

COX 6656

ASSIGNED

Name JAMES B. COX  
By 2215 NE MCKAY CREEK ROAD  
Address 307109 MCKAY ROAD  
PRINEVILLE, OR 97754

6656

DESCRIPTION OF WATER RIGHT

Name of stream MCKAY CREEK  
Trib. of CROOKED RIVER County of CROOK  
Use POD, POW  
Quantity of water \_\_\_\_\_ No. of acres \_\_\_\_\_  
Name of ditch WARD DITCH  
Date of priority 1896, 1907 & 1917  
In name of B.F. ALLEN, I.W. WARD  
\_\_\_\_\_ Adjudication, Vol. 40, page 47485  
App. No. 512 Per. No. 3517 Cert. No. 2428  
51561  
Certificate cancelled \_\_\_\_\_  
Notation made on record by \_\_\_\_\_

Change in POD, POW  
Date filed 12/18/91  
Date of hearing \_\_\_\_\_  
Place of hearing \_\_\_\_\_  
Date of order 4/12/01 Vol. 55, page 21  
Date for application of water 10/1/02  
Proof mailed \_\_\_\_\_  
Proof received \_\_\_\_\_  
Certificate issued \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_

| FEES PAID   |           |             |
|-------------|-----------|-------------|
| Date        | Amount    | Receipt No. |
| 12-18-91    | 305.00    | 81994       |
| 10-15-18    | 100.00    | 128208      |
| 10/31/18    | 670.00    | 128333      |
| TOTAL . . . |           |             |
|             | Cert. Fee |             |

| FEES REFUNDED |        |           |
|---------------|--------|-----------|
| Date          | Amount | Check No. |
| MD 12-8-00    | 190.00 | 013026    |

REMARKS

process part cancel (file 512) at time transfer is processed  
10/23/2018 Assigned Joel Ledain 2100 NE McKay Creek Rd. Prineville, Or. 97754  
Ext FO: 11-15-2018 v. 109 pg. 954

| INDEX CARDS:        | Entered |     |
|---------------------|---------|-----|
| Map                 | ---     | --- |
| Process             | ---     | --- |
| Pt. of Adv.         | ---     | --- |
| Order               | ---     | --- |
| CHECKED TO RECORDS: |         |     |
| Trp. & Clm.         | ---     | --- |
| Decree-adv.         | ---     | --- |
| Decree-adv.         | ---     | --- |
| Cert. of W/R        | ---     | --- |
| Pat. Folder         | ---     | --- |
| Case Files          | ---     | --- |
| Green Roll          | ---     | --- |
| Power Claim         | ---     | --- |
| Abstracts           | ---     | --- |

POW - ~~Yes~~ ?

COMMENTS

TPE

ITEMS NEEDED

LAND USE FORM

COPY OF DEED

A-5712

P-3517

C-2428

Mr David Armstrong

541-447-7791

? Fish Screen

?

? RR cont.



# Oregon

Kate Brown., Governor

Department of Fish and Wildlife  
The Dalles Screen Shop  
3561 Klindt Drive  
The Dalles, OR 97058  
(541) 296-8026  
FAX (541) 296-7889  
odfw.com

May 7, 2019

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

Joel LeDain  
2100 NE McKay Creek Rd  
Prineville, OR 97754

RE: Transfer T-6656



To Whom It May Concern,

This letter is in regards to fish screening and by-pass requirements set forth in Oregon Water Resources Department Transfer T-6656. This Transfer approves a change in points of diversion from McKay Creek to Helm Ditch and McCord Ditch, approximately 6 miles north of Prineville, OR.

I met with Mr. Joel LeDain on March 27, 2019 to discuss state and federal fish screening criteria and to discuss methods and techniques to modify existing screens or fabricate new screens to be compliant with National Marine Fisheries Service (NMFS) standards. After the site visit, Mr. LeDain opted to fabricate new screens based on the NMFS criteria I provided. On April 26, 2019, I returned to inspect the two screens fabricated for use at the PODs associated with T-6656. The screen material and surface area of both screens were compliant with NMFS standards. Depending on placement in the creek, the surface area of the screen material on the newly fabricated screens will effectively protect salmonids between 1.7-2.3 cfs for the smaller diversion, and 2.06-2.74 cfs for the larger diversion. These protection rates greatly exceed the maximum amount of water estimated to be withdrawn through the diversions.

In order to continue to meet NMFS criteria, these homemade screens need to be properly cared for and maintained, and used correctly. The water user is responsible for ensuring the screens continue to meet NMFS standards, and to repair the screens if they are damaged or no longer meet criteria. With the proper care, maintenance, and upkeep of the fabricated screens, the fish screening requirement for T-6656 is satisfied. There are no by-pass requirements that need to be addressed.

If you have any questions in regards to this letter, please contact me at 541-296-8026.

Sincerely,

Hilary A. Doulos  
Fish Screen and Passage Coordinator

RECEIVED

MAY 10 2019

OWRD

CC: Natasha Bellis- Deschutes River Conservancy



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone (503) 986-0900  
Fax (503) 986-0904  
[www.Oregon.gov/OWRD](http://www.Oregon.gov/OWRD)

November 15 2018

Loel Ledain  
2100 NE McKay Creek Rd.  
Prineville, OR 97754

REFERENCE: File Transfer T-6656

We have received your application for extension of the time limit to make complete application of water under Transfer T-11926. We also have your check in the amount of \$670.00. A copy of receipt number 128333 is enclosed.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to October 1, 2019. The order approving the extension was entered November 15, 2018, at Volume 109, Page 954.

If you have any questions, please contact the department at 503-986-0900.

Warmest regards,

Tamera Smith  
Transfers and Conservation Section  
Oregon Water Resources Department

cc: Watermaster #11, via email  
File, T-6656

Enclosure



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

In the Matter of Application for Extension    )  
of Time for Transfer Application T-6656,    )  
Crook County                                    )

FINAL ORDER APPROVING AN  
EXTENSION OF TIME

**Applicant**

JOEL LEDAIN  
2100 NE MCKAY CREEK RD  
PRINEVILLE, OR 97754

**Authority**

Oregon Administrative Rules (OAR) 690-380-5140(2) authorizes the Department to grant an extension of time to complete a transfer.

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time to complete a transfer as authorized by a final order issued under OAR Division 380.

OAR 690-380-6020(3) establishes that extensions are granted for one year, from October 1 to October 1 of each year. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence.

**Findings of Fact**

1. On October 15, 2018, the Department received an application for extension of time for Transfer Application T-6656.
2. On January 12, 2001, the Department signed an order, which was mailed on January 12, 2001, approving Transfer Application T-6656. The order was recorded in Special Order Volume 55, Pages 21 - 24. The order set a transfer completion date of October 1, 2002.
3. Since the approval of the transfer, the applicant has made the changes in places of diversion and places of use.
4. To fully complete the change, the applicant needs to install fish screens or fish by-pass devices.
5. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2019. Consistent with OAR 690-380-6020, the applicant provided sufficient

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a 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 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

justification in the extension application to grant an extension for more than one year. The Department will extend the transfer completion date to October 1, 2019.

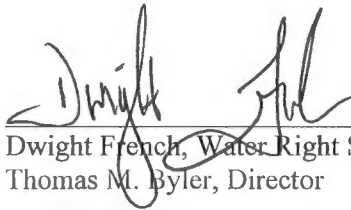
**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-6656.

**Now, therefore, it is ORDERED:**

The time for completion of the changes authorized by Transfer Application T-6656 shall be extended to **October 1, 2019**.

Dated at Salem, Oregon this NOV 15 2018.



Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director

Mailing date: NOV 16 2018



Transfer T- 6654

APPLICATION FOR EXTENSION OF TIME  
FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at [http://www.oregon.gov/owrd/pubs/docs/forms/transfer\\_extension\\_criteriareview.pdf](http://www.oregon.gov/owrd/pubs/docs/forms/transfer_extension_criteriareview.pdf)

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Joel Ledain and Jean Wang  
(Name of Applicant)

of 2100 NE McKay Creek Rd., Prineville  
(Mailing Address) (City)

state of Oregon, 97754, 541-447-1909  
(Zip Code) (Phone Number)

do hereby make application for an extension of time within which to complete a change in:  
point of diversion/appropriation place of use character of use  
of water under the terms of an order of the Water Resources Director entered on \_\_\_\_\_, 20\_\_\_\_,  
approving Transfer \_\_\_\_\_, in the name of \_\_\_\_\_,  
for \_\_\_\_\_

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expired on October 1, 2002:

POD changes  
POU changes

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:

screen diversions

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because I am a new owner. The transfer was initiated before I purchased property.

The Department is authorized to grant extensions for one year, from October 1 to October 1 of each year. An extension for up to five years may be granted for transfers involving municipal or quasi-municipal use. Extensions may be granted for longer time if the applicant can justify the need for a longer period of time by submission of pertinent evidence. OAR 690-380-6020 (2) and OAR 690-380-7200 (5).

And request that the time for completion be extended to October 1, 2019. ?

(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at <http://www.oregon.gov/OWRD/> or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

\$670.00

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OCT 15 2018  
OWRD

Extension Fee

Subject: Extension Fee  
From: SMITH Tamera L \* WRD <Tamera.L.Smith@oregon.gov>  
Date: 10/25/2018 8:27 AM  
To: "jzl00@comcast.net" <jzl00@comcast.net>

Good morning, Joel:

Great to hear from you this morning. As we discussed, you are all set on the assignment. This is a form you filled out and paid \$100 to have the water right transfer file T-6656 put into your name.

You also included an extension application which will allow you to prove up on the beneficial use of the water, as the completion date has already passed. There is a fee for the extension, which was not included in your packet. Please send a check for \$670.00 for the extension application.

As soon as the Department receives the fees, I can begin working on the extension for you.

If you have any questions, please let me know.

Have a wonderful day!

Kindest regards,

.....  
**Tamera Smith** | Natural Resource Specialist, Restoration Program Technician

725 Summer St. NE, Suite A | Salem, Oregon 97301 | Phone: 503.986.0898

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OCT 31 2018  
OWRD



**STATE OF OREGON**

**COUNTY OF CROOK**

**ORDER APPROVING A CHANGE IN POINTS OF DIVERSION, PLACE OF USE AND  
PARTIAL CANCELLATION OF A WATER RIGHT**

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 6656 submitted by

JAMES B. COX  
2215 NE M<sup>c</sup>KAY CREEK ROAD  
PRINEVILLE, OREGON 97754.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County as evidenced by a PORTION of Certificate 51561. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 499. The date of priority is 1907.

The right allows the use of M<sup>c</sup>KAY CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 5.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.07 cubic foot per second, if available at the authorized point of diversion: M<sup>c</sup>CORD DITCH - SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, SECTION 28, T 13 S, R 16 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its

**This is a final order in other than a 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 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.**

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equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

NW¼ SE¼ 5.7 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, 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 place of use to:

SW¼ NE¼ 5.7 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

The second right to be modified, as evidenced by a portion of Certificate 2428, was perfected under Permit 3517 with a date of priority of August 30, 1917. The right allows the use of McKAY CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 21.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.27 cubic foot per second, if available at the authorized point of diversion: LAFOLLETTE AND ALLEN DITCH - SE¼ SW¼, SECTION 22, T 13 S, R 16 E, W.M.; N 78° 20' EAST 2343 FEET FROM THE SW CORNER, SECTION 22, 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:

SE¼ NW¼ 3.0 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST W.M.

The applicant proposes to change the point of diversion to: HELM DITCH - SW¼ SE¼, SECTION 28, T 13 S, R 16 E, W.M.; 1320 FEET NORTH AND 660 FEET EAST FROM THE S¼ CORNER, SECTION 28.

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The authorized place of use is located as follows:

NE¼ SW¼ 18.5 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

The applicant proposes to change the point of diversion to: McCORD DITCH - SW¼ NE¼, SECTION 33 T 13 S, R 16 E, W.M.; 1980 FEET SOUTH AND 630 FEET EAST FROM THE N¼ CORNER, SECTION 33.

An affidavit was received from JAMES B. COX, the owner of certain lands and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled.

The abandoned right is a portion of the right described by Certificate 2428, State Record of Water Right Certificates. The abandoned water right is for the use of 0.09 cubic foot per second from McKAY CREEK, a tributary of THE CROOKED RIVER. The date of priority is AUGUST 30, 1917. The abandoned water right is for the irrigation of 7.5 acres.

A description of the place of use of the abandoned right is as follows:

SW¼ NE¼ 2.7 ACRES  
NE¼ SW¼ 1.0 ACRES  
NW¼ SE¼ 3.8 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right."

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

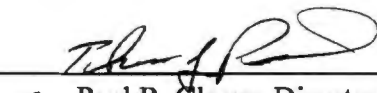
1. The proposed change shall be completed on or before October 1, 2002.

2. The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points 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.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. The former place of use shall no longer be irrigated as a part of this water right.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Pursuant to the affidavit of cancellation filed by James B. Cox, the right to irrigate 7.5 acres under Permit 3517 not involved in this transfer is canceled. Certificates 2428 and 51561 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources Director, affixed 1/12/2001.

  
 \_\_\_\_\_  
 Paul R. Cleary, Director

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**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **128333**

INVOICE # \_\_\_\_\_

RECEIVED FROM: McKay Creek Family Ranch LLC  
BY: \_\_\_\_\_

|             |        |
|-------------|--------|
| APPLICATION |        |
| PERMIT      |        |
| TRANSFER    | T-6656 |

CASH:  CHECK:#  2618 OTHER: (IDENTIFY)  \_\_\_\_\_

TOTAL REC'D \$ 670.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES \$ \_\_\_\_\_  
OTHER: (IDENTIFY) \$ \_\_\_\_\_

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS** 40110

0407 COPY & TAPE FEES \$ \_\_\_\_\_

0410 RESEARCH FEES \$ \_\_\_\_\_

0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

0240 EXTENSION OF TIME \$ 670.00

**WATER RIGHTS:**

|                    |          |      |            |
|--------------------|----------|------|------------|
| 0201 SURFACE WATER | EXAM FEE | 0202 | RECORD FEE |
| 0203 GROUND WATER  | \$ _____ | 0204 | \$ _____   |
| 0205 TRANSFER      | \$ _____ |      |            |

**WELL CONSTRUCTION**

|                             |          |      |             |
|-----------------------------|----------|------|-------------|
| 0218 WELL DRILL CONSTRUCTOR | EXAM FEE | 0219 | LICENSE FEE |
| LANDOWNER'S PERMIT          | \$ _____ | 0220 | \$ _____    |

OTHER (IDENTIFY) \_\_\_\_\_

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE \$ \_\_\_\_\_ CARD # \_\_\_\_\_

0210 MONITORING WELLS \$ \_\_\_\_\_ CARD # \_\_\_\_\_

OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FWWRD) \_\_\_\_\_ \$ \_\_\_\_\_

0231 HYDRO LICENSE FEE (FWWRD) \_\_\_\_\_ \$ \_\_\_\_\_

HYDRO APPLICATION \_\_\_\_\_ \$ \_\_\_\_\_

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_

OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_

DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **128333**

DATED: 10-31-18 BY: V. Jilinski

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A

SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **128208**

INVOICE # \_\_\_\_\_

RECEIVED FROM: McKay Creek Family Ranch LLC  
BY: \_\_\_\_\_

|             |        |
|-------------|--------|
| APPLICATION |        |
| PERMIT      |        |
| TRANSFER    | T-6656 |

CASH:  CHECK:#  2606 OTHER: (IDENTIFY)

**TOTAL REC'D \$ 100.00**

**1083 TREASURY 4170 WRD MISC CASH ACCT**

|                   |    |
|-------------------|----|
| 0407 COPIES       | \$ |
| OTHER: (IDENTIFY) | \$ |

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

|                                |           |
|--------------------------------|-----------|
| 0407 COPY & TAPE FEES          | \$        |
| 0410 RESEARCH FEES             | \$        |
| 0408 MISC REVENUE: (IDENTIFY)  | \$ 100.00 |
| TC162 DEPOSIT LIAB. (IDENTIFY) | \$        |
| 0240 EXTENSION OF TIME         | \$        |

**WATER RIGHTS:**

|                    |          |      |            |
|--------------------|----------|------|------------|
| 0201 SURFACE WATER | EXAM FEE | 0202 | RECORD FEE |
| 0203 GROUND WATER  | \$       | 0204 | \$         |
| 0205 TRANSFER      | \$       |      |            |

**WELL CONSTRUCTION**

|                             |          |      |             |
|-----------------------------|----------|------|-------------|
| 0218 WELL DRILL CONSTRUCTOR | EXAM FEE | 0219 | LICENSE FEE |
| LANDOWNER'S PERMIT          | \$       | 0220 | \$          |
| OTHER (IDENTIFY)            |          |      |             |

**0536 TREASURY 0437 WELL CONST. START FEE**

|                           |    |        |
|---------------------------|----|--------|
| 0211 WELL CONST START FEE | \$ | CARD # |
| 0210 MONITORING WELLS     | \$ | CARD # |
| OTHER (IDENTIFY)          |    |        |

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

|                                 |  |    |
|---------------------------------|--|----|
| 0233 POWER LICENSE FEE (FW/WRD) |  | \$ |
| 0231 HYDRO LICENSE FEE (FW/WRD) |  | \$ |
| HYDRO APPLICATION               |  | \$ |

**TREASURY OTHER / RDX**

|                   |                |    |
|-------------------|----------------|----|
| FUND _____        | TITLE _____    |    |
| OBJ. CODE _____   | VENDOR # _____ |    |
| DESCRIPTION _____ |                | \$ |

RECEIPT: **128208**

DATED: 10-15-18 BY: [Signature]



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone (503) 986-0900  
Fax (503) 986-0904  
[www.Oregon.gov/OWRD](http://www.Oregon.gov/OWRD)

October 19, 2018

McKay Creek Family Ranch, LLC  
2100 NE McKay Creek Rd.  
Prineville, Oregon 97754

Reference: Transfer T-6656

The assignment by proof from James B. Cox to Joel Ledain has been recorded in the records of the Water Resources Department.

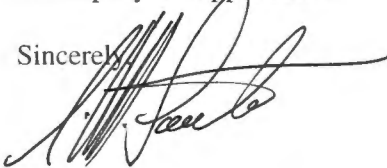
The Departments records will now show Joel Ledain as the transfer holder of record.

Our records have been changed accordingly and the original request is enclosed. Receipt number 128208 covering the recording fee is also enclosed.

A transfer is not a perfected water right, and has conditions and timelines that must be satisfied prior to a Certificate of Water Right being issued. Please review the transfer to be familiar with the conditions and timelines contained in the transfer.

Please note that this transfer required complete application of water to the proposed use by October 1, 2002, and within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE). As of this date, the claim of beneficial use has not been received by the Department.

The application you submitted for Extension of Time is being returned as the required fee did not accompany the application.

Sincerely,  


Jerry Sauter  
Water Rights Program Analyst  
Water Right Services Division

Enclosure: Receipt 128208, application for Extension of Time

cc: Watermaster 11  
James B. Cox  
Data Center, OWRD (cover letter & request)  
File





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

# Request for Assignment By Proof of Ownership (If Water Right Holder is Not Available)

If the Department determines that the application is incomplete, fees have not been paid, or the required documents are not acceptable, the application and all fees submitted will be returned to the applicant.

If for multiple rights, a separate form and fee for each right will be required.

I, Joel Ledain  
 (Name of Party Requesting Assignment)  
2100 NE McKay Creek Rd. Prineville OR 97754 541-447-1909  
 (Mailing Address) (City) (State) (Zip) (Phone #)

- hereby request assignment of an entire application/permit/transfer/limited license/groundwater statement; hereby request
- assignment of a portion of application/permit/transfer/limited license/groundwater statement; (You must include a map showing the portion of the application/permit/transfer/limited license/groundwater statement to be assigned.)

Application # \_\_\_\_\_; Permit # \_\_\_\_\_; Transfer # T-6656  
5565;  
 Limited License # \_\_\_\_\_; Groundwater Statement # \_\_\_\_\_;

James B. Cox  
 (Name of Current Holder of Record)  
2215 NE McKay Creek Rd. Prineville OR 97754  
 (Mailing Address) (City) (State) (Zip) (Phone #)

**Note:** Write the initials (first letters) of your first and last names at the spots indicated below \_\_\_\_\_.

- 1) SL I certify that I am the current owner of the property described in this application, permit, transfer order, limited license, or groundwater statement. I have attached proof of ownership that may include but not be limited to: a copy of the deed to the land, a copy of a land sales contract, a court order or decree, documentation of survivorship of property held jointly. The Department cannot accept a copy of a tax statement.
- 2) JL I have the legal right to request assignment under OAR 690-310-0280 and 690-320-0060.
- 3) JL I have not been able to contact the owner(s) of record for the above referenced transaction. I have attached proof acceptable to the Department that notice of the assignment has been given or attempted for each identified property owner not a party to the assignment. ORS 537.220(2) Failure to submit this proof will result in the return of your request. (Proof may include but not be limited to: a copy of returned certified mailing, copy of a Death Certificate, or a court order.)
- 4) JL I further certify that the information provided herein is true and correct to the best of my knowledge.

Witness my hand this 12 day of October 2018.  
 (Day) (Month) (Year)

Signature of Party Requesting Assignment \_\_\_\_\_

**Failure to provide any of the required information will result in the return of your application.**

ASSIGN PROOF  
 JL 10/17/2018

**DO NOT WRITE IN THIS BOX**

This certifies assignment and record change at Oregon Water Resources Department effective 8:00 a.m. on date of receipt at Salem, Oregon. Fee receipt # 128208  
 For Director by Jerry Sauter, Program Analyst in Water Rights Division

The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of \$100.

Las... Assignment if Permit Holder not available

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### Chapter 690

#### Division 310

#### WATER RIGHT APPLICATION PROCESSING

##### 690-310-0280

##### Assignment of Application

##### Assignment or change of ownership of application:

(1) When a change of interest or ownership occurs in lands covered by a pending application the record holder may request, in writing, the Director to record the assignment to the new owner;

(2) Should the record holder of the application be unavailable, the current owner of the property involved may furnish proof of such ownership to the Commission to obtain ownership of the application. The Department shall also record a change in ownership to an heir or devisee under a will upon receiving proof of death of the record holder, or to a trustee upon receiving proof of a transfer to trust by the record holder. Proof of ownership of the involved lands shall include, but not be limited to one or more of the following documents:

- (a) A copy of the deed to the land;
- (b) A copy of a land sales contract;
- (c) A court order or decree; or
- (d) Documentation of survivorship of property held jointly.

**Statutory/Other Authority:** ORS 536.027

**Statutes/Other Implemented:** ORS 537.220 & 537.635

##### History:

WRD 3-2007, f. 3-28-07, cert. ef. 3-29-07

WRD 1-1996, f. & cert. ef. 1-31-96

Please use this link to bookmark or link to this rule.

v1.7.4

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**2017 ORS 537.220<sup>1</sup>****Assignment of application, permit or license**

- (1) Any application, permit or license to appropriate water may be assigned, subject to the conditions of the application or permit, but no such assignment shall be binding, except upon the parties to the assignment, unless filed for record in the Water Resources Department.
- (2) An assignment of an application, permit or license to appropriate water filed for record with the Water Resources Department shall identify the current record owners of all property described in the application, permit or license. The assignor shall furnish proof acceptable to the department that notice of the assignment has been given or attempted for each identified property owner not a party to the assignment. [Amended by 1985 c.673 §34; 1995 c.367 §1]

---

<sup>1</sup> Legislative Counsel Committee, *CHAPTER 537—Appropriation of Water Generally*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors537.html](https://www.oregonlegislature.gov/bills_laws/ors/ors537.html) (2017) (last accessed Mar. 30, 2018).

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Western Title & Escrow

|  |
|--|
| <b>Grantor</b>   |
| Aaron Semas<br>Tami Semas<br>PO Box 123<br>Dennis, TX 76439  |
| <b>Grantee</b>   |
| McKay Creek Family Ranch, LLC<br>Attn: Joel E. Ledain & Jean H. Wang<br>2100 NE McKay Creek Rd, Prineville, OR 97754   |
| Until a change is requested, all tax statements shall be sent to the following address:                                |
| McKay Creek Family Ranch, LLC<br>Attn: Joel E. Ledain & Jean H. Wang<br>2100 NE McKay Creek Rd<br>Prineville, OR 97754 |

Crook County Official Records  
DEED-D  
Pgs=2  
\$10.00 \$11.00 \$21.00 \$2.00  
\$5.00 \$10.00  
2015-267710  
04/13/15 03:23 PM  
Total: \$59.00



I, Cheryl Seely, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Cheryl Seely - County Clerk



Reserved for Recorder's Use

**STATUTORY WARRANTY DEED**

Aaron Semas and Tami Semas, as tenants by the entirety as to Parcel One and Aaron Semas as to Parcel Two Grantor(s) convey and warrant to McKay Creek Family Ranch, LLC, Grantees the following described real property free of encumbrances except as specifically set forth herein:

**Parcel One:**

The Southeast quarter of the Northwest quarter (SE1/4NW1/4), South half of the Northeast quarter (S1/2NE1/4), Northeast quarter of the Southwest quarter (NE1/4SW1/4), North half of the Southeast quarter (N1/2SE1/4) and Southeast quarter of the Southeast quarter (SE1/4 SE1/4) of Section 33; in Township 13 South of Range 16 East of the Willamette Meridian, Crook County, Oregon.

**Parcel Two:**

The Southwest quarter of the Northwest quarter (SW1/4NW1/4) and the West half of the Southwest quarter (W1/2SW1/4) of Section 34; in Township 13 South of Range 16 East of the Willamette Meridian, Crook County, Oregon.

