

7771

7771

WITHDRAWN Temporary

Name B & G Resources, Inc.
 By % Kenneth E. Gustafson
 Address 18270 SW Boones Ferry Rd.
Portland OR 97227
~~503-639-6777~~
 Change in POU
 Date filed 5-19-97
 Date of hearing _____
 Place of hearing _____
 Date of order 6-15-05 Vol. 65, page 150
 Date for application of water _____
 Proof mailed _____
 Proof received _____
 Certificate issued _____ Vol. _____, page _____

DESCRIPTION OF WATER RIGHT

Name of stream Umatilla River/McKay Reservoir
 Trib. of Columbia R County of Umatilla
 Use Irrigation
 Quantity of water _____ No. of acres _____
 Name of ditch _____
 Date of priority 7-3-1945
 In name of EF Burlingham & Sons
 _____ Adjudication, Vol. _____, page _____
 App. No. 20936 Per. No. 16393 Cert. No. 28484
 Certificate cancelled _____
 Notation made on record by _____
DB 7-13-2000

FEES PAID

Date	Amount	Receipt No.
<u>5-19-97</u>	<u>\$120.-</u>	<u>12377</u>
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.
<u>6/24/05</u>	<u>70.00</u>	<u>8982925</u>

REMARKS

No ID/

PN 5-27-97

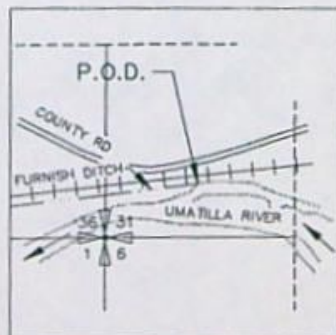
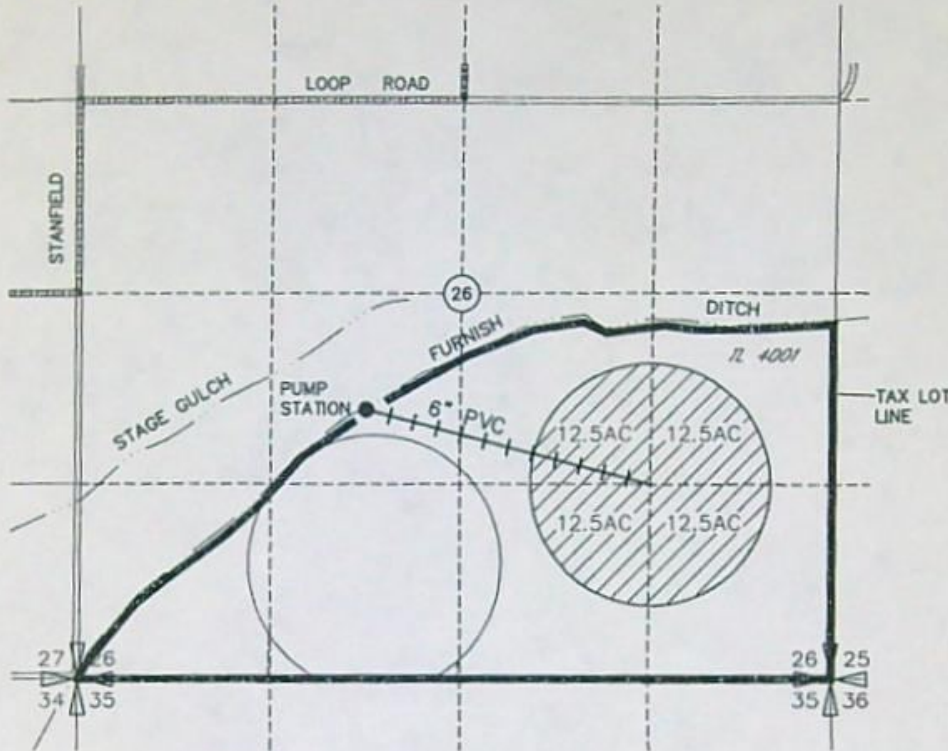
GUSTAFSON TRANSFER T-7771
 TO SNOW
 PERMIT 16393 CERTIFICATE 28484
 T4N, R29E WM

RECEIVED

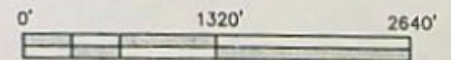
JUN 13 1997

WATER RESOURCES DEPT.
 SALEM, OREGON

TO



P.O.D. POINT LOCATED 380' NORTH AND
 650' EAST FROM SW COR
 SEC 31, T. 3N., R. 30E. WM.



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

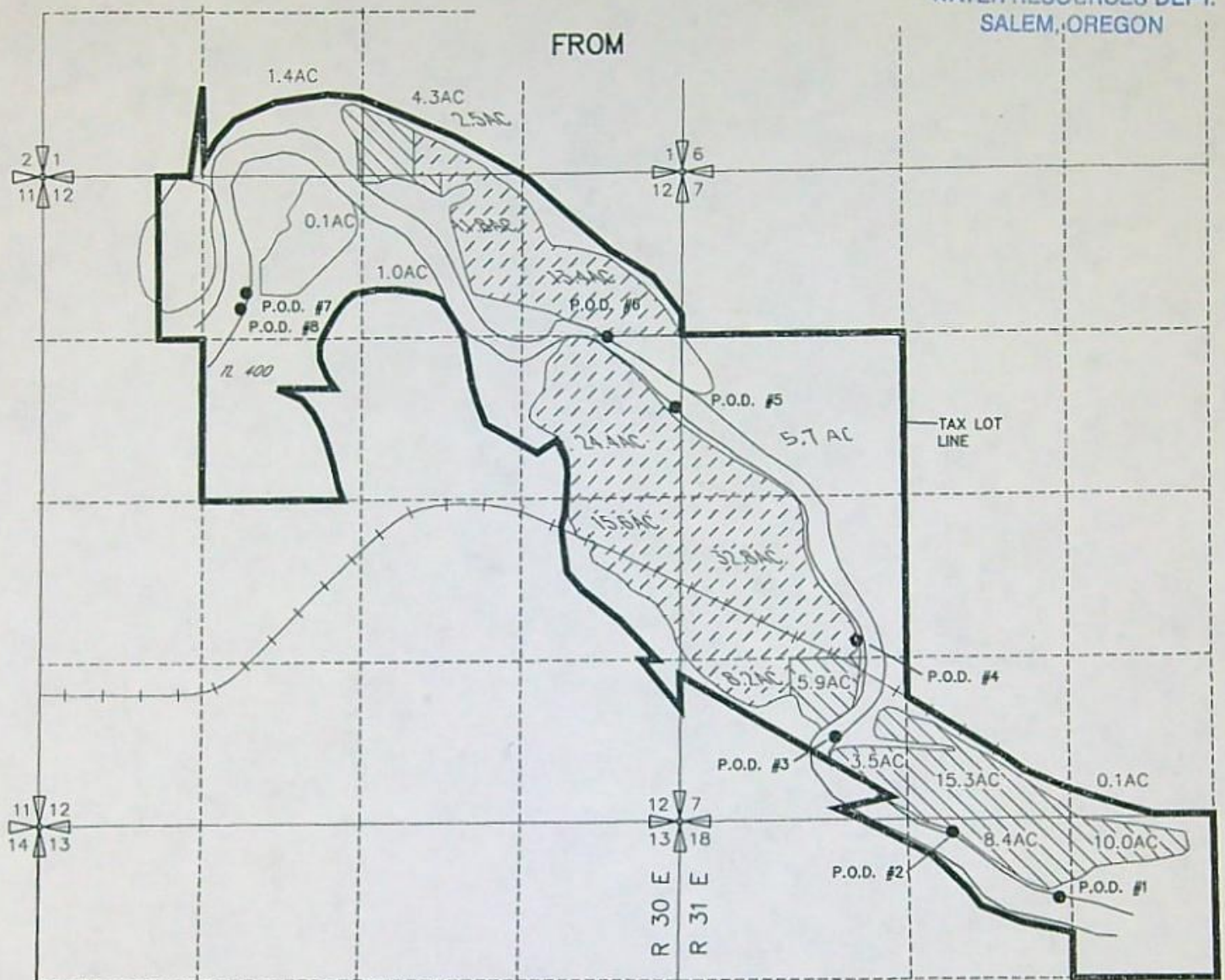
3522.056
 3522GUST.DWG
 6/4/97

GUSTAFSON TRANSFER T-7771
 TO SNOW
 PERMIT 16393 CERTIFICATE 28484
 T2N, R30 & 31E WM

RECEIVED




JUN 13 1997

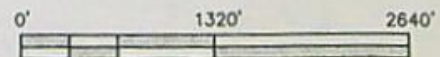
WATER RESOURCES DEPT.
 SALEM, OREGON



AUTHORIZED POINTS OF DIVERSION

- P.O.D. #1 700 FEET SOUTH AND 3100 FEET EAST FROM THE NW CORNER SECTION 18, R31E.WM.
- P.O.D. #2 100 FEET SOUTH AND 2230 FEET EAST FROM THE NW CORNER SECTION 18, R31E. WM.
- P.O.D. #3 680 FEET NORTH AND 1250 FEET EAST FROM THE SW CORNER SECTION 7, R31E. WM.
- P.O.D. #4 1540 FEET NORTH AND 1410 FEET EAST FROM THE SW CORNER SECTION 7
- P.O.D. #5 1930 FEET SOUTH AND 60 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #7 960 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #8 1050 FEET SOUTH AND 3680 FEET WEST FROM THE NE CORNER SECTION 12

-  AREA INVOLVED IN THIS TRANSFER
-  AREA NOT INVOLVED IN THIS TRANSFER
-  PART OF PERMIT 16393 UNDER DIFFERENT OWNERSHIP



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3522.056
 3522GUST.DWG
 6/4/97

ORDER AND CERTIFICATE CHECK LIST

RECORD MARKING (Support Staff)

File Folder () ## * T-7771 * T-7772 Permit () ##
5-20136

Certificate () ## 28484 Trans App Register ()
Trans Name Index ()

Sp. OR ()
Decree () Vol _____ Page _____ Vol _____ Page _____

COPIES MADE Order () Certificate ()

File () () Data Center () () Watermaster () () Applicant () ()
ISWR Liason () () Water Use Reporting () ()
CWRE () () Dale Vanschoiack I.District () ()
Other () () Other () ()

SEND copy of application map to watermaster _____

LETTER TO:

Applicant () CWRE ()
I.D. () Other ()

EMAIL PROCESSOR

NWR () NCR () SWR () SCR () BR () Bernie / Mike L.

ENCLOSURES

Special Order () Vol 65 Page 150 Certificate ()
() Vol _____ Page _____ ()
() _____

DATE SIGNED: 6-15-05

FILE SET-UP

File Number	Set - Up Date	For Whom
_____	_____	_____
_____	_____	_____
_____	_____	_____

SEND TO:

Fiscal Section () Other ()

NOTES: _____

Withdrawn

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Applications) ORDER WITHDRAWING
T-7771 and T-7772, Umatilla County,) TRANSFER APPLICATIONS
Oregon)

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion or appropriation authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

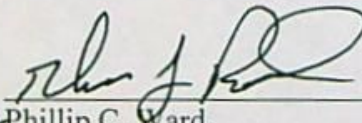
B&G Resources, Inc.
c/o Kenneth E. Gustafson
18270 SW Boones Ferry Road
Portland, Oregon 97227

Transfer Applications 7771 and 7772, both in the name of B&G Resources, Inc., were filed May 19, 1997. On June 14, 2005, Kenneth E. Gustafson requested, in writing, that Transfer Applications 7771 and 7772 be withdrawn.

Now, therefore, it is ORDERED:

Transfers 7771 and 7772, in the name of B&G Resources, Inc., are withdrawn and of no further force or effect. Any unearned fees will be refunded.

Dated at Salem, Oregon this 15th day of June, 2005.



Phillip C. Ward
Director

Mailing date: JUN 29 2005

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW
This is an order 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. 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.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

June 28, 2005

KENNETH E GUSTAFSON
B & G RESOURCES INC
18270 SW BOONES FERRY RD
PORTLAND OR 97227

Reference: Transfer 7771 & 7772

The above transfer applications were withdrawn from the record of the Water Resources Department on June 15, 2005, by Special Order Volume 65, Page 150. Enclosed is a copy of the order and a refund check in the amount of \$105.00.

The applications are of no further force or effect.

If you have any questions, please contact the Transfer Section, (503)986-0900.

Sincerely,

Sarah Henderson

DP Doug Parrow
Natural Resource Specialist

DP:sh

cc: Tony Justus, Watermaster #5
Dale Van Schoiack, CWRE
Fiscal

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Applications) ORDER WITHDRAWING
T-7771 and T-7772, Umatilla County,) TRANSFER APPLICATIONS
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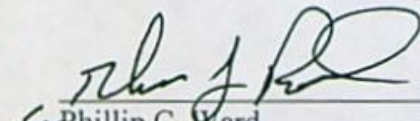
B&G Resources, Inc.
c/o Kenneth E. Gustafson
18270 SW Boones Ferry Road
Portland, Oregon 97227

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WATER RESOURCES DEPARTMENT
REQUEST FOR DISTRIBUTION OF FUNDS

TO: Fiscal Services Section

DATE: June 14, 2005

FROM: Bernadette Williams, Transfer Specialist
Phone: 503-986-0880

SUBJECT: TRANSFER FILE - Request for Refund

TRANSFER FILE #: 7771 & 7772

RECEIPT #: 12377 & 12363

Please prepare payment in the amount of \$105.00, made payable to:

Name: B&G Resources, Inc.
c/o Kenneth Gustafson
Address: 18270 SW Boones Ferry Road
City: Portland ST: Oregon Zip: 97227

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

- Request for file to be Withdrawn
 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: _____

Bernadette Williams
Robert J. Paul

Date: _____

6/14/05

6/15/05

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.
18270 SW BOONES FERRY ROAD
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE~~X~~ NE~~X~~, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

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

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

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

SW¼ SE¼ 6.1 ACRES

SECTION 1

NE¼ NE¼ 11.1 ACRES

NW¼ NE¼ 8.9 ACRES

SE¼ NE¼ 0.1 ACRE

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 20 2004, approving Transfer Application 8718.

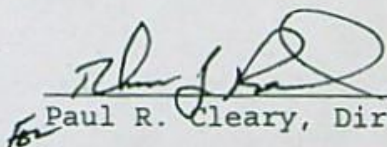
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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.

WITNESS the signature of the Water Resources

JAN 20 2004

Director, affixed _____.


Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 80564.

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B & G RESOURCES, INC.
18270 SW BOONES FERRY RD.
PORTLAND, OR 97227

confirms the right to use the water of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application Number R-7526 and Permit Number R-584, tributary to the COLUMBIA RIVER, for IRRIGATION of 31.6 ACRES.

The right was perfected under PERMIT 16393. The date of priority is JULY 3, 1945. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purpose and shall not exceed 0.79 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 2 North, Range 30 East, W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of ONE-FORTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall further be limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

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

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 6.1 ACRES
SECTION 1
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 12.7 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12.7 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.1 ACRES
SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W. M.

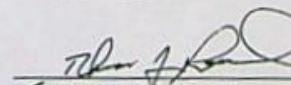
This certificate describes that portion of the water right confirmed by Certificate 28484, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director on Contested Case Hearing PC 97-15, entered January 25, 1999, and recorded at Special Order Volume 53, Pages 45 - 55, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards 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.

NOV 07 2000

WITNESS the signature of the Water Resources Director, affixed _____.


for Paul R. Cleary, Director

S20936.GLN

Recorded in State Record of Water Right Certificates numbered 76631.

T878;...Doc

Water Rights Workflow Information Query Results

Owner(s) Information

E BURLINGHAM
 E F BURLINGHAM & SONS
 FOREST GROVE OR 97116

Application(s)

Application Received	Map
S 20936	

Permit(s)

Permit	Signature	Map
S 16393	04/05/1961	

Certificate(s)

Certificate	Signature	Certificate Type
28484	04/05/1961	Original

Claim(s)

n/a

Decree(s)

n/a

Order(s)

n/a

Transfer(s)

Transfer	Begin Date	End Date	Type	Status	CF	RR	POA	APOA	POD	APOD	POU	USE	GTS	STG
T8718			Regular	Terminating OD	--	--	--	--	--	--	--	--	--	--
T7772			Regular	Terminating PN	--	--	--	--	--	--	--	--	--	--
T7771			Temporary Transfer	Terminating PN	--	--	--	--	--	--	--	--	--	--

Document Process

Action	Completed Date	Comments
Transfer T 7771		
Transfer Application Received	05/19/1997	
Transfer T 7772		
Transfer Application Received	05/19/1997	
Transfer T 7771		
Watermaster Review	05/30/1997	
Transfer T 7772		
Watermaster Review	05/30/1997	
Transfer T 7771		
Initial Public Notice Published	06/26/1997	
Transfer T 7772		
Initial Public Notice Published	06/26/1997	

Point(s) of Diversion

Location (T-R-S-QQ)	DLC/Lot	Source	Tributary to	Max Rate	Rate	Max Acre Feet	Acre Feet	Legal Description
2.0N-30.0E-12-SENE		UMATILLA R	COLUMBIA R	4.79	0.958 (est)			NONE GIVEN

Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Remarks
IR	P	07/03/1945	1/1	12/31	1/40	4.5	4.79	4.79				CN	

2.0N-30.0E-12-NENW		UMATILLA R	COLUMBIA R	4.79	0.958 (est)			NONE GIVEN
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Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Remarks
IR	P	07/03/1945	1/1	12/31	1/40	4.5	4.79	0.0 (est)				CN	

2.0N-31.0E-7-NWSW		UMATILLA R	COLUMBIA R	4.79	958.0 (est)			NONE GIVEN
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Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Remarks
IR	P	07/03/1945	1/1	12/31	1/40	4.5	4.79	0.0 (est)				CN	

2.0N-31.0E-7-SWSW		UMATILLA R	COLUMBIA R	4.79	0.958 (est)			NONE GIVEN
-------------------	--	------------	------------	------	-------------	--	--	------------

Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Remarks
IR	P	07/03/1945	1/1	12/31	1/40	4.5	4.79	0.0 (est)				CN	

2.0N-31.0E-18-NENW		UMATILLA R	COLUMBIA R	4.79	0.958 (est)			NONE GIVEN
--------------------	--	------------	------------	------	-------------	--	--	------------

Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Remarks
IR	P	07/03/1945	1/1	12/31	1/40	4.5	4.79	0.0 (est)				CN	

Place of Use

Use	P/S	Priority Date	Location (T-R-S-QQ)	DLC/Lot	Acres	Status	Remarks
IR	P	07/03/1945	2.0N-30.0E-1-SESW		1.4	CN	

IR	P	07/03/1945	<u>2.0N-30.0E-1-SWSE</u>	6.8	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NENE</u>	13.4	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NWNE</u>	12.8	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-SENE</u>	28.6	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NENW</u>	12.6	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NWNW</u>	8.8	CN	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NESE</u>	15.6	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-7-SWNW</u>	7.4	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-7-NWSW</u>	32.8	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-7-SWSW</u>	17.6	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-7-SESW</u>	15.3	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-7-SWSE</u>	0.1	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-18-NWNE</u>	10.0	CN	
IR	P	07/03/1945	<u>2.0N-31.0E-18-NENW</u>	8.4	CN	

Water Right Genealogy

- Cert: 28484 OR CN
 - Cert: 76631 RR CN
 - Inchoate: T 8718 [RR] (REG)
 - Cert: 80564 RR *
 - Inchoate: T 8718 [CF] (REG) *

[View Water Rights in same Family](#)

[Return to the Water Right Information search screen](#)

Water Rights Workflow Information Query Results

Owner(s) Information

B AND G RESOURCES INC.
 18270 SW BOONES FERRY RD
 PORTLAND OR 97227

Application(s)

Application Received	Permit Signature
S 20936 Map	S 16393 04/05/1961 Map

Certificate(s)

Certificate	Signature	Certificate Type
80564	01/20/2004	Remaining

Claim(s)

n/a

Decree(s)

n/a

Order(s)

Volume-Page	Signature
59-105	01/20/2004

Transfer(s)

Transfer	Begin Date	End Date	Type	Status	CF	RR	POA	APOA	POD	APOD	POU	USE	GTS	STG
T8718			Regular	Remaining CM		Y								

Document Process

n/a

Point(s) of Diversion

Location (T-R-S-QQ)	DLC/Lot	Source	Tributary to	Max Rate	Rate	Max Acre Feet	Acre Feet	Legal Description
2.0N-30.0E-12-SENE		UMATILLA R	COLUMBIA R	0.655	0.655 (est)			NONE GIVEN

Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Rem:
IR	P	07/03/1945	1/1	12/31		1/40	4.5	0.655	0.655 (est)			NC	

2.0N-30.0E-12-SENE		MCKAY RES	UMATILLA R	0.655	0.0 (est)							NONE GIVEN	
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Uses from this Point of Diversion

Use	P/S	Priority Date	Start Date	End Date	Acres	Rate/Acre	Duty	Max Rate	Rate	Max Acre Feet	Acre Feet	Status	Rem:
-----	-----	---------------	------------	----------	-------	-----------	------	----------	------	---------------	-----------	--------	------

Feet

IR	P	07/03/1945	1/1	12/31		4.5	0.655	0.0 (est)		NC
----	---	------------	-----	-------	--	-----	-------	--------------	--	----

Place of Use

Use	P/S	Priority Date	Location (T-R-S-QQ)	DLC/Lot	Acres	Status	Remarks
IR	P	07/03/1945	<u>2.0N-30.0E-1-SWSE</u>		6.1	NC	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NENE</u>		11.1	NC	
IR	P	07/03/1945	<u>2.0N-30.0E-12-NWNE</u>		8.9	NC	
IR	P	07/03/1945	<u>2.0N-30.0E-12-SENE</u>		0.1	NC	

Water Right Genealogy

- Cert: 28484 OR CN
 - Cert: 76631 RR CN
 - Inchoate: T 8718 [RR] (REG)
 - Cert: 80564 RR *
 - Inchoate: T 8718 [CF] (REG) *

[View Water Rights in same Family](#)

[Return to the Water Right Information search screen](#)



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

January 26, 1999

Laura Schroeder
Schroeder Law Offices
3355 NE Davis
Portland OR 97232

Dave Jarrett
Oregon Water Resources Dept.
158 12th St. NE
Salem OR 97310

RE: Final Order, B & G Resources, PC 97-15

Dear Ms. Schroeder and Mr. Jarrett:

Enclosed please find the Director's final Order in this matter. Thank you for your patience. An explanation of your rights to seek judicial review of the Final Order can be found on the last page. The date of this letter is the date of mailing.

