masters office.
  - I. Map A: Shows our property under Lee Hillis name ( Grandson of Wm. P Hillis)
  - II. Map B: Shows Tax Lots - Ditch drawn wrong, it should be halfway up property, see aerial photograph for a better look.
  - III. Map C: Shows both Sykes Creek ( Hull Ditch) and William and Whalen Ditches watering this section of land. Hull Ditch watering the upper section and the W/W Ditch watering the lower section.
  
- IV. Water rights Statement of Proof 1860 for Wm. Hillis from Sykes Creek ( Hull Ditch).

It is our contention that this section of property had water rights from two sources, the Williams and Whalen Ditch for the lower acre(s) and from the Hull Ditch for the upper acre(s).

STATE OF OREGON

COUNTY OF JACKSON

x 150.

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ISAIAS AND/OR HELEN F. DURAN

of 10296 E. Evans Creek Road, Rogue River, State of Oregon 97537, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of irrigation of 1.7 acres

under Permit No. 38772 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from May 15, 1975

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.02 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, T. 35 S., R. 3 W., W.M.; 480 feet North and 860 feet West from SE Corner Section 6

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- ✓ 1.7 acres NW $\frac{1}{4}$  NW $\frac{1}{4}$   
Section 12  
T. 35 S., R. 4 W., W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date, February 25, 1980

*James E. Larson*  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 42, page 49039

Evans Cr.

15, Vol. 4

Priority - May 15, 1975

# Abstract of Permit No. Rogue River Decree

Application No.

Certificate No. 32772

Name

Mrs. Adele Purrier  
933 N. Tujunja Ave.  
Burbank, California

Address

Source of water supply

Evans Creek, trib. Rogue River

Use

Domestic, stock and irrigation

Point of diversion

Being within SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 6, T. 35 S., R. 3 W., W. M.,  
county of Jackson *Williams & Walker City*

Number of acres  
29.5

mor

## DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
35S	4W	1	10.0															
			<p>acres in that part of the SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math> described as follows:</p> <p>Beginning at the SE corner of the SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math>, Section 1; thence North on the East line of said SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math> 636.1 feet to the center of the county road; thence South 69° 27' West 216.6 feet along said road; thence South 79° 30' West 1,127.7 feet to the West line of the SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math> of Section 1; thence South 356.4 feet to the SW corner of the SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math> of said Section 1; thence East to the point of beginning.</p>															
35S	4W	12	7.6															
			<p>acres in that part of NE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math> lying North of Evans Creek</p> <p>11.9 acres in that part of NW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math> lying North of Evans Creek</p>															

Priority date

1896

Amount of water

0.50 c.f.s.

# Abstract of Permit No. Rogue River Decree

Application No. Certificate No. 32772

Name Mrs. Adele Purrier  
 Address 933 N. Tujunja Ave.  
 Burbank, California

Source of water supply Evans Creek, trib. Rogue River

Use Domestic, stock and irrigation

Point of diversion Being within SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 6, T. 35 S., R. 3 W., W. M.,  
 county of Jackson

Number of acres 29.5

### DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
35S	4W	1	10.0 acres in that part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ described as follows: Beginning at the SE corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 1; thence North on the East line of said SE $\frac{1}{4}$ SW $\frac{1}{4}$ 636.1 feet to the center of the county road; thence South 69° 27' West 216.6 feet along said road; thence South 79° 30' West 1,127.7 feet to the West line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1; thence South 356.4 feet to the SW corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1; thence East to the point of beginning.															
35S	4W	12	7.6 acres in that part of NE $\frac{1}{4}$ NW $\frac{1}{4}$ lying North of Evans Creek 11.9 acres in that part of NW $\frac{1}{4}$ NW $\frac{1}{4}$ lying North of Evans Creek															

Priority date 1896

Amount of water 0.50 c.f.s.