Account: 8937, 251, 234  
Map & Tax Lot: 131633 00 00600 & 04500

This property is free of encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$1,725,000.00. (Here comply with requirements of ORS 93.030.)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Executed this 3 day of April, 2015

Aaron Semas by Tami Semas  
Aaron Semas as his Attorney  
In fact

*Tami Semas*  
Tami Semas

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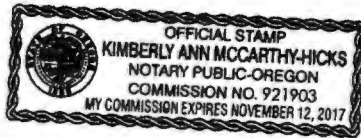
Return to Western Title & Escrow

APR 14 2015

98718

240

State of Oregon, County of Crook ) ss.  
This instrument was acknowledged before me on this 13 day of April, 2015 by **Aaron Semas and Tami Semas** \* *by Tami Semas as her attorney in fact*  
KAM Hicks  
Notary Public for the State of Oregon  
My commission expires: 11-12-2017



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Crook County Official Records **2016-273522**  
DEED-D  
Pg=3  
\$15.00 \$11.00 \$21.00 \$2.00  
\$5.00 \$10.00  
04/11/16 01:45 PM  
Total: \$64.00

AFTER RECORDING RETURN TO:

Jill D. Laney  
Cosgrave Vergeer Kester LLP  
500 Pioneer Tower  
888 SW Fifth Ave.  
Portland, OR 97204



I, Cheryl Seely, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Cheryl Seely - County Clerk



UNTIL A CHANGE IS REQUESTED  
SEND TAX STATEMENTS TO:

McKay Creek Family Ranch, LLC  
2100 NE McKay Creek Road  
Prineville, OR 97754

ENTERED APR 12 2016

*This space is reserved for recorder's use.*

**BARGAIN AND SALE DEED**

McKay Creek Family Ranch, LLC, Grantor, with an address of 2100 NE McKay Creek Road, Prineville, OR 97754, conveys to McKay Creek Family Ranch, LLC, Grantee, with an address of 2100 NE McKay Creek Road, Prineville, OR 97754, the following described real property situated in the County of Crook, State of Oregon:

See Exhibit A.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The true consideration for this conveyance is value received other than monetary consideration.

Dated: March 4, 2016.

[Signature Pages to Follow]

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**GRANTOR**

McKay Creek Family Ranch, LLC, an Oregon limited liability company,

By: Joel Ledain and Jean Wang, as Co-Trustees of the Ledain and Wang Revocable Trust u/a/d July 30, 2013 its sole member and manager

By: [Signature]  
Name: Joel Ledain, Co-Trustee of the Ledain and Wang Revocable Trust u/a/d July 30, 2013  
Title: Member

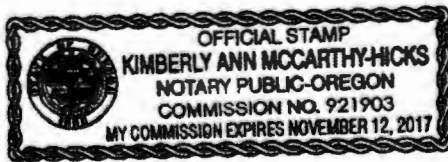
By: [Signature]  
Name: Jean Wang, Co-Trustee of the Ledain and Wang Revocable Trust u/a/d July 30, 2013  
Title: Member

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STATE OF OREGON )  
County of Crook ) ss.

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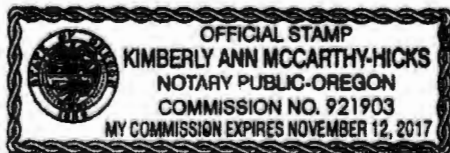
This instrument was acknowledged before me on March 4, 2016 by Joel Ledain, as Co-Trustee of the Ledain and Wang Revocable Trust u/a/d July 30, 2013.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 11-12-2017

STATE OF OREGON )  
County of Crook ) ss.

This instrument was acknowledged before me on March 4, 2016 by Jean Wang, as Co-Trustee of the Ledain and Wang Revocable Trust u/a/d July 30, 2013.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 11-12-2017

Exhibit A  
Legal Description

**A PARCEL OF LAND LOCATED IN SECTION 33, T.13S., R.16E., W.M., CROOK COUNTY, OREGON.**

Legal Description - Boundary Line Adjustment - McKay - After Adjustments  
In Township 13 South, Range 16 East, W.M., Crook County, Oregon.

Section 33: The Southeast one-quarter Northwest one-quarter (SE1/4 NW1/4); the South one-half Northeast one-quarter (S1/2 NE1/4); the Northeast one-quarter Southwest one-quarter (NE1/4 SW1/4); the North one-half Southeast one-quarter (N1/2 SE1/4) and the Southeast one-quarter Southeast one-quarter (SE1/4 SE1/4).

Excepting Therefrom: A parcel of land located in the Southeast one-quarter Northwest one-quarter (SE1/4 NW1/4) of Section 33, Township 13 South Range 16 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the Northwest corner of said SE1/4 NW1/4 of Section 33, said point marked by a 5/8" iron rod, thence North 89°53'12" East along the North line of said SE1/4 NW1/4 of Section 33 a distance of 82.79 feet; thence South 02°58'06" East a distance of 28.28 feet; thence South 80°58'03" West a distance of 16.21 feet; thence South 09°21'32" East a distance of 117.41 feet; thence South 01°45'53" West a distance of 343.87 feet to the Westerly right-of-way line of NE McKay Creek Road, as now located and constructed; thence along said right-of-way line around a 655.00 feet radius curve left a distance of 254.00 feet, long cord bears South 12°16'54" West, 252.42 feet; thence South 01°10'20" West along said right-of-way line a distance of 138.64 feet; thence North 88°49'40" West a distance of 19.78 feet to the West line of said SE1/4 NW1/4 of Section 33; thence North 00°01'43" West along said west line a distance of 875.01 feet to the Point of Beginning.

Together With: A parcel of land located in the Northeast one-quarter Northwest one-quarter (NE1/4 NW1/4) of Section 33, Township 13 South Range 16 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the Southwest corner of said NE1/4 NW1/4 of Section 33, said point marked with a 5/8" iron rod, thence North 89°53'12" East along the South line of said NE1/4 NW1/4 of Section 33 a distance of 82.79 feet to the True Point of Beginning; thence North 89°53'12" East along said South line a distance of 687.66 feet to the Westerly right-of-way line of NE McKay Creek Road, as now located and constructed; thence North 69°36'20" East along said Westerly right-of-way line a distance 20.45 feet; thence North 04°55'39" East a distance of 57.21 feet; thence North 85°17'54" West a distance of 184.12 feet; thence South 04°53'24" West a distance of 16.65 feet; thence North 87°52'21" West a distance of 199.34 feet; thence North 85°39'09" West a distance of 151.19 feet; thence North 89°23'54" West a distance of 164.39 feet; thence South 15°52'12" West a distance of 52.18 feet; thence South 02°58'06" East a distance of 34.43 feet to the True Point of Beginning.

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REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Gregory R. Kelso*  
OREGON 6/29/15  
JANUARY 21, 1997  
GREGORY R. KELSO  
2796  
RENEWED 6/30/15  
2360603

**Conversations with Semas**

**To:** File

**Date:** May 18, 2010

**Present:** Aaron Maxwell, Jeremy Giffin, Mike Harington, Garry Sanders, Aaron Semas

**Discuss:** T6656, instream diversions, POD changes, McKay Switch

**The Issue:**

The McKay Water Switch proposes to permanently transfer McKay Cr irrigation water rights instream. In exchange, irrigator s will receive OID water to apply to those lands previously covered by McKay Creek water rights. The current project design will restore 8.36cfs to McKay Creek and eliminate the need for screened and unscreened irrigation diversions which currently block fish passage. The project currently includes 7 landowners. There are preliminary plans to extend the project upstream to the USFS boundary. In order for water rights to be transferred instream they must be certificated. Aaron Semas currently has a number of acres that remain inchoate as part of Transfer 6656 which was final ordered in 2001. No Claim of Beneficial Use (COBU) has been submitted to the Department. The COBU was supposed to be submitted in October of 2002. A certified water rights examiner (CWRE) must submit the COBU and document that the following 6 conditions have been met.

- 1) *The proposed change shall be completed on or before October 1, 2002*
- 2) *The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of of water lawfully available at the original points of diversion.*
- 3) *When required by the Department, the water user shall install and maintain a headgate, an in-law 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 the beginning of construction and shall be installed under the general supervision of the Department.*
- 4) *Water shall be acquired from the same surface water source as the original point of diversion.*
- 5) *The former place of use shall no longer be irrigated as part of this water right.*
- 6) *The water user shall install and maintain a fish screen by-pass device. The type and plans of the screen or by-pass device must be approved by ODFW prior to beginning construction and shall be installed under the supervision of ODFW.*

Once water rights become certificated the DRC will submit an instream transfer application to OWRD. Processing the application can take anywhere from 1-2 years. Construction of the project is expected to being in winter 2011. Construction cannot begin unless it is certain that the instream transfer process will be completed by March of 2012. It is therefore crucial that a COBU be submitted and accepted by the department soon. The DRC will use reimbursement authority to expedite that the process once the 6 conditions have been met and COBU has been submitted.



**Addressing each condition on T6656:**

- 1) *The proposed change shall be completed on or before October 1, 2002*

This is interpreted to mean that a COBU should have been submitted by Oct 1, 2002. Failure to have done this does not result in the cancellation of water rights. However, if conditions 2-5 have not been met by this time then a file for an extension of time is required prior to submitting a COBU. However, recent conversations with OWRD have encouraged meeting the conditions and then filing a COBU without first filing for an extension.

- 2) *The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.*

Approximately 15 additional acres that do not have a water right and are located in the SWNE of T13S, R16E, Sec28 are being irrigated from the same diversion (pump located just below McCord Ditch) that also serves 5.7 acres located in same  $\frac{1}{4}$  with a water right. Aaron Semas will not receive an OID water right for the 15 illegally watered acres. However, he will have the opportunity through the McKay Water Switch to define where he may apply his water rights within the OID boundary. It is anticipated that 15 acres that are currently unproductive but that have McKay Cr water rights will be available to move to the 15 acres of productive ground currently watered without a water right following the completion of eth project.

Question for Jeremy and CRWE: Will condition 2 be met in the COBU given these facts?

- 3) *When required by the Department, the water user shall install and maintain a headgate, an in-law 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 the beginning of construction and shall be installed under the general supervision of the Department.*

No request for a measuring device has been made by the Department at this time.

- 4) *Water shall be acquired from the same surface water source as the original point of diversion.*

All water currently comes from McKay Creek.

- 5) *The former place of use shall no longer be irrigated as part of this water right.*

5.7 acres are no longer being irrigated in NWSE Sec 33, T13S, R16E. Is this correct?

- 6) *The water user shall install and maintain a fish screen by-pass device. The type and plans of the screen or by-pass device must be approved by ODFW prior to beginning construction and shall be installed under the supervision of ODFW.*

The points of diversion to which this applies are the Helm Ditch Diversion located upstream on Parga's property, and the McCord Ditch Diversion located on Semas' property. The Helm ditch serves only Semas. The McCord Ditch serves Semas and a downstream landowner.

The Crooked River Watershed Council currently has plans to screen the Helm ditch and redesign the diversion to allow fish passage until the diversion can be removed altogether following the McKay Water Switch. The diversion is scheduled to be screened in Sept 2010. The screen will be purchased from the Farmers Conservation Alliance (FCA) and sold back to FCA following the completion of the McKay Water Switch. A letter from ODFW approving of the design and timeline to screen the Helm Ditch Diversion could satisfy Condition 6 today.

The McCord Ditch is no longer used and has been filled in. The diversion structure remains intact. A screened pump located just below the diversion serves the 5.7 acres listed in T6656. This pump also serves the 15 illegally watered acres.

Approximately 800' downstream of the McCord Ditch Diversion is a screened pump that feeds into a main line and delivers water to lands that were previously served by the McCord ditch prior to it being filled in. This pump is leased to Aaron Semas for \$0 by the CRWC. The CRWC council purchased the pump using OWEB funds in order to eliminate fish entrainment in the McCord ditch. The pump will be returned to CRWC when the McKay Water Switch is completed and instream diversions are no longer needed.

Oregon water law requires that a transfer be submitted in order for a change in the point of diversion greater than 500' to occur. No transfer was submitted in case described in the above paragraph. As previously mentioned, a transfer cannot be submitted until a water right is certificated. The water right associated with the McCord Ditch remains inchoate under T6656. From both an irrigation and conservation standpoint the current pumping configuration is favored over the use of the McCord ditch. If the pump and mainline that currently serve as the McCord Ditch were located within 500' of the McCord Ditch Diversion, Condition #6 would be met today and the McCord Ditch Diversion and fish barrier could be removed this fall.

**Other Issues:**

The Ward Ditch Diversion located between the Helm Ditch and the McCord Ditch is unscreened and blocks fish passage. There is currently no requirement to screen this diversion. The CRWC would like to work with Aaron Semas to screen this diversion and provide fish passage.

Semas has supplemental groundwater right that covers all his irrigated land. A COBU was issued for this right but the department has not issued a certificate.

EMAILS:

Aaron, I talked with our Salem certificate section about the Aaron Semas transfer (T-6656) final proof that is needed. Because this transfer is so old it has the old less restrictive fish screening language of

"The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife."

Newer permits and transfers have more restrictive language of "prior to diversion of water" which is more of a fatal flaw if they divert without the screen in place. Permits are also more restrictive than transfers in getting extensions of time and meeting conditions. So the two options we have for final proof are,

1- Have a final proof done now with a letter from ODFW that says a fish screen was in place on the ditch prior to the date of October 1, 2002 that met ODFW fish screening criteria at the time.

or

2-Apply for an extension of time and then have a final proof survey done with a letter from ODFW that says the screen is in and meets the current screening criteria.

JB Cox had sent in a letter when the order was signed in 2001 protesting the fish screening requirement saying he should not be required to have the screens since he applied for the transfer in 1991 and the department should have finished the transfer by 1993, prior to the fish screening requirement. I could not find any response to the letter so I assume that he was denied on his protest. As for the other issue of the POD added by the watershed council and Semas 700' downstream from the authorized POD, If the POD was added and the lands were changed before the date of October 1, 2002 then we can probably change the additional POD location to reflect this new pump location. otherwise it is the belief of the Certificate section that this is just too far from the requested POD to be added to the new certificate and a new transfer will need to be applied for after this transfer is final proofed. This information should be forwarded to the CWRE in charge of the final proof.

We are going to have the same exact issues with the final proof at the Keystone Ranch in the upcoming days, the only difference being that the Keystones fish screening language was more restrictive. When I last talked with Leonard he said he had worked something out on the fishscreens with ODFW back when the order was approved??? Do you remember any of this Brett?

Jeremy

In regards to the POD change-

The POD change was not made prior to 2002 so we would have to submit another transfer after the final proof or T6656 is made. However, how do you submit a final proof on a diversion that essentially no longer exists. The McCord Ditch is filled in and no longer being used. Doesn't the CRWE have to document that the POD's are in the correct location for the COBU to be accepted? Or are you suggesting that the COBU can be submitted in conjunction with a POD Transfer? Kind of a chicken before the egg question.

A

Exactly. If the CWRE cannot show the applicant is using the POD that was requested it will not be allowed on the new certificate. It is in Aarons best interest to be pumping from the Mccord ditch location when the CWRE shows up. -J

Technically the "C" date is October 1 of 2002 which is the deadline for completing the survey, however the landowner/CWRE has 1 year from that date to submit the claim to the department. These older orders are not very clear about that.

--J

Tough spot. Essentially, Semas would have to create a bulge in the small piece of ditch that is remaining, pump from that and somehow connect to buried main line from the pump that he currently uses. That would also mean that we are faced with a unscreened diversion (McCord Ditch) vs a screened pump (new diversion). Though would a screened pump coming out of the McCord Ditch constitute a screened diversion?

--

**Meeting May 27, 2010**

**David Armstrong CWRE, Jeremy Giffin, Brett Hodgson, Aaron Maxwell**

**Resolutions:**

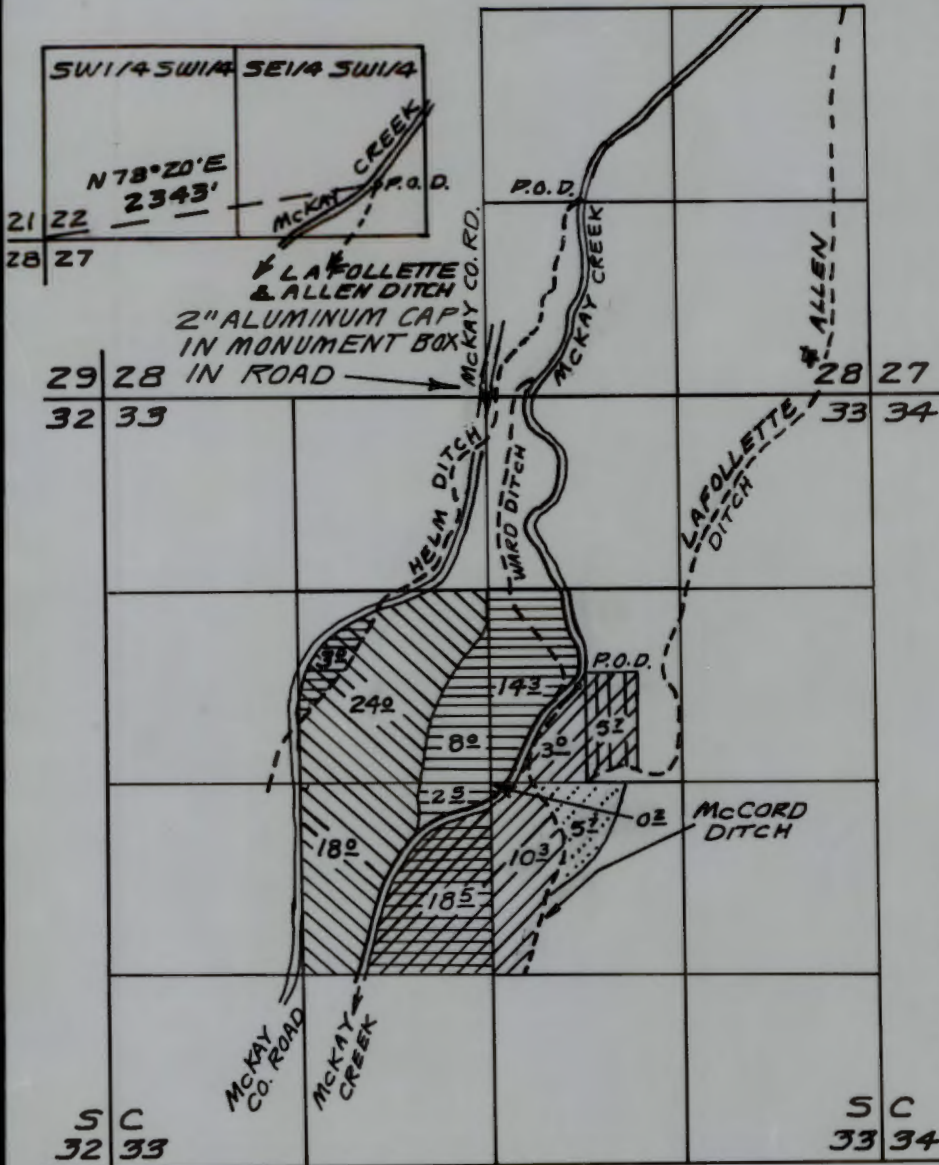
Will wait for CRWC to screen the Helm Ditch in Sept prior to submitting the COBU. ODFW unable to write an exemption letter.

Need to file for an extension with the state. Who should file for extension? Who should pay for extension.

Need to move Semas' pump to the McCord POD and pump water into mainline to deliver to acres.

T.13S., R.16E., W.M.








T-6656



PREPARED FOR  
 JAMES B. COX  
 2215 N.E. MCKAY CR. RD.  
 PRINEVILLE, OR 97754  
 (541) 447-5474  
 HELM DITCH P.O.D.  
 LOCATED 1320' NORTH  
 & 660' EAST OF S1/4  
 COR. SEC. 28  
 McCORD DITCH P.O.D.  
 LOCATED 1980' SOUTH  
 & 630' EAST OF N1/4  
 COR. SEC. 33



**LEGEND**

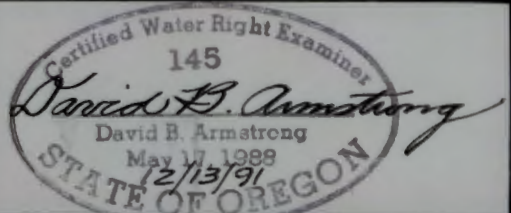
-  HELM DITCH DIVERSION  
 C. NO. 51561~P.D. 1896  
 SE1/4 NW1/4 - 24.0 AC.  
 NW1/4 SW1/4 - 18.0 AC.
-  C. NO. 2428~P.D. 1917  
 SE 1/4 NW1/4 - 3.0 AC.  
 PUMP & SPRINKLE ABOVE  
 DITCH
-  WARD DITCH DIVERSION  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 8.0 AC.  
 SW1/4 NE1/4 - 14.3 AC.  
 NE1/4 SW1/4 - 2.5 AC.  
 NW1/4 SE1/4 - 0.2 AC.
-  McCORD DITCH DIVERSION  
 C. NO. 51561~P.D. 1907  
 NW1/4 SE1/4 - 10.3 AC.  
 SW1/4 NE1/4 - 8.7 AC.
-  C. NO. 2428~P.D. 1917  
 NE1/4 SW1/4 - 18.5 AC.
-  WATER ON
-  WATER OFF

**SURVEY NOTE**

THE PREPARATION OF THIS MAP  
 IS FOR THE PURPOSE OF IDENTIFYING THE

THE  
 HAS NO  
 DIVISIONS  
 RTY  
 USED 11-2-00

NG  
 INC.  
 7754  
 D 9-14-98  
 25-91



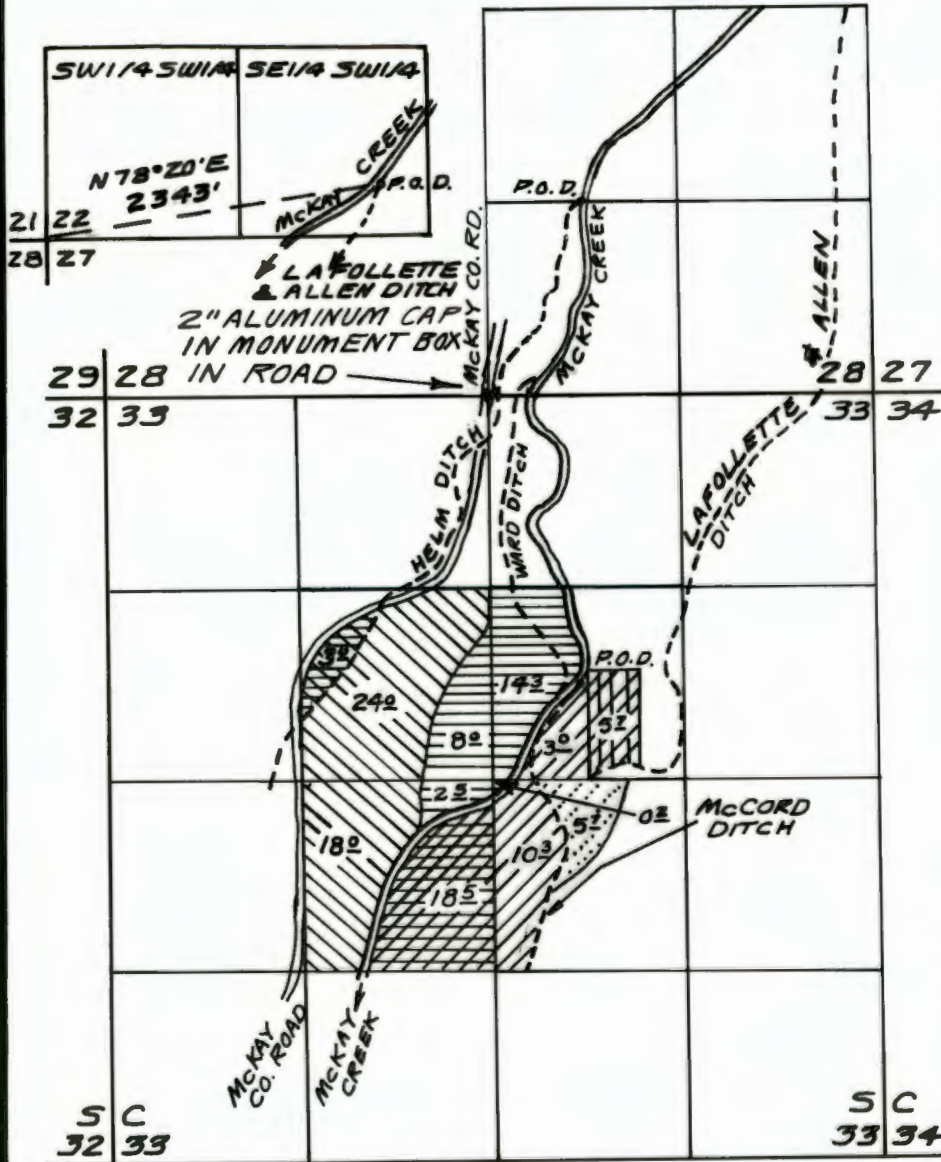
W. O. 91-829-B

T-6656  
 map  
 to Jeremy  
 today






T.13S., R.16E., W.M.

T-6656

PREPARED FOR  
**JAMES B. COX**  
 2215 NE MCKAY CR. RD.  
 PRINEVILLE, OR 97754  
 [541] 447-5474  
 HELM DITCH P.O.D.  
 LOCATED 1320' NORTH  
 & 660' EAST OF S1/4  
 COR. SEC. 28  
 McCORD DITCH P.O.D.  
 LOCATED 1980' SOUTH  
 & 630' EAST OF N1/4  
 COR. SEC. 33



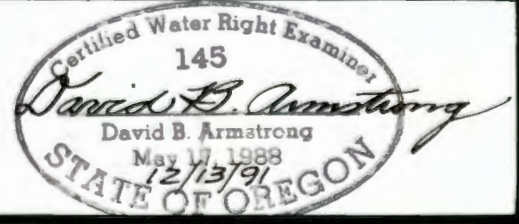
**LEGEND**

-  HELM DITCH DIVERSION  
 C. NO. 51561~P.D. 1896  
 SE1/4 NW1/4 - 24.0 AC.  
 NW1/4 SW1/4 - 18.0 AC.  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 3.0 AC.  
 PUMP & SPRINKLE ABOVE  
 DITCH
-  WARD DITCH DIVERSION  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 8.0 AC.  
 SW1/4 NE1/4 - 14.3 AC.  
 NE1/4 SW1/4 - 2.5 AC.  
 NW1/4 SE1/4 - 0.2 AC.
-  McCORD DITCH DIVERSION  
 C. NO. 51561~P.D. 1907  
 NW1/4 SE1/4 - 10.3 AC.  
 SW1/4 NE1/4 - 8.7 AC.  
 C. NO. 2428~P.D. 1917  
 NE1/4 SW1/4 - 18.5 AC.
-  WATER ON
-  WATER OFF

**SURVEY NOTE**

THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES. **REVISED 11-2-00**

**ARMSTRONG SURVEYING & ENGINEERING, INC.**  
 378 EAST SECOND ST.  
 PRINEVILLE, OREGON 97754  
 [541] 447-7791 **REVISED 9-14-98**



SCALE: 1" = 1320'      DATE: 11-25-91

W. O. 91-829-B



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

May 16, 2001

James B. Cox  
2215 NE McKay Creek Road  
Prineville, OR 97754

RE: Corrected Remaining Right Certificates — Transfer Application T-6656

Dear Mr. Cox:

Consistent with the Final Order on Petition For Reconsideration of Transfer Application T-6656, the Department has corrected Water Right Certificates 76675, 76676, 76677, 76678 and 76679. Enclosed are the corrected and superseding certificates.