Sincerely,

Weisha Mize, ALJ

encl.

c: Martha O. Pagel, Director
Geoff Huntington, Deputy

Gary Ball

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the matter of the Proposed Partial Cancellation)
of the Water Right Evidenced by Certificate 28484)
in the name of E. F. Burlingham & Sons for use of)
Water from the Umatilla River and McKay)
Reservoir, Umatilla County, Oregon)

FINAL ORDER ON
CONTESTED CASE HEARING

PC 97-15

History of Proceedings

This proceeding was initiated by the Department following receipt of affidavits from Tony Justus, Umatilla County Watermaster covering the years 1989 through 1996, and from Dave Williams, previously Umatilla River Coordinator and now Douglas County Watermaster, covering 1993 through 1996, asserting that a portion of the water right evidenced by Certificate 28484 had been forfeited by failure to make beneficial use of the water under the terms of the water right for five and more successive years. The Department initiated this cancellation proceeding proposing to cancel 160 of the 191.6 acres authorized for irrigation under Certificate 28484. The lands in question were further marked for ease of identification as Fields A, B, C and D, except for two small parcels in the south half of the NW¼ Section 12, T2N, R30E which were not assigned any designation.

B & G Resources, the owners of record of real property located in Sections 1 and 12, Township 2 North, Range 30 East, and Sections 7 and 18, Township 2 North, Range 31 East, in Umatilla County, Oregon, were served notice of the proposed cancellation of a portion of the water right for irrigation use appurtenant to said property. Notice was served by certified mail on July 10, 1997 and reserved on September 16, 1997.

The record owner of the property, B&G Resources, filed a protest against the proposed cancellation on September 4, 1997. The basis asserted for the protest was that the water right had been exercised on field D continuously during the period in question, and that it had been beneficially used at least once in the last five years on the remainder of the lands. Protestant further asserted that the legal basis for the proceeding was improper, that either there should have been two affidavits covering five years each, that the affidavits did not provide a factual basis for determining lack of rebuttal, and that the notice of proposed cancellation, which had the certificate attached, was incomplete because it did not recite all lands to which the right is appurtenant, only those which were proposed for cancellation for nonuse.

Notice of hearing and information about parties' rights in contested case hearings was provided with the notice of hearing served November 24, 1997.

A supplemental affidavit was received from Tony Justus with a motion filed by the Department to expand the period of alleged nonuse under to consideration to include 1988. The protestant moved for an extension of time to file witness list and proposed exhibits. Both motions were granted by order issued March 12, 1998.

A contested case hearing in the above-captioned matter was held on April 30, 1998, in the Umatilla County Watermasters Conference Room in Pendleton, Oregon, before Administrative Law Judge (ALJ) Weisha Mize. The hearing was conducted pursuant to the provisions of the Oregon Administrative Procedures Act, ORS 183.310 *et seq.*, and the procedural rules found at OAR 690-01-005 and OAR Ch. 690 Div. 2. Jurisdiction is conferred by ORS 540.631. Protestant B & G Resources was represented by Laura Schroeder, attorney at law. The Department was represented by lay representative David Jarrett.

Water right proposed to be cancelled for nonuse

The portion of the water right proposed for cancellation is a portion of the right described by Certificate 28484 State Record of Water Right Certificates in the name of E. F. Burlingham & Sons for the use of water from the Umatilla River and McKay Reservoir, for irrigation of 191.6 acres with a priority date of July 3, 1945.

A description of the acres proposed to be canceled is as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$	1.4 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$	7.4 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.7 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	32.8 acres
Section 1		SW $\frac{1}{4}$ SW $\frac{1}{4}$	17.6 acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$	0.7 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$	15.3 acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.1 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.1 acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$	28.5 acres	Section 7	
NE $\frac{1}{4}$ NW $\frac{1}{4}$	12.6 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$	10.0 acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$	8.8 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$	8.4 acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$	15.6 acres	Section 18	
Section 12		Township 2 North, Range 31 East, W.M.	
Township 2 North, Range 30 East, W.M.			

The remainder of the right is for for irrigation of the following lands:

SW $\frac{1}{4}$ SE $\frac{1}{4}$	6.1 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$	12.7 acres
Section 1		SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.1 acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$	12.7 acres	Section 12	
Section 12			

all in Township 2 North, Range 30 East, W.M.. This portion of the water right was not in question in this proceeding and was not included in the notice of proposed cancellation.

Legal Issues Raised

At the outset, the decision maker and the parties should be clear on which party the burden of coming forward and of persuasion rests, and what level of proof is required. While correctly noting that the burden rests with the Department in this matter, the protestant mistakenly argues that the standard of proof for administrative hearings, and for this hearing in particular, is clear and convincing. Protestant's reliance on *Cook v. Michael*, 214 Or 513 (1958) as defining the standard of proof in administrative hearings, and in cancellation hearings in particular, is misplaced.

The court in *Cook* was ruling on the propriety of the lower court's instruction in a civil assault and battery case. In its opinion, the court compared the various statutory standards of burden of proof in a civil trial. While offering an instructive discussion on the meaning of the various standards, at no point did the court state that the standard of proof in administrative hearings was clear and convincing. Nor did the court hold that "preponderance," the established standard of proof in administrative proceedings, was the equivalent of the "clear and convincing" standard.

Oregon's Administrative Procedures Act (APA) declares in ORS 183.450(5) that the decision in an administrative proceeding should be "supported by, and in accordance with, reliable, probative, and substantial evidence." Oregon's Court of Appeals has held that, absent legislation adopting a different standard, the standard of proof in an administrative proceeding is by a preponderance of the evidence. See *Metcalf Automotive Technology v. Employment Div.*, 97 Or App 320, rev den 309 Or 592 (1989); *OSCI v. BOLI*, 98 Or App 548, rev den 308 Or 660 (1989) (so stating).

The only exception to this standard may be license revocation based solely on allegations of fraud and misrepresentation, where the standard currently is clear and convincing. *Bernard v. Bd. of Dental Examiners*, 2 Or App 22 (1970); *Van Gorden v. Bd. of Dental Examiners*, 52 Or App 749 (1981); *Sobel v. Board of Pharmacy*, 130 Or App 374 (1994). That is not the case here. The applicable standard in this and all other water right cancellation proceedings is a preponderance of the evidence.

Protestant has also asserted that ORS 540.631 and OAR 690-17-0400(2) require two affidavits where a cancellation proceeding is initiated on the basis of watermaster information. ORS 540.631 only refers to "evidence submitted to the commission by any person[;]" it does not address how the evidence must be submitted. OAR 690-17-0400(2) requires that "[w]here the evidence of nonuse submitted to the Department is in the form of affidavits, notarized affidavits from two individuals shall be required." However, under OAR 690-17-0400(3), "[w]here the evidence submitted is solely from Department personnel, such evidence shall be submitted in the form of an affidavit" containing all the information required in affidavits as described in OAR 690-17-0400(2). (Emphasis supplied). OAR 690-17-0400(3) further requires that "the affidavit shall be supported by" the records listed therein. (Emphasis supplied). The use of the indefinite article "an" and the definite article "the" before "affidavit," in the text of OAR 690-17-0400(3), indicates that only one single affidavit is required when the evidence is submitted by a Department

employee, as opposed to the multiple affidavits specifically required when the evidence is submitted by "individuals." An affidavit submitted under OAR 690-17-0400(3) is evidence that an owner of a water right has not used all or part of the water appropriated for a period of five successive years or more. "The failure to use [a water right] shall establish a rebuttable presumption of forfeiture of all or part of the water right. ORS 540.610(1). See also OAR 690-17-0400(1) ("The decision to initiate cancellation proceedings shall be based on evidence submitted to the Department, by any person, that alleges five or more years of nonuse so as to create a presumption of forfeiture.").

Finally, protestant asserts that the proceeding should have been brought under ORS 540.660. ORS 540.660(1) directs a watermaster to submit an affidavit in instances where the "watermaster has reason to believe (rather than know with certainty) that circumstances exist that prevent a water right from being exercised according to the terms and conditions of the water right certificate * * *, such as * * * the diversion mechanism used to appropriate water under a water right is no longer operable[.]" (Emphasis supplied). If the watermaster files such an affidavit each year for 5 consecutive years, those affidavits constitute *prima facie* evidence of forfeiture and the "Water Resources Commission shall initiate proceedings under ORS 540.631 to cancel the water right." ORS 540.660(2).

Protestant argues that Watermaster Tony Justus' statement in his affidavit that there was no pump or power source [or diversion dam and headgate] at the authorized points of diversion for the challenged rights, and thus no way existing at the source to divert water, constitutes an allegation that falls under ORS 540.660. That argument confuses Mr. Justus' statement that there is no diversion structure, an ORS 540.610 situation, with a situation where there is a known and physically-present, albeit apparently inoperable, diversion structure. Unless the watermaster could see the pump or other diversion mechanism at the authorized point of diversion, there would be no "reason to believe" that the mechanism was no longer operable, thereby preventing exercise of the water right. In contrast, the lack of any pump, diversion or other mechanism directly leads to the conclusion that no water has been or is being used.

Determination on Exceptions

Protestant has taken a number of exceptions to the proposed order, one of which I will address briefly here. In the exception number three dealing with Finding of Fact 2, protestant refers to an affidavit of Robert Burns, a State-certified appraiser. Protestant has improperly attempted to add this affidavit to the administrative record after the record had been closed, and then to rely on this extra-record affidavit in arguing this exception. No request was made that the record be reopened because of newly-discovered evidence which existed at the time of the hearing. The protestant was granted extensive discovery and had in its possession long before hearing the evidence which it now attempts to refute or explain away through this extra-record affidavit. No offer of this testimony was made at the hearing. It will not be considered now.

Protestants exceptions to the proposed order are DENIED.

Discussion of Decision

This case hinges on the significance and relevance of challenged evidence, witness credibility, and the weight of the evidence.

One item of contention was the significance and relevance of WRD's exhibit A40, which is a copy of the real property petition filed by Kenneth Lewis in 1994 with the state Board of Equalization. Mr. Lewis was the lessee and then the owner of the property involved in the instant proceeding during the period in which nonuse is asserted. Mr. Lewis purchased the property in 1993. Mr. Lewis notes in his explanation for basis for appeal that the property consists of silt which has settled behind the Coe Dam and continues to wash away.

The petition filed with the Board of Equalization is accompanied by an April, 1992 update appraisal report prepared for Mr. Lewis prior to his purchase of the property from the Union Pacific Railroad Company. The appraisal notes that the weed problem noted 5 years earlier continues to exist, and that the water rights are assumed to be nonexistent, although Bill Dick continues to farm the same portion as he was farming 5 years earlier when another appraisal report had been done on this same property. At the time of the cancellation hearing, Mr. Dick continued to lease and raise irrigated crops on what is referred to as field D of this same property.

The appraiser notes that the 1992 update appraisal report was being done with two additional limiting conditions at Mr. Lewis' direction, the significant condition being that no water rights are appurtenant to the property and therefore it is not farmable. The appraiser also attached his investigation log notes from February 13, 1992. With the exception of one area noted as "still being used," although with the point of diversion possibly in the wrong location, the remainder of the property was described as "large thistles and major weed growth" and "covered by trees" in one portion, "no sign of use, obviously not being used, large, sage brush" in another area, "gullie (sic) but nothing else" and only one area clearly being used.

A related piece of documentary evidence is the Oregon Department of Revenue's determination on protestant B&G Resources' valuation appeal of the subject property found at Opinion and Order 97-3221 through 97-3226, entered into the record here as WRC Exhibit A41. B&G Resources was seeking a substantial reduction in Umatilla County's real market and assessed value of the subject lands purchased in 1996 from Ken Lewis. The summary of the evidence in the hearing record on pages 2-3 of Revenue's Opinion and Order states that only 32 acres of the 455 acres involved are irrigated, the remainder being scrubland not used for any beneficial purpose. B&G was represented at this hearing by its president. Based on the evidence adduced at the hearing, the valuation was reduced as requested by B&G Resources.

Both the petition, including the appraisal report, and the Revenue Department's factual determination based on the record made at the hearing at which B&G Resources was a represented party lend support to the Department's case for forfeiture. On their face, these evidentiary documents illustrate that both Mr. Lewis, the previous owner, and B & G Resources, the current owner, sought to have the majority of the property taxed as non-irrigated land.

The parties also disagreed over the reliability and usefulness of testimony given by Bill Alexander of Bill Alexander Forestry, a consulting firm, and by Robert Bostwick of the local Farm Service Agency, a federal agency. Mr. Alexander was called as a witness by the protestant. He had no personal knowledge of the property and had used photographs taken by Mr. Bostwick to prepare maps and his testimony. Mr. Alexander's experience in interpreting photographs for crop production is limited to the extent agricultural land appeared in or next to forest land on which he was consulting. The only "ground-truthing" done of the maps Mr. Alexander prepared regarding whether and where irrigation had occurred was done by the protestant, Mr. Gustafson. Mr. Alexander emphasized on several occasions that distortion is high with 35 mm lens shots, so that the location of field lines and other landmarks was not of the accuracy one would obtain by using a stereoscope. However, it is sufficient to locate and identify the fields in question and to observe general characteristics like color, vegetation and cultivation marks.

Conversely, Robert Bostwick has been taking and interpreting 35mm aerial photographs (slides) specifically of agricultural crop production for 33 years, and has been doing this work for the Farm Service Agency since 1981. The purpose of the photographs is to determine crop acreage and to describe and interpret what crops are grown as related to the crop reports filed with the Farm Service Agency by the individual producers. The aerial photos are taken annually after the 4th of July of every crop acre in production.

Mr. Bostwick testified that it was usually possible to tell from the slides whether the lands were irrigated but occasionally a site visit was necessary. He further noted that a number of crops in the Pendleton area, including cereal grains, wheat, barley, oats, oil seeds and green peas do not require irrigation. Mr. Bostwick credibly testified from the slides from which Exhibits A22 -- A37 were taken that from 1988 through 1995, fields A, B and C were neither cropped nor irrigated, with the exception of Field A in 1993 which had a crop growing, and that the southeast-most end of field D was also not irrigated during this period.

Based on Mr. Bostwick's substantial experience over the past 33 years in the topic of this testimony, which is interpreting 35 mm aerial photographs to identify acreages, crops, and irrigated and non-irrigated agriculture for the purpose of paying out federal subsidies, in contrast with Mr. Alexander's very limited experience in this field, I find Mr. Bostwick's testimony more credible and reliable on this matter.

Protestants sought to put Department's witness Tony Justus' credibility in question by asserting that he had accepted half a beef from Ken Lewis, previous owner of the property, and suggesting that it was for this reason that a forfeiture action was not initiated in 1991 when the beef was allegedly accepted, or in 1992, the following year. Andy Lewis alluded to a possible gift but ultimately indicated that his father gave a lot of beef away and he could not say that any had actually gone to Mr. Justus. Mr. Gustafson testified that in May, 1991, at Mr. Lewis' instruction, he had placed a half a beef in a frozen food locker, although he did not know who owned the locker, and that the next month he overheard a speaker phone conversation in which Mr. Lewis was speaking to a Tony who thanked him for the beef and talked about water rights.

Mr. Justus denied receiving or accepting any gift from Mr. Lewis, and testified that the reason he had not sought to have the Department initiate a forfeiture proceeding in 1991 or in 1992 was because the nonuse did not rise to a level of concern unless and until there was an attempt to reactivate a forfeited right, which is what prompted him to file the affidavit he submitted in this case in 1997.

I find Mr. Justus' testimony to be more credible. Even assuming Mr. Gustafson's statements to be true, they amount to no more than vague, circumstantial statements speculating about the possibility of Mr. Justus receiving a gift. In contrast, Mr. Justus, who had first-hand knowledge of the alleged events, specifically testified that he did not receive a gift and provided a plausible reason for not filing an affidavit of nonuse until 1997.

The proponents of cancellation together testified that they were at or observing the lands in question each year from 1988 through 1996, occasionally early in the year in January or March but most years not until June and thereafter, when Department staff observed the lands and river several times a month. The primary reason for their close monitoring of usage on the Umatilla River after June involved the Department's oversight of the use of stored water, fish flow releases, and, from 1992 on, reading flow meters which had been required of all users on the Umatilla River. In 1992 the proponents also observed the lands in question early in the season and found that no diversion or evidence of irrigation of fields A, B or C was occurring or had occurred between April 15 and May 18, 1992. However, this was one year when the protestants testified they had not done any irrigation.

Bill Dick, a witness called by the proponents, has a lengthy and more frequent association with the lands in question. He leased field D for the entirety of the period in question through 1996, and was on or by this property frequently, if not daily, both prior to and during each irrigation season. Mr. Dick's residence is situated such that he can observe a portion of field D and all of field C. Mr. Dick's testimony was consistent with the affidavit he prepared for the protestants in this matter when the protest was first filed in September, 1997, which is that he planted but did not irrigate field A in 1993, and that he leased field D for 10 years, from 1986 through 1996. Additionally, he testified, consistent with the proponents, that with the exception of the planting to grain of field A in 1993, there had been no cultivation or irrigation of fields A, B and C for the period in question, and that the condition of the lands was generally poor and filled with thistle and other weeds.

Sandy Cairns worked as an assistant watermaster for Umatilla County in February 1992 under the supervision of Bob DeBow, the watermaster at that time. He directed her to prepare a voluntary affidavit of abandonment of water rights for the owner of the lands in question at that time. As the property was in the process of being purchased by Mr. Lewis, the affidavit was not signed. While inconclusive on its own, the fact that this affidavit was prepared because "the property is no longer being irrigated" is consistent with the testimony of the Department's witnesses that the water rights had been forfeited for nonuse.

Witnesses for protestant included Darrel Mecham, Bill Rahder, Andy Lewis and protestant, Mr. Gustafson.