Time limit to begin construction

Time limit to complete construction extended to extended to

Time limit to completely apply water extended to extended to

Remarks:

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NOV 13 1998

EXHIBIT E

WATER RESOURCES DEPT.  
SALEM, OREGON

LANDOWNER CONFIRMATION OF BENEFICIAL USE

We, the landowners of the appurtenant acreage, attest that the water rights described as Certificate No. 49039, has been beneficially used on all of the lands subject to the transfer within the last five years.

Robert Burton

Elanor Burton

By: Robert Burton By: Elanor Burton

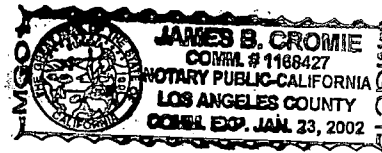
Robert Burton

Elanor Burton

STATE OF CALIFORNIA )  
 ) ss.  
County of LOS ANGELES )

This instrument was acknowledged before me on this 5TH day of NOVEMBER, 1998, by Robert Burton and Elanor Burton.

James B. Cromie  
NOTARY PUBLIC FOR OREGON CALIFORNIA  
My Commission Expires: 01-23-02



THIS IS  
FOR BURTON -  
TRANSFER POD  
CWP COMBO -  
- OLDER RIGHT CWP  
- NEWER POD CHANGE

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Jakob Jauker  
10128 East Evans Creek Rd  
Rogue River, OR 97537  
(541) 582-0461-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Rogue River Decree 32772, Williams Whalen Ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate: 1/50<sup>th</sup> (0.02) cfs per acre. Applied to 2.54 currently irrigable acres: 0.05 cfs, 21.52 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 1 1/2 horse power pump to draw water directly out of Evans Creek at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,440' of 1 1/4" class 200 pvc pipe. The water will be distributed on field through a #65 rainbird that will be quick coupled to a pattern of risers. The system will discharge 14.36 gpm when fully operating, at the limit of the new paper water right of 1/80<sup>th</sup> (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.032 cfs; 13.56 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 2.54 acres being applied for under the conserved water program, 0.018 cfs/7.96 acre feet, be allocated to the state as a permanent instream water right.



**9 Project Schedule**

Project design was completed in April 1998.  
Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Jauker and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.018 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.



**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.

**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

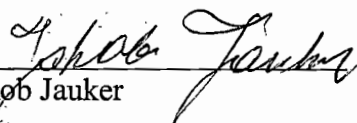
The place and type of use of the remaining right will remain the same as approved under Certificate No. 32772. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights

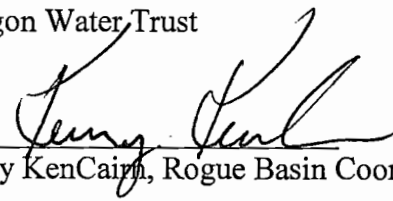
**19 Applicant's Signatures**

We, Jakob Jauker and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

Jakob Jauker

Oregon Water Trust

By:   
Jakob Jauker

By:   
Kerry KenCairn, Rogue Basin Coordinator

20 STATE OF OREGON )

County of ~~Josephine~~ *Jackson* ) ss.

This instrument was acknowledged before me on this 18<sup>th</sup> day of Sept, 1998,  
by Jakob Jauker.



*Marci Oster*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )

County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept, 1998, by  
Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon  
nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires 5-30-2000



RECEIVED

MAR 18 1999

WATER RESOURCES DEPT  
SALEM, OREGON

To the Water Resources Department:

I am the applicant for a conserved water project involving the portion of water right certificate 32772 which is appurtenant to my property located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, Township 35 South, Range West, WM. As part of my application, a map was prepared by a Certified Water Rights Examiner on which were mapped the lands which have been irrigated under the portion of the right appurtenant to my property. I am and have been aware since this conserved water project was initiated that a portion of the right appurtenant to my property has not been exercised for more than 5 years, and that the CWRE-prepared map would illustrate that. I understand that when the conserved water project application is approved, the Department will cancel Certificate 32772 and issue two new certificates, one for the conserved water to instream use and a superceding certificate for the continued use of the remaining water on my property. It is and has been my expectation that the portion of the right which has not been exercised would be permanently cancelled off the right and not included in either of the subsequently-issued certificates for instream and out of stream use.