Sincerely,

Greg Nelson

Field Services Division

Phone: 503-378-8455, extension 285

Fax: 503-378-8130

E-Mail: [Greg.L.Nelson@wrp.state.or.us](mailto:Greg.L.Nelson@wrp.state.or.us)

enclosures

c: Kyle Gorman, District 11 Watermaster





STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 24.0 ACRES, STOCK AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1899.

The use is limited to 0.30 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:

PROSE DITCH.

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

SE $\frac{1}{4}$  SE $\frac{1}{4}$                     11.0 ACRES  
SECTION 28

NE $\frac{1}{4}$  NE $\frac{1}{4}$                     13.0 ACRES  
SECTION 33

TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

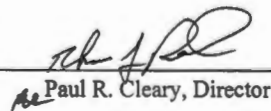
This certificate is issued to correct a scrivener's error in the certificate recorded at page 76679, State Record of Water Right Certificates, and supercedes Certificate 76679.

This certificate describes that portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director approving Transfer Application 6656 entered on January 12, 2001, and recorded at Special Order Volume 55, Page 21.

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 14 2001                    .

  
\_\_\_\_\_  
Paul R. Cleary, Director

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 36.0 ACRES, STOCK AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1897.

The use is limited to 0.45 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:

ALLEN DITCH.

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

|         |            |
|---------|------------|
| NW¼ SE¼ | 13.0 ACRES |
| SW¼ SE¼ | 21.0 ACRES |
| SE¼ SE¼ | 2.0 ACRES  |

SECTION 21  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

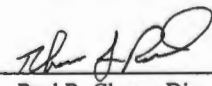
This certificate is issued to correct a scrivener's error in the certificate recorded at page 76678, State Record of Water Right Certificates, and supercedes Certificate 76678.

This certificate describes that portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director approving Transfer Application 6656 entered on January 12, 2001, and recorded at Special Order Volume 55, Page 21.

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 14 2001.

  
\_\_\_\_\_  
for Paul R. Cleary, Director

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 24.0 ACRES, STOCK AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1891.

The use is limited to 0.30 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:

LISTER DITCH.

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

NW¼ NE¼            9.0 ACRES  
SW¼ NE¼            15.0 ACRES  
SECTION 28  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

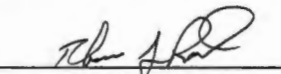
This certificate is issued to correct a scrivener's error in the certificate recorded at page 76677, State Record of Water Right Certificates, and supercedes Certificate 76677.

This certificate describes that portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director approving Transfer Application 6656 entered on January 12, 2001, and recorded at Special Order Volume 55, Page 21.

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 14 2001          

  
\_\_\_\_\_  
for Paul R. Cleary, Director

T-6656d.bwb

Recorded in State Record of Water Right Certificates numbered 76918.

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 13.3 ACRES, STOCK AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1907.

The use is limited to 0.17 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:

McCORD DITCH - SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 28, T 13 S, R 16 E, W.M..

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

SW $\frac{1}{4}$  NE $\frac{1}{4}$                       3.0 ACRES  
NW $\frac{1}{4}$  SE $\frac{1}{4}$                       10.3 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

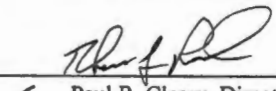
This certificate is issued to correct a scrivener's error in the certificate recorded at page 76676, State Record of Water Right Certificates, and supercedes Certificate 76676.

This certificate describes that portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director approving Transfer Application 6656 entered on January 12, 2001, and recorded at Special Order Volume 55, Page 21.

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 14 2001.

  
\_\_\_\_\_  
for Paul R. Cleary, Director

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 42.0 ACRES, STOCK AND DOMESTIC USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1896.

The use is limited to 0.53 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:

HELM DITCH.

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

|  |            |
|--|------------|
| SE $\frac{1}{4}$ NW $\frac{1}{4}$      | 24.0 ACRES |
| NE $\frac{1}{4}$ SW $\frac{1}{4}$      | 18.0 ACRES |
| SECTION 33                             |            |
| TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M. |            |

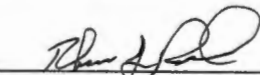
This certificate is issued to correct a scrivener's error in the certificate recorded at page 76675, State Record of Water Right Certificates, and supercedes Certificate 76675.

This certificate describes that portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director approving Transfer Application 6656 entered on January 12, 2001, and recorded at Special Order Volume 55, Page 21.

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 14 2001    

  
\_\_\_\_\_  
Paul R. Cleary, Director

T-6656b.bwb

Recorded in State Record of Water Right Certificates numbered 76916.

*Certificate*

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 24.0 ACRES. *Domestic & Stock ✓*

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1899.

The use is limited to 0.30 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:

PROSE DITCH.

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

SE¼ SE¼                    11.0 ACRES  
SECTION 28

NE¼ NE¼                    13.0 ACRES  
SECTION 33

TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

This certificate describes a portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered 1/12/01, approving Transfer Application 6656.

*v 55 p. 21 ✓*

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 1/12/2001.

*Paul R. Cleary*  
\_\_\_\_\_  
for Paul R. Cleary, Director

*cancel*  
*76920*

Recorded in State Record of Water Right Certificates numbered 76679.

T-6656f.bwb

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 36.0 ACRES. ✓

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1897.

The use is limited to 0.45 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:

ALLEN DITCH.

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

|         |            |
|---------|------------|
| NW¼ SE¼ | 13.0 ACRES |
| SW¼ SE¼ | 21.0 ACRES |
| SE¼ SE¼ | 2.0 ACRES  |

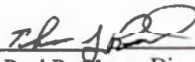
SECTION 21  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

This certificate describes a portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered \_\_\_\_\_, approving Transfer Application 6656. ✓

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 1/12/2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 76678. ✓ 76919

T-6656e.bwb

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 24.0 ACRES. ✓

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1891.

The use is limited to 0.30 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:

LISTER DITCH.

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

NW¼ NE¼                      9.0 ACRES  
SW¼ NE¼                      15.0 ACRES  
SECTION 28  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M. ✓

This certificate describes a portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered \_\_\_\_\_, approving Transfer Application 6656. ✓

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 1/12/2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 76677. 76918 ✓

T-6656d.bwb



STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 13.3 ACRES ✓

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1907.

The use is limited to 0.17 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:

McCORD DITCH - SW¼ SE¼, SECTION 28, T 13 S, R 16 E, W.M..

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

SW¼ NE¼                    3.0 ACRES  
NW¼ SE¼                    10.3 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

This certificate describes a portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered \_\_\_\_\_, approving Transfer Application 6656. ✓

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 1/12/2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 76676. ✓

T-6656c.bwb

76918

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B. F. ALLEN  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 42.0 ACRES. ✓

This right was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at Page 449. The date of priority is 1896.

The use is limited to 0.53 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:

HELM DITCH.

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

SE¼ NW¼            24.0 ACRES  
NE¼ SW¼            18.0 ACRES

SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

This certificate describes a portion of the water right confirmed by Certificate 51561, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered 1-12-01, approving Transfer Application 6656. ✓

✓ VSS p. 21  
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 1/2/2001.

  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 76675. ✓

T-6656b.bwb

76917 76916

STATE OF OREGON  
COUNTY OF CROOK  
CERTIFICATE OF WATER RIGHT

*This is o.k.  
No change*

THIS CERTIFICATE ISSUED TO

I. W. WARD  
PRINEVILLE, OREGON 97754

confirms the right to use the waters of McKAY CREEK, a tributary of the CROOKED RIVER, for IRRIGATION OF 25.0 ACRES.

This right was perfected under Permit 3517. The date of priority is AUGUST 30, 1917. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.32 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:

LAFOLLETTE AND ALLEN DITCH - SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 22, T 13 S, R 16 E, W.M.: NORTH 78° 20 FEET EAST, 2343 FEET FROM THE SW CORNER, SECTION 22.

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:

|                                   |            |
|-----------------------------------|------------|
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 14.3 ACRES |
| SE $\frac{1}{4}$ NW $\frac{1}{4}$ | 8.0 ACRES  |
| NE $\frac{1}{4}$ SW $\frac{1}{4}$ | 2.5 ACRES  |
| NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 0.2 ACRES  |

SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 2428, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered \_\_\_\_\_, approving Transfer Application 6656.

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 1/12/2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 76674.

T-6656a.bwb

*769116*

# Oregon Water Resources Department



State of Oregon  
Water Resources Department  
725 Summer Street NE, Suite A, Salem, OR. 97301-1271  
Phone: 503-986-0900  
<http://www.wrd.state.or.us>

## FAX TRANSMITTAL

To: Jeremy #11 Fax Number: #11  
Date: 10-4-04 Pages: 2, including cover sheet  
From: Sarah Phone: 503-986-0 883  
Comments:

T-6656 map. Let me know if  
you need more info.

### DIRECTOR'S OFFICE

- Water Resources Commission
- Legislation and Rules
- Public Information

### FIELD SERVICES

- Regional Liaisons
- Transfers
- Hydrographics

### NORTHWEST REGION

- District 16 Watermaster

### ADMINISTRATIVE SERVICES

- Fiscal / Accounting
- Human Resources / Personnel
- Water Development Loan Fund
- Support Services

Fax: 503-986-0903 or  
503-986-0904

### TECHNICAL SERVICES

- Dam Safety
- Enforcement
- Ground Water
- Information Services
- GIS/Mapping
- Water Use Reporting

Fax: 503-986-0902

### WATER RIGHTS

- Water Rights Information
- Adjudications
- Hydroelectric
- Certificates / Final Proofs
- Hearings / Contested Cases

Fax: 503-986-0901

Tom Paul

**RECEIVED**

FEB 26 2001

February 20, 2001

Water Resources Department  
Commerce Building  
158 12<sup>th</sup> Street NE  
Salem, OR 97301-4172

WATER RESOURCES DEPT.  
SALEM, OREGON

RE: **FILE T-6656**

REQUEST FOR RECONSIDERATION OF FINAL ORDER UNDER OAR 137-004-0080.

ATTN: Paul R. Cleary, Director

Dear Mr. Cleary:

I have received a copy of the Special Order Volume 55 Page 24 dated January 12, 2001. This order was mailed along with a letter dated January 29, 2001 by Bernadette Williams of your office. This was my first review of this order issued on my transfer request. I have some concerns with the order as issued.

This application for transfer was submitted at the urging of the South Central Region Watermaster in order to correct the record concerning the irrigation of my lands. I submitted this application in November, 1991 and received back a letter accepting the application dated December 23, 1991 from your department. This transfer was expected to be processed in a timely fashion; after all, the ditches that the transfer intended to use for the changes in point of diversion were all ready constructed and operational in 1991 and had been for many years and were in place in fact in 1948 when I purchased the property. The actual pattern of irrigation was established prior to 1948 and the irrigation pattern including the necessary points of diversion for the respective lands determined by the current McKay Creek location. It is apparent that McKay Creek has moved over the years since the initial water rights were certificated both on my property and on the neighbors to the North where my points of diversion are located. These statements were made on the application but do not appear to be reflected in the order. The order would seem to indicate that new points of diversion are being created with the requirement that fish screens be installed on the new points of diversion.

Installation of fish screens is an expense that was not contemplated at the time of the transfer application in 1991. According to Bob Main of your office the requirement came into effect in 1995, some four years after my application was made. Looking at the time sequence of the order if it had been issued in 1992 the transfer should have been completed by October 1, 1994. This certainly would have been possible to accomplish since the points of diversion were all ready functioning in 1991. A timely review of my application would certainly have created an order prior to 1995 which would not have included a fish screen condition for completion. I feel the failure by the Water Resources Department to consider and issue the order for this transfer in a timely manner is the cause for this problem and potential expense. I would therefore request that the fish screen

condition be reconsidered by your department and the Oregon Department of Fish and Wildlife and be removed as a condition of the order.

My personal observation of operation of these points of diversion is that beavers attempt to dam off the diversion at every opportunity. It is a constant battle to keep the water moving into the ditches and installation of a fish screen at these locations will only compound the problem. I don't believe the fish screen will accomplish much because of the beaver activity and would not be an effective use of funds.

In conjunction with this order new certificates were issued for my other water rights. These were certificates 76674 through 76679. These certificates all list the authorized use as irrigation only. Under certificate 515161 I also had stockwater and domestic use rights that were not included in the reissued certificates. I wish to retain those rights and request the certificates be corrected to reflect that.

Please let me know of your consideration of this petition.

Sincerely,

A handwritten signature in cursive script that reads "James B. Cox".

James B. Cox  
2215 NE McKay Creek Road  
Prineville, OR 97754



RECEIVED

TO: TRANSFER SECTION, WATER RIGHTS DIVISION

DATE: 1-6-92 JAN -7 1992

WATER RESOURCES DEPT. SALEM, OREGON

FROM: WATERMASTER, DISTRICT NO. 11

(signature) Bob Main

SUBJECT: Water Right Transfer Application 1d56 for change in POU POD Use of water

POA

In the name(s) of James B. Cox

In my opinion (assuming the water right is valid), the proposed change

MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY\* to an existing water right.

\*The approval of this transfer application would result in injury to other water rights because

The existing right may not be valid because

Headgate notices HAVE HAVE NOT been issued for diversion from the source(s) which serve(s) this right.

If for change in point of diversion, is there any intervening point(s) of diversion between the authorized and proposed points of diversion? Yes The change is to correct (yes or no)

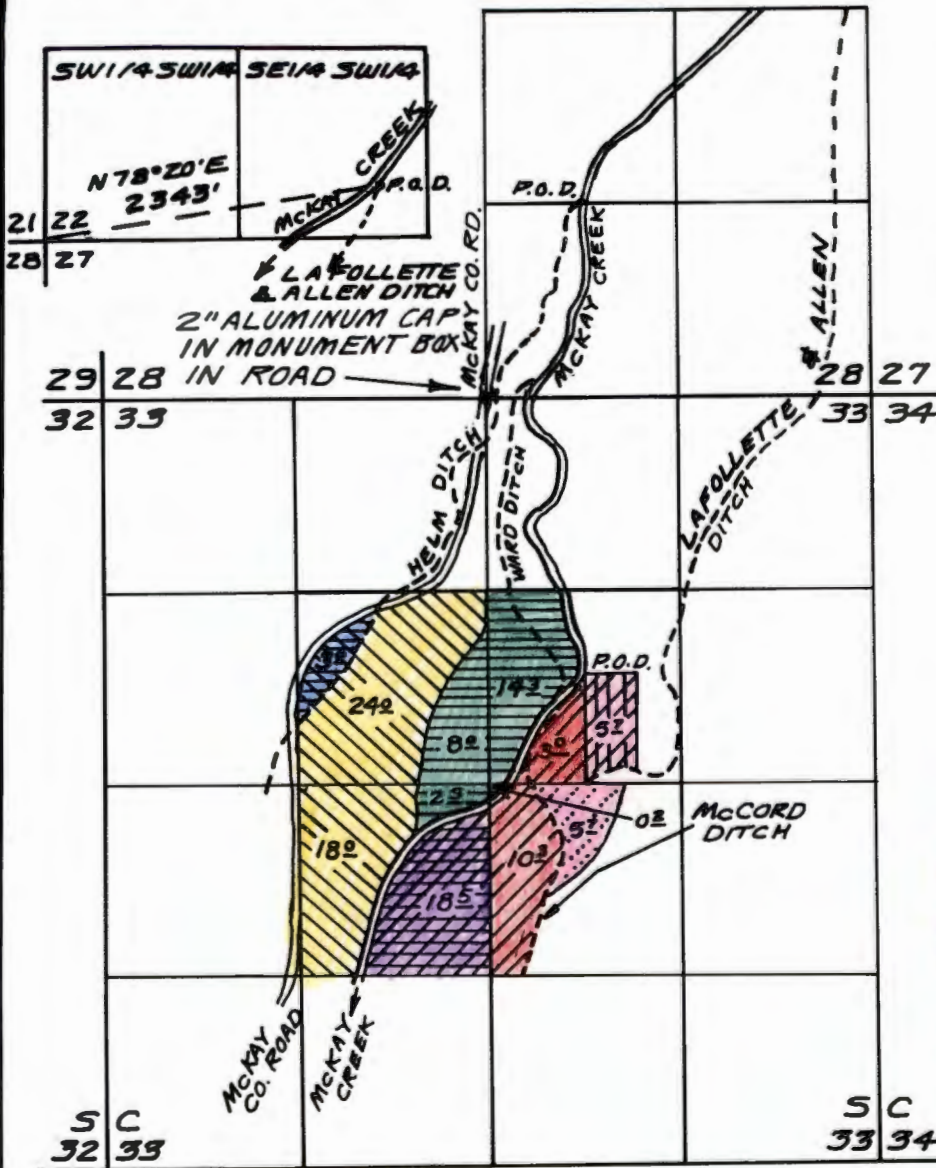
the change that took place over 40 years ago and owner and our office needs In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works: to correct.

- (1) PRIOR to the diverting of water at the new point of diversion ...
(2) WHEN IN the judgment of the watermaster it becomes necessary ...

The enclosed copy of the transfer application and map(s) is for your records.

T.13S., R.16E., W.M.

T-6656



PREPARED FOR  
**JAMES B. COX**  
 2215 NE MCKAY CR. RD.  
 PRINEVILLE, OR 97754  
 [541] 447-5474  
 HELM DITCH P.O.D.  
 LOCATED 1320' NORTH  
 & 660' EAST OF S1/4  
 COR. SEC. 28  
 MCCORD DITCH P.O.D.  
 LOCATED 1980' SOUTH  
 & 630' EAST OF N1/4  
 COR. SEC. 33



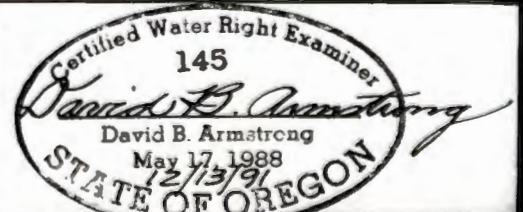
**LEGEND**

-  HELM DITCH DIVERSION  
 C. NO. 51561~P.D. 1896  
 SE1/4 NW1/4 - 24.0 AC.  
 NW1/4 SW1/4 - 18.0 AC.  
 C. NO. 2428~P.D. 1917  
 SE 1/4 NW1/4 - 3.0 AC.  
 PUMP & SPRINKLE ABOVE  
 DITCH
-  WARD DITCH DIVERSION  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 8.0 AC.  
 SW1/4 NE1/4 - 14.3 AC.  
 NE1/4 SW1/4 - 2.5 AC.  
 NW1/4 SE1/4 - 0.2 AC.
-  MCCORD DITCH DIVERSION  
 C. NO. 51561~P.D. 1907  
 NW1/4 SE1/4 - 10.3 AC.  
 SW1/4 NE1/4 - 8.7 AC.  
 C. NO. 2428~P.D. 1917  
 NE1/4 SW1/4 - 18.5 AC.
-  WATER ON
-  WATER OFF

**SURVEY NOTE**

THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES. **REVISED 11-2-00**

**ARMSTRONG SURVEYING & ENGINEERING, INC.**  
 378 EAST SECOND ST.  
 PRINEVILLE, OREGON 97754  
 [541] 447-7791 **REVISED 9-14-98**



SCALE: 1" = 1320'      DATE: 11-25-91

W. O. 91-829-B



TRANSFER PROCEDURE  
CHECK-OFF LIST

|                                   |            |
|-----------------------------------|------------|
| CONTENTS CODED                    | (✓)        |
| CERTIFICATE MARKED                | (✓)        |
| CERTIFICATE COPIED                | (✓)        |
| DECREE MARKED (VAULT)             | ( )        |
| DECREE PAGE COPIED (MICRO-FISCHE) | ( )        |
| TRANSFER FOLDER MARKED            | ( )        |
| PERMIT FOLDER MARKED & ATTACHED   | (✓)        |
| NAME CARD MADE                    | (✓)        |
| STREAM CARD MADE                  | (✓)        |
| CALENDAR CARD MADE                | (✓)        |
| ENTERED IN LOG                    | (✓)        |
| PLAT CARD MARKED                  | ( )        |
| PLAT CARD COPIED                  | ( )        |
| ACKNOWLEDGEMENT DRAFTED           | ( )        |
| ACKNOWLEDGEMENT & RECEIPT MAILED  | ( )        |
| PON DRAFTED                       | ( )        |
| PON MAILED                        | ( )        |
| W/M REPORT SENT/DATE-----         | (12/18/91) |
| W/M REPORT REC'D/DATE-----        | (1/7/91)   |
| GW REPORT SENT/DATE-----          | ( )        |
| GW REPORT RECEIVED/DATE-----      | ( )        |
| SPECIAL ORDER PAGES RESERVED      | ( )        |
| ORDER DRAFTED                     | ( )        |
| ORDER SIGNED BY DIRECTOR          | ( )        |
| ORDER COPIED                      | ( )        |
| COPY OF ORDER SENT TO:            | ( )        |
| APPLICANT (ORIGINAL)              | ( )        |
| IRRIGATION DISTRICT               | ( )        |
| WATERMASTER                       | ( )        |
| FOLDER                            | ( )        |
| W/ COMPLETION FORM                | ( )        |
| W/ FIELD FORM                     | ( )        |
| ORIGINAL TO SPECIAL ORDER BOOK    | ( )        |



# Oregon

John A. Kitzhaber, M.D., Governor

*BERADIE*

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

May 9, 2001

James B. Cox  
2215 NE McKay Creek Road  
Prineville, Oregon 97754

RE: Request for Reconsideration - Transfer Application T-6656

Dear Mr. Cox:

Enclosed please find the Department's response to your request for reconsideration. Water right certificates, correcting remaining right certificates 76675, 76676, 76677, 76678 and 76679 will be sent to you within a week.

If you have any questions regarding this matter please contact me at 503-378-8455 ext. 262.

Sincerely,

Adam Sussman  
Manager, Enforcement Section

cc: Bob Main  
Tom Paul  
Sharyl Kammerzell  
file T-6656



**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

|                                       |   |                 |
|---------------------------------------|---|-----------------|
| In the Matter of Transfer Application | ) | FINAL ORDER ON  |
| T-6656 in the Name of James B. Cox    | ) | PETITION FOR    |
| <i>Applicant</i>                      | ) | RECONSIDERATION |

**Appeal Rights**

**This is a final order other than contested case.** As provided in ORS 536.075, this order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 day time period specified by ORS 183.484(2).

**Background**

On December 18, 1991, James B. Cox (Applicant) submitted a transfer application to the Oregon Water Resources Department (Department) proposing to change the place of use for a portion of the water rights evidenced by certificate 51561 and to change the points of diversion for a portion of the water rights evidenced by certificate 2428. The transfer application was assigned the number T-6656.

On January 12, 2001, the Department issued a final order approving application T-6656 with conditions and issued "remaining right certificates" for the portions of the water rights not modified by the transfer. (*See Special Order Volume 55, pg. 21-24*). Condition number (6) of the final order requires that the water user install and maintain a fish screen or fish by-pass device.

On February 26, 2001, Applicant submitted a letter requesting reconsideration of the Department's final order for application T-6656. Specifically, Applicant requests the Department remove the fish screen condition and re-issue "corrected" remaining right certificates for the portions of certificate 51561 not modified by the transfer because the certificates failed to list stock and domestic use as authorized uses.

**Findings of Fact and Conclusions of Law**

OAR 137-004-0080 provides that a person entitled to judicial review under ORS 183.484 of a final order in other than a contested case may file a petition for reconsideration of a final order in other than a contested case with the agency within 60 calendar days after the date of the order. Such petition shall set forth the specific grounds for reconsideration and may be supported by a written argument.

**A. Fish Screen**

In his request for reconsideration applicant contends that, when he submitted his application in November 1991, Oregon law did not provide for fish screen installation as a condition for approving a point of diversion transfer. He states that the legislature did not enact the fish screen requirement until 1995 and that a timely review by the Department would have "created an order prior to 1995 which would not have included a fish screen condition for completion." Applicant asserts that the Department's decision should be governed by the law at the time of his application and requests that the fish screen requirement be removed.

Although the Oregon legislature first enacted the subject fish screen provision in 1995, applicant misinterprets the applicable statutes. Or. Laws 1995, ch 274, sec 6a & 7. An applicant does not obtain an unconditional right to a point of diversion transfer upon filing an application. Nor does the statutory scheme set a required timeline for review of applications to transfer a point of diversion. ORS 540.505 - 540.580. The applicable statutes show that the fish screen requirement is directed prospectively to the Department's evaluation process whenever it occurs, not the original application. Under ORS 540.525(2), when the Department evaluates an application for a change of point of diversion, it must first consult with the State Department of Fish and Wildlife on the need for a fish screening or fish by-pass device at the new point of diversion. ORS 540.525(2). If, after consultation, the State Department of Fish and Wildlife requests that the transfer include a condition requiring the holder of the water right to install a fish screen at the new point of diversion, the Department *shall* include the condition upon approving a transfer. ORS 540.520(4).

In this case, in a letter dated September 6, 1998, the Department of Fish and Wildlife requested fish screens at the new points of diversion. Based on the authorities cited above and the record before it upon evaluating the user's application, the Department approved the application for transfer and required installation of fish screens. In doing so, the Department acted in accordance with the prevailing law.

Applicant's request to remove the fish screen condition (condition 6) is denied.

**B. Remaining Rights**

Upon approving transfer application T-6656 the Department issued remaining right certificates 76675, 76676, 76677, 76678 and 76679 to confirm the portions of certificate 51561 not modified by the transfer. In making the remaining right certificates, the Department failed to list stock and domestic use as authorized uses. Stock and domestic use were authorized uses under certificate 51561.

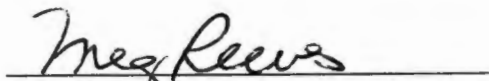
Applicant's request to correct the subject water right certificates is granted.

**Order**

Applicant's request to reconsider the fish screen condition (condition 6) is denied and the Final Order approving transfer application T-6656, with a fish screen condition is affirmed.

Applicant's request to correct water right certificates 76675, 76676, 76677, 76678 and 76679 is granted.

DATED this 9 day of May, 2001.