Mr. Mecham testified that he had primary responsibility for irrigating the lands in question by sprinkler irrigation in 1988, 1989, and 1993, which he did the last two weeks of April and the first week in May. During this time, he worked elsewhere during the day but testified that in the morning he would turn the pump off, drain and move the lines, and in the evening he would return again to the property and turn the pump on, leaving the system to run over night. Irrigation would start in field A, it would take between three and four days to irrigate across the field and back, and then he would move on to field B and then C, going across and back over the course of 3-4 days on 12 hour settings. The purpose for irrigating fields A, B, and C in 1988 and 1989 was to provide a little forage for cows which were stationed there for a maximum of four days the second week in May before being moved to pasture on the Lewis ranch. There was no cultivation or planting done in any of the fields except for the grain planting in 1993 in field A, and the vegetation was thistles, pig weed and pasture grass. In his affidavit filed with the original protest in September 1997, Mr. Mecham indicated that he had irrigated in 1994. However, Mr. Mecham testified on the stand that he did nothing on the lands in question in 1994, 1995, 1996 and 1997.

Mr. Rahder testified that he observed irrigation of fields A, B and C in 1993 and 1994. At one point he testified that the irrigation lasted from April to mid-June, while in response to other questions he indicated that it was only through May.

The protestant and Andy Lewis testified that they had come from Portland in 1988, 1989 and 1993 to move pipe to and in fields A, B and C the last weekend in April and the first two weekends in May. They testified that they would also move the pipes off the fields for use on other ranch lands on their third weekend trip. According to their testimony, they did not observe the diversion points nor have any involvement with the pumps, leaving that to Mr. Mecham. Mr. Gustafson also testified that he irrigated fields B and C in 1994, a point that he failed to mention in the affidavit accompanying his protest, while Andy Lewis was not sure about 1994, and Mr. Mecham testified that no irrigation occurred in 1994. Mr. Gustafson said nothing about irrigation in either 1993 or 1994 in the affidavit filed with his protest against the proposed cancellation action.

In addition to the noted inconsistencies regarding irrigation in 1994, all of the above testimony is inconsistent as to when the land was irrigated. Mr. Mecham testified that the land was irrigated from the last two weeks of April through the first week of May in 1988, 1989, and 1993. Mr. Rahder testified that the land was irrigated in 1993 and 1994, from April to mid-June, or, alternatively, from April through May. Andy Lewis and Mr. Gustafson testified that the fields were irrigated from the last week of April through the first two weeks of May in 1988, 1989, and 1993.

Furthermore, protestant's and Andy Lewis' testimony contradicted that of Mr. Mecham on some vital points. The protestant and Mr. Lewis' testimony was that the pipes would be at the opposite end of the field from where they started the previous weekend, and that they then would move the

pipes to the next field and set them. On the other hand, Mr. Mecham testified that it would take 3-4 days to cross the field twice, which would put the pipes back at the point of beginning, and that he would then move them to the next field and start again. This is inconsistent with Mr. Gustafson's and Mr. Lewis's testimony. By protestant and Lewis' testimony, the pipes would be in the same field they had moved them into the weekend before, whereas by Mecham's testimony, the pipes would be in a different field.

It is also difficult to believe that Mr. Gustafson and Mr. Lewis would drive from Portland to Pendleton for 3 weekends in a row to move pipes one time each weekend, when Mr. Mecham already resided nearby and allegedly moved these pipes daily, as well as continuing to turn the pump on and off after Mr. Gustafson and Mr. Lewis had moved the pipes one time on the weekends. It is notable that Mr. Mecham made no mention in his testimony of these alleged weekend visits.

Mr. Rahder testified that most pasture lands in the vicinity were generally green through April and would begin browning up as May progressed. Mr. Lewis did not know what the fields looked like after the second weekend in May. Mr. Justus, Mr. Williams and Mr. Dick all testified that the fields did not change in vegetation or character, that the vegetation was predominantly thistles and pig weed and a little pasture grass, and the fields were brown and dry. It does not appear, in fact, that there was a need to apply water in late April or the first week in May. The lands in question did not appear to be green much past April, as it would be naturally.

Taken together, the testimony presented by protestant is of little weight. Mr. Mecham's testimony, while credible on its face, is discounted by the testimony of the other witnesses. Mr. Rahder's testimony conflicts with that of Mr. Mecham and of Andy Lewis and Mr. Gustafson. The testimony of Andy Lewis and Mr. Gustafson, two primary witnesses, lacks credibility because it contradicts Mr. Mecham's on the specifics of how and when the land was irrigated. In sum, the testimony from protestant and his witnesses was contradictory, internally inconsistent, and unpersuasive. In contrast, the Department's testimony is internally consistent, credible and cumulative. The testamentary, photographic and documentary evidence presented by the Department supports the conclusion that the rights in question have been forfeited by 5 years of nonuse. I find that the lands were not irrigated during the period in question.

Considering the record as a whole, in particular the testimony of the department's witnesses, including Mr. Dick, Mr. Justus, Mr. Bostwick, and Ms. Cairns, and the entirety of the two valuation appeals in Exhibits A-40 and A-41, I conclude that the preponderance of the evidence supports a determination that the portion of the water right in question has been forfeited for 5 and more years of nonuse between 1988 and 1996. See *Riley Hill General Contractor, Inc. v. Tandy Corp.*, 303 Or 390, 394 (1987) (preponderance is generally accepted to mean the greater weight of the evidence).

FINDINGS OF FACT

1. The lands in question were predominantly covered in thistle, pigweed and other weeds and had large sage brush in at least one area. This condition changed for field A in 1993 when it was planted to grain, but otherwise the lands were in poor condition and no irrigation or evidence of irrigation was observed by the proponents or proponents' witnesses, either through in person visits or through expert review of aerial photographs, between 1988 through 1996.
2. The previous owner and the current owner both have sought a reduction in the valuation of this property for tax purposes, on the basis that the appurtenant water right had not been exercised with the exception of approximately 32 acres.
3. The grain crop planted in field A in 1993 was planted in the 6th year of the period of nonuse, which began in 1988.
4. The portion of the water right in question in this proceeding has not been exercised to beneficial use between 1988 and 1996.
5. That portion of the water right not in question which is appurtenant to 31.5 acres on Field D, constituting 6.1 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, 12.7 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 12.7 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, has been exercised by lessee Bill Dick each year from 1988 through 1996, inclusive.

CONCLUSIONS OF LAW

1. The portion of the water right in question has been forfeited for 5 years of nonuse.
2. The standard of proof in administrative hearings, including those concerning the alleged forfeiture and proposed cancellation of water rights, is a preponderance of the evidence.
3. This proceeding was properly initiated under the provisions of ORS 540.610, ORS 540.631, and OAR 690-17-0400(1)-(3).

NOW, THEREFORE, it is ORDERED that the portion of the water right evidenced by Certificate 28484 for irrigation of the following lands, and that Certificate 28484, be and the same is hereby CANCELLED:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.4 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.7 acres

Section 1

Township 2 North, Range 30 East, W.M.

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 10.0 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 8.4 acres

Section 18

Township 2 North, Range 31 East, W.M.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.7 acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.1 acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 28.5 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.6 acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 8.8 acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 15.6 acres

Section 12
Township 2 North, Range 30 East, W.M.

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 7.4 acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 32.8 acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 17.6 acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.3 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.1 acres

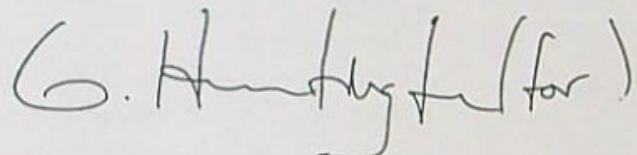
Section 7
Township 2 North, Range 31 East, W.M.

It is FURTHER ORDERED that a new Certificate be issued confirming the portion of the right remaining for irrigation of the lands set out below:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 6.1 acres
Section 1
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 12.7 acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12.7 acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.1 acres
Section 12

all in Township 2 North, Range 30 East, W.M.

This Final Order in Case No. PC 97-15 is issued this 26th day of January, 1999.



Martha O. Pagel, Director

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days from the date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

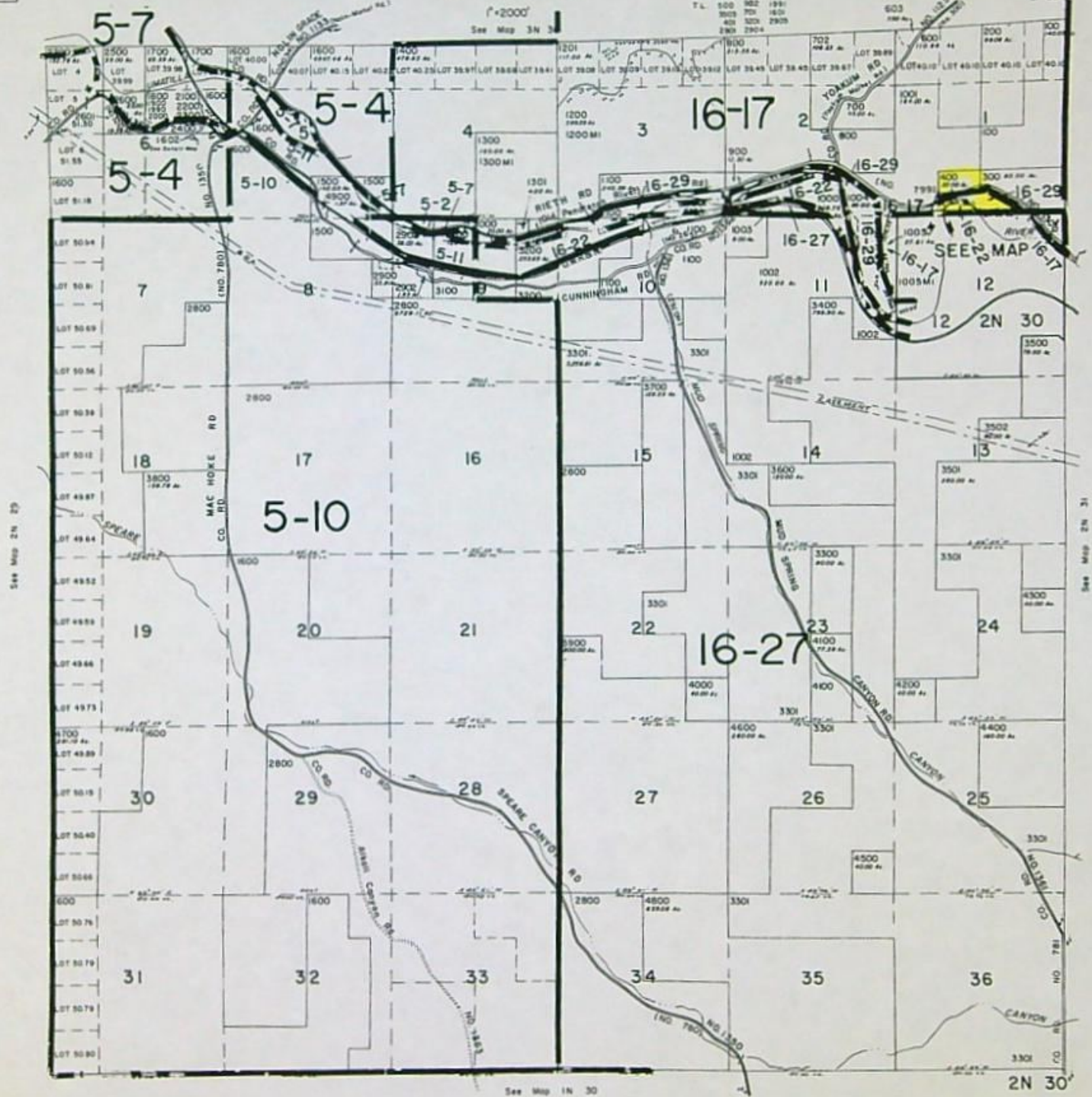
T2N. R30E.W.M.
UMATILLA COUNTY

2N 30

Aerial Photo No. NZ-29-479-483
3P-17-22
5P-38-34

1"=2000'
See Map 3N 31

CANCELLED
T.L. 500 982 1991
3003 701 1401
401 320 2905
8301 7304



See Map 2N 25

See Map 2N 31

See Map 1N 30

2N 30

Platcard Report

Township 2N Range 30E Section 12 of (1, 12)

					NE				NW				SW				SE					
App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
i G9206 04/20/1979	G8631 -		CN							32.9 IS (s) CN	38.0 IS (s) CN			6.3 IS (s) CN								
i G12698 10/24/1991	G11791 -									32.9 IS (s)	38.0 IS (s)			6.3 IS (s)								
i S20936 07/03/1945	S16393 -		xfr#: T8718		1.0 IR	2.4 IR		2.0 IR														
i S20936 07/03/1945	S16393 28484		CN see transfers		13.4 IR CN	12.8 IR CN		28.6 IR CN	12.6 IR CN	8.8 IR CN							15.6 IR CN					
i S20936 07/03/1945	S16393 76631		CN xfr#: T8718		12.7 IR CN	12.7 IR CN		0.1 IR CN														
i S20936 07/03/1945	S16393 80564		xfr#: T8718		11.1 IR	8.9 IR		0.1 IR														
i S33006 03/30/1959	S26122 32699						1.6 IR					21.5 IR	25.2 IR	15.0 IR					2.0 IR			
i S44660 04/04/1968	S33439 46102		CN		5.2 IR CN																	
i S49008 12/16/1976	S41362 -					8.6 IR	16.5 IR		3.0 IR			9.0 IR										
i S52447 09/24/1974	S39444 -									32.9 IR	38.0 IR			6.3 IR								

Page:1

[Return to Platcard Query Screen](#)

Phillip C. Ward, Acting Director

Oregon Water Resources Department • 725 Summer ST NE, Suite A • Salem, OR 97301 • Phone: 503-986-0900 • Fax: 503-986-0903

Run Time: 13 seconds

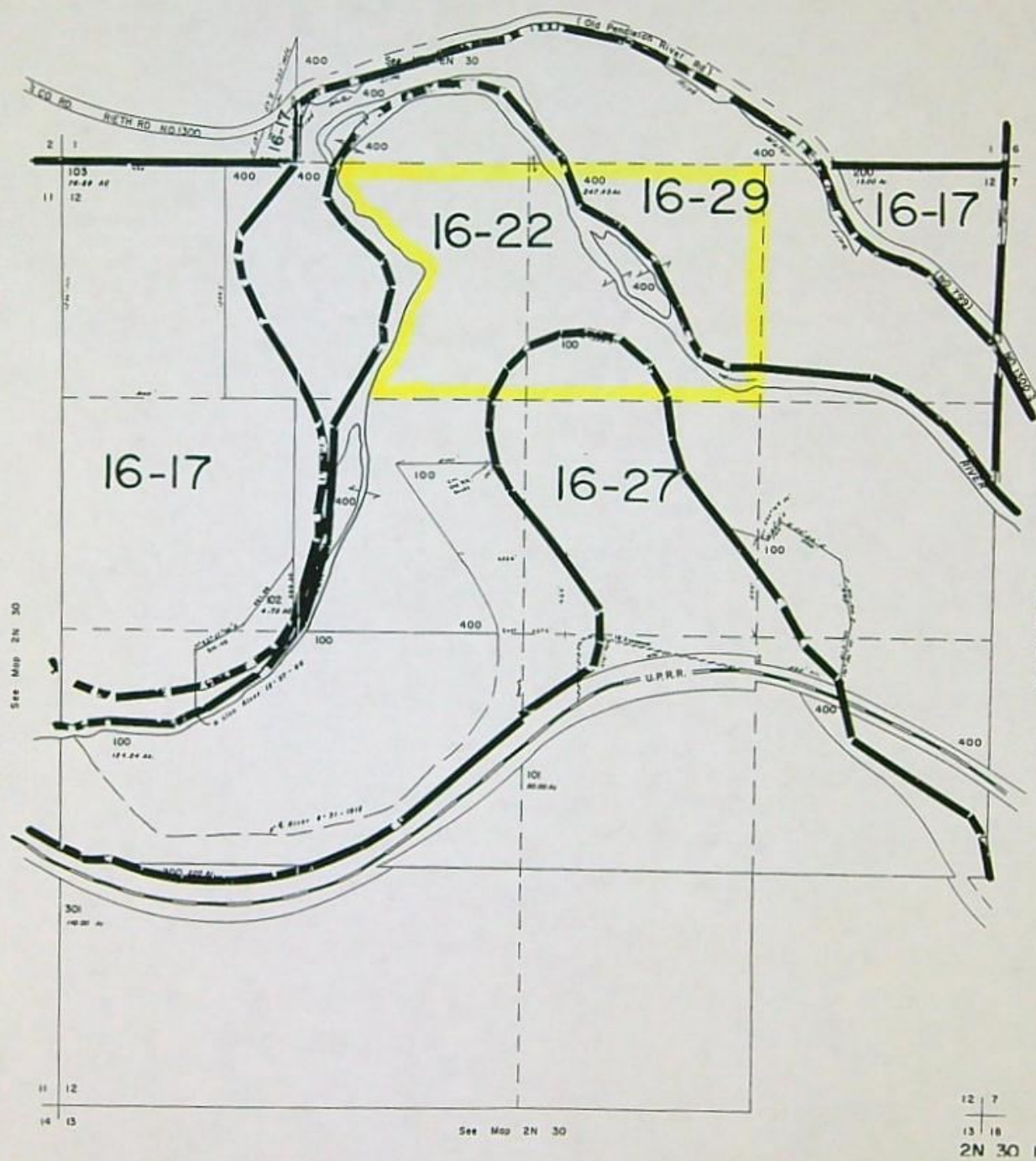
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY

Sec. 12 T.2N. R.30EWM.
UMATILLA COUNTY

2N 30 12

Aerial Photo No NZ - 2P-183

1"=400'



Platcard Report

Township 2N Range 30E Section 1 of (1, 12)

					NE				NW				SW				SE					
	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
i	G5732 02/22/1972	G4962 44900													6.6 IR							
i	G9206 04/20/1979	G8631 -		CN											4.6 IS (s) CN							
i	G12698 10/24/1991	G11791 -													4.6 IS (s)							
i	S20936 07/03/1945	S16393 28484		CN see transfers												1.4 IR CN			6.8 IR CN			
i	S20936 07/03/1945	S16393 76631		CN xfr#: T8718															6.1 IR CN			
i	S20936 07/03/1945	S16393 80564		xfr#: T8718															6.1 IR			
i	S44660 04/04/1968	S33439 46102		CN															1.0 IR CN	21.7 IR CN		
i	S52447 09/24/1974	S39444 -													4.6 IR							

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Phillip C. Ward, Acting Director

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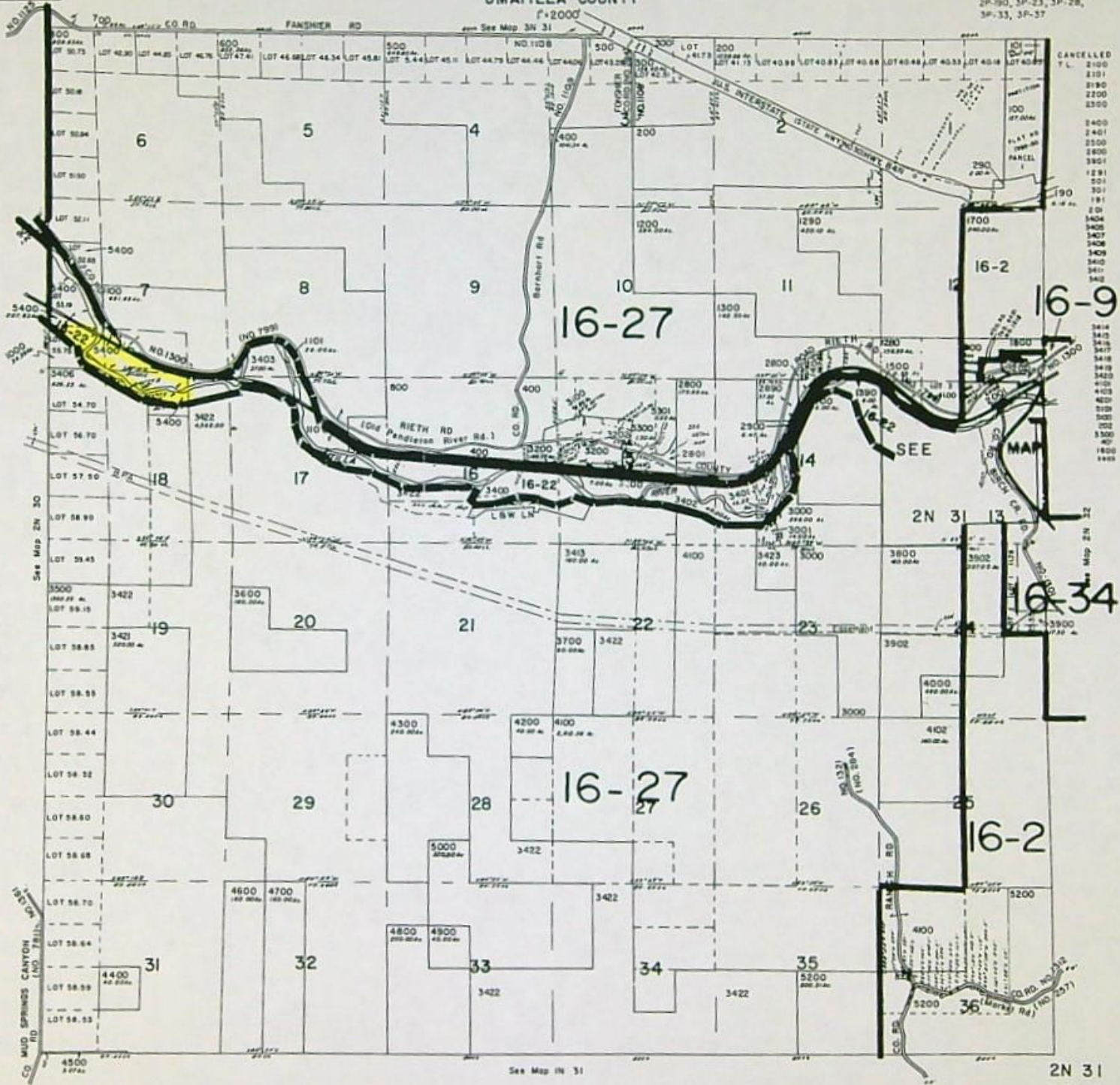
Run Time: 5 seconds