I am making this statement to confirm that I am aware of the difference in irrigated acreage between that allowed in my Certificate and that shown on the CWRE map prepared in support of my conserved water application, and to further confirm that I have abandoned any interest in the unexercised portion of the above water right appurtenant to my property, and request the Department permanently cancel that portion of the right through the processing of my conserved water application.

Thank you for your consideration of this acknowledgment and request.

Jakob Jauker      3-15-89  
Jakob Jauker      Date



# Oregon

John A. Kitzhaber, M.D., Governor

RECEIVED

MAR 18 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 1, 1998

Jakob Jauker  
10128 E. Evans Creek Rd.  
Rogue River OR 97537

Dear Mr. Jauker:

I am writing to thank you for working with the Oregon Water Trust in developing and submitting an application for a conserved water project. I have been working with Kerry KenCairn of the Oregon Water Trust in processing this application. It is delightful to see Evans Creek residents, and the creek itself, benefitting from this action.

As you were previously informed, the CWRE-prepared map for the Williams-Whalen Conserved Water Project showed that there are currently less acres irrigated than the several paper water rights had allowed. For example, water right Certificate 32772 which is appurtenant to your land and to four other adjoining properties is for irrigation of a total of 10 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 7.6 acres lying north of Evans Creek in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 and 11.9 acres lying north of Evans Creek in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12. However, the actual irrigated lands involved in the applications under Certificate 32772, as shown on the CWRE map, are for slightly less than these amounts. There is 1 acre in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, 1.18 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 1.82 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 12 unaccounted for in the conserved water applications and CWRE map and which have been lost through nonuse.

These unirrigated acres are subject to cancellation due to nonuse over the past 5 or more years. As part of the conserved water project process, it is necessary for the Department to account for all acres involved and to cancel those acres from which the water right has been forfeited through nonuse. To accomplish this, I am asking that you please read over the enclosed statement and verify your understanding that these 'unaccounted for' acres are to be cancelled by signing and returning the attached statement. A stamped and addressed envelope is also enclosed for your convenience. This will not affect the amount of water or the acres available to irrigate under your new water right which will be issued as a result of your conserved water project.

Thank you again for your time and I apologize for any inconvenience this late-coming detail may cause.