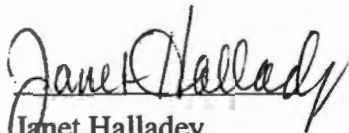
Paul R. Cleary, Director

Oregon Water Resources Department

**CERTIFICATE OF SERVICE**

I certify that on May 9, 2001, I mailed by U.S. mail postage prepaid a copy of this FINAL ORDER ON PETITION FOR RECONSIDERATION to:

James B. Cox  
2215 NE McKay Creek Road  
Prineville, Oregon 97754

  
Janet Halladey

Water Resources Department



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
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Sincerely,

Adam Sussman  
Manager, Enforcement Section

cc: Bob Main  
Tom Paul  
Sharyl Kammerzeit  
file T-6656



**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

In the Matter of Transfer Application )  
T-6656 in the Name of James B. Cox )  
*Applicant* ) FINAL ORDER ON  
PETITION FOR  
RECONSIDERATION

**Appeal Rights**

**This is a final order other than contested case.** As provided in ORS 536.075, this order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 day time period specified by ORS 183.484(2).

**Background**

On December 18, 1991, James B. Cox (Applicant) submitted a transfer application to the Oregon Water Resources Department (Department) proposing to change the place of use for a portion of the water rights evidenced by certificate 51561 and to change the points of diversion for a portion of the water rights evidenced by certificate 2428. The transfer application was assigned the number T-6656.

On January 12, 2001, the Department issued a final order approving application T-6656 with conditions and issued “remaining right certificates” for the portions of the water rights not modified by the transfer. (See Special Order Volume 55, pg. 21-24). Condition number (6) of the final order requires that the water user install and maintain a fish screen or fish by-pass device.

On February 26, 2001, Applicant submitted a letter requesting reconsideration of the Department’s final order for application T-6656. Specifically, Applicant requests the Department remove the fish screen condition and re-issue “corrected” remaining right certificates for the portions of certificate 51561 not modified by the transfer because the certificates failed to list stock and domestic use as authorized uses.

**Findings of Fact and Conclusions of Law**

OAR 137-004-0080 provides that a person entitled to judicial review under ORS 183.484 of a final order in other than a contested case may file a petition for reconsideration of a final order in other than a contested case with the agency within 60 calendar days after the date of the order. Such petition shall set forth the specific grounds for reconsideration and may be supported by a written argument.



**A. Fish Screen**

In his request for reconsideration applicant contends that, when he submitted his application in November 1991, Oregon law did not provide for fish screen installation as a condition for approving a point of diversion transfer. He states that the legislature did not enact the fish screen requirement until 1995 and that a timely review by the Department would have “created an order prior to 1995 which would not have included a fish screen condition for completion.” Applicant asserts that the Department’s decision should be governed by the law at the time of his application and requests that the fish screen requirement be removed.

Although the Oregon legislature first enacted the subject fish screen provision in 1995, applicant misinterprets the applicable statutes. Or. Laws 1995, ch 274, sec 6a & 7. An applicant does not obtain an unconditional right to a point of diversion transfer upon filing an application. Nor does the statutory scheme set a required timeline for review of applications to transfer a point of diversion. ORS 540.505 - 540.580. The applicable statutes show that the fish screen requirement is directed prospectively to the Department’s evaluation process whenever it occurs, not the original application. Under ORS 540.525(2), when the Department evaluates an application for a change of point of diversion, it must first consult with the State Department of Fish and Wildlife on the need for a fish screening or fish by-pass device at the new point of diversion. ORS 540.525(2). If, after consultation, the State Department of Fish and Wildlife requests that the transfer include a condition requiring the holder of the water right to install a fish screen at the new point of diversion, the Department *shall* include the condition upon approving a transfer. ORS 540.520(4).

In this case, in a letter dated September 6, 1998, the Department of Fish and Wildlife requested fish screens at the new points of diversion. Based on the authorities cited above and the record before it upon evaluating the user’s application, the Department approved the application for transfer and required installation of fish screens. In doing so, the Department acted in accordance with the prevailing law.

Applicant’s request to remove the fish screen condition (condition 6) is denied.

**B. Remaining Rights**

Upon approving transfer application T-6656 the Department issued remaining right certificates 76675, 76676, 76677, 76678 and 76679 to confirm the portions of certificate 51561 not modified by the transfer. In making the remaining right certificates, the Department failed to list stock and domestic use as authorized uses. Stock and domestic use were authorized uses under certificate 51561.

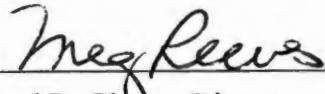
Applicant's request to correct the subject water right certificates is granted.

**Order**

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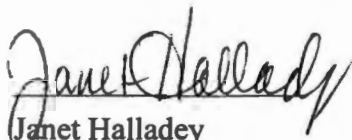
DATED this 9 day of May, 2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director  
Oregon Water Resources Department

**CERTIFICATE OF SERVICE**

I certify that on May 9, 2001, I mailed by U.S. mail postage prepaid a copy of this FINAL ORDER ON PETITION FOR RECONSIDERATION to:

James B. Cox  
2215 NE McKay Creek Road  
Prineville, Oregon 97754



Janet Halladey

Water Resources Department

**STATE OF OREGON**

**COUNTY OF CROOK**

**ORDER APPROVING A CHANGE IN POINTS OF DIVERSION, PLACE OF USE AND  
PARTIAL CANCELLATION OF A WATER RIGHT**

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 6656 submitted by

JAMES B. COX  
2215 NE M<sup>c</sup>KAY CREEK ROAD  
PRINEVILLE, OREGON 97754.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County as evidenced by a PORTION of Certificate 51561. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 499. The date of priority is 1907.

The right allows the use of M<sup>c</sup>KAY CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 5.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.07 cubic foot per second, if available at the authorized point of diversion: M<sup>c</sup>CORD DITCH - SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, SECTION 28, T 13 S, R 16 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its

**This is a final order in other than a 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 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.**

equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

NW¼ SE¼ 5.7 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, 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 place of use to:

SW¼ NE¼ 5.7 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

The second right to be modified, as evidenced by a portion of Certificate 2428, was perfected under Permit 3517 with a date of priority of August 30, 1917. The right allows the use of McKAY CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 21.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.27 cubic foot per second, if available at the authorized point of diversion: LAFOLLETTE AND ALLEN DITCH - SE¼ SW¼, SECTION 22, T 13 S, R 16 E, W.M.; N 78° 20' EAST 2343 FEET FROM THE SW CORNER, SECTION 22, 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:

SE¼ NW¼ 3.0 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST W.M.

The applicant proposes to change the point of diversion to: HELM DITCH - SW¼ SE¼, SECTION 28, T 13 S, R 16 E, W.M.; 1320 FEET NORTH AND 660 FEET EAST FROM THE S¼ CORNER, SECTION 28.

The authorized place of use is located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$  18.5 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

The applicant proposes to change the point of diversion to: McCORD DITCH - SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 33 T 13 S, R 16 E, W.M.; 1980 FEET SOUTH AND 630 FEET EAST FROM THE N $\frac{1}{4}$  CORNER, SECTION 33.

An affidavit was received from JAMES B. COX, the owner of certain lands and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled.

The abandoned right is a portion of the right described by Certificate 2428, State Record of Water Right Certificates. The abandoned water right is for the use of 0.09 cubic foot per second from McKAY CREEK, a tributary of THE CROOKED RIVER. The date of priority is AUGUST 30, 1917. The abandoned water right is for the irrigation of 7.5 acres.

A description of the place of use of the abandoned right is as follows:

SW $\frac{1}{4}$  NE $\frac{1}{4}$  2.7 ACRES  
NE $\frac{1}{4}$  SW $\frac{1}{4}$  1.0 ACRES  
NW $\frac{1}{4}$  SE $\frac{1}{4}$  3.8 ACRES  
SECTION 33  
TOWNSHIP 13 SOUTH, RANGE 16 EAST, W.M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right."

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

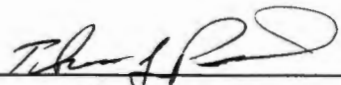
1. The proposed change shall be completed on or before October 1, 2002.

2. The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points 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.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. The former place of use shall no longer be irrigated as a part of this water right.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Pursuant to the affidavit of cancellation filed by James B. Cox, the right to irrigate 7.5 acres under Permit 3517 not involved in this transfer is canceled. Certificates 2428 and 51561 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources Director, affixed 1/12/2001.

  
\_\_\_\_\_  
Paul R. Cleary, Director



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

April 25, 2001

James B. Cox  
2215 NE McKay Creek Road  
Prineville, OR 97754

RE: Request for Reconsideration -Transfer File T-6656

Dear Mr. Cox:

On February 26, 2001, the Department received your Request for Reconsideration of the Final Order pertaining to transfer application T-6656.

Your request is currently under review. The Department will respond to your request by May 9, 2001.

If you have any questions in the meantime, please feel free to contact me at 1-800-624-3199, extension 262.

Sincerely,

Adam Sussman  
Manager, Enforcement Section

cc: Tom Paul  
Bob Main





**RECEIVED**

FEB 26 2001

February 20, 2001

Water Resources Department  
Commerce Building  
158 12<sup>th</sup> Street NE  
Salem, OR 97301-4172

WATER RESOURCES DEPT  
SALEM, OREGON

RE: FILE T-6656  
REQUEST FOR RECONSIDERATION OF FINAL ORDER UNDER OAR 137-  
004-0080.

ATTN: Paul R. Cleary, Director

① Cert 51561  
place at use

Dear Mr. Cleary:

② Cert 2428 - 900 Gauge

I have received a copy of the Special Order Volume 55 Page 24 dated January 12, 2001. This order was mailed along with a letter dated January 29, 2001 by Bernadette Williams of your office. This was my first review of this order issued on my transfer request. I have some concerns with the order as issued.

This application for transfer was submitted at the urging of the South Central Region Watermaster in order to correct the record concerning the irrigation of my lands. I submitted this application in November, 1991 and received back a letter accepting the application dated December 23, 1991 from your department. This transfer was expected to be processed in a timely fashion; after all, the ditches that the transfer intended to use for the changes in point of diversion were all ready constructed and operational in 1991 and had been for many years and were in place in fact in 1948 when I purchased the property. The actual pattern of irrigation was established prior to 1948 and the irrigation pattern including the necessary points of diversion for the respective lands determined by the current McKay Creek location. It is apparent that McKay Creek has moved over the years since the initial water rights were certificated both on my property and on the neighbors to the North where my points of diversion are located. These statements were made on the application but do not appear to be reflected in the order. The order would seem to indicate that new points of diversion are being created with the requirement that fish screens be installed on the new points of diversion.

Installation of fish screens is an expense that was not contemplated at the time of the transfer application in 1991. According to Bob Main of your office the requirement came into effect in 1995, some four years after my application was made. Looking at the time sequence of the order if it had been issued in 1992 the transfer should have been completed by October 1, 1994. This certainly would have been possible to accomplish since the points of diversion were all ready functioning in 1991. A timely review of my application would certainly have created an order prior to 1995 which would not have included a fish screen condition for completion. I feel the failure by the Water Resources Department to consider and issue the order for this transfer in a timely manner is the cause for this problem and potential expense. I would therefor request that the fish screen

condition be reconsidered by your department and the Oregon Department of Fish and Wildlife and be removed as a condition of the order.

My personal observation of operation of these points of diversion is that beavers attempt to dam off the diversion at every opportunity. It is a constant battle to keep the water moving into the ditches and installation of a fish screen at these locations will only compound the problem. I don't believe the fish screen will accomplish much because of the beaver activity and would not be an effective use of funds.

In conjunction with this order new certificates were issued for my other water rights. These were certificates 76674 through 76679. These certificates all list the authorized use as irrigation only. Under certificate 515161 I also had stockwater and domestic use rights that were not included in the reissued certificates. I wish to retain those rights and request the certificates be corrected to reflect that.

Please let me know of your consideration of this petition.

75-79

Sincerely,

*James B. Cox*

James B. Cox  
2215 NE McKay Creek Road  
Prineville, OR 97754

STATE OF OREGON

WATER DIVISION NO. 2 COUNTY OF CROOK

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits)

This is to Certify, That I. W. WARD

of Prineville, State of Oregon 91754, has made proof to the satisfaction of the STATE WATER BOARD of Oregon, of a right to the use of the waters of McKay Creek, a tributary of Crooked River

, for the purpose of the irrigation of 54 acres of land under Permit No. 3517 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon and duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered

of record in the Record of Proceedings of said Board, at Salem, in Volume 1, at page 334, on the 27th day of September, 1919; that the priority of the right hereby confirmed dates from August 30, 1917; 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 0.68 cubic feet per second, or its equivalent in case of rotation. The use hereunder shall conform to any reasonable rotation system ordered by the proper State Office. A description of the lands under such right, and to which the water hereby confirmed is appurtenant, or, if for other purposes, the place where such water is put to beneficial use, is as follows: 17 acres in the Southwest quarter of Northeast quarter; 11 acres in the Southeast quarter of Northwest quarter; 22 acres in the Northeast quarter of Southwest quarter and 4 acres in the Northwest quarter of Southeast quarter of Section Thirty-three, Township Thirteen South, Range Sixteen East of Willamette Meridian, in Crook County, Oregon.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

Witness the seal and signature of the STATE WATER BOARD affixed this 13th day of October, 1919.

STATE WATER BOARD

(SEAL OF STATE WATER BOARD)

By PERCY A. CUPPER State Engineer, President

Attest: R. W. POTTER Secretary

T-6656

V OR

# Abstract of Permit No. 3517

Application No. 5712

Certificate No. 2428

Name I. W. Ward

Address Prinsville, Oregon

Source of water supply McKay Creek a tributary of Crooked River

Use Irrigation

Point of diversion N 78° 20' E 2343' SE Corner Sec. 22, Tp. 13S., R. 16E., W. M.  
being within the SE<sub>1</sub> of the SW<sub>2</sub> of said Sec. 22.

Number of acres

54

## DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

| Twp. | Range | Sec. | NE ¼ |     |           |     | NW ¼ |     |          |     | SW ¼ |     |        |     | SE ¼ |     |     |        |
|------|-------|------|------|-----|-----------|-----|------|-----|----------|-----|------|-----|--------|-----|------|-----|-----|--------|
|      |       |      | NE¼  | NW¼ | SW¼       | SE¼ | NE¼  | NW¼ | SW¼      | SE¼ | NE¼  | NW¼ | SW¼    | SE¼ | NE¼  | NW¼ | SW¼ | SE¼    |
| 13S  | 16E   | 53   |      |     | 17        |     |      |     | 11       |     | 22   |     |        |     |      |     | 4   |        |
|      |       |      |      |     | cancel 27 |     |      |     | POD - 30 |     | -185 |     | POD    |     |      |     | -32 | cancel |
|      |       |      |      |     | 143       |     |      |     | 80       |     | 35   |     |        |     |      |     | 02  | ✓      |
|      |       |      |      |     |           |     |      |     |          |     | -12  |     | cancel |     |      |     |     |        |
|      |       |      |      |     |           |     |      |     |          |     | 25   |     |        |     |      |     |     |        |

Priority date August 30, 1917

Amount of water 0.68 cfs.

Time limit to begin construction

Time limit to complete construction

extended to

extended to

Time limit to completely apply water

extended to

extended to

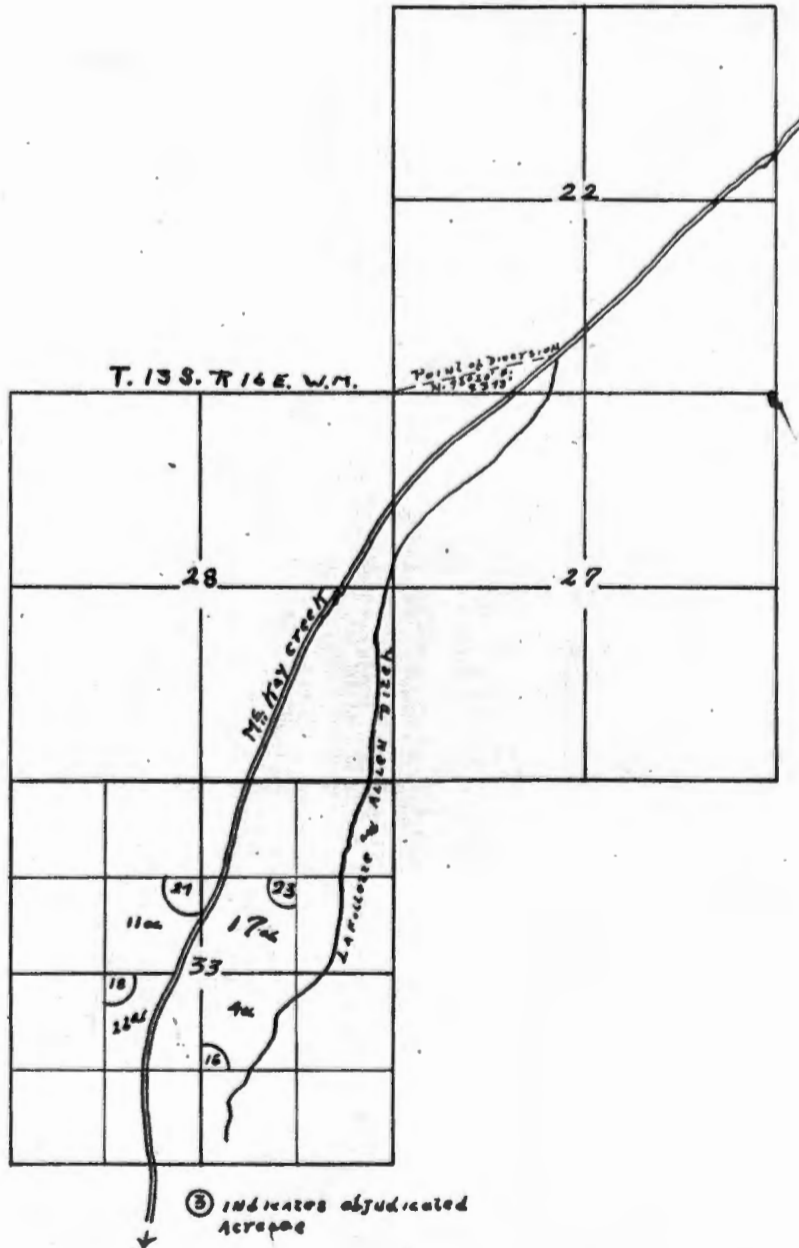
Remarks:

# WAFFOLLETTE & ALLEN DITCH

## CROOK CO.

5712

3517



STATE OF OREGON

COUNTY OF CROOK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That B. F. ALLEN

of Prineville, State of Oregon 97754, has a right to the use of the waters of McKay Creek

a tributary of Crooked River for the purpose of irrigation of 145.0 acres, stock, and domestic use

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Crook County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at page 499; that the priority of the right thereby confirmed dates from 1896: 0.53 cubic foot per second for Tract 1; 1907: 0.24 cfs for Tract 2; 1891: 0.30 cfs for Tract 3; 1897: 0.45 cfs for \* 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 1.82 cubic feet per second

The point of diversion is located in the

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

SEE NEXT PAGE

\*Tract 6; 1899: 0.30 cfs for Tract 7.

Basin 5 Vol. 2A McKay Creek & Tribs

51561

✓ Tract 1 (Helm Ditch) 1896  
24.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
18.0 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 33

✓ Tract 2 (McCord Ditch) 1907  
3.0 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
10 $\frac{1}{2}$  16.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$  -S $\frac{1}{2}$   
Section 33

✓ Tract 3 (Lister Ditch)  
9.0 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$   
15.0 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 28

✓ Tract 6 (Allen Ditch)  
13.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$   
21.0 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$   
2.0 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 21

Tract 7 (Prose Ditch)  
11.0 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 28  
✓ 13.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 33

Township 13 South, Range 16 East, WM

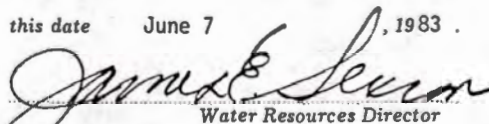
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 47485, Volume 40, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on March 24, 1983.

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.

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 June 7, 1983.

  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 46, page 51561

February 20, 2001

Water Resources Department  
Commerce Building  
158 12<sup>th</sup> Street NE  
Salem, OR 97301-4172

RECEIVED

FEB 26 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

RE: FILE T-6656  
REQUEST FOR RECONSIDERATION OF FINAL ORDER UNDER OAR 137-004-0080.

ATTN: Paul R. Cleary, Director

Dear Mr. Cleary:

I have received a copy of the Special Order Volume 55 Page 24 dated January 12, 2001. This order was mailed along with a letter dated January 29, 2001 by Bernadette Williams of your office. This was my first review of this order issued on my transfer request. I have some concerns with the order as issued.

This application for transfer was submitted at the urging of the South Central Region Watermaster in order to correct the record concerning the irrigation of my lands. I submitted this application in November, 1991 and received back a letter accepting the application dated December 23, 1991 from your department. This transfer was expected to be processed in a timely fashion; after all, the ditches that the transfer intended to use for the changes in point of diversion were all ready constructed and operational in 1991 and had been for many years and were in place in fact in 1948 when I purchased the property. The actual pattern of irrigation was established prior to 1948 and the irrigation pattern including the necessary points of diversion for the respective lands determined by the current McKay Creek location. It is apparent that McKay Creek has moved over the years since the initial water rights were certificated both on my property and on the neighbors to the North where my points of diversion are located. These statements were made on the application but do not appear to be reflected in the order. The order would seem to indicate that new points of diversion are being created with the requirement that fish screens be installed on the new points of diversion.

Installation of fish screens is an expense that was not contemplated at the time of the transfer application in 1991. According to Bob Main of your office the requirement came into effect in 1995, some four years after my application was made. Looking at the time sequence of the order if it had been issued in 1992 the transfer should have been completed by October 1, 1994. This certainly would have been possible to accomplish since the points of diversion were all ready functioning in 1991. A timely review of my application would certainly have created an order prior to 1995 which would not have included a fish screen condition for completion. I feel the failure by the Water Resources Department to consider and issue the order for this transfer in a timely manner is the cause for this problem and potential expense. I would therefor request that the fish screen



condition be reconsidered by your department and the Oregon Department of Fish and Wildlife and be removed as a condition of the order.

My personal observation of operation of these points of diversion is that beavers attempt to dam off the diversion at every opportunity. It is a constant battle to keep the water moving into the ditches and installation of a fish screen at these locations will only compound the problem. I don't believe the fish screen will accomplish much because of the beaver activity and would not be an effective use of funds.

In conjunction with this order new certificates were issued for my other water rights. These were certificates 76674 through 76679. These certificates all list the authorized use as irrigation only. Under certificate 515161 I also had stockwater and domestic use rights that were not included in the reissued certificates. I wish to retain those rights and request the certificates be corrected to reflect that.

Please let me know of your consideration of this petition.

Sincerely,

A handwritten signature in cursive script that reads "James B. Cox".

James B. Cox  
2215 NE McKay Creek Road  
Prineville, OR 97754

**ARMSTRONG SURVEYING & ENGINEERING,**  
378 East Second Street Prineville, Oregon 97754

**CERTIFIED MAIL**



7000 0520 0019 1840 2076



0000

U.S. POSTAGE  
PAID  
PRNV. OR  
97754  
FEB 23, 01  
AMOUNT

**\$3.74**  
00013783-02

**RETURN RECEIPT  
REQUESTED**

WATER RESOURCES DEPT.  
COMMERCE BUILDING  
ATTN: ADAM SUSSMAN  
158 12TH STREET NE  
SALEM, OR 97301-4172

97301+4172





# Oregon

John A. Kitzhaber, M.D., Governor

**Water Resources Department**

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

January 29, 2001

James B. Cox  
2215 NE McKay Creek Road  
Prineville, Oregon 97754

Reference: File T-6656

Enclosed is a copy of the order approving your water right transfer application T-6656.

A time to complete the transfer is given in the order.

YOU SHOULD GIVE PARTICULAR ATTENTION TO THE TIME LIMIT. The water right for any portion of the authorized change in use or change in place of use NOT carried out within the time allowed will be lost.

An extension of the time limit can be allowed only upon a showing that diligent effort has been made to complete the actual change within the time allowed.

You are required to hire a Certified Water Right Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this department within one year of the completion date authorized in the transfer order. Accordingly, the claim of beneficial use **must** be received in this office on or before October 1, 2002.

Sincerely,

BERNADETTE WILLIAMS  
Transfer Program Coordinator

BW:gjt

cc: Watermaster, District #11  
David B. Armstrong, CWRE #145

enclosure





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

February 2, 2001

James B. Cox  
2215 NE McKay Creek Road  
Prineville, Oregon 97754

Reference: T-6656

Enclosed is a check for \$190.00. This is a refund of excess fees paid at the time you submitted your transfer application.

If you have any questions, please call me at 541-378-8455, ext. 275.