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY

T2N. R31 E.W.M.
UMATILLA COUNTY

2N 31

Aerial Photo No 2P-185,
2P-190, 3P-23, 3P-28,
3P-33, 3P-37



2N 31

Platcard Report

Township 2N Range 31E Section 7 of (7, 18)

					NE				NW				SW				SE					
App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
i S20936 07/03/1945	S16393 28484		CN see transfers								7.4 IR CN			32.8 IR CN	17.6 IR CN	15.3 IR CN			0.1 IR CN			
i S44660 04/04/1968	S33439 46102		CN										2.3 IR CN	0.1 IR CN		8.8 IR CN		1.8 IR CN	33.0 IR CN	20.1 IR CN		

Page:1

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Phillip C. Ward, Acting Director

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Run Time: 4 seconds

Platcard Report

Township 2N Range 31E Section 18 of (7, 18)

					NE				NW				SW				SE					
	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
i	S20936 07/03/1945	S16393 28484		CN see transfers		10.0 IR CN			8.4 IR CN													

Page:1

[Return to Platcard Query Screen](#)

Phillip C. Ward, Acting Director

Oregon Water Resources Department • 725 Summer ST NE, Suite A • Salem, OR 97301 • Phone: 503-986-0900 • Fax: 503-986-0903

Run Time: 2 seconds

June 26, 1997

B & G Resources, Inc.
c/o Kenneth E. Gustafson
18270 SW Boones Ferry Rd
Portland, OR 97227

REFERENCE: Temporary Transfer 7771 and Transfer 7772

We have received affidavits from the Watermaster and Assistant Watermaster alleging non-use on the lands involved in these transfer applications.

Because of the nature of the allegations, we are withholding further action on Temporary Transfer Application 7771 and Transfer Application 7772, pending the outcome of the cancellation proceeding.

If you have any questions, please call me at (503) 378-8455, extension 275, or (in-state only) (800) 624-3199.

Sincerely,

LARRY H. NUNN
Transfer Coordinator

cc: Schroeder Law Offices
Dale VanSchoiack, CWRE
Tony Justus, Watermaster
H. Richard (Dick) Snow
Stanfield Irrigation District
Gail Achterman, Stoel Rives



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

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Oregon

FINAL ORDER

JUN 16 1997

June 11, 1997

WATER RESOURCES DEPT.
SALEM, OREGON

WATER
RESOURCES
DEPARTMENT

Dolly Ashbeck, Manager
Stanfield Irrigation District
P.O. Box 416
Stanfield, Or. 97875

Watermaster

RE: Transfers 7771 and 7772.

Dear Dolly:

This letter is to confirm our phone conversation of Friday, June 6, 1997. You were aware that two transfers have been filed in the name of B & G Resources Inc. c/o Kenneth E. Gustafson. Transfer 7771 requests to move a Umatilla River and McKay Reservoir water right to a new location within Stanfield Irrigation District. Transfer 7772 would add the Furnish Canal as an additional point of diversion for certificate 28484. You were also aware that water cannot be used legally in a new location until an order is issued approving the transfer.

I informed you that water was being delivered to the new lands on Thursday, June 5, 1997. I asked you to stop delivery of water to these lands until and unless orders are issued by the Water Resources Department approving the transfers. You said you would comply with my request.

As you are aware, there is currently insufficient water in the Umatilla River for all users. The District has ceased delivery to it's water users with 1965 priority water rights without McKay entitlements. Additionally, we have raised issue with the status of the water rights proposed to be transferred. We believe most of the acres identified in the transfers have gone 5 or more years of non-use and to allow the transfers or use of these rights would be injurious to others, such as your 1965 priority users mentioned above. Until the status of the water right and any other transfer discrepancies are resolved, the transfers will not be approved and the use in the new location should not occur.

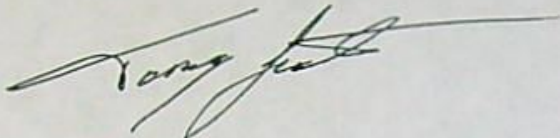
We did not discuss by phone and I wish to inform you now that delivery of water to these lands is unlawful unless and until an order is issued approving the transfers. Use of water prior to the issuance of these orders could subject the Stanfield Irrigation District to enforcement action including but not limited to civil penalties.



3920 Westgate
Pendleton, OR 97801
Phone (541) 278-5456
FAX (541) 278-0287

Thank you for your cooperation in this matter. Please call if you have any questions.

Sincerely,



Tony Justus
Watermaster, Dist. 5

cc: Mike Ladd, NC Region Manager
✓ Dave Jarrett, WRD Enforcement
Laura Schroeder
Jim Esget, BOR

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JUN 16 1997
WATER RESOURCES DEPT.
SALEM, OREGON

June 3, 1997

B & G Resources, Inc
c/o Schroeder Law Offices
P.O. Box 1392
Hermiston, OR 97838

REFERENCE: Temporary Transfer 7771 and Transfer 7772

We received a report from the Watermaster concerning the temporary transfer application. He says a portion of the land proposed to be moved has not been irrigated for more than five years. These are the lands at the SE end of the northerly field, NE of the river, beyond the fence. The Watermaster said the lands up the fence have been watered, but the sprinklers did not go beyond the fence.

If you agree, these lands need to be removed from the application. If you do not agree with the Watermaster, please submit a statement describing when the lands beyond the fence were irrigated and the crop grown.

We also received a report from the Watermaster concerning the transfer application requesting an additional point of diversion. He says the lands SW of the river and the most westerly field have not been irrigated for more than five years. He says only the fields NE of the river, except that described above, have been watered.

If you agree with the Watermaster, you should remove the non-irrigated lands from the applications. If you do not agree with the Watermaster, please submit a statement describing when the lands were irrigated and the crops grown.

If, as the Watermaster says, the lands have not been irrigated for over five years, those portions of the water right are forfeited and should be cancelled and removed from the water right record.

We recently returned the applications and maps for correction. Please make the appropriate corrections described in this letter within the time limit defined in our May 28, 1997 letter.



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

B & G Resources, Inc
c/o Schroeder Law Offices

Page 2

REFERENCE: Temporary Transfer 7771 and Transfer 7772
June 3, 1997

If you have any questions, please call me at (503) 378-8455,
extension 275, or (in-state only) (800) 624-3199.

Sincerely,

LARRY H. NUNN
Transfer Coordinator

cc: B & G Resources, Inc.
Tony Justus, Watermaster
Dale VanSchoiack, CWRE

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JUN 1 0 1997

WATER RESOURCES DEPT.
SALEM, OREGON

STANFIELD IRRIGATION DISTRICT
P.O. BOX 416
STANFIELD, OR 97875
(541) 449-3272

June 2, 1997

Larry Nunn
Transfer Coordinator
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

Re: Temporary Transfer 7771 and Transfer 7772

Dear Mr. Nunn:

The transfers referenced above have been reviewed and discussed at recent meetings of the Board of Directors of the Stanfield Irrigation District. The Directors have given their approval for the use of the Stanfield Irrigation District's diversion facility and canal for the delivery of the water diverted. They have also approved the temporary placement of the referenced right of use within the boundaries of the Irrigation District.

Should you have any further questions regarding the board's approval please feel free to call between 7:00 a.m. and 4:00 p.m. Monday through Friday.

Sincerely,



Dolly Ashbeck
District Manager

INTEROFFICE MEMO

WATER
RESOURCES
DEPARTMENT

TO: TRANSFER SECTION DATE: 5-30-97
FROM: WATERMASTER, DISTRICT # 5
GROUNDWATER SECTION
(SIGNATURE) [Signature]
SUBJECT: TEMPORARY TRANSFER # 7771

A change in: POU POD POA USE of water.

In the name(s) of B & G Resources, Inc

In my opinion (assuming the 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
NOT the correct POD.

The existing right may not be valid because Some of acres proposed for transfer have gone 5 or more years of non-use.

*before June
E. and G. State
No. of River*

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) for diversion between the authorized and proposed points of diversion? (Yes or No) _____

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:

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

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



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

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JUN - 2 1997
WATER RESOURCES DEPT.
SALEM, OREGON

May 28, 1997

B & G Resources, Inc.
c/o Schroeder Law Offices
P.O. Box 1392
Hermiston, OR 97838

REFERENCE: Temporary Transfer 7771 and Transfer 7772

We are examining the B & G Resources Inc. applications. There are some problems which need to be resolved.

I attempted to plot the legal description in the deed which accompanied the applications. The legal description described the boundary to the center of the Umatilla River. The point described is on an old channel of the river. Also part of the legal description I could plot, in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12, appears to go through the field shown. This means B & G Resources may not own the entire water right.

Please have your certified Water Right Examiner and consultant plot the property lines on the maps. This will make it possible for us to follow the legal descriptions and insure that, indeed, B & G Resources is the water right holder, as we are required to do.

We would like a statement from Stanfield Irrigation District saying that they approve the use of their canal for the delivery of this water. We would also like this statement to say they approve the temporary placement of this right within their boundary.

Notice of the transfer application must be published in a local newspaper having general circulation in the area of the water right. Enclosed is the notice which must be published. It must be published once a week, for three consecutive weeks. Following the last publication, please submit the affidavit of publication supplied by the newspaper. Please have the newspaper insert the last date of publication in the appropriate place in the notice.



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

B & G Resources, Inc.
c/o Schroeder Law Offices

Page 2

REFERENCE: Temporary Transfer 7771 and Transfer 7772
May 28, 1997

We are returning the applications and maps for correction.
Please return the maps and irrigation district statements within
60 days. If you have any questions, please call me at (503) 378-
8455, extension 275, or (in-state only) (800) 624-3199.

Sincerely,

LARRY H. NUNN
Transfer Coordinator

enclosure

cc: B & G Resources, Inc.
Tony Justus, Watermaster
Dale VanSchoiack, CWRE

State of Oregon
WATER RESOURCES DEPARTMENT

STATEMENT OF CLAIM

Owner's Name: Nomad Alfalfa Inc.
% Ernst & Whinney

Contract #: 14-06-100-1336

Mailing address: 3300 First Interstate Tower Portland, Ore 97201

1. Interviewee: Bill Dick renter from Ken Lewis of Lewis Livestock

2. What is the primary source? Umatilla

3. Location of the area irrigated:

Tax Lot:

Township	Range	Section	1/4 1/4	no. of areas
<u>2N</u>	<u>30E</u>	<u>1</u>	<u>SW SE</u>	
		<u>18</u>	<u>N 1/2 NE 1/4</u>	

Total _____

4. Acres Claimed: About 40 acres north of river.

5. Describe the included and/or excluded land. See remarks

6. System:

A) Ditch: _____ Top width _____
Bottom width _____ Depth _____ Grade _____

B) PUMP:

Make Rain O Flow Type CDP
No. _____ Intake size 3 Discharge size 2 1/2
Rating: G.P.M. _____ R.P.M. _____ Pressure _____

C) MOTOR:

Type _____ Make GE
H.P. Rating 20 R.P.M. 3450

Booster: _____

D) DISTRIBUTION SYSTEM:

Mainline: Size 6" Length 1200 Kind of pipe Alum
Size _____ Length _____ Kind of pipe _____

Lateral lines: Size 4" Length 2640 Kind of pipe wheelline
3" 1000 handline

E) SPRINKLER HEADS:

Make 66 RD 30 Size of nozzles 3/16 X 0
Make 25 KC 30's Size of nozzles 1/4 X 0
Number of heads used 33 Capacity of each _____ G.P.M.
Operating pressure _____ lbs.

8. Diversion Point: Pumps directly out of river.

9. Remarks: There is alot more that used to be irrigated but that was stopped going on 6 yrs. All the equipment has been pulled. The reason I know it was Syre of course is this and the Bond place which sold to Anderson were stopped at the same time. Mr L had filed a transfer on the Bond place to draw up on the transfers and stop the receivers they had to irrigate part of which they did. Mr D. also stated Syre.

~~This was sold in the #2400 coming with it.~~

10. Use: Alfalfa

11. Tie: Photo: 41059-378-119

12. Date of Interview: 5-25-1987

13. Date of Survey: 5-25-1987

14. Signature of Inspector: Thomas Hill

May 23, 1997

B & G Resources, Inc.
18270 SW Boones Ferry Rd.
Portland, OR 97227

REFERENCE: Temporary Transfer 7771

We received your water right transfer application requesting a **temporary change in Place of Use (POU)** of water from **Umatilla River and McKay Reservoir**. The application was accompanied by \$ 120. Our receipt 12377 is enclosed. The application was received in our office **05/19/97**).

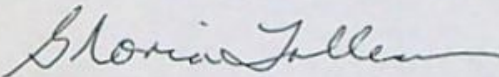
By copy of this letter, we are asking the Watermaster for his usual report regarding the potential for injury to existing water rights which may be caused by the change.

OAR 690-15-310 prohibits the temporary transfer from taking effect if water has been used on any existing or proposed lands involved in the temporary transfer during the season of use. The season of use may be an irrigation season.

We will notify you if addition information or corrections to the application or map are required.

Please contact the Transfer Section, (800) 624-3199 or (503) 378-8455, or at the address listed below if you have any questions.

Sincerely,



for Larry H. Nunn
Water Rights Specialist

cc: **Tony Justus**, Watermaster

enclosure



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

3355 N.E. DAVIS
PORTLAND, OR 97232
TELEPHONE (503) 232-7110
FAX (503) 238-4076



SCHROEDER
LAW OFFICES

Legal Support for People Feeding the World

P.O. BOX 1392
115 W. HERMISTON AVE., STE. 140
HERMISTON, OR 97838
TELEPHONE (541) 564-9290
FAX (541) 564-0158

May 15, 1997

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Larry Nunn
Transfer Coordinator
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

RE: Transfer Application, Point of Appropriation Application and Assignment forms

Dear Mr. Nunn:

Enclosed please find a temporary transfer application for B & G Resources, Inc. in care of Kenneth Gustafson. Attached to the application is a map prepared to the Department's standards, a check in the amount of \$120.00, an affidavit of use, a copy of the assignment, a copy of the recorded deed and a signed statement from the Umatilla Planning Department.

In addition enclosed is a separate application for an additional point of diversion which affects the enclosed temporary transfer application. Attached to this application is a map prepared by a Certified Water Right Examiner, a check in the amount of \$85.00, an affidavit of use, a copy of the assignment, a copy of the recorded deed and a signed statement from the Umatilla Planning Department.

Finally, enclosed are three assignment forms from Gloria Lewis and Nomad Alfalfa, Inc. to B & G Resources, Inc. for water rights certificates #32699 and #28484 and permit #41362. A check in the amount of \$35.00 is enclosed to cover the cost of the recording fees for the assignments.

If you have any questions regarding the enclosed temporary transfer application, the additional point of diversion application or the assignment forms please contact the undersigned at the Hermiston office.

Sincerely,

Leann Rea
Paralegal

Enclosure

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

T 7771

3355 N.E. DAVIS
PORTLAND, OR 97232
TELEPHONE (503) 232-7110
FAX (503) 238-4076



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Legal Support for People Feeding the World

P.O. BOX 1392
115 W. HERMISTON AVE., STE. 140
HERMISTON, OR 97838
TELEPHONE (541) 564-9290
FAX (541) 564-0158

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JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON

June 11, 1997

Larry Nunn
Transfer Coordinator
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

RE: Temporary Transfer 7771 and Transfer 7772

Dear Mr. Nunn:

Enclosed please find the above reference applications. As requested in your letter of May 28, 1997 our consultant and the Water Rights Examiner plotted the property lines on the maps. We agree that a portion of the water right in the NW1/4 NW1/4, Section 12 does not belong to B & G Resources, and we have therefore removed that portion from our map.

The manager of the Stanfield Irrigation District submitted the District's approval for the use of the Stanfield Irrigation District's facilities. Unless we hear otherwise, we will assume that this letter satisfied your request for a statement from the Irrigation District.

The public notice for the transfer application was submitted to the local newspaper for publication. The affidavit of publication from the newspaper has not been received. Upon receipt, the affidavit will be forwarded as requested.

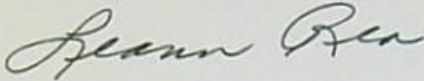
Your letter of June 3, 1997 represents that the report from the Watermaster indicates that the lands at the SE end of the northerly field, NE of the river, and beyond the fence were not irrigated within the past five years. And, that the lands SW of the river and the most westerly field were not irrigated for more than five years. Our client does not agree. Our client informs us that at the time of purchase, they were lead to believe that all the water rights appurtenant to these lands were valid.

For the purpose of expediting the processing of these transfer applications, we have amended the applications. In the submitting of these amended transfer applications, we not admit that the statements made by the Watermaster in his report are accurate. We suggest that a cancellation proceeding be initiated by Watermaster's affidavit if the Department wishes to pursue the Watermaster's claims.

Larry Nunn
Page 2
June 11, 1997

Should you have any further questions concerning any portion of these amended transfer application please contact the undersigned at the Hermiston office.

Sincerely,



Leann Rea
Paralegal

Enclosure

cc: B & G Resources, %Ken Gustafson
Dick Snow

RECEIVED

JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON

TEMPORARY T7771

RECEIVED

MAY 19 1997

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

WATER RESOURCES DEPT.
SALEM, OREGON

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

RECEIVED

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

JUN 13 1997

Type of Change: Temporary one year transfer for place of use
(In point of diversion: place of use; use heretofore made of the water)

WATER RESOURCES DEPT.
SALEM, OREGON

1. WATER RIGHT

A) Is the water right in your name? No If not, list name below:
(Yes, No)
E. F. Burlingham & Sons

B) Was the water right determined by a court decree? No
(Yes, No)

1. If yes, list the title of the proceedings: _____

2. Certificate No: _____

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

1. If yes, list the Permit No: 16393

2. Certificate No: 28484

D) Date of priority right: July 3, 1945

E) What are your reasons for the proposed changes? Change in cropping program

F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

C) What is the name of the ditch used? N/A

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
See Exhibit A attached				

F) Is the land within an irrigation district? Yes _____ No X

If yes, which district? _____

G) County Umatilla

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

T 7271

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? No
(Yes, No)

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

Encumbrance	Held By	Amount
Mortgage	Gloria Lewis	excess of \$10,000.00

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JUN 13 1997

D) What is the use to which the water will be applied? Irrigation of crops

WATER RESOURCES DEPT.
SALEM, OREGON

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
4N	29 E	26	NE SE	12.5
4N	29 E	26	NW SE	12.5
4N	29 E	26	SW SE	12.5
4N	29 E	26	SE SE	12.5

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SALEM, OREGON

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.

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

H. Richard (Dick) Snow
33263 Oregon Trail Road Echo, OR 97826

6. REMARKS: An application requesting an additional point of diversion has been filed which affects this temporary transfer application.

I(we) Kenneth E. Gustafson, 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 _____ day of _____, 1997.