Sincerely,

Weisha Mize  
SW Region Liaison

1-800-624-3199 Ex. 238

cc: Kerry KenCairn, OWT  
Watermaster, District 13

Mize 15-99  
Bob Rice

WATER RIGHT TRANSFER APPLICATION MAP

T. 35 S. R. 04 W. W.M.  
SYKES CREEK and WILLIAMS & WHALEN DITCH

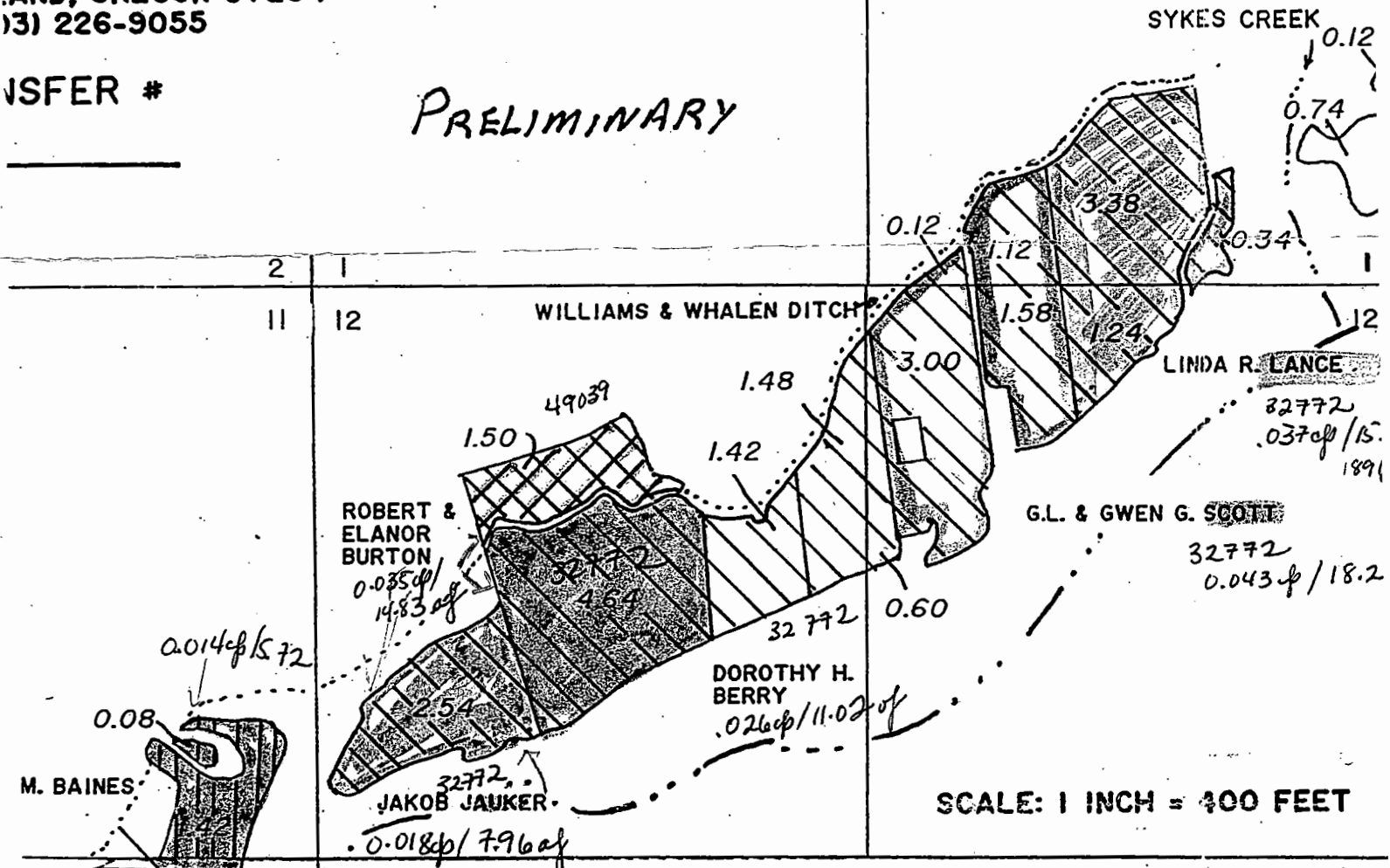
PREPARED FOR:  
MASON WATER TRUST  
111 FRONT AVE., SUITE 404  
SEASIDE, OREGON 97204  
(503) 226-9055

TRANSFER #

PRELIMINARY

RECEIVED

MAR 18 1999  
WATER RESOURCES DEPT.  
SALEM, OREGON



M. BAINES  
0.08  
0.014 cfd / 5.72  
1.20  
& IRENE E. LOPER  
42 921  
0.009 cfd / 3.81 af  
1696



Certified Water Right Examiner  
#123 WRE  
Jonathan C. Spero  
Nov. 19, 1987  
STATE OF OREGON  
SURVEYOR'S REGISTRATION  
LICENSE RENEWAL DATE:  
JUNE 30, 1998

	DECR
	CERT.
	CERT.
	CERT.
	DECR

PREPARED BY:  
JONATHAN C. SPERO C.W.R.E. 123  
1002 KINCAID RD./P.O. BOX 16  
WILLIAMS, OREGON 97544  
PH. (541) 846-6845

THIS MAP IS FOR THE  
IDENTIFYING THE LOCATION  
WATER RIGHT ONLY, INTEN-  
DED TO PROVIDE INFORMATION  
ON OWNERSHIP LINES.