Sincerely,

Bernadette Williams  
Transfer Program Coordinator

enclosure



STATE OF OREGON REMITTANCE ADVICE

WARRANT NO.  
116349748

WATER RESOURCES DEPARTMENT

(503) 378-8455

| INVOICE NO. | INVOICE DATE | INVOICE DESCRIPTION       | AGY | DOCUMENT | AMOUNT |
|-------------|--------------|---------------------------|-----|----------|--------|
|             |              | REVENUE REFUND 6656 81994 | 690 | VP01302G | 190.00 |

|                |              |             |          |                |        |
|----------------|--------------|-------------|----------|----------------|--------|
| VENDOR NAME:   | COX, JAMES B | ISSUE DATE: | 12/08/00 | WARRANT AMOUNT | 190.00 |
| VENDOR NUMBER: | 9690000001   |             |          |                |        |

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE A TRUE WATERMARK OF LINKED DIAMOND SHAPES WHEN HELD TO THE LIGHT

**STATE OF OREGON**  
Dept of Administrative Services  
To the State Treasurer, Salem, OR 97310  
WATER RESOURCES DEPARTMENT  
(503) 378-8455

96-10  
1232  
CHECK DATE  
12/08/00



BANK WARRANT NO.  
11 6349748

PAY THIS AMOUNT  
\$190.00

VENDOR NO.  
9690000001

\*\*\*\*\*ONE HUNDRED NINETY AND 00/100 DOLLARS\*\*\*\*\*  
PAY TO THE ORDER OF:

COX, JAMES B  
2215 NE MCKAY CREEK ROAD  
PRINEVILLE OR 97754

VOID AFTER 2 YEARS FROM DATE OF ISSUE

*John J. Farfel*  
AUTHORIZED SIGNATURE

Name JAMES B. COX  
 By \_\_\_\_\_  
 Address 307109 MCKAY ROAD  
PRINEVILLE, OR 97754

6656

DESCRIPTION OF WATER RIGHT

Name of stream MCKAY CREEK  
 Trib. of CROOKED RIVER County of CROOK  
 Use PAD, POW  
 Quantity of water \_\_\_\_\_ No. of acres \_\_\_\_\_  
 Name of ditch WARD DITCH  
 Date of priority 1896, 1907 & 1917  
 In name of B. F. ALLEN, I. W. WARD  
 \_\_\_\_\_ Adjudication, Vol. 40, page 47485  
 App. No. 5112 Per. No. 3517 Cert. No. 2428  
51561  
 Certificate cancelled \_\_\_\_\_  
 Notation made on record by \_\_\_\_\_  
TPE

Change in POD, POW  
 Date filed 12/18/91  
 Date of hearing \_\_\_\_\_  
 Place of hearing \_\_\_\_\_  
 Date of order \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_  
 Date for application of water \_\_\_\_\_  
 Proof mailed \_\_\_\_\_  
 Proof received \_\_\_\_\_  
 Certificate issued \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_

FEEES PAID

| Date            | Amount        | Receipt No. |
|-----------------|---------------|-------------|
| <u>12-18-91</u> | <u>305.00</u> | <u>8199</u> |
| TOTAL . . .     |               |             |
|                 | Cert. Fee     |             |

FEEES REFUNDED

| Date | Amount | Check No. |
|------|--------|-----------|
|      |        |           |

REMARKS

process part cancel (file 5112) at time transfer is processed.

AS BE ENTERED WHERE CHECKED

| INDEX CARDS:            | Entered |       |
|-------------------------|---------|-------|
| _____ Name              | _____   | _____ |
| _____ Address           | _____   | _____ |
| _____ Pt. of Div.       | _____   | _____ |
| _____ Operator          | _____   | _____ |
| _____ CHECKED BY WORDS: |         |       |
| _____ Dept. No.         | _____   | _____ |
| _____ District No.      | _____   | _____ |
| _____ Inspection        | _____   | _____ |
| _____ Cert. No.         | _____   | _____ |
| _____ Per. No.          | _____   | _____ |
| _____ Cont. No.         | _____   | _____ |
| _____ Cross Ref.        | _____   | _____ |
| _____ Power Claim       | _____   | _____ |
| _____ Abstracts         | _____   | _____ |

# WATER RESOURCES DEPARTMENT REQUEST FOR DISTRIBUTION OF FUNDS

TO: Fiscal Services Section

DATE: 11-5-2000

FROM: BEN BISHOP (File Examiner)

PHONE: (541) 388-6669 FAX: (541) 388-5101

SUBJECT: **TRANSFER FILE - Request for Payment or Refund**

TRANSFER FILE #: 6656 RECEIPT #: 81994

Please prepare payment in the amount of \$ 190<sup>00</sup>, made payable to:

Name: JAMES B. COX  
Address: 2215 NE MCKAY CREEK ROAD  
City: PRINEVILLE ST: OR Zip: 97754

These funds are being paid or refunded as a result of (check one):

- File being Rejected / Withdrawn / Misfiled
- Excess fees were collected for application / PON
- Payment of PON
- Protest filing fee
- Other: \_\_\_\_\_

0206

TRANSFER FILE #: \_\_\_\_\_ RECEIPT #: \_\_\_\_\_

Please prepare payment in the amount of \$ \_\_\_\_\_, made payable to:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_

These funds are being paid or refunded as a result of (check one):

- File being Rejected / Withdrawn / Misfiled
- Excess fees were collected for application / PON
- Payment of PON
- Protest filing fee
- Other: \_\_\_\_\_

I have reviewed this distribution request and have determined the request to be justified as to the purpose indicated above. Fiscal Services is hereby authorized to process the requested distribution.

Authorized Signature: Benjamin W. Bealys Date: 11-2-2000

JAMES B. COX  
2215 NE MCKAY CREEK ROAD  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754

POD, POU  
12/18/91  
hearing  
hearing  
order Vol. page  
application of water  
called  
received  
date issued Vol. page

6656

DESCRIPTION OF WATER RIGHT

Name of stream MCKAY CREEK  
Trib. of Crooked River County of CROOK  
Use POD, POU  
Quantity of water No. of acres  
Name of ditch WARD DITCH  
Date of priority 1896, 1907 & 1917  
In name of B.F. ALLEN, I.W. WARD  
Adjudication, Vol. 40, page 47485  
App. No. 5112 Per. No. 3517 Cert. No. 2428  
Certificate cancelled 51561  
Notation made on record by TPE

FEES PAID

| Date        | Amount    | Receipt No. |
|-------------|-----------|-------------|
| 12-18-91    | 305.00    | 81994       |
| TOTAL . . . |           |             |
|             | Cert. Fee |             |

FEES REFUNDED

| Date       | Amount | Check No. |
|------------|--------|-----------|
| MT 12-8-00 | 190.00 | 013026    |

REMARKS

was part cancel (file 5112) at time transfer is processed

ALL ENTERED WATER CLAIMS

| INDEX CARDS:        | Entered |       |
|---------------------|---------|-------|
| _____ Name          | _____   | _____ |
| _____ Division      | _____   | _____ |
| _____ Pt. of Rev.   | _____   | _____ |
| _____ District      | _____   | _____ |
| CHECKED TO RECORDS: |         |       |
| _____ Top & Elev.   | _____   | _____ |
| _____ Description   | _____   | _____ |
| _____ Decree date   | _____   | _____ |
| _____ Cert. of Work | _____   | _____ |
| _____ Per. Holder   | _____   | _____ |
| _____ Certificate   | _____   | _____ |
| _____ Census Roll   | _____   | _____ |
| _____ Power Claim   | _____   | _____ |
| _____ Abstracts     | _____   | _____ |

712



**INTEROFFICE MEMO**  
**WATER RESOURCES DEPARTMENT**  
**SOUTH CENTRAL REGION**

1340 NW WALL STREET, SUITE 100, BEND, OREGON 97701-1982  
(541) 388-6669 FAX: (541) 388-5101

November 3, 2000

To: Gloria Tolleson ( 3 pages including cover)

From: Ben Bishop  
Field Water Right Technician

Subj.: Transfer 6656 Request for Distribution of Funds

Gloria,

Will you please see that this request gets properly handled?

Thanks,

Ben

**INTEROFFICE MEMO**  
**WATER RESOURCES DEPARTMENT**  
**SOUTH CENTRAL REGION**  
1340 NW WALL STREET, SUITE 100, BEND, OREGON 97701-1982  
(541) 388-6669 FAX: (541) 388-5101

November 3, 2000



To: Gloria Tolleson ( 3 pages including cover)

From: Ben Bishop  
Field Water Right Technician

Subj.: Transfer 6656 Request for Distribution of Funds

Gloria,

Will you please see that this request gets properly handled?

Thanks,

Ben

**WATER RESOURCES DEPARTMENT**  
**REQUEST FOR DISTRIBUTION OF FUNDS**

TO: Fiscal Services Section

DATE: 11-3-2000

FROM: BEN BISHOP (File Examiner)

PHONE: (541) 388-6669 FAX: (541) 388-5101

SUBJECT: **TRANSFER FILE - Request for Payment or Refund**

TRANSFER FILE #: 6656 RECEIPT #: 81994

Please prepare payment in the amount of \$ 190<sup>00</sup>, made payable to:

Name: JAMES B. COX  
Address: 2215 NE MCKAY CREEK ROAD  
City: PRINEVILLE ST: OR Zip: 97754

These funds are being paid or refunded as a result of (check one):

- File being Rejected / Withdrawn / Misfiled
- Excess fees were collected for application / PON
- Payment of PON
- Protest filing fee
- Other: \_\_\_\_\_

TRANSFER FILE #: \_\_\_\_\_ RECEIPT #: \_\_\_\_\_

Please prepare payment in the amount of \$ \_\_\_\_\_, made payable to:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_

These funds are being paid or refunded as a result of (check one):

- File being Rejected / Withdrawn / Misfiled
- Excess fees were collected for application / PON
- Payment of PON
- Protest filing fee
- Other: \_\_\_\_\_

I have reviewed this distribution request and have determined the request to be justified as to the purpose indicated above. Fiscal Services is hereby authorized to process the requested distribution.

Authorized Signature: Benjamin W. Bishop Date: 11-7-2000

JAMES B. COX  
22.15 NE MCKAY CREEK ROAD  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754

6656

DESCRIPTION OF WATER RIGHT

FEE PAID

Name of stream MCKAY CREEK  
 Trib. of Crooked River County of CROOK  
 Use POD, POW  
 Quantity of water \_\_\_\_\_ No. of acres \_\_\_\_\_  
 Name of ditch WARD DITCH  
 Date of priority 1896, 1907 & 1917  
 In name of B.F. ALLEN, I.W. WARD  
 \_\_\_\_\_ Adjudication, Vol. 40, page 47485  
 App. No. 5112 Per. No. 3517 Cert. No. 2428  
 \_\_\_\_\_ 51561  
 Certificate cancelled \_\_\_\_\_  
 Notation made on record by \_\_\_\_\_

| Date            | Amount        | Receipt No.  |
|-----------------|---------------|--------------|
| <u>12-18-91</u> | <u>305.00</u> | <u>81994</u> |
| TOTAL . . .     |               |              |
|                 | Cert. Fee     |              |

in POD, POW  
 sd 12/18/91  
 hearing \_\_\_\_\_  
 hearing \_\_\_\_\_  
 order \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_  
 application of water \_\_\_\_\_  
 mailed \_\_\_\_\_  
 received \_\_\_\_\_  
 date issued \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_

FEE REFUNDED

| Date | Amount | Check No. |
|------|--------|-----------|
|      |        |           |

TPE

REMARKS

license part cancel (file 5112) at time transfer is processed

| AS BE ENTERED WHERE CHECKED | INDEX CARDS: |       |
|-----------------------------|--------------|-------|
|                             | Entered      | ✓     |
| _____ Name                  | _____        | _____ |
| _____ Stream                | _____        | _____ |
| _____ Pt. of Div.           | _____        | _____ |
| _____ Order                 | _____        | _____ |
| CHECKED TO RECORDS:         |              |       |
| _____ Twp. & Sec.           | _____        | _____ |
| _____ Decree-Grant          | _____        | _____ |
| _____ Decree-Conf.          | _____        | _____ |
| _____ Cert. of W/R          | _____        | _____ |
| _____ Pur. Holder           | _____        | _____ |
| _____ Chubb'nce             | _____        | _____ |
| _____ Cross Ref.            | _____        | _____ |
| _____ Power Claim           | _____        | _____ |
| _____ Abstracts             | _____        | _____ |

714

**INTEROFFICE MEMO**  
**WATER RESOURCES DEPARTMENT**  
**SOUTH CENTRAL REGION**  
1340 NW WALL STREET, SUITE 100, BEND, OREGON 97701-1982  
(541) 388-6669 FAX: (541) 388-5101

November 6, 2000

To: Paul R. Cleary

From: Ben Bishop  
Field Water Right Technician

Subj.: Transfer Application 6656

Paul,

This application requests to change the point of diversion from a ditch that hasn't been used for close to 50 years. It also requests that excess acres be canceled and 5.7 acres be moved to better land.

I recommend approval.

COPY

T-6656

RECEIVED

DEC 18 1992

State of Oregon  
WATER RESOURCES DEPARTMENT  
APPLICATION FOR TRANSFER OF WATER RIGHT WATER RESOURCES DEPT.  
SALEM, OREGON

Applicant: JAMES B. COX

Mailing Address: 307109 MCKAY ROAD

PRINEVILLE OR 97754 447-5474

City or town State Zip Phone

Type of change: POINT OF DIVERSION, PLACE OF USE  
(In point of diversion: place of use; use heretofore made of the water)

1. WATER RIGHT

- A) Is the water right in your name? NO If not, list name below:  
(Yes, No)  
B.F. ALLEN, 1907, 1896 I.W. WARD, 1917
- B) Was the water right determined by a court decree? YES (1896 & 1907 RIGHTS)  
(Yes, No)  
1. If yes, list the title of the proceedings: CROOKED RIVER ADJUDICATION  
2. Certificate No: 51561
- C) Was the water right acquired by a water permit? YES (1917 RIGHT)  
(Yes, No)  
1. If yes, list the Permit No: 3517  
2. Certificate No: 2428
- D) Date of priority right: NO. 5156-1896 AND 1907 NO. 2428-1917
- E) What are your reasons for the proposed changes? TO CORRECT RECORD FOR ACTUAL POINT OF DIVERSION FOR CERTAIN LANDS. TO PLACE WATER ON MORE PRODUCTIVE LANDS.
- F) The water will be completely applied to the proposed use on or before: OCT. 1, 19 92

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? MCKAY CREEK, A TRIBUTARY OF THE CROOKED RIVER

B) Describe the authorized point of diversion:

P.O.D. CHANGE

|    | Location in Reference to Survey Corner | 1/4,1/4 of Section | Section | Township | Range |
|----|--|--------------------|---------|----------|-------|
| #1 | WARD DITCH (3.0A.-1917)                | SW 1/4 SE 1/4      | 28      | 135      | 16E   |
| #2 | WARD DITCH (18.5A.-1917)               | SW 1/4 SE 1/4      | 28      | 135      | 16E   |

- C) What is the name of the ditch used? WARD DITCH
- D) What is the use to which the water is applied? IRRIGATION

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

TRANS.

| Township   | Range      | Section   | 1/4,1/4 of Section   | No. of acres irrigated |
|------------|------------|-----------|----------------------|------------------------|
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>NW 1/4 SE 1/4</u> | <u>5.7</u>             |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

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

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:

P.O.D. CHANGE

|    | Location in Reference to Survey Corner | 1/4,1/4 of Section | Section | Township | Range |
|----|--|--------------------|---------|----------|-------|
| #1 | HELM DITCH (3.0A.-1917)                | SW 1/4 SE 1/4      | 28      | 135      | 16E   |
| #2 | MCCORD DITCH (18.5A.-1917)             | SW 1/4 NE 1/4      | 33      | 135      | 16E   |

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  
(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? IRRIGATION

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 |
|------------|------------|-----------|----------------------|------------------------|
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>SW 1/4 NE 1/4</u> | <u>5.7</u>             |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

4. EXHIBITS

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

A) 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.

B) A copy of the current recorded deed to the subject lands.

*SENT IN WITH SUPPLEMENTAL GROUND WATER APPLICATION.*

C) 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.

D) Evidence that the water has been used within the last five years. *I've worked this place since 1948 & have used water on it ever since. Etc.*

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

*1948 I have used water on it ever since.*  
6. REMARKS: THE LOCATION OF MCKAY CREEK CHANNEL HAS SHIFTED AROUND IN THE YEARS BETWEEN 1917 AND ABOUT 1950 ON SUBJECT PROPERTY AND THE PROPERTIES UPSTREAM TO THE NORTH. THE POINTS OF DIVERSION OF THE SEVERAL DITCHES HAVE BEEN MOVED TO FOLLOW THE STREAM AS IT SHIFTED. THIS STREAM MOVEMENT DIVIDED FIELDS THAT ONCE HAD COMMON DIVERSION POINTS WHICH NECESSITATED THE DIVERSION OF WATER INTO ANOTHER DITCH TO REACH THE LAND. THE TRANSFER IS INTENDED TO PLACE THE WATER RIGHT ON MORE PRODUCTIVE LAND. THE WATER WILL CONTINUE TO BE DIVERTED INTO THE MCCORD DITCH BUT WILL BE APPLIED BY PORTABLE PUMP AND SPRINKLER INSTEAD OF FLOOD.

I (we) JAMES B. COX, 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 17<sup>th</sup> day of December, 1991.

James B. Cox  
(Signature)

(Signature)

Subscribed and sworn to before me

Pam Reinhart  
Notary Public for Oregon

(Notarial Seal)

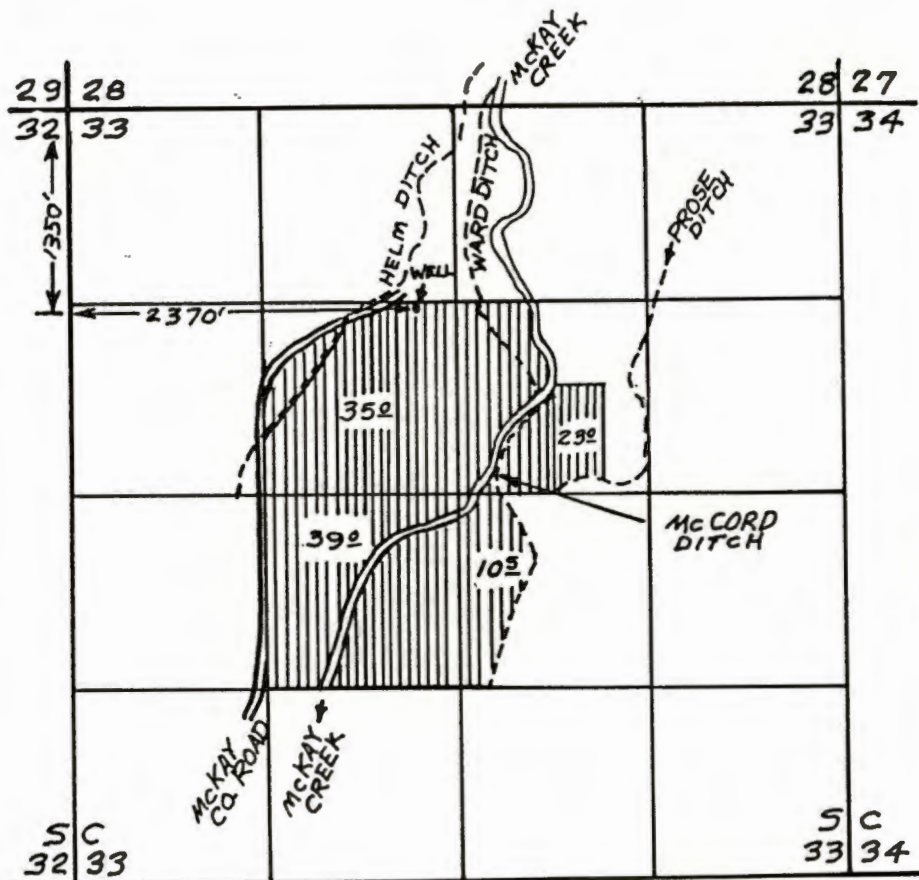
Pam Reinhart  
PAM REINHART  
NOTARY PUBLIC - OREGON  
My Commission Expires 4/13/93

My commission expires: 4/13/93

T.13S., R.16E., W.M. **RECEIVED**

WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR:  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
[503] 447-5474



**LEGEND**



SUPPLEMENTAL GROUND WATER

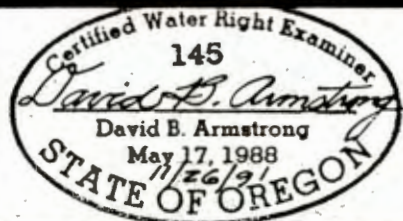
- WELL LOCATION LOCATED IN SE 1/4 NW 1/4 S. 33; S. 1350' & E. 2370' FROM NW COR. S. 33, T13S, R16E, W.M.

T-6656

SURVEY NOTE

THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

ARMSTRONG SURVEYING & ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



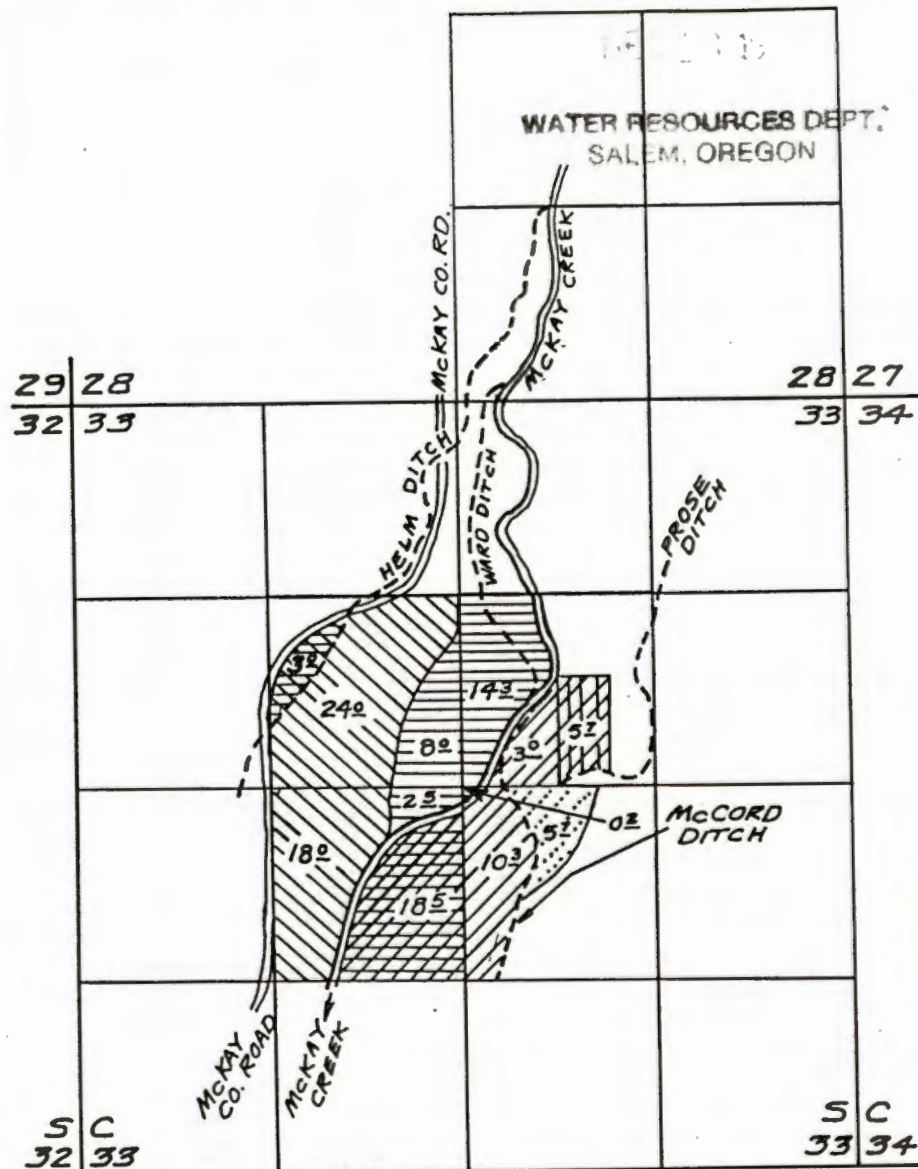
SCALE: 1" = 1320' DATE: 11-25-91

W. O. 91-829A



T.13S., R.16E., W.M. RECEIVED




PREPARED FOR  
 JAMES B. COX  
 307109 MCKAY ROAD  
 PRINEVILLE, OR 97754  
 [503] 447-5474



T-6656



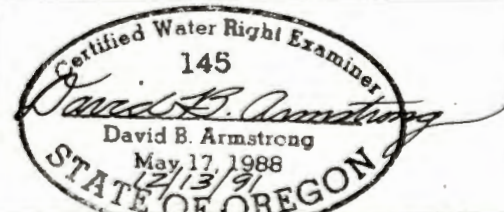
**LEGEND**

-  HELM DITCH DIVERSION  
 C. NO. 51561~P.D. 1896  
 SE1/4 NW1/4 - 24.0 AC.  
 NW1/4 SW1/4 - 18.0 AC.  
 C. NO. 2428~P.D. 1917  
 SE 1/4 NW1/4 - 3.0 AC.  
 PUMP & SPRINKLE ABOVE  
 DITCH
-  WARD DITCH DIVERSION  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 8.0 AC.  
 SW1/4 NE1/4 - 14.3 AC.  
 NE1/4 SW1/4 - 2.5 AC.  
 NW1/4 SE1/4 - 0.2 AC.
-  MCCORD DITCH DIVERSION  
 C. NO. 51561~P.D. 1907  
 NW1/4 SE1/4 - 10.3 AC.  
 SW1/4 NE1/4 - 8.7 AC.  
 C. NO. 2428~P.D. 1917  
 NE1/4 SW1/4 - 18.5 AC.

-  WATER ON
-  WATER OFF

**SURVEY NOTE**  
 THE PREPARATION OF THIS MAP  
 IS FOR THE PURPOSE OF IDENT-  
 IFYING THE LOCATION OF THE  
 WATER RIGHT ONLY AND HAS NO  
 INTENT TO PROVIDE DIMENSIONS  
 OR LOCATIONS OF PROPERTY  
 OWNERSHIP LINES.

ARMSTRONG SURVEYING  
 & ENGINEERING, INC.  
 378 EAST SECOND ST.  
 PRINEVILLE, OREGON 97754  
 [503] 447-7791



SCALE: 1" = 1320' DATE: 11-25-91

W. O. 91-829-B

T-6656

RECEIVED

DEC 18 1992

State of Oregon  
WATER RESOURCES DEPARTMENT  
APPLICATION FOR TRANSFER OF WATER RIGHT

WATER RESOURCES DEPT.  
SALEM, OREGON

Applicant: JAMES B. COX  
Mailing Address: 2215 NE CREEK MCKAY ROAD  
PRINEVILLE City or town OR State 97754 Zip 447-5474 Phone

Type of change: POINT OF DIVERSION, PLACE OF USE  
(In point of diversion: place of use; use heretofore made of the water)

1. WATER RIGHT

A) Is the water right in your name? NO If not, list name below:

(Yes, No)

B.F. ALLEN, 1907, 1896 I.W. WARD, 1917

B) Was the water right determined by a court decree? YES (1896 & 1907 RIGHTS)  
(Yes, No)

1. If yes, list the title of the proceedings: CROOKED RIVER ADJUDICATION

2. Certificate No: 51561

C) Was the water right acquired by a water permit? YES (1917 RIGHT)  
(Yes, No)

1. If yes, list the Permit No: 3517

2. Certificate No: 2428

D) Date of priority right: NO. 51561-1896 AND 1907 NO. 2428-1917

E) What are your reasons for the proposed changes? TO CORRECT RECORD FOR ACTUAL POINT OF DIVERSION FOR CERTAIN LANDS. TO PLACE WATER ON MORE PRODUCTIVE LANDS.