Leona A. Schroeder / L.R.
(Signature)
for
B & G Resources, Inc.
(Signature)

Subscribed and sworn to before me

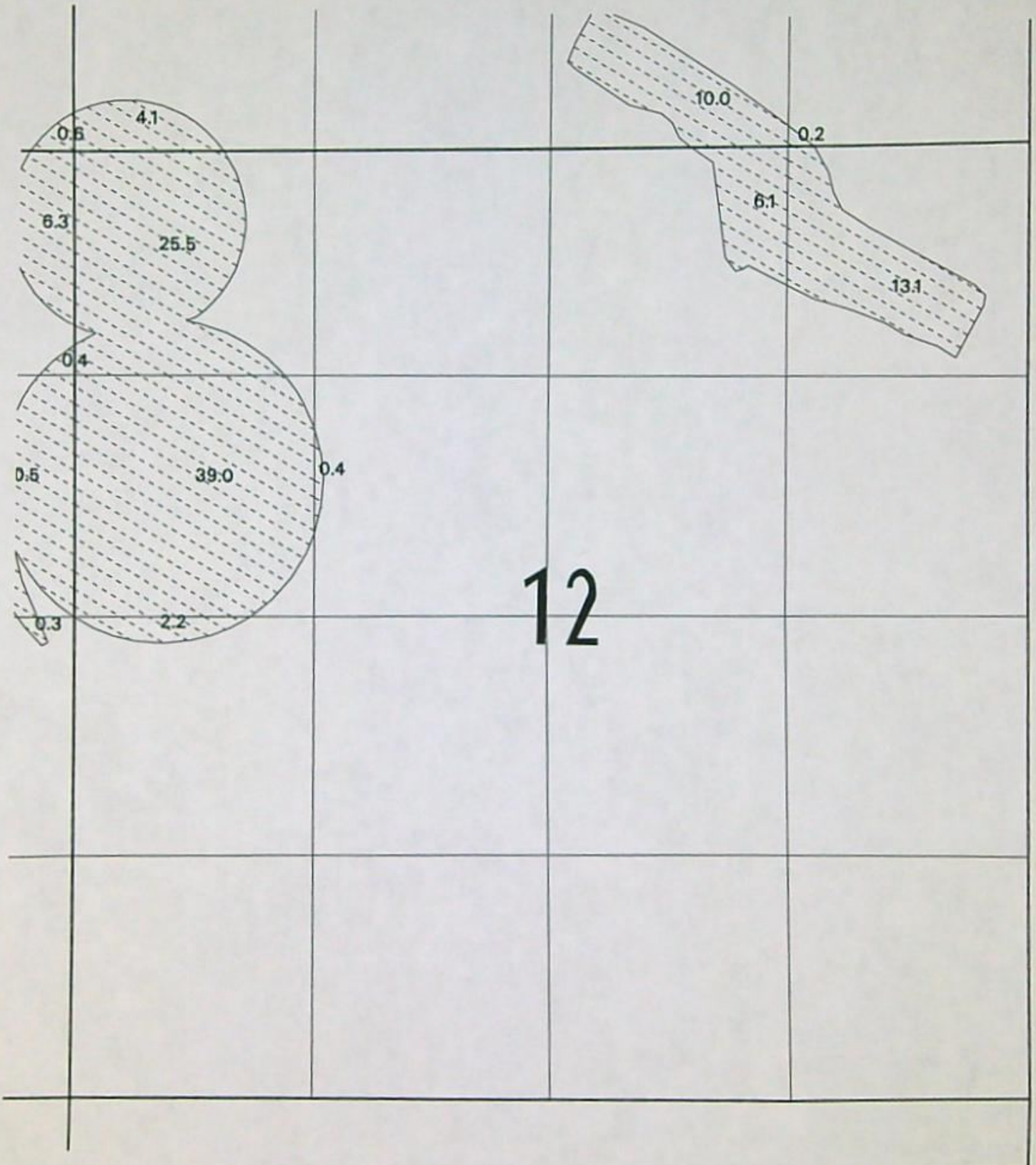
Maureen E Redenbaugh
Notary Public for Oregon

(Notarial Seal)



My commission expires: 10/12/1998

2 N. 30 E.
SECTION 12



State of Oregon
 WATER RESOURCES DEPARTMENT
 APPLICATION FOR TRANSFER OF WATER RIGHT
 Amended June 1997

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WATER RESOURCES DEPT.
 SALEM, OREGON

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for 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)
E. F. Burlingham & Sons
- B) Was the water right determined by a court decree? No
(Yes, No)
 1. If yes, list the title of the proceedings: _____
 2. Certificate No: _____
- C) Was the water right acquired by a water permit? Yes
(Yes, No)
 1. If yes, list the Permit No: 16393
 2. Certificate No: 28484
- D) Date of priority right: July 3, 1945
- E) What are your reasons for the proposed changes? Change in cropping program
- F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

- A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River
- B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

- C) What is the name of the ditch used? N/A
- 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
See Exhibit A attached				

- F) Is the land within an irrigation district? Yes _____ No X
 If yes, which district? _____

- G) County Umatilla

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

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? No
(Yes, No)

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

Encumbrance	Held By	Amount
Mortgage	Gloria Lewis	excess of \$10,000.00

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WATER RESOURCES DEPT.
SALEM, OREGON

D) What is the use to which the water will be applied? Irrigation of crops

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
4N	29 E	26	NE SE	12.5
4N	29 E	26	NW SE	12.5
4N	29 E	26	SW SE	12.5
4N	29 E	26	SE SE	12.5

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.

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

H. Richard (Dick) Snow
33263 Oregon Trail Road Echo, OR 97826

6. REMARKS: An application requesting an additional point of diversion has been filed which affects this temporary transfer application.

I(we) Kenneth E. Gustafson, 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 _____ day of _____, 1997.

See original application

(Signature)

(Signature)

Subscribed and sworn to before me

(Notarial Seal)

Notary Public for Oregon

My commission expires: _____

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JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Attachment A

Temporary Transfer for the 1997 Irrigation Season
Amended June 1997
Kenneth E. Gustafson

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
2N	30E	1	SE SW	400	7/3/45	IR	1.4	6
2N	30E	1	SW SE	400	7/3/45	IR	4.3	6
2N	30E	12	NW NE	400	7/3/45	IR	1.0	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1	6
2N	31E	7	SW SW	5400	7/3/45	IR	9.4	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4	1,2,3

T 77771

AFFIDAVIT OF USE

STATE OF OREGON)
) ss
County of Umatilla)

I, Kenneth E. Gustafson
being duly sworn, depose and say:

(1) I am the Owner of lands to which the water rights described in the attached transfer application and alternate acre petition are perfected or appurtenant; and

(2) I, and/or my lessee, have used these water rights at least once in the last five years; and

(3) I have never intended to abandon or forfeit these water rights.

(4) The land from which the water right is removed will receive no water under the appurtenant rights during the time authorized in the order allowing this transfer.

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Kenneth E. Gustafson
Kenneth E. Gustafson, Owner

SUBSCRIBED AND SWORN to me this 7th day of May, 1997.

Kathleen J. Schroeder

Notary Public of Oregon
My commission

expires: 12/5/97



T 7771

ASSIGNMENT

We, Gloria Lewis and Nomad Alfalfa, Inc., water rights certificate holders and owners of land which may be appurtenant to Certificate #28484 held in the name of E.F. Burlingham & Sons, hereby assign any and all interest we might have in the aforementioned certificate as filed in the office of the Water Resources Director, to:

B & G Resources, Inc.
(Name of New Owner)

3132 S.E. Tindall Circle Portland Multnomah Oregon 97202
(Mailing Address) (City) (County) (State) (Zip) (Phone)

This water right is assigned to the new owner and includes any right to transfer all or a portion of the water right identified in the aforementioned water right even though the undersigned may hold a trust deed on the appurtenant property.

I hereby certify that I have notified all other owners of the property described in the Certificate of this request for assignment.

Witness my hand this 28 day of August, 1996

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Certificate Holder Gloria Lewis
Gloria Lewis

Certificate Holder Gloria Lewis, President
Nomad Alfalfa, Inc.
By Gloria Lewis, President

The completed assignment must be submitted to the Water Resources Department, together with a recording fee of \$10. Additional pages will cost \$5 per page.

WATER RESOURCES DEPARTMENT
158 12TH STREET NE
SALEM, OREGON 97310-0210

State of Oregon
WATER RESOURCES DEPARTMENT

STATEMENT OF CLAIM

Owner's Name: Nomad Alfalfa Inc.
% Ernst & Whinney

Contract #: 14-06-100-1336

Mailing address: 3300 First Interstate Tower Portland, Ore 97201

1. Interviewee: Bill Dick renter from Ken Lewis of Lewis Livestock

2. What is the primary source? Umatilla

3. Location of the area irrigated:

Tax Lot:

Township	Range	Section	1/4 1/4	no. of areas
<u>2N</u>	<u>30E</u>	<u>1</u>	<u>SW SE</u>	
		<u>18</u>	<u>N 1/2 N 1/4</u>	

Total _____

4. Acres Claimed: About 40 acres north of river.

5. Describe the included and/or excluded land. See remarks

6. System:

A) Ditch: _____ Top width _____
Bottom width _____ Depth _____ Grade _____

B) PUMP:

Make Rain O Flow Type CD12
No. _____ Intake size 3 Discharge size 2 1/2
Rating: G.P.M. _____ R.P.M. _____ Pressure _____

C) MOTOR:

Type _____ Make GE
H.P. Rating 20 R.P.M. 3450

Booster: _____

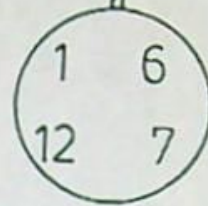
D) DISTRIBUTION SYSTEM:

Mainline: Size 6" Length 1200 Kind of pipe Alum
Size _____ Length _____ Kind of pipe _____

1970

T2N-R30E

T2N-R31E



1
10.8

3 NHEL
48.5

2
673

T11316

5
21.2

Post-It[®] Fax Note 7671

Date 6/16 # of pages 1

To Larry Huhn

From T. Justus

Co./Dept.

Co.

Phone #

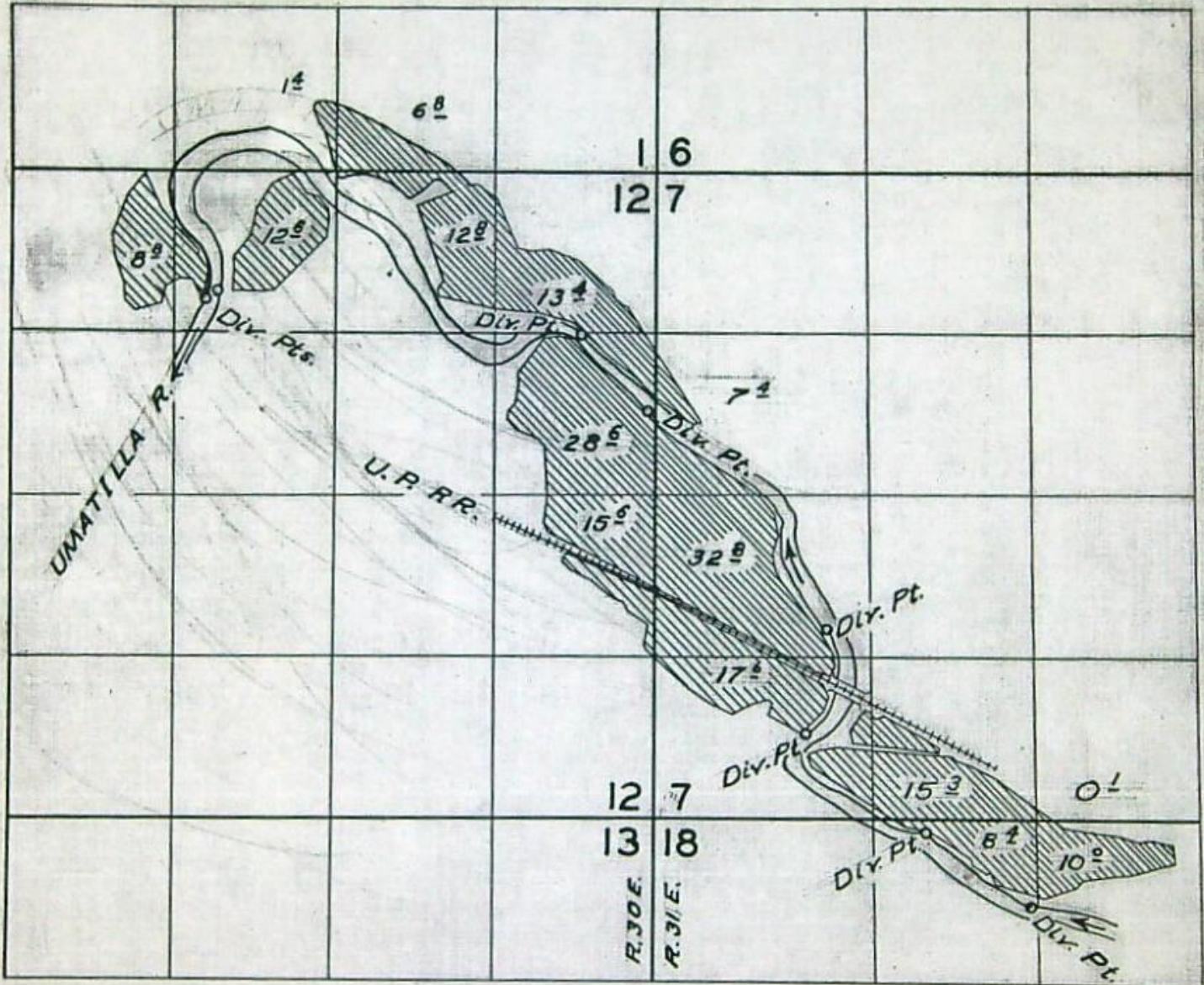
Phone #

Fax #

Fax #

1 NHEL
31.6
CRP
86-959697

T. 2 N. R. 30 & 31 E. W. M.



FINAL PROOF SURVEY
UNDER

Application No. 20,936 Permit No. 16,393.
IN NAME OF

E. E. Burlingham & Sons.

Surveyed May 30, 1958, by C. O. Bartels
July 16, 1960, by R. H. Jackson

ROUTING - REQUEST

Please

- READ
- HANDLE
- APPROVE
- and
- FORWARD
- RETURN
- KEEP OR DISCARD
- REVIEW WITH ME

To Larry Nunn

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JUN 19 1997

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SALEM, OREGON

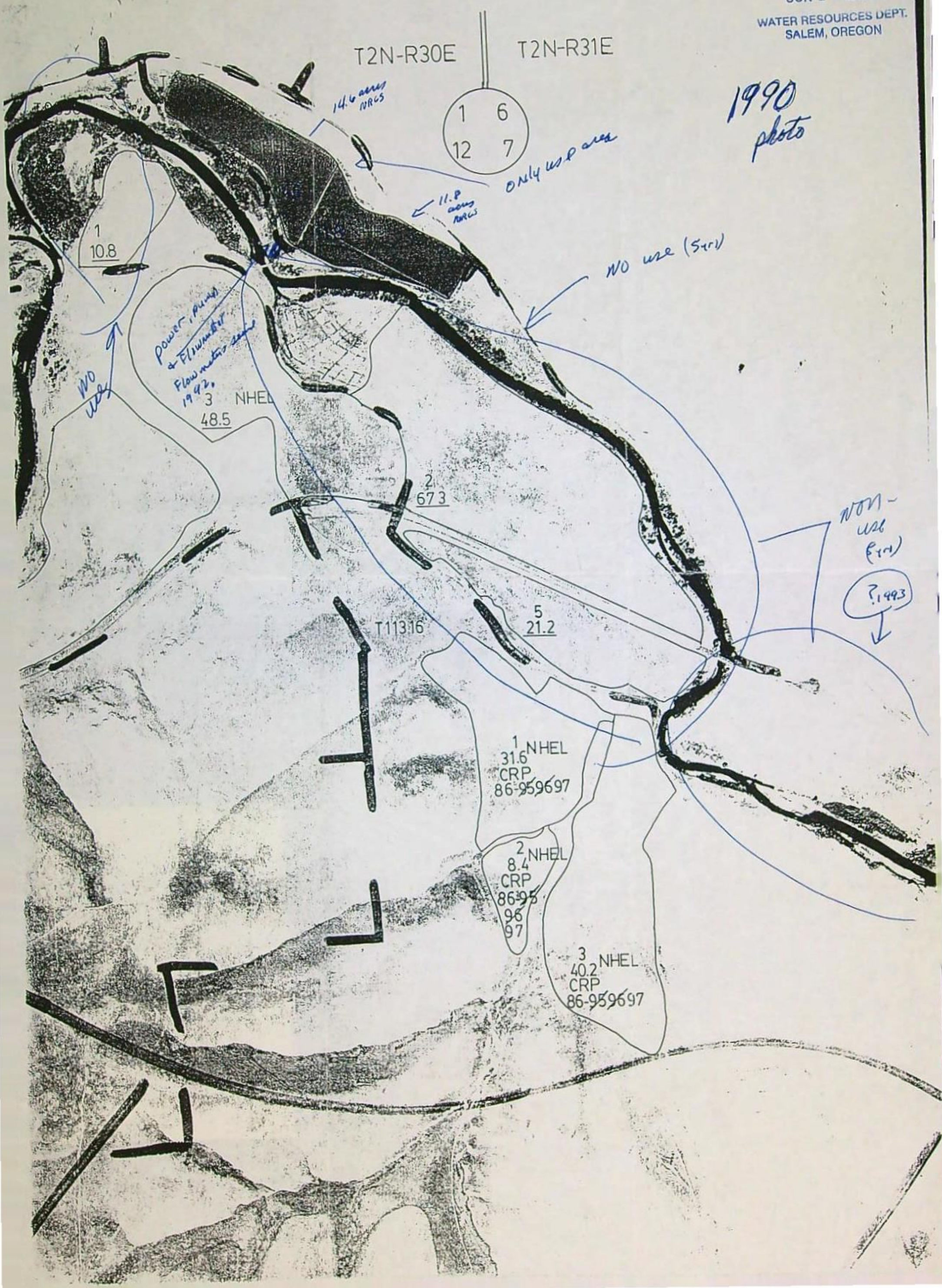
Date 6-13

From [Signature]