ISWR Vol 50 p 853 11/16/96 for 0.055 cfd from intake near RM 11 to RM 16

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project  
complies with statewide planning goals and is compatible  
with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning  
official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *Ch 24040(8) Permitted Use - Diversion Point for Irrigation with no structures in the floodplain.*
- This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance. (Cite appropriate plan policies, ordinance section, and case numbers).
- Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

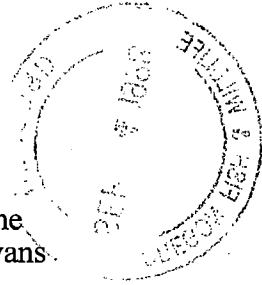
\* Signature of Local Official: Kate Jaeger

Title: Planner Jackson County Date: Sept 11 1998

• Must be authorized signature from your local City/County Planning Department

**EXHIBIT A**

**PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT**



I believe that the water rights described as Certificate No. 32772 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

Dora M. Baines  
9876 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-0345-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Certificate No. 42921 Williams Whalen Ditch  
Certificate No. 42921 through transfer T-4037

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate: 1/50<sup>th</sup> (0.02) cfs per acre. Applied to 1.8 currently irrigable acres: 0.036 cfs,  
15.25 acre feet.

**5 Description of the Previous System**

The applicant flood irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 1 ½ horse power pump to divert water at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 1,260' of 1¼" class 200 pvc pipe. The water will be distributed on field with a portable #65 rainbrd, the system will incorporate a pattern of risers with quick coupler attachments for the Rainbird. The system will discharge 9.87 gpm when fully operating, at the limit of the new paper water right of 1/80<sup>th</sup> (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.022 cfs; 9.53 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 1.8 acres being applied for under the conserved water program, 0.014 cfs / 5.72 acre feet be allocated to the state as a permanent instream water right.





**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Baines and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

**12 Places of Use of Conserved Water Right**

The applicants are proposing that all of the conserved water (0.014 cfs) be allocated to a permanent instream water right. The conserved water will not be used out-of-stream.

**13 Stream Reach of Conserved Water Right**

The reach of the instream water right will start at the existing point of diversion near RM 11 and end at RM 8. This right will be added to the instream right of 0.055 cfs created under the order for allocation of conserved water approved on November 16, 1996, found at Special Order Volume 50, Page 853.

**14 Detailed Map**

A detailed map of the areas affected by the conservation measures which meets the standards in OAR 690-11-070 is attached as Exhibit A.

**15 Project Costs**

Since the applicants are requesting allocation of 100% of the saved water to an instream water right, the project costs are immaterial to the allocation of conserved water.

**16 Resolution of Other's Concerns**

The project has been considered and approved by the Evans Creek Watershed Council (ECWC), which is made up of water right holders and other interested residents of the Evans Creek Basin. Exhibit B is the cover of the GWEB application submitted by the ECWC.

**17 Irrigation District/Water Control District Approval**

The conservation project is not located within an irrigation district or water control district.

**18 Land Use Information**

The place and type of use of the remaining right will remain the same as approved under Certificate No. 42921. The conserved water will be allocated to a permanent instream water right. The land use served by the right is existing and consistent with the county comprehensive plan. See exhibits: Land use Form, Original Water Rights.

**19 Applicant's Signatures**

We, Dora M. Baines and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

Dora M. Baines

By: *Dora M. Baines*  
Dora M. Baines

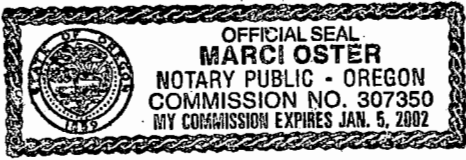
Oregon Water Trust

By: *Kerry KenCairn*  
Kerry KenCairn, Rogue Basin Coordinator

20 STATE OF OREGON )

County of ~~Josephine~~ Jackson ) ss.

This instrument was acknowledged before me on this 11<sup>th</sup> day of Sept, 1998, by Dora M. Baines.