F) The water will be completely applied to the proposed use on or before: OCT. 1, 1992

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? MCKAY CREEK, A TRIBUTARY OF THE CROOKED RIVER

B) Describe the authorized point of diversion:

| Location in Reference to Survey Corner           | 1/4, 1/4 of Section  | Section   | Township   | Range      |
|--|----------------------|-----------|------------|------------|
| <u>LAFOLLETTE &amp; ALLEN DITCH (30A-1917)</u>   | <u>SE 1/4 SW 1/4</u> | <u>22</u> | <u>135</u> | <u>16E</u> |
| <u>LAFOLLETTE &amp; ALLEN DITCH (18.5A-1917)</u> | <u>SE 1/4 SW 1/4</u> | <u>22</u> | <u>135</u> | <u>16E</u> |

C) What is the name of the ditch used? LAFOLLETTE & ALLEN DITCH

D) What is the use to which the water is applied? IRRIGATION

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>135</u> | <u>16E</u> | <u>33</u> | <u>NW 1/4 SE 1/4</u> | <u>5.7</u>             |
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>SE 1/4 NW 1/4</u> | <u>3.0</u>             |
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>NE 1/4 SW 1/4</u> | <u>18.5</u>            |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

F) Is the land within an irrigation district? Yes \_\_\_ No ✓

If Yes, which district? \_\_\_\_\_

G) County CROOK

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>HELM DITCH (30A-1917)</u>           | <u>SW 1/4 SE 1/4</u> | <u>28</u> | <u>135</u> | <u>16E</u> |
| <u>MCCORD DITCH (18.5A-1917)</u>       | <u>SW 1/4 NE 1/4</u> | <u>33</u> | <u>135</u> | <u>16E</u> |

HELM DITCH - LOCATED 1320' NORTH & 660' EAST OF SOUTH 1/4 COR. SEC. 28, T135, R16E, W.M.  
MCCORD DITCH - LOCATED 1980' SOUTH & 630' EAST OF NORTH 1/4 COR. SEC. 33, T135, R16E, W.M.

P.O.D. CHANGE #1 #2  
LAFOLLETTE & ALLEN - N78°20'E, 2943' FROM S.W. CORNER SECTION 22  
MCCORD TRANS. P.O.D.#1 HELM P.O.D.#2 MCCORD

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  
(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? IRRIGATION

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 |
|------------|------------|-----------|----------------------|------------------------|
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>SW 1/4 NE 1/4</u> | <u>5.7</u>             |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

4. EXHIBITS

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

- A) 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.
- B) A copy of the current recorded deed to the subject lands.
- C) 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.
- D) Evidence that the water has been used within the last five years. I've watered this place since 1948 & have used water on it ever since. JBC.

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

6. REMARKS: THE LOCATION OF MCKAY CREEK CHANNEL HAS SHIFTED AROUND IN THE YEARS BETWEEN 1917 AND ABOUT 1950 ON SUBJECT PROPERTY AND THE PROPERTIES UPSTREAM TO THE NORTH. THE POINTS OF DIVERSION OF THE SEVERAL DITCHES HAVE BEEN MOVED TO FOLLOW THE STREAM AS IT SHIFTED. THIS STREAM MOVEMENT DIVIDED FIELDS THAT ONCE HAD COMMON DIVERSION POINTS WHICH NECESSITATED THE DIVERSION OF WATER INTO ANOTHER DITCH TO REACH THE LAND. THE TRANSFER IS INTENDED TO PLACE THE WATER RIGHT ON MORE PRODUCTIVE LAND. THE WATER WILL CONTINUE TO BE DIVERTED INTO THE MCCORD DITCH BUT WILL BE APPLIED BY PORTABLE PUMP AND SPRINKLER INSTEAD OF FLOOD.

I (we) JAMES B. COX, 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 17th day of December, 1991.

REVISED 9/14/98  
REVISED 11/2/00

James B. Cox  
(Signature)

(Signature)

Subscribed and sworn to before me

Pam Reinhart  
Notary Public for Oregon

(Notarial Seal)

Pam Reinhart  
PAM REINHART  
NOTARY PUBLIC - OREGON  
My Commission Expires 4/13/93

My commission expires: 4/13/93

# OREGON WATER RESOURCES DEPARTMENT



Commerce Building  
158 12th Street NE  
Salem OR 97310-0210

To Ben Bishop Date 8/4/98 Page 1 of 2

Fax # \_\_\_\_\_

From Le NUM

Comments: \_\_\_\_\_

## Fax. 503-378-2496

|                    |                                 |                               |
|--------------------|---------------------------------|-------------------------------|
| Dam Safety         | Director's Office               | GIS / Mapping                 |
| Groundwater        | Hanford Studies                 | Hearings                      |
| Hydrographics      | Information (Computer) Services | Legislative & Rules Coord.    |
| Public Information | Strat. Planning & Policy Coord. | Water Resources Comm. Liaison |

## Fax. 503-378-8130

|                     |                             |                         |
|---------------------|-----------------------------|-------------------------|
| Accounting / Fiscal | CWRE Coordination           | Columbia / Snake Issues |
| Conservation        | District 16 Watermaster     | Enforcement             |
| GWEB Liaison        | Land Use Coordination       | Northwest Region        |
| Office Services     | Personnel                   | Planning                |
| Resource Management | Water Development Loan Fund | Water Use Reporting     |
| Well Construction   | Well Driller Licensing      |                         |

## Fax. 503-378-6203

|               |                     |                       |
|---------------|---------------------|-----------------------|
| Adjudications | Final Proof Surveys | Hydroelectric Permits |
| Transfers     | Water Rights        |                       |

RECEIVED

DEC 30 1991

AFFIDAVIT OF VOLUNTARY CANCELLATION OF WATER RIGHTS

WATER RESOURCES DEPT.  
SALEM, OREGON  
being

I, (We), JAMES B. COX

first duly sworn, depose and say that (I am), (we are) the owner(s) of a water right and the land to which it is appurtenant, which is for the use of water from MCKAY CREEK for the irrigation of 75 acre(s) on tax lot 600 (tax map 13-16-33), within the

| location: Township | Range       | Section   | 1/4, 1/4          | Acres      |
|--------------------|-------------|-----------|-------------------|------------|
| <u>135.</u>        | <u>16E.</u> | <u>33</u> | <u>NE1/4SW1/4</u> | <u>1.0</u> |
| <u>135.</u>        | <u>16E.</u> | <u>33</u> | <u>NW1/4SE1/4</u> | <u>3.8</u> |
| <u>135.</u>        | <u>16E.</u> | <u>33</u> | <u>SW1/4NE1/4</u> | <u>2.7</u> |
| _____              | _____       | _____     | _____             | _____      |
| _____              | _____       | _____     | _____             | _____      |
| _____              | _____       | _____     | _____             | _____      |

WM., in CROOK County, Oregon, with a priority date of AUGUST 30, 1917 as evidenced by Certificate No. 2420, recorded at Page \_\_\_\_\_, Volume No. \_\_\_\_\_, State Record of Water Rights Certificates in the name of I.W. WARD, that I, (we) abandoned any and all interest in and to said water right and request that the same be canceled.

IN WITNESS WHEREOF, I, (we) have hereunto set (my), (our) hand(s) this 27, day of Dec., 1991.

James B. Cox  
(Owner)  
\_\_\_\_\_  
(Owner)

SUBSCRIBED AND SWORN TO BEFORE ME this 27<sup>th</sup> day of Dec., 1991.

Pam Reinhart  
PAM REINHART  
NOTARY PUBLIC - OREGON  
My Commission Expires 7/13/93

Pam Reinhart  
Notary Public for State of Oregon  
My Commission Expires: 7/13/93

OR  
\_\_\_\_\_  
(Witness)  
\_\_\_\_\_  
(Witness)

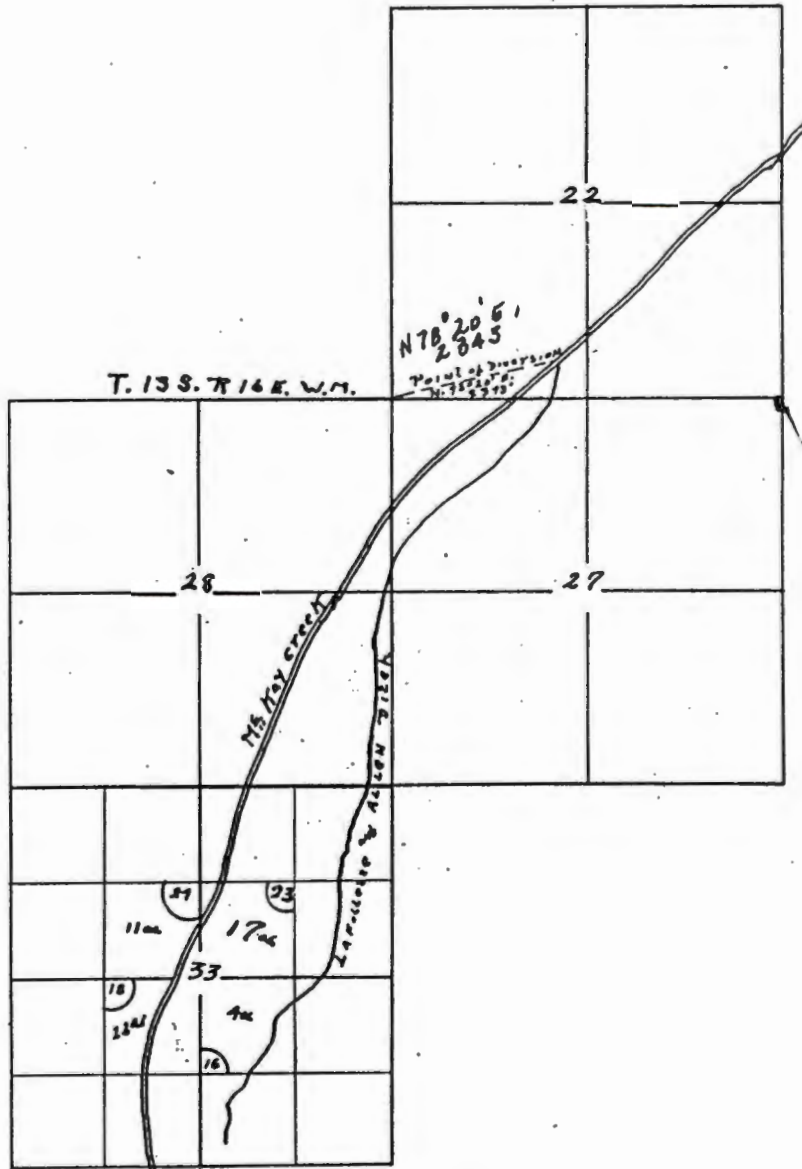
SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Note: This form must be signed by the owners AND either (1) a Notary Public OR (2) two witnesses.

# WAFFOLLETTE & ALLEN DITCH

## CROOK CO.

5712  
3517



③ indicates adjudicated hereafter

# Abstract of Permit No. 3517

Application No. 5712

Certificate No. 2428

Name I. W. Ward

Address Prinsville, Oregon

Source of water supply McKay Creek a tributary of Crooked River

Use Irrigation

Point of diversion N 78° 20' E 2343' SE Corner Sec. 22, Tp. 13S., R. 16E., W. M. being within the SE<sub>1</sub> of the SW<sub>2</sub> of said Sec. 22.

Number of acres

54

## DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

| Twp. | Range | Sec. | NE ¼ |     |     |     | NW ¼ |     |     |     | SW ¼ |     |     |     | SE ¼ |     |     |     |  |
|------|-------|------|------|-----|-----|-----|------|-----|-----|-----|------|-----|-----|-----|------|-----|-----|-----|--|
|      |       |      | NE¼  | NW¼ | SW¼ | SE¼ | NE¼  | NW¼ | SW¼ | SE¼ | NE¼  | NW¼ | SW¼ | SE¼ | NE¼  | NW¼ | SW¼ | SE¼ |  |
| 13S  | 16E   | 22   |      |     | 17  |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |
|      |       |      |      |     |     |     |      |     |     |     |      |     |     |     |      |     |     |     |  |

Priority date August 30, 1917

Amount of water 0.68 cfs.

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:

*Handwritten notes in table:*  
 NE ¼ SW ¼: 17, 14 3/4 Pod, 2 2/3 C.A.W.C.  
 NW ¼ SE ¼: 11 Pod, 22, 12 C.A.W.C., 21 1/2 Pod  
 SE ¼ SW ¼: 4, 10 1/2 Pod, 3 1/2 C.A.W.C.

|                         |   |
|-------------------------|---|
| 50 <sup>00</sup>        | Transfer fee                            |
| 35 <sup>00</sup>        | Change in P.O.D.                        |
| 100 <sup>00</sup>       | Change in place of<br>line              |
| 120 <sup>00</sup>       | Should we need<br>Transfer publications |
| <hr/> 305 <sup>00</sup> | check # 551                             |

J.R. Cox



Killed horses  
to eat.

NUMBER 86769

Check 305. NO          Cash         

---

- Surface Application
- Reservoir Application
- Ground Water Application
- Transfer Application
- Power Claim
- Hydroelectric Examination
- Hydroelectric License
- Copying
- Assignment
- Extension of Time
- Other
- P-6
- Quadrangle
- Basin
- Protest
- Constructors Examination
- Constructors License
- Adjudication

*50 exam  
255 record*

**ARMSTRONG SURVEYING  
& ENGINEERING, INC.**

378 N.E. Second Street  
PRINEVILLE, OREGON 97754

(541) 447-7791  
Fax (541) 416-1602

TO

*Ben Bishop*  
*1340 NW Wheel St.*  
*Suite 100*  
*Bend, OR 97701-1939*

DATE *Nov. 3, 2000*

SUBJECT *WO 91-829*

*J. B. Cox W.R.*  
*Transfer*  
*T 6656*

*Dear Ben: Enclosed please find the corrected map and application for this transfer. The corrections are made as per your letter dated Sept. 7, 2000. If you have any questions please call.*

*Enclosures*

*CC: J.B. Cox*

PLEASE REPLY  NO REPLY NECESSARY

SIGNED

*Sincerely,*  
*David B. Armstrong*

TO: BEN BISHOP

FAX 388-5101

PHONE 388-6669

FROM: DAVID ARMSTRONG

FAX ~~4~~416-1602

PHONE 447-7791

T 6656

J. B. COX

Please review and call  
with comments.

T-6656

RECEIVED

DEC 18 1992

State of Oregon WATER RESOURCES DEPARTMENT APPLICATION FOR TRANSFER OF WATER RIGHT WATER RESOURCES DEPT. SALEM, OREGON

Applicant: JAMES B. COX 2215 NE CREEK MCKAY ROAD PRINEVILLE OR 97754 447-5474

Type of change: POINT OF DIVERSION, PLACE OF USE (In point of diversion: place of use; use heretofore made of the water)

1. WATER RIGHT

A) Is the water right in your name? NO If not, list name below: B.F. ALLEN, 1907, 1896 I.W. WARD, 1917

B) Was the water right determined by a court decree? YES (1896 & 1907 RIGHTS)

1. If yes, list the title of the proceedings: CROOKED RIVER ADJUDICATION 2. Certificate No: 51561

C) Was the water right acquired by a water permit? YES (1917 RIGHT)

1. If yes, list the Permit No: 3517 2. Certificate No: 2428

D) Date of priority right: NO. 51561-1896 AND 1907 NO. 2428-1917

E) What are your reasons for the proposed changes? TO CORRECT RECORD FOR ACTUAL POINT OF DIVERSION FOR CERTAIN LANDS. TO PLACE WATER ON MORE PRODUCTIVE LANDS.

F) The water will be completely applied to the proposed use on or before: OCT. 1, 1992

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? MCKAY CREEK, A TRIBUTARY OF THE CROOKED RIVER

B) Describe the authorized point of diversion:

Table with 5 columns: Location in Reference to Survey Corner, 1/4,1/4 of Section, Section, Township, Range. Includes entries for LAPOLLETTE & ALLEN WARD DITCH and MCKAY CREEK.

C) What is the name of the ditch used? WARD DITCH - A FOLLETTE & ALLEN

D) What is the use to which the water is applied? IRRIGATION

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

Table with 5 columns: Township, Range, Section, 1/4,1/4 of Section, No. of acres irrigated. Includes entries for Township 135, Range 16E, Section 33.

F) Is the land within an irrigation district? Yes No [checked]

G) County CROOK

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:

Table with 5 columns: Location in Reference to Survey Corner, 1/4,1/4 of Section, Section, Township, Range. Includes entries for HELM DITCH and MCCORD DITCH.

0.D. HELM DITCH - LOCATED 1320' NORTH & 660' EAST OF SOUTH 1/4 COR. SEC. 28, T135, R16E, W.M. 0.D. MCCORD DITCH - LOCATED 1980' SOUTH & 630' EAST OF NORTH 1/4 COR. SEC. 33, T135, R16E, W.M.

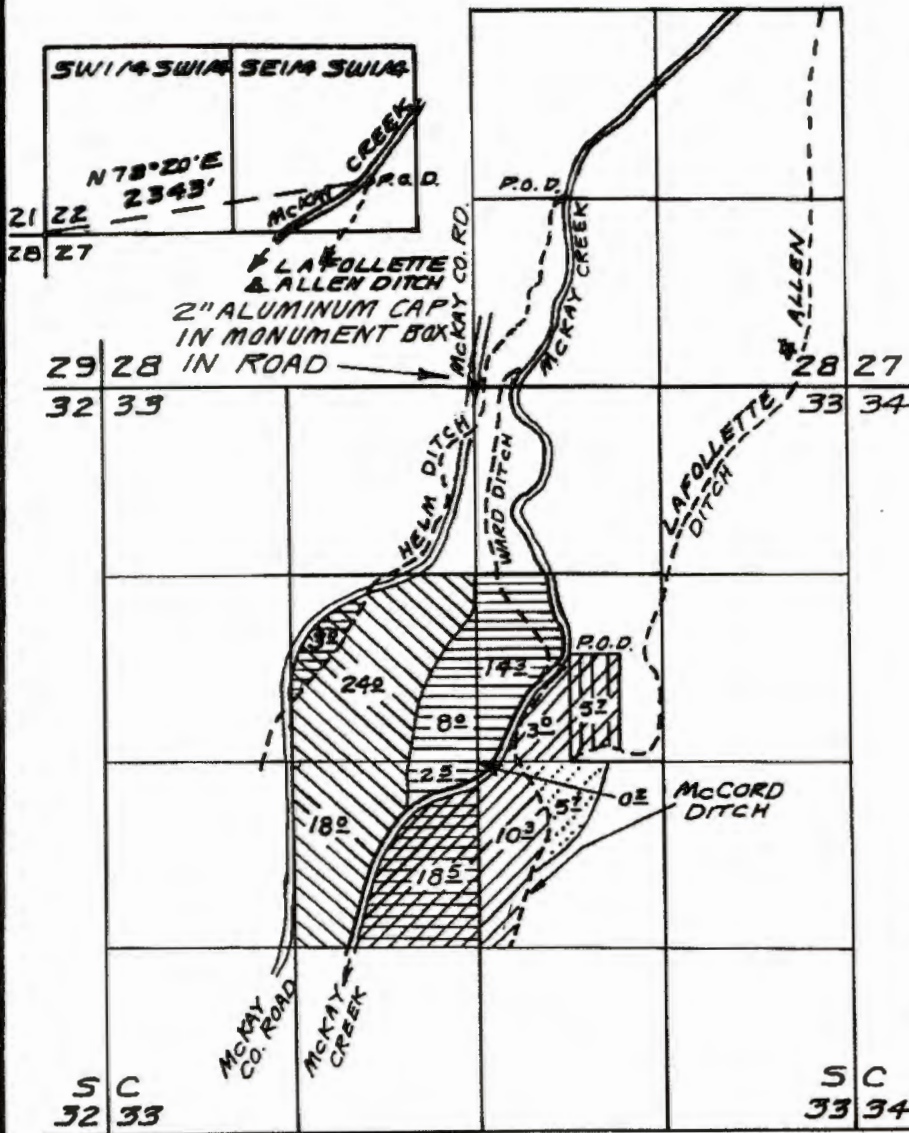
CHANGES

CHANGES

MCCORD MS. 2D#1 3CM 0#2 0RD

T. 13 S., R. 16 E., W. M.








T-6656



PREPARED FOR  
**JAMES B. COX**  
 2215 NE MCKAY CR. RD.  
 PRINEVILLE, OR 97754  
 (541) 447-5474  
 HELM DITCH P.O.D.  
 LOCATED 1320' NORTH  
 & 660' EAST OF S1/4  
 COR. SEC. 28  
 MCCORD DITCH P.O.D.  
 LOCATED 1980' SOUTH  
 & 630' EAST OF N1/4  
 COR. SEC. 33



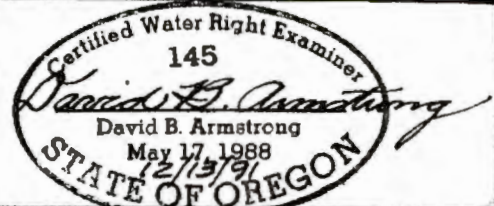
**LEGEND**

-  HELM DITCH DIVERSION  
 C. NO. 51561~P.D. 1896  
 SE1/4 NW1/4 - 24.0 AC.  
 NW1/4 SW1/4 - 18.0 AC.
-  C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 3.0 AC.  
 PUMP & SPRINKLE ABOVE  
 DITCH
-  WARD DITCH DIVERSION  
 C. NO. 2428~P.D. 1917  
 SE1/4 NW1/4 - 8.0 AC.  
 SW1/4 NE1/4 - 14.3 AC.  
 NE1/4 SW1/4 - 2.5 AC.  
 NW1/4 SE1/4 - 0.2 AC.
-  MCCORD DITCH DIVERSION  
 C. NO. 51561~P.D. 1907  
 NW1/4 SE1/4 - 10.3 AC.  
 SW1/4 NE1/4 - 8.7 AC.
-  C. NO. 2428~P.D. 1917  
 NE1/4 SW1/4 - 18.5 AC.
-  WATER ON
-  WATER OFF

**SURVEY NOTE**

THE PREPARATION OF THIS MAP  
 IS FOR THE PURPOSE OF IDENTIFYING  
 THE LOCATION OF THE WATER RIGHT  
 ONLY AND HAS NO INTENT TO PROVIDE  
 DIMENSIONS OR LOCATIONS OF PROPERTY  
 OWNERSHIP LINES.

**ARMSTRONG SURVEYING  
 & ENGINEERING, INC.**  
 378 EAST SECOND ST.  
 PRINEVILLE, OREGON 97754  
 (541) 447-7791 REVISED 9-14-98



SCALE: 1"=1320' DATE: 11-25-91

W. O. 91-829-B



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

South Central Region  
Watermaster District 11  
1340 NW Wall St., Suite 100  
Bend, OR 97701-1939  
(541) 388-6669  
FAX (541) 388-5101  
<http://www.wrd.state.or.us>

September 7, 2000

JAMES B. COX  
2215 NE McKAY CREEK RD  
PRINEVILLE OR 97754

Reference: Transfer Application 6656

Dear Mr. Cox:

Your Transfer Application 6656 was returned by the Salem office, stating that the authorized diversion point for the rights with the August 30, 1917 priority is the Lafollette & Allen Ditch, not the Ward ditch as described in your application. I apologize for not noticing this when I originally processed the application.

In any case, the application and maps need to be changed to reflect the correct authorized diversion point.

The location of the Lafollette & Allen Ditch diversion from McKay Creek is as follows:

SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 22, T 13 S, R 16 E, W.M.; N 78° 20' E, 2,343 FEET FROM THE SW CORNER, SECTION 22.

I am enclosing a copy of the map for Permit 3517 that shows the authorized diversion location for the Lafollette & Allen Ditch.

I am returning your original application and map so that the needed corrections can be made.

Please return the corrected items by November 7, 2000.

If you have any questions, please contact me.

Sincerely,

  
Benjamin W. Bishop  
Field Water Right Technician

encl

cc: David B. Armstrong, CWRE



# Affidavit of Publication

STATE OF OREGON, )  
 COUNTY OF CROOK, )

I, Wm F. Schaffer, being first duly sworn, depose and say that I am the owner, editor, publisher, manager, advertising manager, principal clerk of the CENTRAL OREGONIAN, printer or his foreman of the CENTRAL OREGONIAN, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Prineville, in the aforesaid

county and state; that the notice a printed copy of which is hereto annexed, was publish-

ed in the entire issue of said newspaper for three successive and consecutive weeks in the following issues

- Issue date September 22, 1998
- Issue date September 29, 1998
- Issue date October 06, 1998
- Issue date \_\_\_\_\_
- Issue date \_\_\_\_\_



The fee charged for the above publication was

\$ 71.50

*Handwritten signature*

Gen Mgr

Subscribed and sworn to before me this 6th

day of October, 19 98

*Handwritten signature of Notary Public*  
 Notary Public for Oregon

My Commission expires 9-17-01

(374)PUBLIC NOTICE  
 NOTICE OF WATER RIGHT  
 TRANSFER 6656

James B. Cox filed an application with the Water Resources Department for a change in point of diversion of water as provided by ORS 540.510 to 540.530. Certificate 2428, in the name of I.W. Ward, includes a right limited to 0.27 cubic foot per second from McKay Creek, with a priority date of August 30, 1917 for irrigating 21.5 acres. The point of diversion appropriation for this right is the Ward Ditch in the SW 1/4 SE 1/4, Section 28, T 13 S, R 16 E, W.M. The applicant proposes to change the point of diversion for 3.0 acres in the SE 1/4 NW 1/4, Section 33, T 13 S, R 16 E, W.M. to the Helm Ditch - SW 1/4 SE 1/4, Section 28, T 13 S, R 16 E, W.M.; 1320 feet north and 660 feet east from the South 1/4 Corner of Section 28. The applicant also proposes to change the point of appropriation for 18.5 acres in the NE 1/4 SW 1/4, Section 33, T 13 S, R 16 E, W.M. to the McCord Ditch - SW 1/4 NE 1/4, Section 33, T 13 S, R 16 E, W.M.; 1980 feet south and 630 feet east from the North 1/4 Corner of Section 33. Protests may be filed by persons who think their water right may be injured by this change. Additional information or forms and rules for filing protests are available from the Water Resources Department by calling (541) 388-6669. If a protest is filed a hearing may be held. The last date of publication is October 6, 1998. IF NO PROTEST IS FILED BY November 5, 1998, THE CHANGE MAY BE APPROVED WITHOUT A HEARING.