B+G Resources
RE: T-7771
T-7772

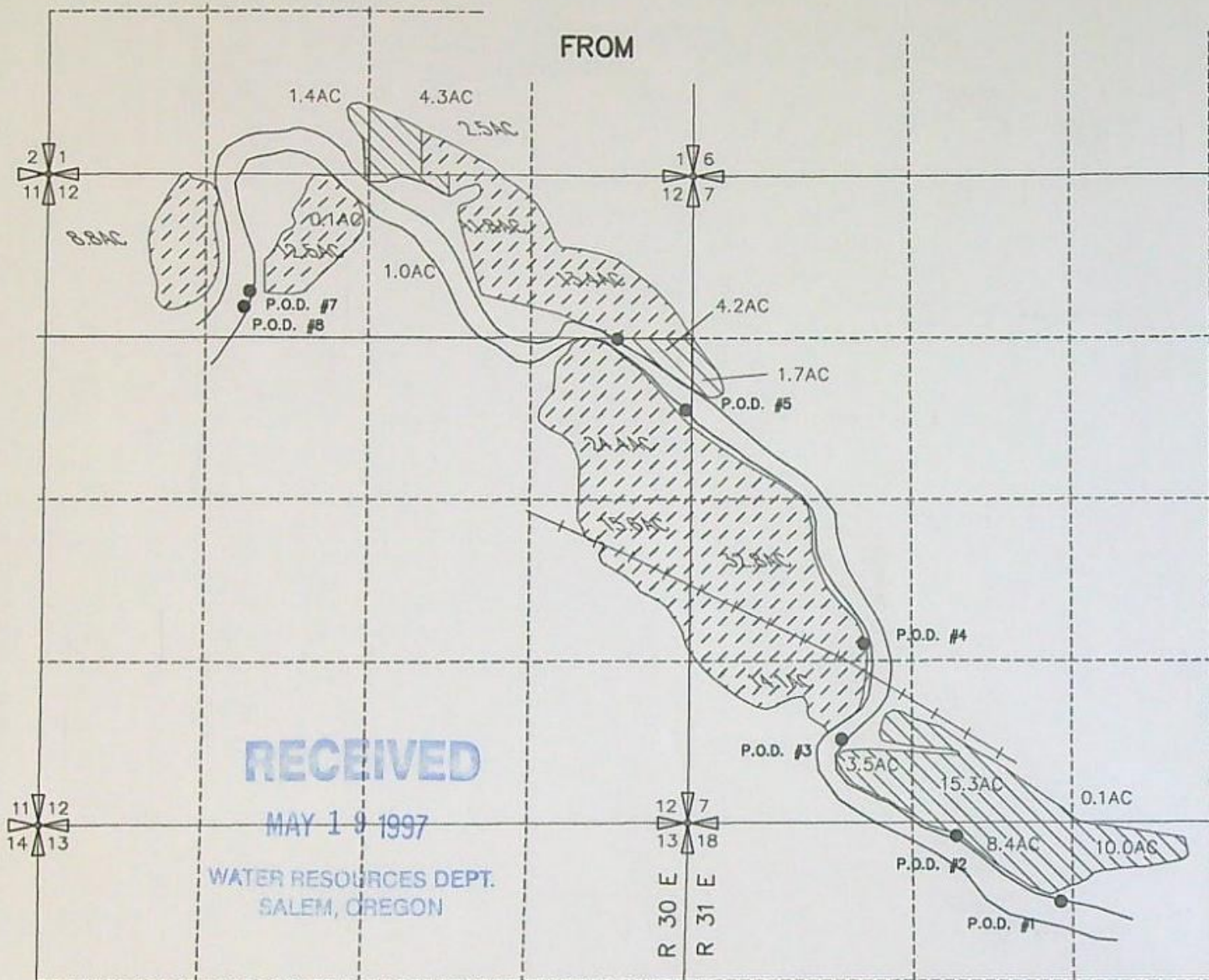
11 M-2

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SALEM, OREGON



GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T2 & 3N, R30 & 31E WM

T 7771

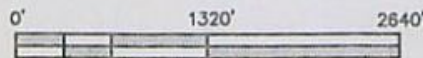


AUTHORIZED POINTS OF DIVERSION

- P.O.D. #1 700 FEET SOUTH AND 3100 FEET EAST FROM THE NW CORNER SECTION 18, R31E.WM.
- P.O.D. #2 100 FEET SOUTH AND 2230 FEET EAST FROM THE NW CORNER SECTION 18, R31E. WM.
- P.O.D. #3 680 FEET NORTH AND 1250 FEET EAST FROM THE SW CORNER SECTION 7, R31E. WM.
- P.O.D. #4 1540 FEET NORTH AND 1410 FEET EAST FROM THE SW CORNER SECTION 7
- P.O.D. #5 1930 FEET SOUTH AND 60 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #7 960 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #8 1050 FEET SOUTH AND 3680 FEET WEST FROM THE NE CORNER SECTION 12

- AREA INVOLVED IN THIS TRANSFER
- AREA NOT INVOLVED IN THIS TRANSFER

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



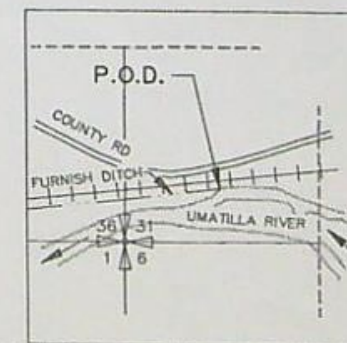
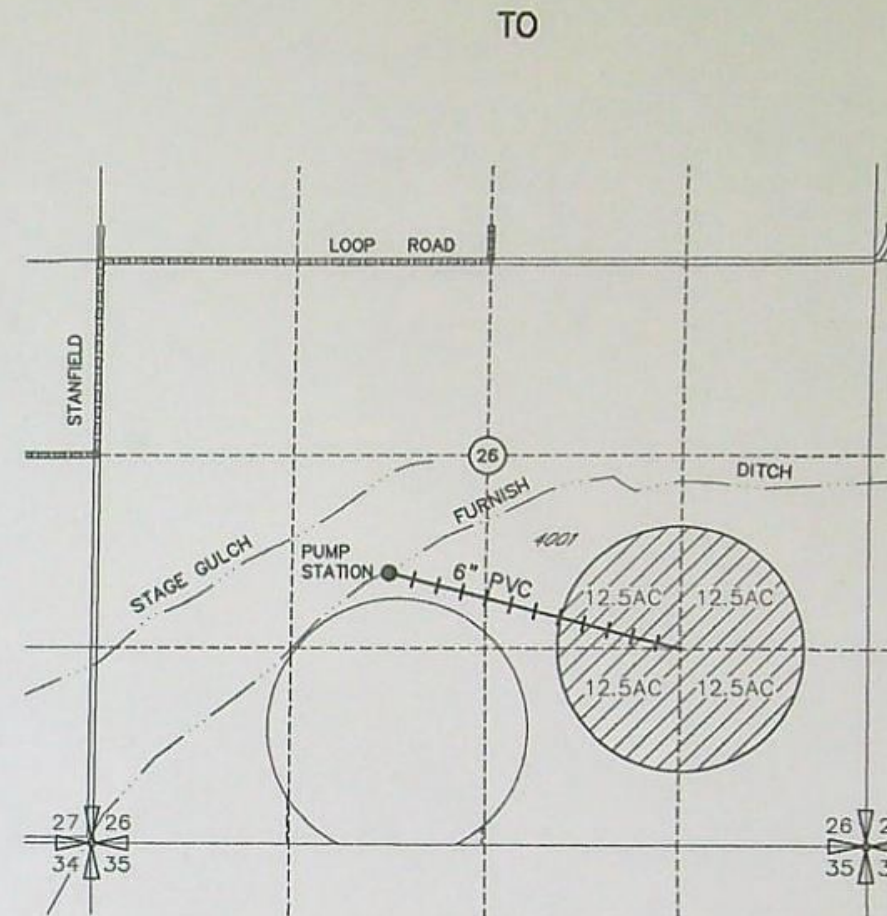
3522.056
3522GUST.DWG
3/20/97

GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T4N, R29E WM

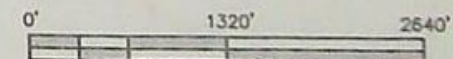
RECEIVED

JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON



P.O.D. POINT LOCATED 380' NORTH AND 650' EAST FROM SW COR SEC 31, T. 3N., R. 30E. WM.



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.056
3522GUST.DWG
3/20/97

T 7771

Attachment A

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JUN 13 1997

Temporary Transfer for the 1997 Irrigation Season

WATER RESOURCES DEPT.
SALEM, OREGON

Kenneth E. Gustafson

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
2N	30E	1	SE SW	400	7/3/45	IR	1.4	6
2N	30E	1	SW SE	400	7/3/45	IR	4.3	6
2N	30E	12	NW NE	400	7/3/45	IR	1.0	6
2N	30E	12	SE NE	400	7/3/45	IR	4.2	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4	1,2,3

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

TEMPORARY T7771

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

MAY 19 1997

COPY

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for 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)
E. F. Burlingham & Sons
- B) Was the water right determined by a court decree? No
(Yes, No)
1. If yes, list the title of the proceedings: _____
2. Certificate No: _____
- C) Was the water right acquired by a water permit? Yes
(Yes, No)
1. If yes, list the Permit No: 16393
2. Certificate No: 28484
- D) Date of priority right: July 3, 1945
- E) What are your reasons for the proposed changes? Change in cropping program
- F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

- A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River
- B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

- C) What is the name of the ditch used? N/A
- 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
See Exhibit A attached				

- F) Is the land within an irrigation district? Yes _____ No X
If yes, which district? _____
- G) County Umatilla

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

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? No (Yes, No)

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

Encumbrance	Held By	Amount
Mortgage	Gloria Lewis	excess of \$10,000.00

Permissu

D) What is the use to which the water will be applied? Irrigation of crops

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

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MAY 9 1997
WATER RESOURCES OREGON

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.

*Need property lines -
Can't follow LD*

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

H. Richard (Dick) Snow
33263 Oregon Trail Road Echo, OR 97826

6. REMARKS: An application requesting an additional point of diversion has been filed which affects this temporary transfer application.

I (we) Kenneth E. Gustafson, 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 _____ day of _____, 1997.

Kevin A. Schroeder / K.R.
(Signature)
B & G Resources, Inc.
(Signature)

Subscribed and sworn to before me

(Notarial Seal)

Maureen E. Redenbaugh
Notary Public for Oregon



My commission expires: 10/12/1998

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

This Is to Certify, That E. F. BURLINGHAM & SONS

of Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River for the purpose of irrigation of 191.6 acres

under Permit No. 16393 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from July 3, 1945

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 4.79 cubic feet per second

$$\frac{4.79}{191.6} = \frac{1.25}{50^{\circ}} = \frac{3.54}{141^{\circ}}$$

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12, T. 2 N., R. 30 E., W.M.; NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7; NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18; T. 2 N., R. 31 E., W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-fourtieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed $\frac{1}{4}$ acre feet per acre for each acre irrigated during the irrigation season of each year, and shall be subject to contract No. 14-06-100-1336 with the Bureau of Reclamation, a copy of which is on file in the office of the State Engineer,

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

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

<p style="color: red;">1.4 acres SE$\frac{1}{4}$ SW$\frac{1}{4}$ -1.4 2.56.8 acres SW$\frac{1}{4}$ SE$\frac{1}{4}$ -4.3 Section 1 13.4 acres NE$\frac{1}{4}$ NE$\frac{1}{4}$ 11.8-12.8 acres NW$\frac{1}{4}$ NE$\frac{1}{4}$ -1.0 24.4-28.6 acres SE$\frac{1}{4}$ NE$\frac{1}{4}$ -4.2 12.5-12.6 acres NE$\frac{1}{4}$ NW$\frac{1}{4}$ -0.1 8.8 acres NW$\frac{1}{4}$ NW$\frac{1}{4}$ 15.6 acres NE$\frac{1}{4}$ SE$\frac{1}{4}$ Section 12 T. 2 N., R. 30 E., W.M.</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: right;">89.0</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: right;">11.0</p>	<p style="color: red;">5.77.4 acres SW$\frac{1}{4}$ NW$\frac{1}{4}$ -1.7 32.8 acres NW$\frac{1}{4}$ SW$\frac{1}{4}$ 14.17.6 acres SW$\frac{1}{4}$ SW$\frac{1}{4}$ -3.5 15.3 acres SE$\frac{1}{4}$ SW$\frac{1}{4}$ -15.3 0.1 acre SW$\frac{1}{4}$ SE$\frac{1}{4}$ -0.1 Section 7 10.0 acres NW$\frac{1}{4}$ NE$\frac{1}{4}$ -10.0 8.4 acres NE$\frac{1}{4}$ NW$\frac{1}{4}$ -8.4 Section 18 T. 2 N., R. 31 E., W.M.</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: right;">52.6</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: right;">= 141.6</p>
---	---

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

WITNESS the signature of the State Engineer, affixed

this date. APRIL 5 1951

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 20, page 28484

T7771 T7772

T 7771

COPY

Attachment A

Temporary Transfer for the 1997 Irrigation Season

Kenneth E. Gustafson

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
2N	30E	1	SE SW	400	7/3/45	IR	1.4 -	6
2N	30E	1	SW SE	400	7/3/45	IR	4.3 -	6
2N	30E	12	NW NE	400	7/3/45	IR	1.0 -	6
2N	30E	12	SE NE	400	7/3/45	IR	4.2 -	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1 -	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7 -	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5 -	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3 -	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1 -	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0 -	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4 -	1,2,3

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MAY 19 1997

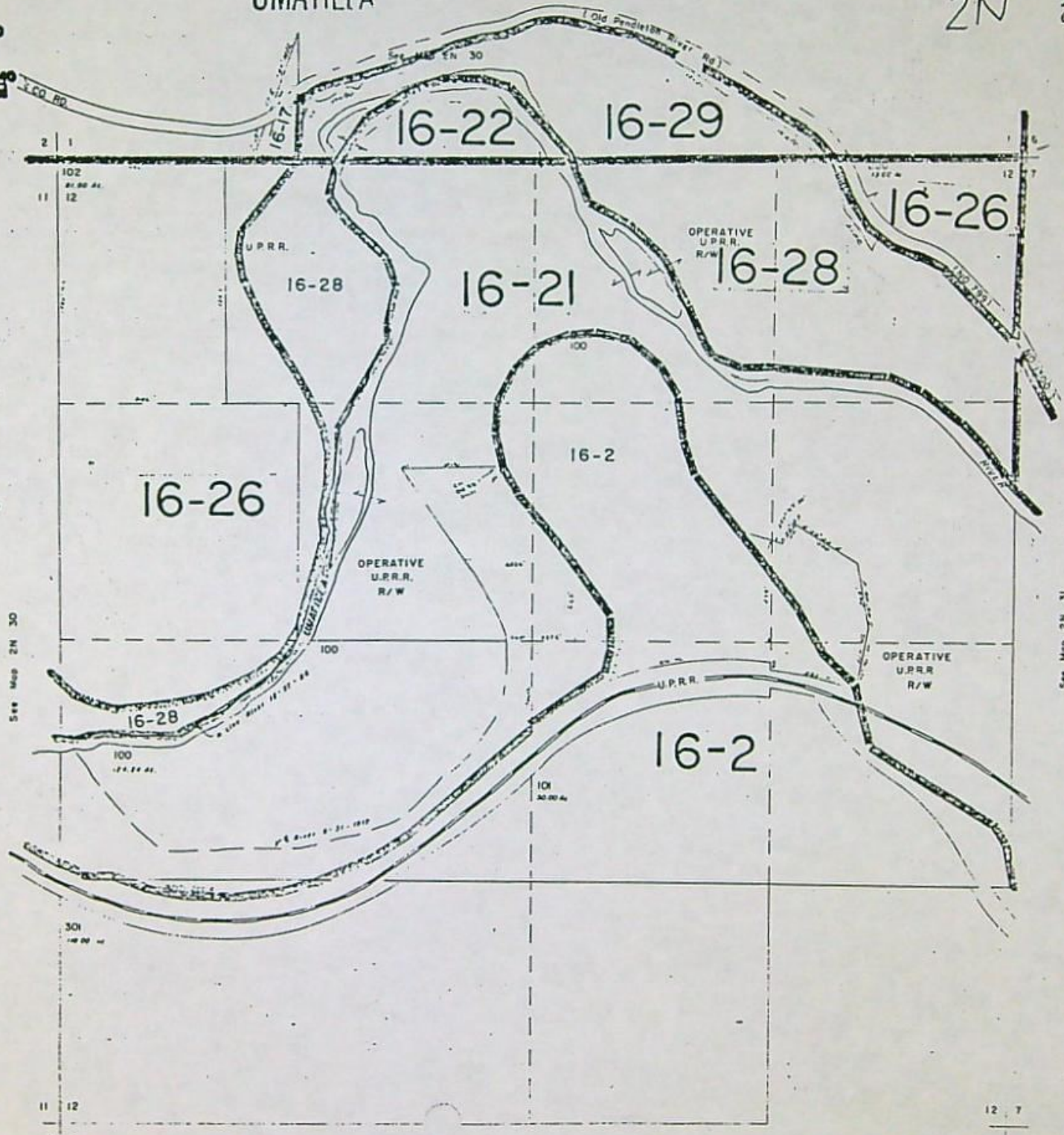
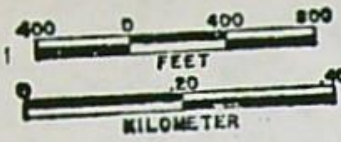
WATER RESOURCES DEPT.
SALEM, OREGON

1"=400'

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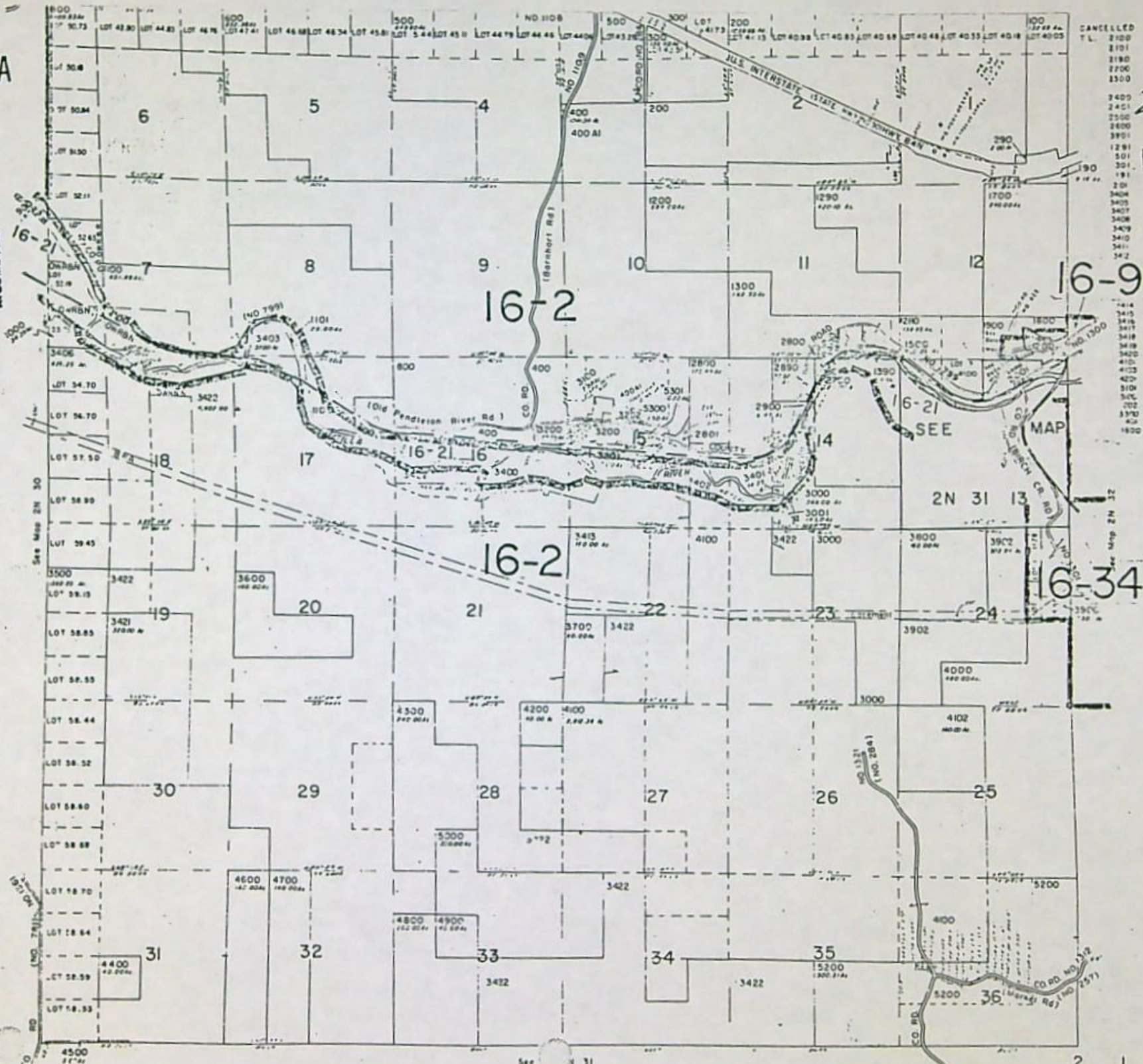
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UMATILLA

SCALE 1"=48000'



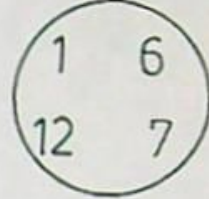
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T2N-R31E



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Post-It® Fax Note	7671	Date	6/16	# of pages	1
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Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

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CRP
86-959697

ROUTING - REQUEST

Please

- READ
 - HANDLE
 - APPROVE
- and
- FORWARD
 - RETURN
 - KEEP OR DISCARD
 - REVIEW WITH ME

To Larry Nunn

RECEIVED

JUN 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Date 6-13

From [Signature]

TEMPORARY T7771

RECEIVED

MAY 19 1997

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

WATER RESOURCES DEPT.
SALEM, OREGON

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

RECEIVED

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for place of use
(In point of diversion: place of use; use heretofore made of the water)

JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON

1. WATER RIGHT

A) Is the water right in your name? No If not, list name below:
(Yes, No)
E. F. Burlingham & Sons

B) Was the water right determined by a court decree? No
(Yes, No)