*Marc Oster*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )

County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept, 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Comm Expires 5-30-2000



## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 42921 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for anadromous and resident fish will likely be improved within the reach of the instream water right.
- live flow from Evans Creek to the Rogue River is more likely to remain throughout the irrigation season, allowing juvenile fish to migrate effectively in response to changes in habitat conditions; and
- passage for certain migrating anadromous fish into Evans Creek could be improved.

Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

# LAND USE INFORMATION SHEET

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180)

**CITY/COUNTY LAND USE INFORMATION** (to be completed by local planning official):

Please check below the one that applies:

- This project is not regulated by the local comprehensive plan and zoning ordinance.
- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *254.040(8) Permitted Uses - Diversion Points for Irrigation with NO Structures in Floodplain.*
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_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson

Title: Planner II Jackson County Date: Sept 10 1998

• Must be authorized signature from your local City/County Planning Department

**Application to the Water Resources Department  
for Allocation of Conserved Water  
September 1, 1998**

Submitted Per ORS 690-18-040

**1 Name of Applicants**

John W. & Irene E. Loper  
9868 East Evans Creek Road  
Rogue River, OR 97537  
(541) 582-9753-Phone

Oregon Water Trust  
147 Central Avenue  
Ashland, OR 97520  
(541) 488-6906-Phone

**2 Water Right Certificate Number and Name**

Certificate No. 42921, Williams Whalen ditch

**3 Priority Date and Source of Water**

1896; The source of water is Evans Creek, in the Rogue Basin.

**4 Amount of Water Available Under Original Right**

Rate:  $1/50^{\text{th}}$  (0.02)cfs per acre. Applied to 1.2 currently irrigable acres: 0.024 cfs, 10.17acre feet.

**5 Description of the Previous System**

The applicant flood and sprinkle irrigated out of the Williams Whalen Ditch. The Williams Whalen Ditch was managed by a ditch association.

**6 Description of the New System**

The applicant will install a 1 1/2 horse power pump to divert water at the new pod. The location of the new pod has been identified and will be shown as part of the final proof. Included in the pump installation is an ODFW approved strainer type fish screen and a meter to control flow and usage. Water will be brought to the field through 980' of 1 1/4" class 200 pvc pipe. The water will be distributed on field with a portable #35 rainbird, the system will incorporate a pattern of risers with quick coupler attachments for the rainbird. The system will discharge 6.73 gpm when fully operating, at the limit of the new paper water right of  $1/80^{\text{th}}$  (.0125) cfs per acre.

**7 Amount of Water Needed Under New System**

0.015 cfs; 6.36 acre-feet.

**8 Allocation of Conserved Water**

The applicants propose that 100 percent of the conserved water from the 1.2 acres being applied for under the conserved water program 0.009 cfs/3.81 acre-feet, be allocated to the state as a permanent instream water right.



**9 Project Schedule**

Project design was completed in April 1998.

Materials and supplies will be delivered to the property in the late summer of 1998.

Installation of the new system will occur during the late summer/early fall of 1998.

The applicants will file the notice of project completion by March 31, 1999.

The applicants request that the allocation be finalized pursuant to OAR 690-18-062(3) concurrently with approval of this application and that the superseding certificate for the remaining right be issued to Loper and a certificate for an instream right be issued for the conserved water prior to the 1999 irrigation season pursuant to OAR 690-18-062(4).

**10 Effects of Proposed Allocation on Other Appropriators**

The proposed allocation of the conserved water as an instream water right will not effect other appropriators. The water which the applicants are proposing to conserve was previously lost during conveyance and field application due to seepage and evaporation.

**11 Planned Mitigation Measures**

No mitigation measures are necessary to avoid harm to other water rights.

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**19 Applicant's Signatures**

We, John W. & Irene E. Loper, and Oregon Water Trust, applicants, hereby swear that we have read the above application for allocation of conserved water and the statements made are true and correct.