November 4, 1998

WATER  
RESOURCES  
DEPARTMENT

JAMES B COX  
2215 NE MCKAY CREEK RD  
PRINEVILLE OR 97754

Reference: Publication of notice (T-6656)


Dear Mr. Cox:

On September 15, 1998, I sent you a notice that needed to be published in the newspaper. This notice is required because you are requesting a diversion point change for your water rights.

It has been over six weeks since then and I haven't heard from the newspaper yet. I can't proceed with this transfer until I have an affidavit of publication from the newspaper.

Please let me know if you have had the notice published.

Sincerely,

  
Benjamin W. Bishop  
Field Water Right Technician



## NOTICE OF WATER RIGHT TRANSFER 6656

James B. Cox filed an application with the Water Resources Department for a change in point of diversion of water as provided by ORS 540.510 to 540.530.

Certificate 2428, in the name of I. W. Ward, includes a right limited to 0.27 cubic foot per second from McKay Creek, with a priority date of August 30, 1917 for irrigating 21.5 acres.

The point of diversion appropriation for this right is the Ward Ditch in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 28. T 13 S, R 16 E, W.M.

The applicant proposes to change the point of diversion for 3.0 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 33, T 13 S, R 16 E, W.M. to the Helm Ditch - SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 28, T 13 S, R 16 E, W.M.; 1320 feet north and 660 feet east from the South 1/4 Corner of Section 28.

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Protests may be filed by persons who think their water right may be injured by this change. Additional information or forms and rules for filing protests are available from the Water Resources Department by calling (541) 388-6669. If a protest is filed a hearing may be held.

The last date of publication is [last date of publication]. IF NO PROTEST IS FILED BY [30 days after last publication], THE CHANGE MAY BE APPROVED WITHOUT A HEARING.

September 17, 1998

Steven Marx  
Oregon Department of Fish and Wildlife  
61374 Parrell Road  
Bend, OR 97702

WATER  
RESOURCES  
DEPARTMENT

Re: Input regarding water right transfers

Dear Steven:

I appreciate your response to my letters and will include the fish screen and bypass requirements as part of the approval orders for Transfer Applications 6656, 7341, 7360, and 7690.

However, if I had not had to return Application 6656 to the applicant for corrections, the transfer order could possibly have been issued without your requested requirements. The 30 days in which to respond to my letter dated August 4, 1998, soliciting input from you, lapsed on September 4, 1998. On September 14th I received your letter dated September 6, 1998. It was postmarked September 11, 1998.


If, after having asked for input regarding the fish screen requirement and not getting a response within the 30-day time frame allowed, an order had been issued without the fish screen requirement that you requested, it is doubtful that we could later legally add the requirement to the order.

The watermaster can require a headgate or measuring device as a condition of the transfer either prior to diverting or when in his judgement it becomes necessary. We have decided that whenever ODF&W requires a fish screen on McKay Creek, we will, as a matter of course, also require a weir and head gate or other appropriate means of intake control prior to diverting.

In response to your statement that if a diversion uses a push-up dam we should request a permanent or alternative diversion structure, we cannot mandate the type of diversion as part of a transfer application. The only thing we are legally allowed to consider is whether the transfer would cause injury to an existing water right. Public interest concerns cannot be considered when determining whether a transfer can be approved.

If you have any comments or questions, please contact me.

Sincerely,

  
Benjamin W. Bishop  
Field Water Right Technician



September 15, 1998

WATER  
RESOURCES  
DEPARTMENT

JAMES B. COX  
2215 NE MCKAY CREEK ROAD  
PRINEVILLE, OR 97754

Re: Publication of notice

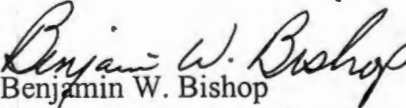
Dear Mr. Cox:

Enclosed is a notice that you need to have published once a week for three consecutive weeks in a local newspaper. In your case that would probably be the *Central Oregonian* in Prineville.

After the notice has been published for the required three weeks, I will need an affidavit of publication from the newspaper verifying that the notice was published. After the last publication of the notice, there is a 30-day protest period. If I haven't received any protests to your transfer request and if I have received the affidavit of publication from the newspaper, I will recommend that the Water Resources Department Director sign an order approving the transfer.

If you have any questions or comments, please feel free to contact me.

Sincerely,

  
Benjamin W. Bishop  
Field Water Right Technician

encl



**ARMSTRONG SURVEYING & ENGINEERING, INC.**  
378 East Second Street Prineville, Oregon 97754  
Phone: 447-7791

## memo-letter

TO: Ben Bishop DATE Sept. 14, 1998  
1340 NW Wall Street  
Route 100 SUBJECT: T 6656  
Bend, OR 97701-1982 J.B. COX WO 91-829B

Dear Ben:

Enclosed please find the following items submitted as per your letter dated 8/4/98. (1) Revised original transfer map (the good mylar originally submitted was retained); (2) Revised application (3) copy of owner's deed (4) Land use information form. Please review these and let me know if any additional work is required. Thank you.

Sincerely,

David B. Armstrong



# Oregon

John A. Kitzhaber, M.D., Governor

RECEIVED SEP 14 1998 *BlB*

Department of Fish and Wildlife

High Desert Region

61374 Parrell Road

Bend, OR 97702

(541) 388-6363

FAX (541) 388-6281

E-mail: [odfw.bend@bendnet.com](mailto:odfw.bend@bendnet.com)

September 6, 1998



Benjamin Bishop  
Water Resources Department  
1340 NW Wall Street, Suite 100  
Bend, Oregon 97701

Re: Water Right Transfer #6656

Dear Benjamin;

The Oregon Department of Fish and Wildlife (ODFW) requests that installation of a fish screen and bypass device be required as part of this water right transfer due to the presence of redband trout, a sensitive fish species. Additionally, summer steelhead may be reintroduced to this part of the Upper Deschutes River basin through the PGE relicensing process. The applicant may be eligible for cost-share under the ODFW Screening Program. This program provides 60% matching funds of up to a \$10,000 maximum for screens less than 30 cfs. The applicant should contact ODFW for additional information on this program and to receive a screening agreement.

The Water Resources Department should also require installation of a headgate and water measuring device as part the water rights transfer. If the diversion uses a gravel push-up dam, a permanent or alternative diversion structure should be requested to avoid annual disturbance to the streambed and bank and possible impacts to spawning fish.

Thank-you for the opportunity to provide comments.

Sincerely,

Steven Marx

Acting District Fish Biologist

August 4, 1998

JAMES B COX  
307109 M<sup>c</sup>KAY ROAD  
PRINEVILLE OR 97754

WATER  
RESOURCES  
DEPARTMENT

Reference: Transfer Application 6656

Dear Mr. Cox:

I am processing your Transfer Application 6656 which requests changes in points of diversion for 21.5 acres with a 1917 priority and place of use for 5.7 acres with a 1907 priority.

Some items need to be amended or added to the application and/or map and some additional information is also needed. These are as follows:


- 1) The diversions for the Helm and McCord ditches need to be located accurately in relation to a public land survey corner, both on the map and application.
- 2) A copy of the recorded deed showing you as owner of the land is required.
- 3) Verification from the Crook County Planning Department that what you request does not conflict with local land use laws. Forms for this use are enclosed.
- 4) A listing of all the lands involved needs to be completed on the application as shown on a copy of the application.
- 5) The correct certificate number needs to be shown in 1.D) (51561 instead of 5156).

I am returning your application and maps so that the required corrections can be made. Please return the corrected application and maps by September 4, 1998.

When the corrections have been made, public notice needs to be made of the "proposed" diversion point changes. This notice must be published once a week for three consecutive weeks in a newspaper in general circulation in the area of the transfer. This would probably be the *Central Oregonian*. At that time I will send you the notice for you to have published.

If you have any questions or comments, please contact me.

Sincerely,

  
Benjamin W. Bishop  
Field Water Right Technician



encl  
cc: David B. Armstrong, CWRE

1340 NW Wall Street  
Suite 100  
Bend, OR 97701-1982  
(541) 388-6669  
FAX (541) 388-5101

August 4, 1998

JAMES B COX  
307109 MCKAY ROAD  
PRINEVILLE OR 97754

WATER  
RESOURCES  
DEPARTMENT

Reference: Transfer Application 6656

Dear Mr. Cox:

I am processing your Transfer Application 6656 which requests changes in points of diversion for 21.5 acres with a 1917 priority and place of use for 5.7 acres with a 1907 priority.

Some items need to be amended or added to the application and/or map and some additional information is also needed. These are as follows:

- DBA 9/14/98 1) The diversions for the Helm and McCord ditches need to be located accurately in relation to a public land survey corner, both on the map and application.
- JBC 8/13/98 2) A copy of the recorded deed showing you as owner of the land is required.
- JBC 8/13/98 3) Verification from the Crook County Planning Department that what you request does not conflict with local land use laws. Forms for this use are enclosed.
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If you have any questions or comments, please contact me.

Sincerely,

*Benjamin W. Bishop*  
Benjamin W. Bishop  
Field Water Right Technician



encl  
cc: David B. Armstrong, CWRE

1340 NW Wall Street  
Suite 100  
Bend, OR 97701-1982  
(541) 388-6669  
FAX (541) 388-5101



August 4, 1998

WATER  
RESOURCES  
DEPARTMENT

STEVEN D. MARX  
OREGON DEPARTMENT OF FISH AND WILDLIFE  
61374 PARRELL RD.  
BEND, OR 97702

Reference: Transfer # 6656

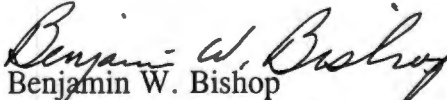
Enclosed for your review is a copy of a water right transfer application proposing a change in a water right from McKay Creek, a tributary of The Crooked River.

Consistent with the Oregon Plan, we are soliciting your input as to whether approval of the transfer as proposed, will injure an instream water right. If you believe that the proposed transfer will injure an existing instream water right, please describe the nature of the injury and provide any supporting information upon which the determination of injury is based.

ORS 540.525 requires that we consult with you to determine if a fish screen or by-pass device should be required in conjunction with a change in a point of diversion. If you request a fish screen or by-pass device, we will include a condition in the transfer order and the applicant will be eligible to participate in ODFW's cost sharing program for screening and by-pass devices.

We must receive your response within 30 days in order to consider it in our decision on the application and to include the appropriate conditions in any approval order.

If you have questions, please write to me or call me at (541) 388-6669.

  
Benjamin W. Bishop  
Field Water Right Technician

Enclosure

cc: Wm  
Applicant



1340 NW Wall Street  
Suite 100  
Bend, OR 97701-1982  
(541) 388-6669  
FAX (541) 388-5101

STATE OF OREGON

COUNTY OF CROOK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That B. F. ALLEN

of Prineville, State of Oregon 97754, has a right to the use of the waters of McKay Creek

a tributary of Crooked River for the purpose of irrigation of 145.0 acres, stock, and domestic use

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Crook County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 1, at page 499; that the priority of the right thereby confirmed dates from 1896: 0.53 cubic foot per second for Tract 1; 1907: 0.24 cfs for Tract 2; 1891: 0.30 cfs for Tract 3; 1897: 0.45 cfs for \* 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 1.82 cubic feet per second

The point of diversion is located in the

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

SEE NEXT PAGE

\*Tract 6; 1899: 0.30 cfs for Tract 7.

Tract 1 (Helm Ditch) ✓  
24.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
18.0 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 33

Tract 2 (McCord Ditch) ✓  
3.0 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
- 5<sup>1</sup> 16.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$  - 10.3  
Section 33

Tract 3 (Lister Ditch) ✓  
9.0 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$   
15.0 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 28

Tract 6 (Allen Ditch) ✓  
13.0 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$   
21.0 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$   
2.0 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 21

Tract 7 (Prose Ditch) ✓  
11.0 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 28  
13.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 33

Township 13 South, Range 16 East, WM

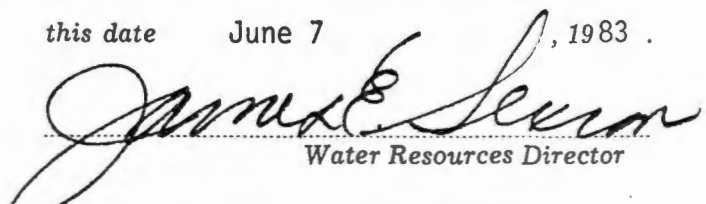
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 47485, Volume 40, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on March 24, 1983.

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.

*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.*

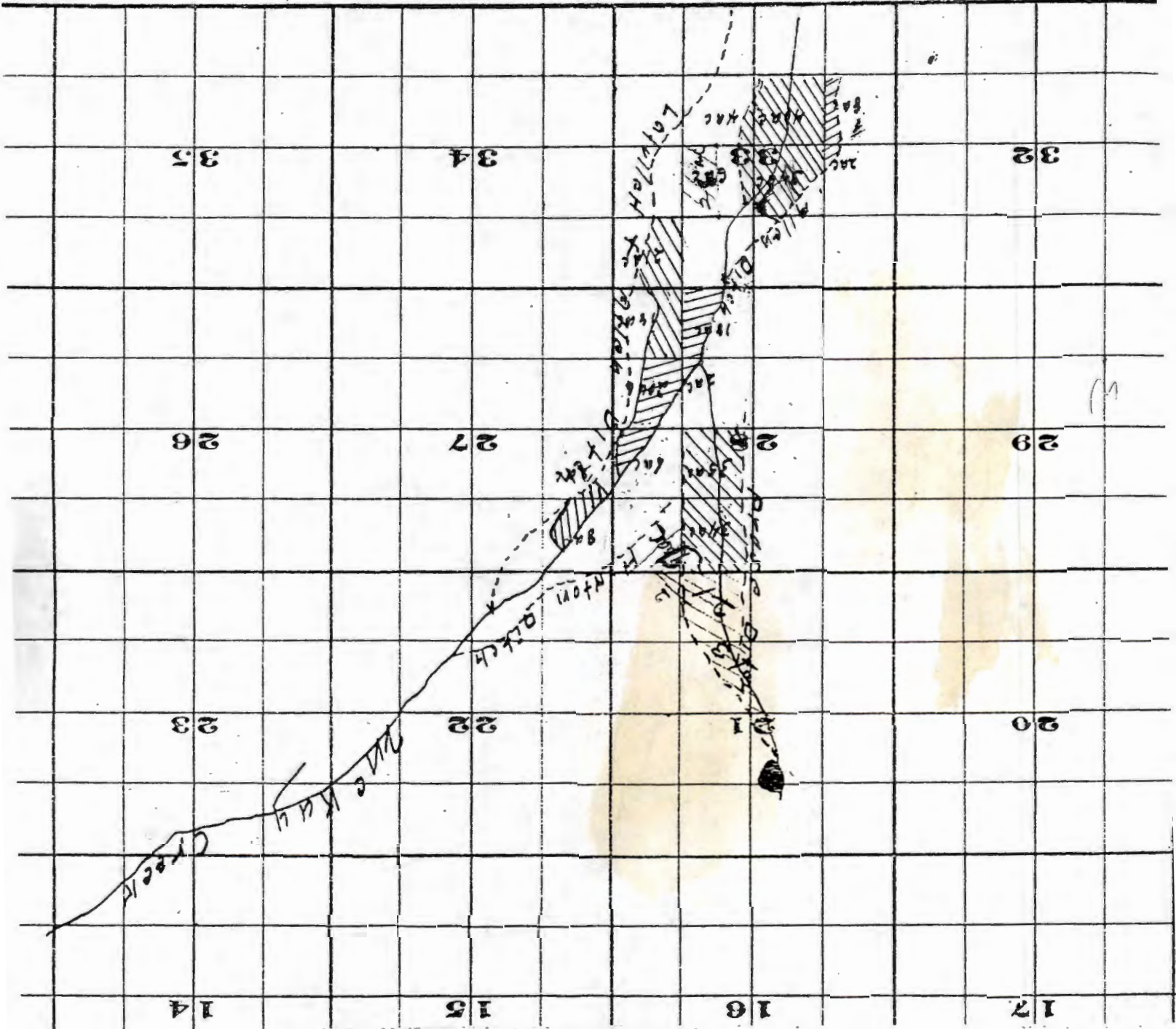
WITNESS the signature of the Water Resources Director, affixed

this date June 7, 1983 .

  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 46 , page 51561

T-6656



# WaterWatch

O F O R E G O N

RECEIVED

DEC 30 1991

WATER RESOURCES DEPARTMENT  
DEPARTMENT OF AGRICULTURE

December 27, 1991

Stephen C. Brown  
Senior Water Rights Specialist  
Applications and Permits Section  
Water Resources Department  
3850 Portland Rd. N. E.  
Salem, OR 97310

File  
T-6656

Re: Application for Transfer #T-6656  
J. B. Cox, McKay Cr., Crook Co.  
Transfer Point of Diversion, Certs #2428 & 51561

WaterWatch asks that the certificate holder be required to install and maintain fish screening devices to the specifications of the Oregon Department of Fish and Wildlife prior to diverting water at the new diversion point.

McKay Creek contains rainbow trout. Unscreened irrigation diversions in McKay Creek have already seriously impacted trout populations in the creek. To allow an unscreened diversion at the new point of diversion does not seem to be in the public interest.

Sincerely,

  
Jim Myron

# WaterWatch

O F O R E G O N

RECEIVED  
DEC 27 1991

December 27, 1991

Stephen C. Brown  
Senior Water Rights Specialist  
Applications and Permits Section  
Water Resources Department  
3850 Portland Rd. N. E.  
Salem, OR 97310

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McKay Creek contains rainbow trout. Unscreened irrigation diversions in McKay Creek have already seriously impacted trout populations in the creek. To allow an unscreened diversion at the new point of diversion does not seem to be in the public interest.

Sincerely,



Jim Myron

December 23, 1991

James B. Cox  
307109 McKay Road  
Prineville, OR 97754

REFERENCE: Transfer 6656

We have received your Transfer Application requesting approval of a change in POINT OF DIVERSION AND PLACE OF USE for use of water from MCKAY CREEK for IRRIGATION. The application was received with supporting data, map and fees of \$305. Our receipt 81994 is enclosed.

By copy of this letter, we are asking the Watermaster for his usual report regarding the potential for injury to other water rights by approval of your application.

Due to the unusually high number of applications received over the past two years, we are unable to complete the examination for your application at this time. We will endeavor to complete the examination as soon as possible.

Applications are normally examined in the order they are received. If you have an extraordinary need for a decision within the next 90 to 120 days, please advise us, in writing, of the nature of your need.

We will notify you if additional information is needed, or corrections to the application or map are required.

Contact water rights information at 378-3066, if you have questions.

LHN:caw

Enclosure

cc: Bob Main, Watermaster, District 11  
David B. Armstrong, CWRE



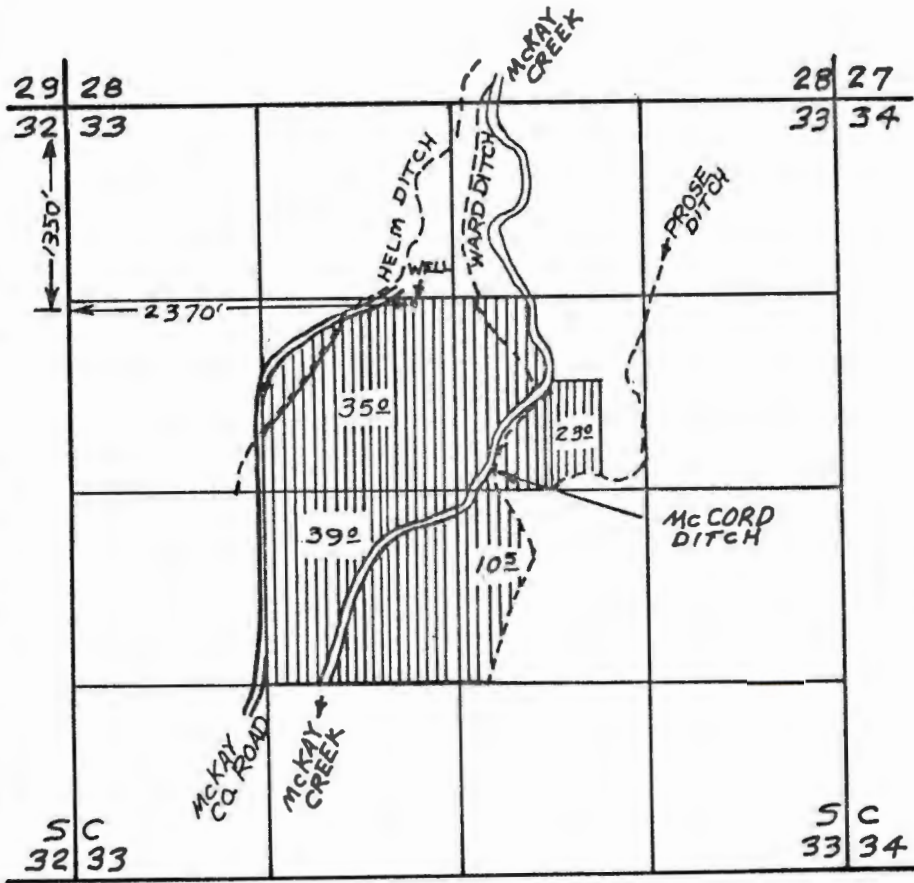
T.13S., R.16E., W.M.

RECEIVED

DEC 18 1991

WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR:  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
[503] 447-5474



LEGEND

 SUPPLEMENTAL GROUND WATER

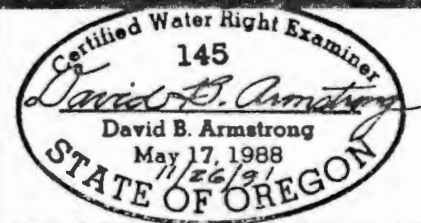
• WELL LOCATION LOCATED IN SE 1/4 NW 1/4 S. 33; S. 1350' & E. 2370' FROM NW COR. S. 33, T. 13S, R. 16E, W.M.

T-6656

SURVEY NOTE

THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

ARMSTRONG SURVEYING & ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



SCALE: 1" = 1320'      DATE: 11-25-91

W. O. 91-829 A



T.13S., R.16E., W.M.

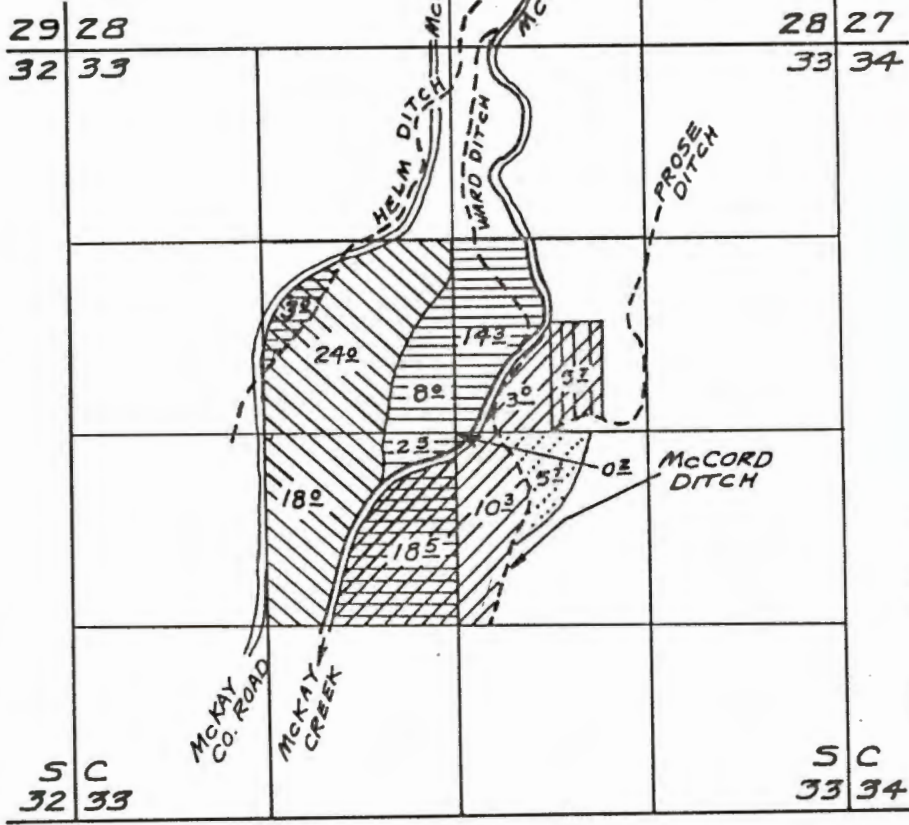
RECEIVED

DEC 18 1991








WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
[503] 447-5474

T-6656

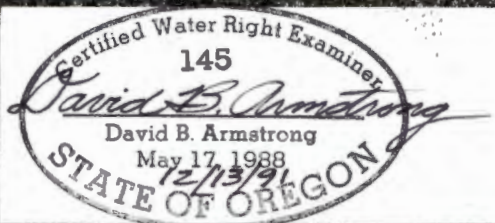


LEGEND

-  HELM DITCH DIVERSION  
C. NO. 51561~P.D. 1896  
SE1/4 NW1/4 - 24.0 AC.  
NW1/4 SW1/4 - 18.0 AC.
-  C. NO. 2428~P.D. 1917  
SE 1/4 NW1/4 - 3.0 AC.  
PUMP & SPRINKLE ABOVE DITCH
-  WARD DITCH DIVERSION  
C. NO. 2428~P.D. 1917  
SE1/4 NW1/4 - 8.0 AC.  
SW1/4 NE1/4 - 14.3 AC.  
NE1/4 SW1/4 - 2.5 AC.  
NW1/4 SE1/4 - 0.2 AC.
-  McCORD DITCH DIVERSION  
C. NO. 51561~P.D. 1907  
NW1/4 SE1/4 - 10.3 AC.  
SW1/4 NE1/4 - 8.7 AC.
-  C. NO. 2428~P.D. 1917  
NE1/4 SW1/4 - 18.5 AC.
-  WATER ON
-  WATER OFF

SURVEY NOTE  
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ARMSTRONG SURVEYING  
& ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



SCALE: 1"= 1320'      DATE: 11-25-91

W. O. 91-829-B

COPY

T-6656

RECEIVED

DEC 18 1992

State of Oregon  
WATER RESOURCES DEPARTMENT  
APPLICATION FOR TRANSFER OF WATER RIGHT WATER RESOURCES DEPT.  
SALEM, OREGON

Applicant: JAMES B. COX

Mailing Address: 307109 MCKAY ROAD

PRINEVILLE City or town OR State 97754 Zip 447-5474 Phone

Type of change: POINT OF DIVERSION, PLACE OF USE  
(In point of diversion: place of use; use heretofore made of the water)

1. WATER RIGHT

A) Is the water right in your name? NO If not, list name below:

B.F. ALLEN, 1907, 1896 (Yes, No) I.W. WARD, 1917

B) Was the water right determined by a court decree? YES (1896 & 1907 RIGHTS)  
(Yes, No)

1. If yes, list the title of the proceedings: CROOKED RIVER ADJUDICATION

2. Certificate No: 51561

C) Was the water right acquired by a water permit? YES (1917 RIGHT)  
(Yes, No)

1. If yes, list the Permit No: 3517

2. Certificate No: 2428

D) Date of priority right: NO. 5156-1896 AND 1907 NO. 2428-1917

E) What are your reasons for the proposed changes? TO CORRECT RECORD FOR ACTUAL POINT OF DIVERSION FOR CERTAIN LANDS. TO PLACE WATER ON MORE PRODUCTIVE LANDS.