1. If yes, list the title of the proceedings: _____

2. Certificate No: _____

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

1. If yes, list the Permit No: 16393

2. Certificate No: 28484

D) Date of priority right: July 3, 1945

E) What are your reasons for the proposed changes? Change in cropping program

F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

C) What is the name of the ditch used? N/A

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
See Exhibit A attached				

F) Is the land within an irrigation district? Yes _____ No X

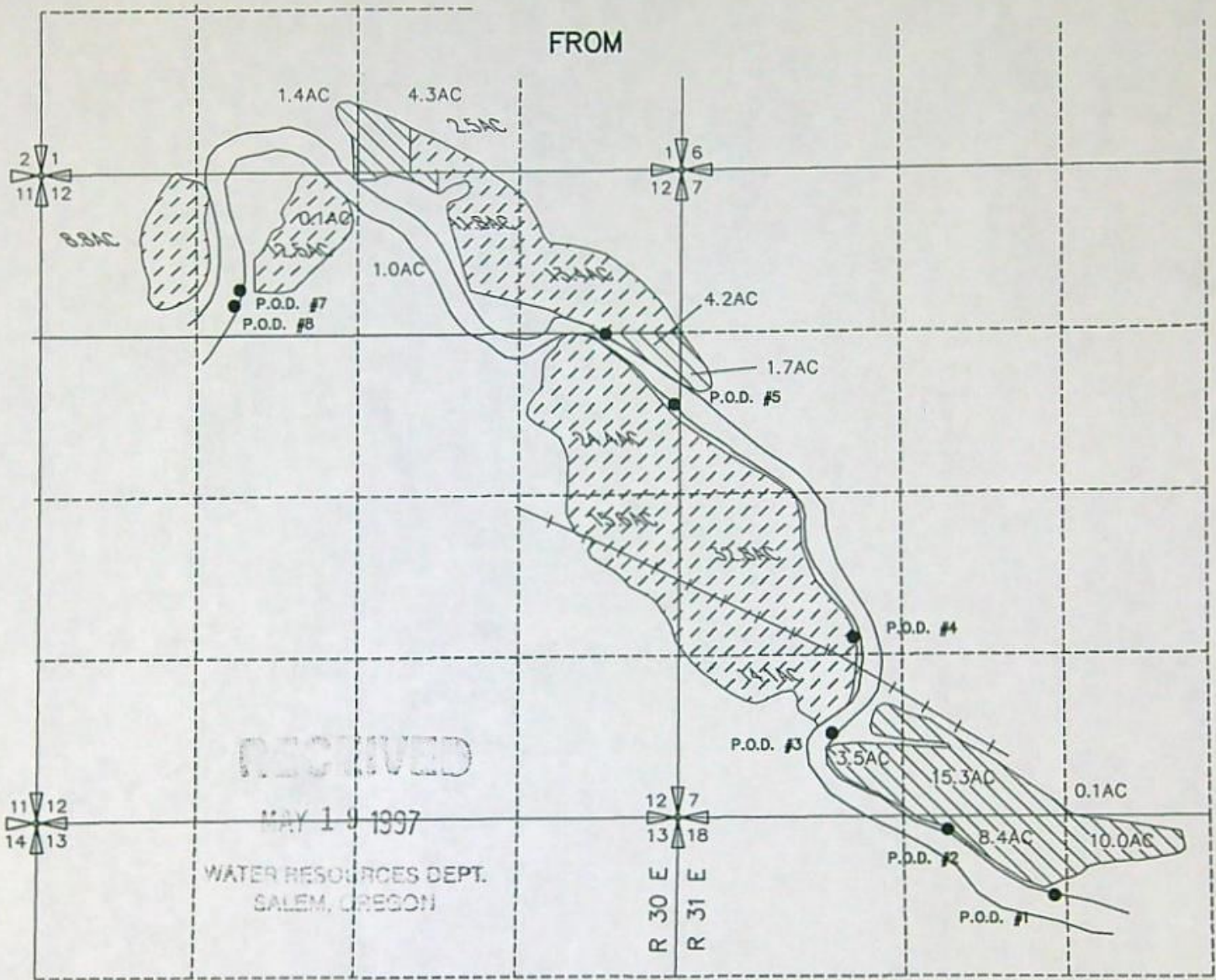
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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

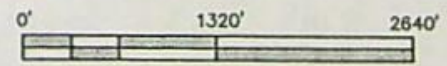
GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T2 & 3N, R30 & 31E WM

T 7771



- AUTHORIZED POINTS OF DIVERSION**
- P.O.D. #1 700 FEET SOUTH AND 3100 FEET EAST FROM THE NW CORNER SECTION 18, R31E.WM.
 - P.O.D. #2 100 FEET SOUTH AND 2230 FEET EAST FROM THE NW CORNER SECTION 18, R31E. WM.
 - P.O.D. #3 680 FEET NORTH AND 1250 FEET EAST FROM THE SW CORNER SECTION 7, R31E. WM.
 - P.O.D. #4 1540 FEET NORTH AND 1410 FEET EAST FROM THE SW CORNER SECTION 7
 - P.O.D. #5 1930 FEET SOUTH AND 60 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #7 960 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #8 1050 FEET SOUTH AND 3680 FEET WEST FROM THE NE CORNER SECTION 12

- AREA INVOLVED IN THIS TRANSFER
- AREA NOT INVOLVED IN THIS TRANSFER.



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.056
3522GUST.DWG
3/20/97

Attachment A

T 7771

RECEIVED

JUN 13 1997

WATER RESOURCES DEPT.
SALEM, OREGON

Temporary Transfer for the 1997 Irrigation Season

Kenneth E. Gustafson

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
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2N	30E	12	NW NE	400	7/3/45	IR	1.0	6
2N	30E	12	SE NE	400	7/3/45	IR	4.2	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4	1,2,3

RECEIVED

MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

TEMPORARY T7771

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

MAY 19 1997

COPY

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for place of use
(In point of diversion; place of use; use heretofore made of the water)

1. WATER RIGHT

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(Yes, No)
E. F. Burlingham & Sons

B) Was the water right determined by a court decree? No
(Yes, No)
1. If yes, list the title of the proceedings: _____
2. Certificate No: _____

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(Yes, No)
1. If yes, list the Permit No: 16393
2. Certificate No: 28484

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F) The water will be completely applied to the proposed use on or before: July 15, 1997

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B) Describe the authorized point of diversion:

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680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

C) What is the name of the ditch used? N/A

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
See Exhibit A attached				

F) Is the land within an irrigation district? Yes _____ No X
If yes, which district? _____

G) County Umatilla

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

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

This Is to Certify, That E. P. BURLINGHAM & SONS

of Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River for the purpose of irrigation of 191.6 acres

under Permit No. 16393 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from July 3, 1945

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 4.79 cubic feet per second

$$\frac{4.79}{191.6} = \frac{1.25}{50^2} = \frac{3.54}{1416}$$

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12, T. 2 N., R. 30 E., W.M.; NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7; NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18; T. 2 N., R. 31 E., W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-fourtieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed $\frac{1}{4}$ acre feet per acre for each acre irrigated during the irrigation season of each year, and shall be subject to contract No. 14-06-100-1336 with the Bureau of Reclamation, a copy of which is on file in the office of the State Engineer,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

<p> $\frac{1}{4}$ acres SE$\frac{1}{4}$ SW$\frac{1}{4}$ - 1.4 2-56.8 acres SW$\frac{1}{4}$ SE$\frac{1}{4}$ - 4.3 Section 1 13.4 acres NE$\frac{1}{4}$ NE$\frac{1}{4}$ 11.8 12.8 acres NW$\frac{1}{4}$ NE$\frac{1}{4}$ - 1.0 24.4-28.6 acres SE$\frac{1}{4}$ NE$\frac{1}{4}$ - 4.2 12-512.6 acres NE$\frac{1}{4}$ NW$\frac{1}{4}$ - 0-1 8.8 acres NW$\frac{1}{4}$ NW$\frac{1}{4}$ 15.6 acres NE$\frac{1}{4}$ SE$\frac{1}{4}$ Section 12 T. 2 N., R. 30 E., W.M. <hr style="width: 100%;"/> 89.0 </p>	<p> 5.77.4 acres SW$\frac{1}{4}$ NW$\frac{1}{4}$ - 1-7 32.8 acres NW$\frac{1}{4}$ SW$\frac{1}{4}$ 14-127.6 acres SW$\frac{1}{4}$ SW$\frac{1}{4}$ - 3-5 15.3 acres SE$\frac{1}{4}$ SW$\frac{1}{4}$ - 15-3 0.1 acre SW$\frac{1}{4}$ SE$\frac{1}{4}$ - 0-1 Section 7 10.0 acres NW$\frac{1}{4}$ NE$\frac{1}{4}$ - 10-0 8.4 acres NE$\frac{1}{4}$ NW$\frac{1}{4}$ - 8-4 Section 18 T. 2 N., R. 31 E., W.M. <hr style="width: 100%;"/> 52.6 </p>
<p>11.0</p>	<p>39.0 = 50° = 1416</p>

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

WITNESS the signature of the State Engineer, affixed

this date. APRIL 5 1961

LEWIS A. STANLEY
State Engineer

T7771 T7772

T 7771

Attachment A

COPY

Temporary Transfer for the 1997 Irrigation Season

Kenneth E. Gustafson

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2N	30E	12	SE NE	400	7/3/45	IR	4.2 -	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1 -	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7 -	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5 -	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3 -	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1 -	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0 -	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4 -	1,2,3

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MAY 19 1997

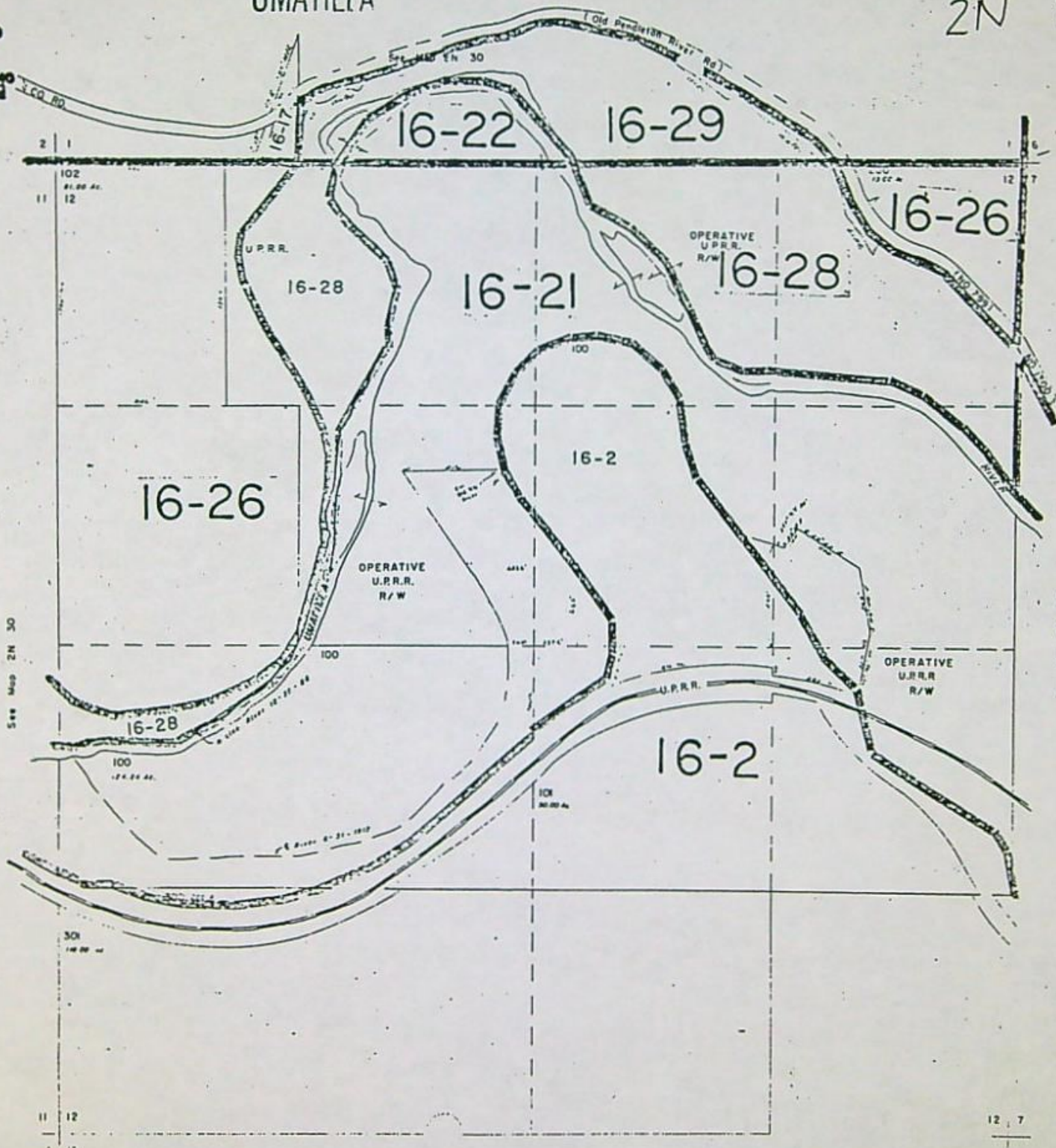
WATER RESOURCES DEPT.
SALEM, OREGON

SCALE 1:9600.

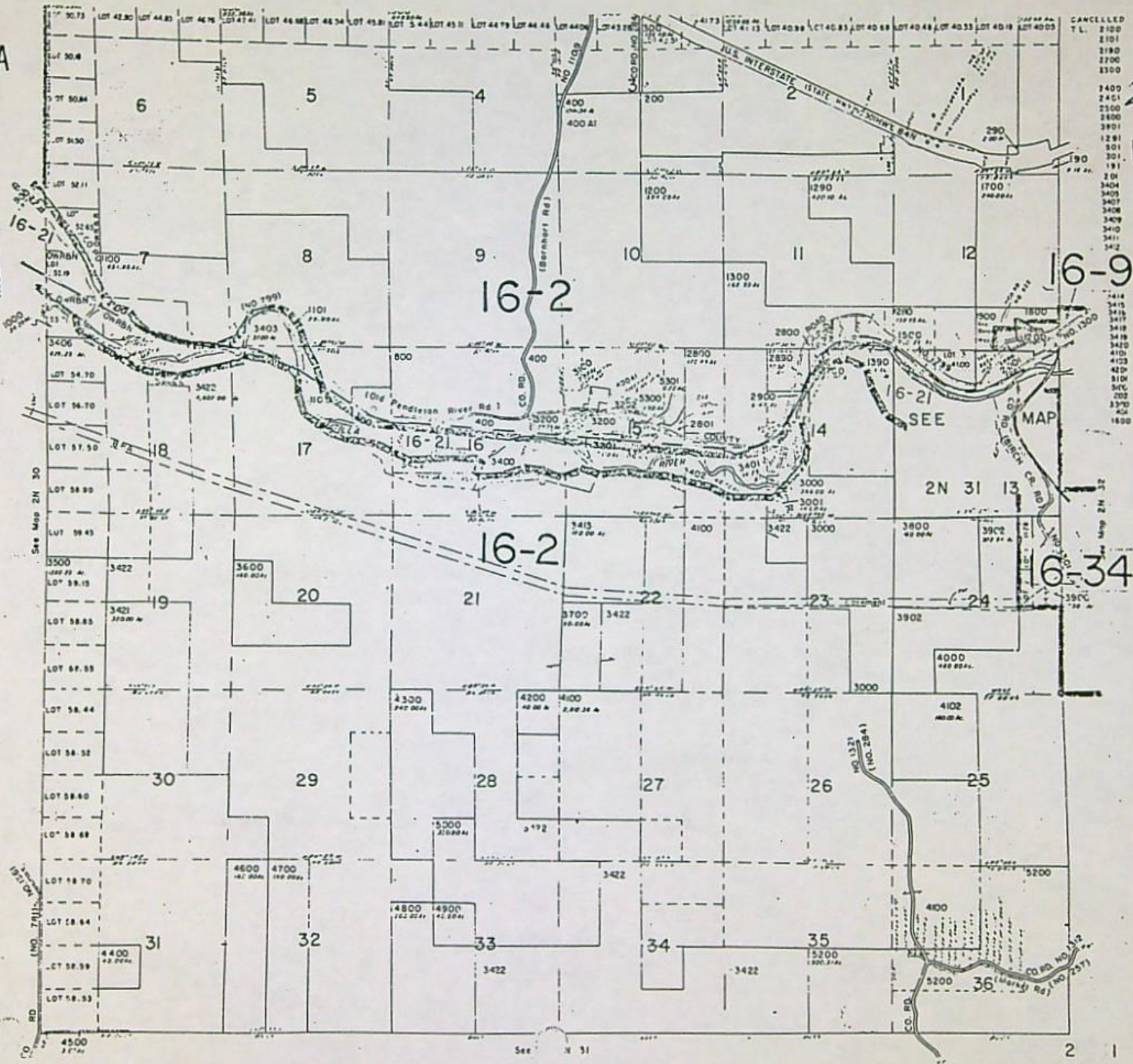
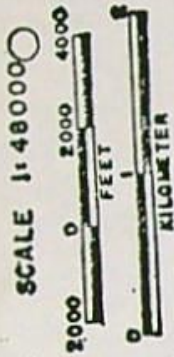


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PLACE OF USE REPORT 2 N 31 E
Section(s) 7 18

TWP/RNG	POU-ID	POD-ID	APPLICATION	PERMIT	CERT #	USE
2.00N30.00E	28	36 S	49008	S	41362	0 IR
2.00N30.00E	30	34 S	33006	S	26122	32699 IR
2.00N30.00E	30	35 S	33006	S	26122	32699 IR
2.00N31.00E	3	1 S	20936	S	16393	28484 IR
2.00N31.00E	3	2 S	20936	S	16393	28484 IR
2.00N31.00E	3	3 S	20936	S	16393	28484 IR
2.00N31.00E	3	4 S	20936	S	16393	28484 IR
2.00N31.00E	3	5 S	20936	S	16393	28484 IR
2.00N31.00E	3	6 S	20936	S	16393	28484 IR
2.00N31.00E	3	7 S	20936	S	16393	28484 IR
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2.00N31.00E	4	4 S	20936	S	16393	28484 IR
2.00N31.00E	4	5 S	20936	S	16393	28484 IR
2.00N31.00E	4	6 S	20936	S	16393	28484 IR
2.00N31.00E	4	7 S	20936	S	16393	28484 IR
2.00N31.00E	4	8 S	20936	S	16393	28484 IR
2.00N31.00E	5	1 S	20936	S	16393	28484 IR
2.00N31.00E	5	2 S	20936	S	16393	28484 IR
2.00N31.00E	5	3 S	20936	S	16393	28484 IR
2.00N31.00E	5	4 S	20936	S	16393	28484 IR
2.00N31.00E	5	5 S	20936	S	16393	28484 IR
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2.00N31.00E	5	7 S	20936	S	16393	28484 IR
2.00N31.00E	5	8 S	20936	S	16393	28484 IR
2.00N31.00E	6	1 S	20936	S	16393	28484 IR
2.00N31.00E	6	2 S	20936	S	16393	28484 IR
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2.00N31.00E	6	4 S	20936	S	16393	28484 IR
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2.00N31.00E	6	6 S	20936	S	16393	28484 IR
2.00N31.00E	6	7 S	20936	S	16393	28484 IR
2.00N31.00E	6	8 S	20936	S	16393	28484 IR
2.00N31.00E	7	1 S	20936	S	16393	28484 IR
2.00N31.00E	7	2 S	20936	S	16393	28484 IR
2.00N31.00E	7	3 S	20936	S	16393	28484 IR
2.00N31.00E	7	4 S	20936	S	16393	28484 IR
2.00N31.00E	7	5 S	20936	S	16393	28484 IR
2.00N31.00E	7	6 S	20936	S	16393	28484 IR
2.00N31.00E	7	7 S	20936	S	16393	28484 IR
2.00N31.00E	7	8 S	20936	S	16393	28484 IR

POINT OF DIVERSION REPORT 2 N 31 E
Section(s) 7 18

TWP/RNG	POD-ID	APPLICATI	PERMIT	CERT #	USE	RATE (Cfs/Gpm)	PRIORITY DATE
2.00N31.00E	1 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	2 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	3 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	4 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	5 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	6 S	20936 S	16393	28484	IR		/ /

This report printed for request c2N31E

The map extent is for Township 2 N 31 E
Section(s) 7 18

The following layers are shown on the map -

Roads
Streams and Lakes
Township/Range and Sections
City boundaries and names
Surface water rights
Groundwater rights
Places of Use
Points of Diversion
Instream water rights

The following Instream Water Rights are within the map extent:

\$RECNO	PERMIT	NAME	PRIORITY
1	MF 221	UMATILLA R > COLUMBIA R	11/ 3/1983

OWRD Groundwater Management Areas

The water rights reported here have been interpreted by Department staff from Department files and are intended to represent that interpretation graphically. Locations shown on the map are only approximate and should not be used for legal, financial or real estate decisions. For more accurate legal location information, please contact the Department.