John W. Loper

Irene E. Loper

By: *John W. Loper*  
John W. Loper

By: *Irene E. Loper*  
Irene E. Loper

Kerry KenCairn

By: *Kerry KenCairn*  
Kerry KenCairn, Rogue Basin Coordinator  
Oregon Water Trust



20 STATE OF OREGON )  
County of ~~Josephine~~ Jackson ) ss.

This instrument was acknowledged before me on this 8<sup>th</sup> day of Sept., 1998, by John W. Loper.



*Marci Oster*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )  
County of ~~Josephine~~ Jackson ) ss.

This instrument was acknowledged before me on this 8<sup>th</sup> day of Sept., 1998, by Irene E. Loper.

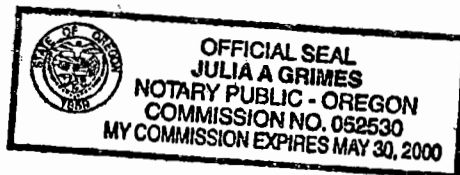


*Marci Oster*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/5/02

STATE OF OREGON )  
County of Jackson ) ss.

This instrument was acknowledged before me on this 2<sup>nd</sup> day of Sept., 1998, by Kerry KenCairn, as Rogue Basin Coordinator of Oregon Water Trust, an Oregon nonprofit corporation.

*Julia A. Grimes*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5-30-2000



## EXHIBIT A

## PUBLIC USE PROVIDED BY INSTREAM WATER RIGHT

I believe that the water rights described as Certificate No. 42921 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Evans Creek, tributary to the Rogue River, if permanently converted to an instream water right. Specifically, the following benefits will likely be provided:

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Dated: 9/4/98

Signed: Mike Evenson  
Mike Evenson  
ODFW Fisheries Biologist  
Central Point, Oregon

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Please check below the one that applies:

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- This project has been reviewed and is compatible with the local comprehensive zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers.) *254,040(8) Diversion Points for Irrigation is a permitted use as long as no structures are in floodplain*
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_____ Conditional Use Permit	_____ Development Permit
_____ Plan Amendment	_____ Zone Change
_____ Other	

An application has \_\_\_ has not \_\_\_ been made for the local approvals checked above.

\* Signature of Local Official: Kate Jackson

Title: Planner Jackson County Date: Sept 10 1998

• Must be authorized signature from your local City/County Planning Department

RECEIVED

NOV 18 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

## Evans Creek Watershed Council

P.O. Box 12  
Gold Hill, Oregon 97525

Telephone (541) 855-5463

February 27, 1997

The Governor's Watershed Enhancement Board  
255 Capitol St. NE, 3rd Floor  
Salem, Oregon 97310-0203

Dear Board Members:

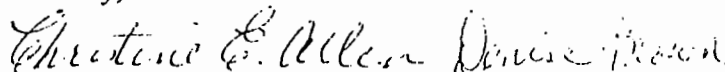
Thank you for considering Evans Creek Watershed Council's grant proposals.

The Evans Creek Watershed Council is concerned with the health of the Evans Creek Watershed and the quality of life for the people living within it. The council works to improve both, through supporting voluntary efforts by local landowners. The Watershed Council promotes the concept of ecosystem based management with an emphasis on biodiversity and people.

A goal of ECWC as stated in our "Integrated Landscape Management Plan" proposal is: to become an umbrella organization under which any organization or individual involved in natural resource management, as it relates to the environment and community development, could look to for assistance in arranging relationships that benefit people, community and the environment. These projects reflect progress towards that goal. By attacking these large issues with the cooperation of community and the support of government, the council show it's ability to be the tie that binds.

The Evans Creek Watershed Council promotes an ecosystem based management approach. Ridgetop to ridgetop are interrelated. Water quality for health and streamside habitat can not be separated. Our programs address the watershed as a whole instream, streamside and upslope. As a populated valley, human actions are the number one problem and also the number one solution. The needs of the community, of the individual and the needs of the environment do not need to be mutually exclusive. We all can learn to work together.

Sincerely,



Christine Allen and Denise Brown  
Evans Creek Watershed Council

CA/

Enclosures: Grant Applications, Maps, Pictures