F) The water will be completely applied to the proposed use on or before: OCT. 1, 1992

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? MCKAY CREEK, A TRIBUTARY OF THE CROOKED RIVER

B) Describe the authorized point of diversion:

P.O.D. CHANGE

| Location in Reference to Survey Corner | 1/4, 1/4 of Section  | Section   | Township   | Range      |
|--|----------------------|-----------|------------|------------|
| <u>#1 WARD DITCH (3.0A.-1917)</u>      | <u>SW 1/4 SE 1/4</u> | <u>28</u> | <u>13S</u> | <u>16E</u> |
| <u>#2 WARD DITCH (18.5A.-1917)</u>     | <u>SW 1/4 SE 1/4</u> | <u>28</u> | <u>13S</u> | <u>16E</u> |

C) What is the name of the ditch used? WARD DITCH

D) What is the use to which the water is applied? IRRIGATION

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

TRANS.

| Township   | Range      | Section   | 1/4, 1/4 of Section  | No. of acres irrigated |
|------------|------------|-----------|----------------------|------------------------|
| <u>13S</u> | <u>16E</u> | <u>33</u> | <u>NW 1/4 SE 1/4</u> | <u>5.7</u>             |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

F) Is the land within an irrigation district? Yes \_\_\_ No ✓

If Yes, which district? \_\_\_\_\_

G) County CROOK

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:

P.O.D. CHANGE

| Location in Reference to Survey Corner | 1/4, 1/4 of Section  | Section   | Township   | Range      |
|--|----------------------|-----------|------------|------------|
| <u>#1 HELM DITCH (3.0A.-1917)</u>      | <u>SW 1/4 SE 1/4</u> | <u>28</u> | <u>13S</u> | <u>16E</u> |
| <u>#2 MCCORD DITCH (18.5A.-1917)</u>   | <u>SW 1/4 NE 1/4</u> | <u>33</u> | <u>13S</u> | <u>16E</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  
(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? IRRIGATION

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 |
|------------|------------|-----------|----------------------|------------------------|
| <u>135</u> | <u>16E</u> | <u>33</u> | <u>SW 1/4 NE 1/4</u> | <u>5.7</u>             |
|            |            |           |                      |                        |
|            |            |           |                      |                        |
|            |            |           |                      |                        |

4. EXHIBITS

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

A) 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.

B) A copy of the current recorded deed to the subject lands.

*SENT IN WITH SUPPLEMENTAL GROUND WATER APPLICATION.*

C) 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.

D) Evidence that the water has been used within the last five years. *I've worked this place since 1948 & have used water on it ever since. Etc.*

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

6. REMARKS: THE LOCATION OF MCKAY CREEK CHANNEL HAS SHIFTED AROUND IN THE YEARS BETWEEN 1917 AND ABOUT 1950 ON SUBJECT PROPERTY AND THE PROPERTIES UPSTREAM TO THE NORTH. THE POINTS OF DIVERSION OF THE SEVERAL DITCHES HAVE BEEN MOVED TO FOLLOW THE STREAM AS IT SHIFTED. THIS STREAM MOVEMENT DIVIDED FIELDS THAT ONCE HAD COMMON DIVERSION POINTS WHICH NECESSITATED THE DIVERSION OF WATER INTO ANOTHER DITCH TO REACH THE LAND. THE TRANSFER IS INTENDED TO PLACE THE WATER RIGHT ON MORE PRODUCTIVE LAND. THE WATER WILL CONTINUE TO BE DIVERTED INTO THE MCCORD DITCH BUT WILL BE APPLIED BY PORTABLE PUMP AND SPRINKLER INSTEAD OF FLOOD.

I (we) JAMES B. COX, 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 17th day of December, 1991.

James B. Cox  
(Signature)  
\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me

Pam Reinhart  
Notary Public for Oregon

(Notarial Seal)

Pam Reinhart  
PAM REINHART  
NOTARY PUBLIC - OREGON  
My Commission Expires 4/13/93

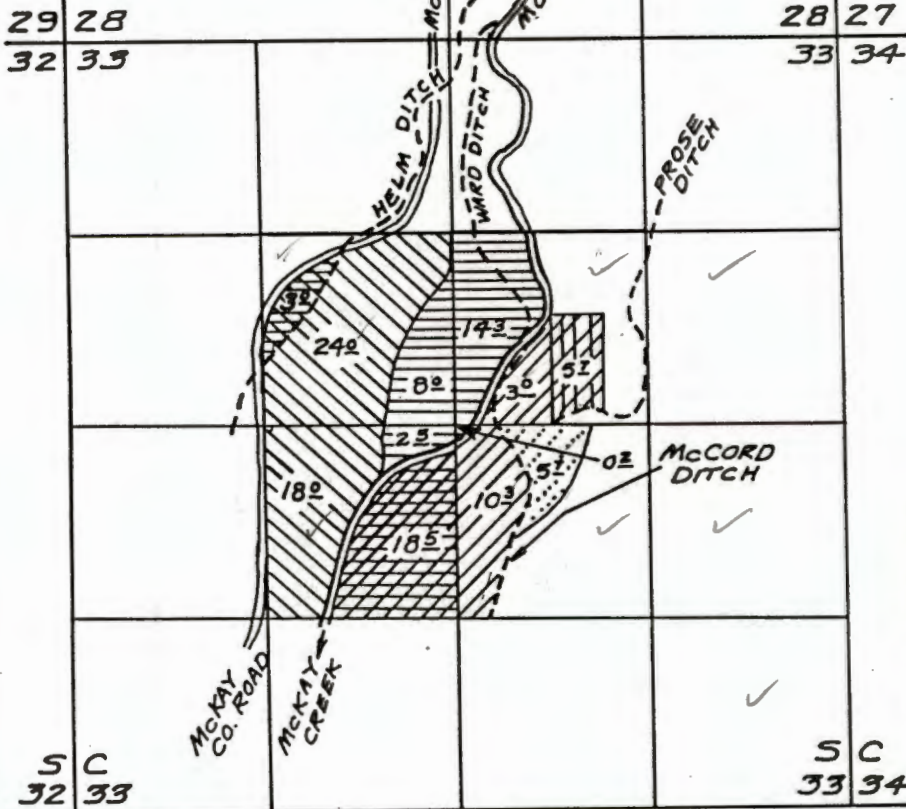
My commission expires: 4/13/93

T.13S., R.16E., W.M. RECEIVED

WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
[503] 447-5474

T-6656



**LEGEND**

**HELM DITCH DIVERSION**  
C. NO. 51561~P.D. 1896  
SE1/4 NW1/4 - 24.0 AC.  
NW1/4 SW1/4 - 18.0 AC.  
C. NO. 2428~P.D. 1917  
SE 1/4 NW1/4 - 3.0 AC.  
PUMP & SPRINKLE ABOVE  
DITCH

**WARD DITCH DIVERSION**  
C. NO. 2428~P.D. 1917  
SE1/4 NW1/4 - 8.0 AC.  
SW1/4 NE1/4 - 14.3 AC.  
NE1/4 SW1/4 - 2.5 AC.  
NW1/4 SE1/4 - 0.2 AC.

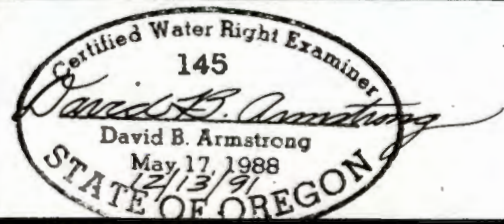
**MCCORD DITCH DIVERSION**  
C. NO. 51561~P.D. 1907  
NW1/4 SE1/4 - 10.3 AC.  
SW1/4 NE1/4 - 8.7 AC.  
C. NO. 2428~P.D. 1917  
NE1/4 SW1/4 - 18.5 AC.

WATER ON  
 WATER OFF

**SURVEY NOTE**

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**ARMSTRONG SURVEYING & ENGINEERING, INC.**  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



SCALE: 1" = 1320' DATE: 11-25-91

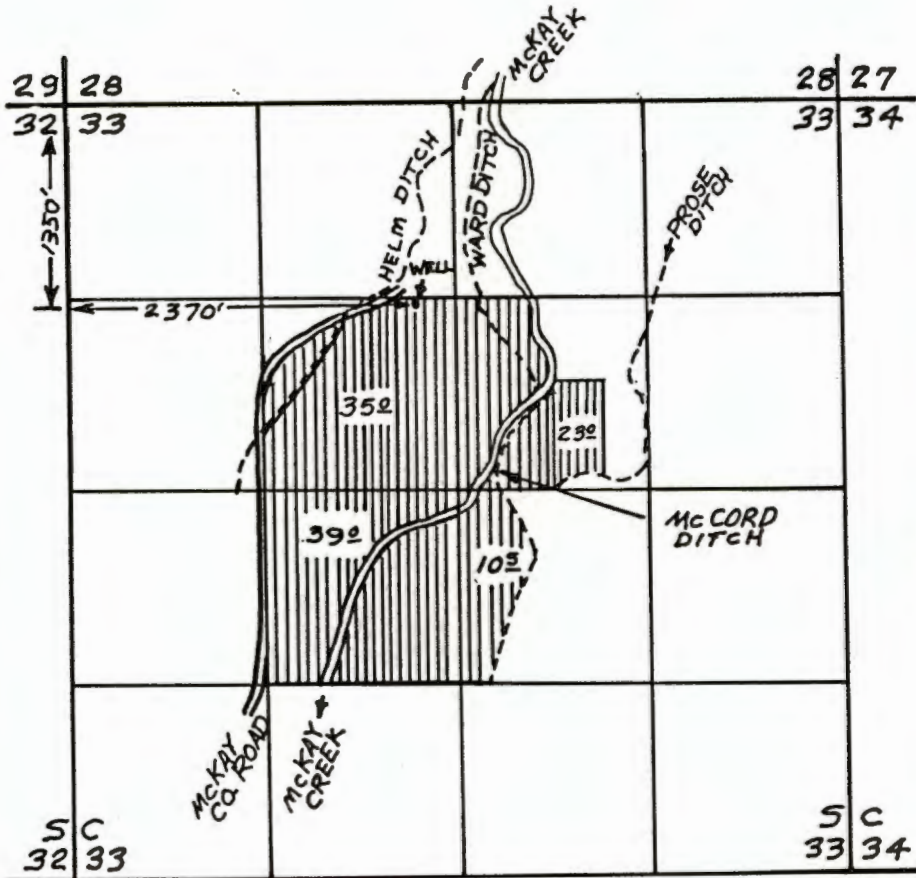
W. O. 91-829-B

T.13S., R.16E., W.M.

RECEIVED

WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR:  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
(503) 447-5474



LEGEND

SUPPLEMENTAL GROUND WATER

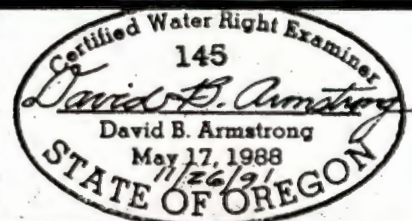
• WELL LOCATION  
LOCATED IN SE 1/4  
NW 1/4 S. 33; S. 1350'  
& E. 2370' FROM NW  
COR. S. 33, T.13S, R.16E,  
W.M.

T-6656

SURVEY NOTE

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ARMSTRONG SURVEYING  
& ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
(503) 447-7791



SCALE: 1" = 1320'    DATE: 11-25-91

W. O. 91-829A

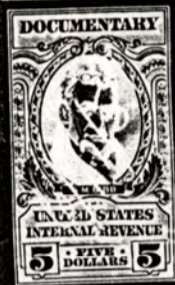


(Revised 1952)

KNOW ALL MEN BY THESE PRESENTS, That James B. Cox and Anna R. Cox husband and wife

in consideration of Ten Dollars, and other value to them paid by James Bernhardt Cox

do hereby grant, bargain, sell and convey unto the said grantee, his heirs and assigns, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Crook and State of Oregon, bounded and described as follows, to-wit:



SE1/4NW1/4; S1/2NE1/4, NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4 of Section 33; SW1/4NW1/4, W1/2SW1/4 of Section 34 in Township 13 South of Range 16 East of the Willamette Meridian; but subject to reservations contained in United States Patents and rights-of-way for all canals, irrigation ditches, roadways and pole lines

(The grantor above named Anna R. Cox is the same and identical person named as Anna R. Cos one of the grantees in that certain deed from Ernest Moore and wife to James B. Cox and Anna R. Cos said deed being dated the 8th day of December 1947 and recorded December 8, 1947 in Book 59 at page 540 Records of Deeds of Crook County, Oregon)



To Have and to Hold the above described and granted premises unto the said grantee, his heirs and assigns forever.

And the grantors do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances,

and that we will and our heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

Witness our hands and seals this 19th day of April, 1956.

James B. Cox (SEAL)
Anna R. Cox (SEAL)

STATE OF OREGON,

County of CROOK

ss.

On this 19th day of April, 1956, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named James B. Cox and Anna R. Cox, husband and wife who are

known to me to be the identical individuals described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon, My Commission expires Sept. 21, 1959

WARRANTY DEED

James B. Cox and

Anna R. Cox

TO

James Bernhardt Cox

AFTER RECORDING RETURN TO

STATE OF OREGON,

County of Crook

I certify that the within instrument was received for record on the 17th day of June, 1957, at 2:15 o'clock P.M., and recorded in book 78 on page 369

Record of Deeds of said County. Witness my hand and seal of County affixed.

County Clerk—Recorder.

Deputy.

(DON'T USE THIS SPACE; RESERVED FOR RECORDING LABEL IN CASE TIES WHERE USED)



INDEXED 3885

Handwritten signatures and notes at the bottom left.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached request for land use information is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure water rights do not result in land uses that would violate your comprehensive plan.

WRD will not accept applications which are not accompanied by this completed land use form or the signed, dated receipt stub detached from the bottom of the land use information form.

You will receive notice once the applicant formally submits his or her request to WRD. The notice will give more detailed information about WRD's water rights process and comment opportunities. If you give the applicant the receipt stub in lieu of completing the form, you will have 30 days from the date of the notice mentioned above to complete the form and return it to WRD. If no land use information is received from you within that 30 day period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

Your attention to this request for information is greatly appreciated by both the applicant and WRD. If you have questions concerning the form, please contact WRD at 378-3739.





## Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT fill out this form if water is to be diverted, conveyed, or used only on federal lands.

### To Be Completed By Applicant

The following section includes information about proposed water use. This section must be completed by the individual or group that is filing an application for a water right with the Water Resources Department.

#### A. Applicant

Name: JAMES B. COX

Address: 2215 NE MCKAY CREEK ROAD

City: PRINEVILLE State: OR Zip: 97754 Day Phone: 447-5474

#### B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

| Tax Lot I.D.                    | Plan Designation (e.g. Rural Residential/RR-5) | Water to be: (check all that apply)          |  |  |
|---------------------------------|--|--|--|--|
| <u>TL600</u><br><u>13-16-33</u> | <u>EFU-2</u>                                   | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used |
|                                 |  | <input type="checkbox"/> Diverted            | <input type="checkbox"/> Conveyed            | <input type="checkbox"/> Used            |
|                                 |  | <input type="checkbox"/> Diverted            | <input type="checkbox"/> Conveyed            | <input type="checkbox"/> Used            |

List counties and cities where water is proposed to be diverted, conveyed, or used. CROOK COUNTY

#### C. Description of Water Use

Indicate what the water will be used for. Include the beneficial use (found in the instruction booklet for your water right application) and use the space below to describe the key characteristics of the project.

Beneficial Use(s): IRRIGATION

Briefly describe: SPRINKLER IRRIGATION OF CROPLAND,  
TYPICAL CROPS ALFALFA AND GRAIN

#### D. Source

Indicate the source for the proposed water use:

Reservoir/Pond     Ground Water     Surface Water MCKAY CREEK  
TRIBUTARY OF CROOKED RIVER (source)

#### E. Quantity

Indicate the estimated quantity of water the use will require:

304.8 AC. FEET  
101.6 AC. WATER     CFS     GPM     Acre-Feet

### Receipt for Request for Land Use Information

State of Oregon  
Water Resources Department  
Commerce Bldg.  
158 12th St. NE  
Salem, OR 97310-0210  
(503)378-8455



**For Local Government Use Only**

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

**A. Allowed Use**

Check the appropriate box below and provide requested information.

- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s); 3.020. Go to section B "Approval" below
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

| Type of Land Use Approval Needed<br>(e.g. plan amendments, rezones,<br>conditional use permits, etc.) | Cite Most Significant, Applicable<br>Plan Policies & Ordinance<br>Section References | Check the item that applies:<br>Land Use Approval:                   |  |
|---|--|--|--|
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being pursued<br><input type="checkbox"/> Not being pursued |

**Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

**B. Approval**

Please provide printed name and written signature.

Name: Gordon Moore Date: 8-17-98  
 Title: Asst Dir Phone: (541) 447-8156  
 Signature: Gordon Moore

**C. Additional Comments**

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Note:** If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD will presume the land use associated with the proposed water right is compatible with local comprehensive plans. (See attached letter.)

**Receipt for Request for Land Use Information**

Name of water right applicant: \_\_\_\_\_

*This receipt must be signed by a local government representative and returned to the applicant at the time they present this form. This receipt must be included in the application for a water right permit if the local government cannot provide the requested land use information while the applicant waits.*

City or County: \_\_\_\_\_

Staff contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

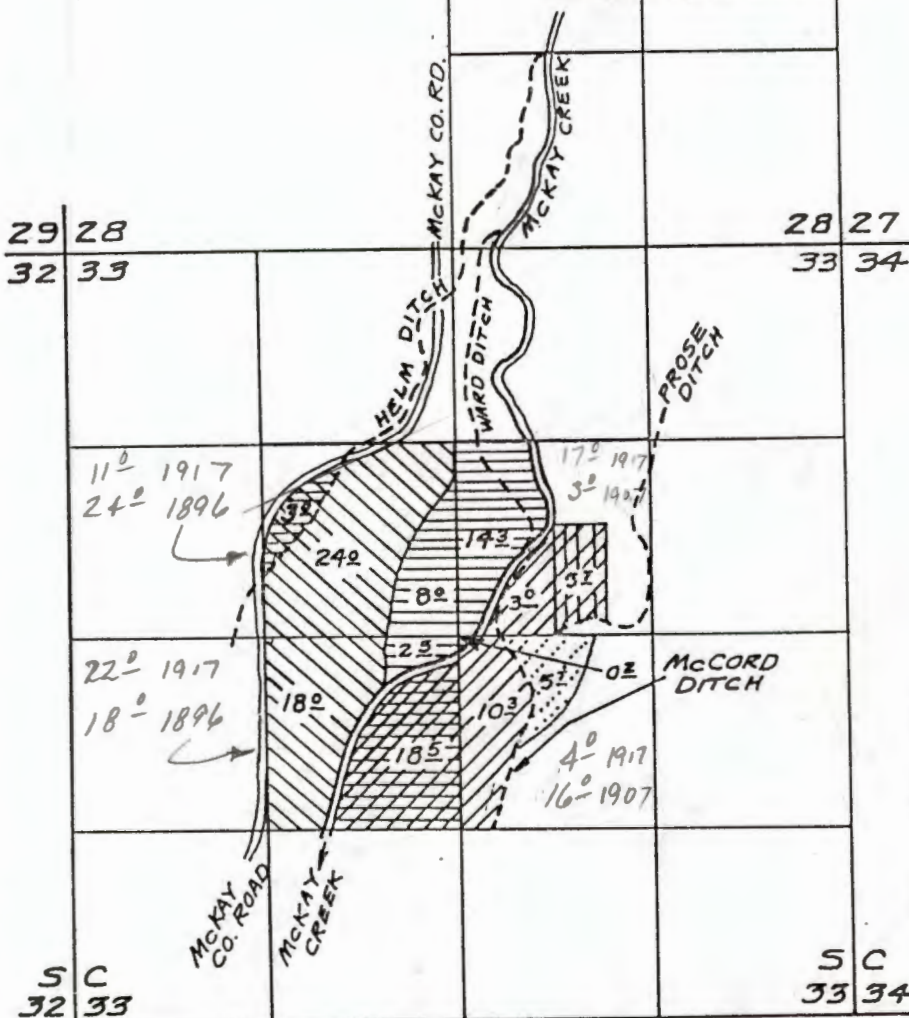
T. 13 S., R. 16 E., W. M. RECEIVED

DEC 18 1985

WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR  
JAMES B. COX  
307109 MCKAY ROAD  
PRINEVILLE, OR 97754  
[503] 447-5474

T-6656





**LEGEND**

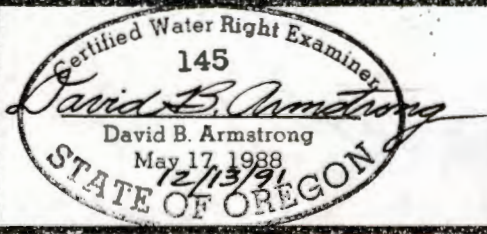
-  HELM DITCH DIVERSION  
C. NO. 51561~P.D. 1896  
SE1/4 NW1/4 - 24.0 AC.  
NW1/4 SW1/4 - 18.0 AC.  
C. NO. 2428~P.D. 1917  
SE1/4 NW1/4 - 3.0 AC.  
PUMP & SPRINKLE ABOVE DITCH
-  WARD DITCH DIVERSION  
C. NO. 2428~P.D. 1917  
SE1/4 NW1/4 - 8.0 AC.  
SW1/4 NE1/4 - 14.3 AC.  
NE1/4 SW1/4 - 2.5 AC.  
NW1/4 SE1/4 - 0.2 AC.
-  MCCORD DITCH DIVERSION  
C. NO. 51561~P.D. 1907  
NW1/4 SE1/4 - 10.3 AC.  
SW1/4 NE1/4 - 8.7 AC.  
C. NO. 2428~P.D. 1917  
NE1/4 SW1/4 - 18.5 AC.

**SURVEY NOTE**  
THE PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

1917 RIGHTS N 78° 20' E  
FROM SE COR SEC 32 T 13 S 16 E  
SE 1/4 SEC. 32

-  WATER ON
-  WATER OFF

ARMSTRONG SURVEYING & ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



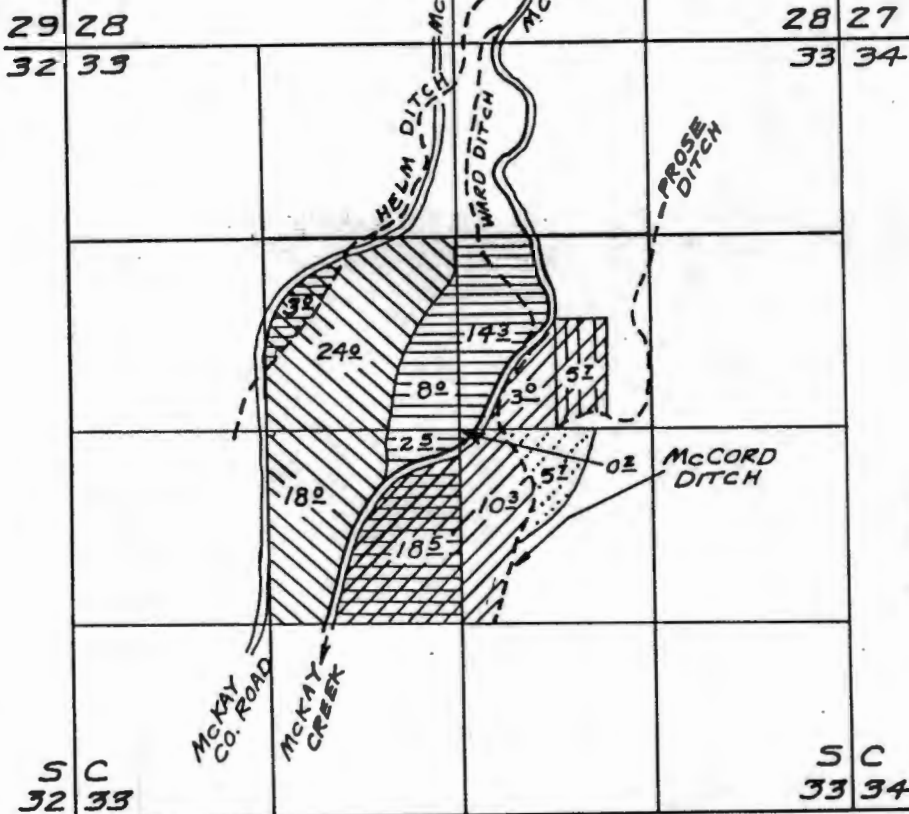
T. 13 S., R. 16 E., W. M. **RECEIVED**

DEC 18 1991








WATER RESOURCES DEPT.  
SALEM, OREGON

PREPARED FOR  
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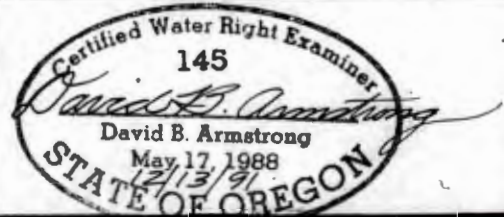
**LEGEND**

-  HELM DITCH DIVERSION  
C. NO. 51561~P.D. 1896  
SE 1/4 NW 1/4 - 24.0 AC.  
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ARMSTRONG SURVEYING & ENGINEERING, INC.  
378 EAST SECOND ST.  
PRINEVILLE, OREGON 97754  
[503] 447-7791



SCALE: 1" = 1320' DATE: 11-25-91

W. O. 91-829-B