PLACE OF USE REPORT 2 N 30 E
Section(s) 1 12

TWP/RNG	POU-ID	POD-ID	APPLICATION	PERMIT	CERT #	USE
2.00N30.00E	1	1 G	5732	G	4962	44900 IR
2.00N30.00E	2	2 G	12698	G	11791	0 IS
2.00N30.00E	2	37 S	52447	S	39444	0 IR
2.00N30.00E	2	38 S	52447	S	39444	0 IR
2.00N30.00E	7	4 S	29942	S	23589	30137 IR
2.00N30.00E	7	7 S	29942	S	23589	30137 IR
2.00N30.00E	11	9 G	5988	G	5051	49140 IR
2.00N30.00E	12	2 G	12698	G	11791	0 IS
2.00N30.00E	12	37 S	52447	S	39444	0 IR
2.00N30.00E	12	38 S	52447	S	39444	0 IR
2.00N30.00E	12	9 G	5988	G	5051	49140 IR
2.00N30.00E	28	36 S	49008	S	41362	0 IR
2.00N30.00E	30	34 S	33006	S	26122	32699 IR
2.00N30.00E	30	35 S	33006	S	26122	32699 IR
2.00N30.00E	109	2 G	12698	G	11791	0 IS
2.00N30.00E	109	37 S	52447	S	39444	0 IR
2.00N30.00E	109	38 S	52447	S	39444	0 IR
2.00N30.00E	110	2 G	12698	G	11791	0 IS
2.00N30.00E	110	37 S	52447	S	39444	0 IR
2.00N30.00E	110	38 S	52447	S	39444	0 IR
2.00N30.00E	111	2 G	12698	G	11791	0 IS
2.00N30.00E	111	37 S	52447	S	39444	0 IR
2.00N30.00E	111	38 S	52447	S	39444	0 IR
2.00N31.00E	1	1 S	20936	S	16393	28484 IR
2.00N31.00E	1	2 S	20936	S	16393	28484 IR
2.00N31.00E	1	3 S	20936	S	16393	28484 IR
2.00N31.00E	1	4 S	20936	S	16393	28484 IR
2.00N31.00E	1	5 S	20936	S	16393	28484 IR
2.00N31.00E	1	6 S	20936	S	16393	28484 IR
2.00N31.00E	1	7 S	20936	S	16393	28484 IR
2.00N31.00E	1	8 S	20936	S	16393	28484 IR
2.00N31.00E	2	1 S	20936	S	16393	28484 IR
2.00N31.00E	2	2 S	20936	S	16393	28484 IR
2.00N31.00E	2	3 S	20936	S	16393	28484 IR
2.00N31.00E	2	4 S	20936	S	16393	28484 IR
2.00N31.00E	2	5 S	20936	S	16393	28484 IR
2.00N31.00E	2	6 S	20936	S	16393	28484 IR
2.00N31.00E	2	7 S	20936	S	16393	28484 IR
2.00N31.00E	2	8 S	20936	S	16393	28484 IR
2.00N31.00E	3	1 S	20936	S	16393	28484 IR
2.00N31.00E	3	2 S	20936	S	16393	28484 IR
2.00N31.00E	3	3 S	20936	S	16393	28484 IR
2.00N31.00E	3	4 S	20936	S	16393	28484 IR
2.00N31.00E	3	5 S	20936	S	16393	28484 IR
2.00N31.00E	3	6 S	20936	S	16393	28484 IR
2.00N31.00E	3	7 S	20936	S	16393	28484 IR
2.00N31.00E	3	8 S	20936	S	16393	28484 IR
2.00N31.00E	4	1 S	20936	S	16393	28484 IR
2.00N31.00E	4	2 S	20936	S	16393	28484 IR

PLACE OF USE REPORT 2 N 30 E
Section(s) 1 12

TWP/RNG	POU-ID	POD-ID	APPLICATION	PERMIT	CERT #	USE
2.00N31.00E	4	3 S	20936	S	16393	28484 IR
2.00N31.00E	4	4 S	20936	S	16393	28484 IR
2.00N31.00E	4	5 S	20936	S	16393	28484 IR
2.00N31.00E	4	6 S	20936	S	16393	28484 IR
2.00N31.00E	4	7 S	20936	S	16393	28484 IR
2.00N31.00E	4	8 S	20936	S	16393	28484 IR
2.00N31.00E	5	1 S	20936	S	16393	28484 IR
2.00N31.00E	5	2 S	20936	S	16393	28484 IR
2.00N31.00E	5	3 S	20936	S	16393	28484 IR
2.00N31.00E	5	4 S	20936	S	16393	28484 IR
2.00N31.00E	5	5 S	20936	S	16393	28484 IR
2.00N31.00E	5	6 S	20936	S	16393	28484 IR
2.00N31.00E	5	7 S	20936	S	16393	28484 IR
2.00N31.00E	5	8 S	20936	S	16393	28484 IR

POINT OF DIVERSION REPORT 2 N 30 E
Section(s) 1 12

TWP/RNG	POD-ID	APPLICATI	PERMIT	CERT #	USE	RATE (Cfs/Gpm)	PRIORITY DATE
2.00N30.00E	1 G	5732 G	4962	44900	IR	0.1100 C	2/22/1972
2.00N30.00E	2 G	12698 G	11791	0	IS	582.4000 G	10/24/1991
2.00N30.00E	4 S	29942 S	23589	30137	IR	0.6300 C	4/26/1955
2.00N30.00E	7 S	29942 S	23589	30137	IR	0.6300 C	4/26/1955
2.00N30.00E	8 S	54049 S	40423	46360	IR	0.1800 C	3/22/1976
2.00N30.00E	8 S	58563 S	44220	0	IR	0.6100 C	4/20/1979
2.00N30.00E	9 G	5988 G	5051	49140	IR	0.1700 C	1/22/1973
2.00N30.00E	34 S	33006 S	26122	32699	IR	0.7800 C	3/30/1959
2.00N30.00E	35 S	33006 S	26122	32699	IR	0.7800 C	3/30/1959
2.00N30.00E	36 S	49008 S	41362	0	IR	0.9300 C	12/16/1976
2.00N30.00E	37 S	52447 S	39444	0	IR	1.3000 C	9/24/1974
2.00N30.00E	38 S	52447 S	39444	0	IR	1.3000 C	9/24/1974
2.00N31.00E	5 S	20936 S	16393	28484	IR	4.7900 C	7/ 3/1945
2.00N31.00E	6 S	20936 S	16393	28484	IR		/ /
2.00N31.00E	7 S	20936 S	16393	28484	IR		/ /
2.00N31.00E	8 S	20936 S	16393	28484	IR		/ /

This report printed for request c2N30E

The map extent is for Township 2 N 30 E
Section(s) 1 12

The following layers are shown on the map -

Roads
Streams and Lakes
Township/Range and Sections
City boundaries and names
Surface water rights
Groundwater rights
Places of Use
Points of Diversion
Instream water rights

The following Instream Water Rights are within the map extent:

\$RECNO	PERMIT	NAME	PRIORITY
1	MF	221 UMATILLA R > COLUMBIA R	11/ 3/1983

OWRD Groundwater Management Areas

The following OWRD Groundwater Management Areas are within the map extent:

\$RECNO	NAME1	NAME2	SUB-AREA	STATUS
1	STAGE GULCH		H	CRIT

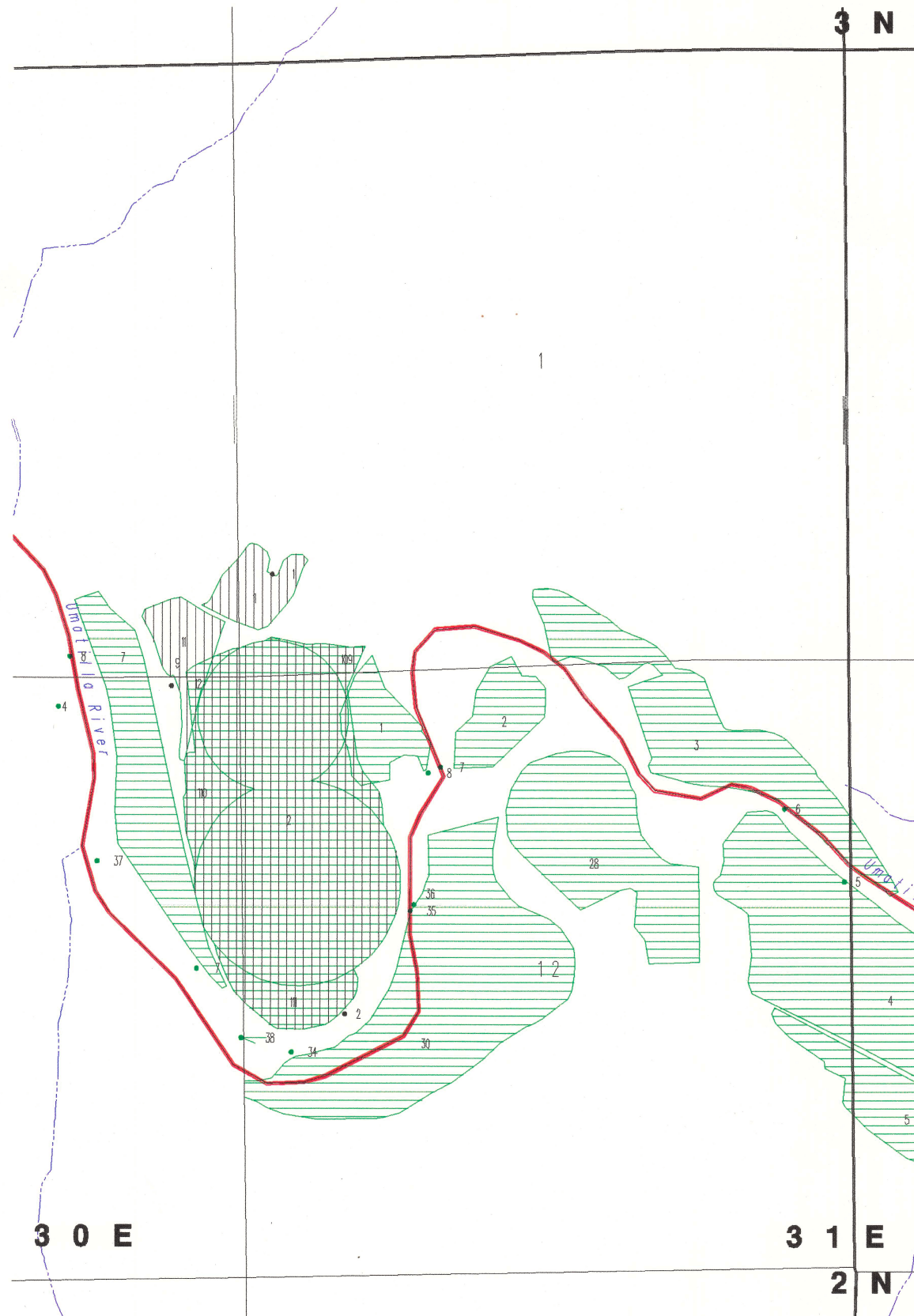
The water rights reported here have been interpreted by Department staff

from Department files and are intended to represent that interpretation graphically. Locations shown on the map are only approximate and should not be used for legal, financial or real estate decisions. For more accurate legal location information, please contact the Department.

Time: 5/27/1997 10:50 AM
 User Name: pubgis
 Metafile: rc2N30E.gra
 Plot Name: /users/pubgis/rc2n30e.hp

WATER RIGHTS IN TOWNSHIP 2 N 30 E

Section(s) 1 12



- | | |
|--|---|
| <p>PLACE OF USE BY SOURCE OF RIGHT
 Multiple shades indicates multiple sources for rights servicing the parcel. Bold number in parcel is referenced in report.</p> <ul style="list-style-type: none"> Serviced by surface water or decree right Reservoir right Serviced by Groundwater right Serviced by Groundwater registration right Water right boundary; no data at this time | <p>POINT OF DIVERSION BY SOURCE OF RIGHT
 Number next to point is referenced in report.</p> <ul style="list-style-type: none"> Surface water right point of diversion Groundwater right point of diversion Groundwater registration point of diversion Point of diversion, no data at this time
 <small>Application rights shown in red along reach.</small> |
|--|---|

Rights shown on this map are approximate. Contact OWED for best locational data.

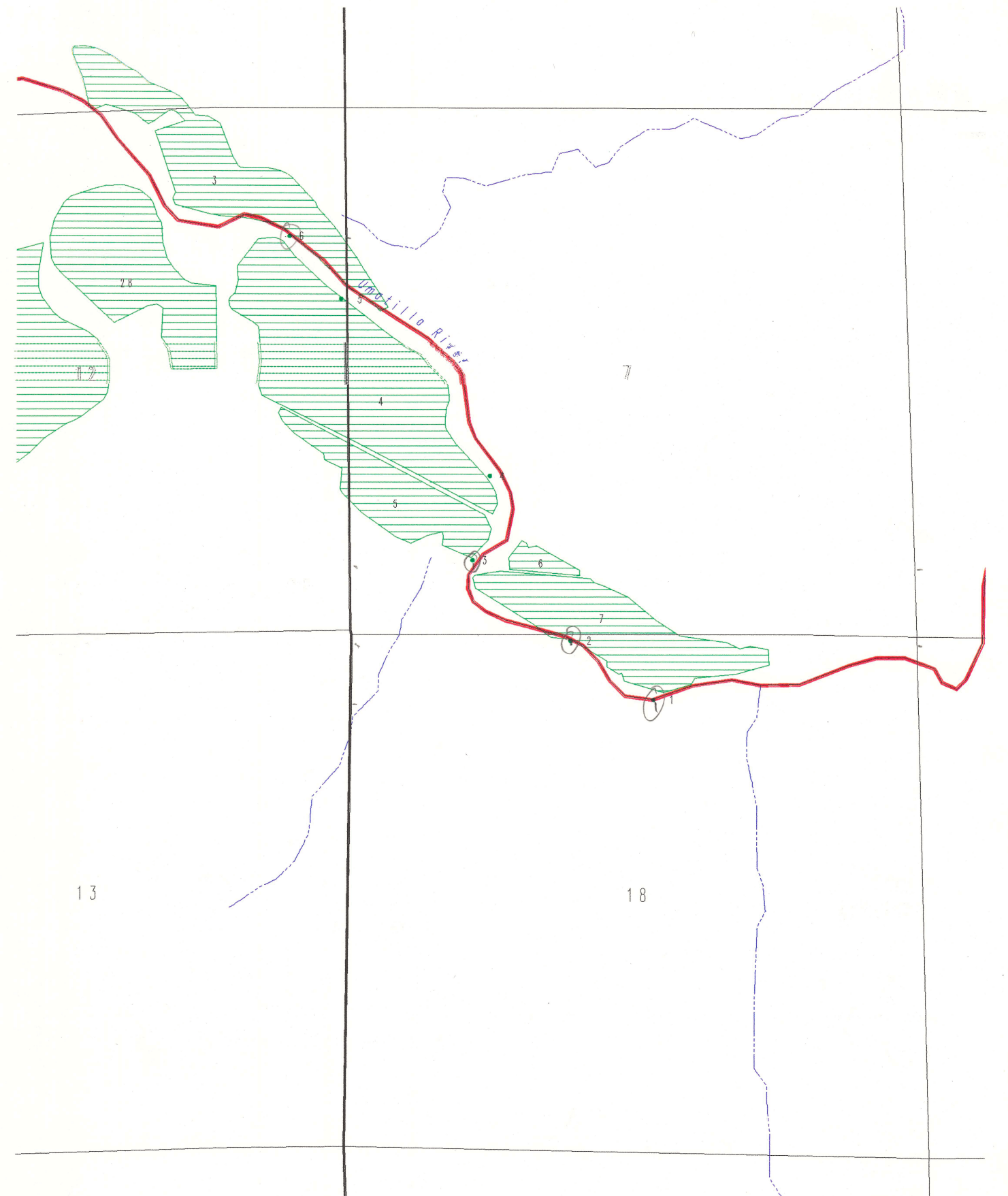
Map produced May 27, 1997



Time: 5/27/1997 10:51 AM
 User Name: pubgis
 Metafile: rc2N31E.gra
 Plot Name: /users/pubgis/rc2n31e.hp

WATER RIGHTS IN TOWNSHIP 2 N 31 E

Section(s) 7 18



- | | |
|--|---|
| <p>PLACE OF USE BY SOURCE OF RIGHT
 Multiple shades indicates multiple sources for rights servicing the parcel. Bold number in parcel is referenced in report.</p> <ul style="list-style-type: none"> Serviced by surface water or decree right Reservoir right Serviced by Groundwater right Serviced by Groundwater registration right Water right boundary; no data at this time | <p>POINT OF DIVERSION BY SOURCE OF RIGHT
 Number next to point is referenced in report.</p> <ul style="list-style-type: none"> Surface water right point of diversion Groundwater right point of diversion Groundwater registration point of diversion Point of diversion, no data at this time
 <small>Application rights shown in red along reach.</small> |
|--|---|

Rights shown on this map are approximate. Contact OWED for best locational data.

Map produced May 27, 1997



TRANSFER CHECK OFF LIST

TRANSFER FILE # 7771
 DATE RECEIVED 5-19-97
 DATE MONEY SLIPPED 5-19-97
 DATE RECEIPTED 5-19-97
 VALID WATER RIGHT? Yes No
 TEMP ALT AC ___(Bill or New) IRR DIST ___(Bill or New) PERM AMEND ___(Kelly) DIV 15 or Temp Div 15(Larry)
 ENTERED IN DB 5-20-97
 CONTENTS MARKED 5-20-97
 3 COPIES MADE & STAMPED 5-21-97
 CERTIFICATE MARKED 5-21-97
 CERTIFICATE COPIED 5-21-97
 FINAL PROOF MAP COPIED _____ *file out*
 PERMIT MARKED _____
 PERMIT COPIED _____
 PERMIT MAP COPIED _____
 DECREE MARKED _____
 DECREE COPIED _____
 ADJUDICATION MAP COPIED _____
 PULL APPLICATIONS _____ *file out*
 FOLDER FILLED OUT* 5-21-97
 COLOR CODED Yes
 APP FOLDER MARKED _____ *file out*
 TYPE BLACK BOOK 5-22-97 (And color code)
 ENTRIES CHECKED 5-22-97 CHECKED BY Larry INIT FOLDER _____
 LETTER SENT 5-23-97 ID(copy of app & map) _____ CWRE _____
 PUBLIC NOTICE DATE 5-27-97
 COPY TO WM 5-23-97
 BLUE FORM TO WM 5-23-97
 COPY TO GW _____ POA, APOA, SW TO GW ONLY
 BLUE FORM TO GW _____
 COPY TO CWRE ~~_____~~
 INDEX CARD 5-22-97
 CALENDAR CARD 5-22-97

*SHRINK DATA IF THERE ARE MANY FILES INVOLVED AND TAPE TO FOLDER

County: UMATILLA
Transfer: 7771-TEMPORARY
Certificate: 28484
Priority Date: 7/3/1945
Name: B & G RESOURCES, INC.
Address: 18270 SW BOONES FERRY RD, PORTLAND
Change: POU
Source: UMATILLA RIVER/McKAY RESERVOIR
Authorized POU: 2N 30E 1,12/2N 31E 7,18
Proposed POU: 4N 29E 26

Land Use Information Form: Permits, Hydroelectric Licenses,
Water Uses in Addition to Classified Uses

T 7771

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, and/or used only on federal lands.

Applicant's Name: Kenneth E. Gustafson

Address: 18270 SW Boones Ferry Road

City: Portland State: OR Zip: 97227 Day Phone: (503) 639-6777

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (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.

(CHECK ALL THAT APPLY)

TAX LOT LOCAL ID #	PLAN DESIGNATION / ZONING (e.g., Rural Residential / RR-5)	WATER DIVERTED	WATER CONVEYED	WATER USE
T2N31 TAX 1100				
T1N30E 12 Tax 400	EFU (Exclusive Farm Use)	X		
T4N29#D 4001	EFU-40 (Exclusive Farm Use)		X	X

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

Umatilla

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.

RECEIVED

MAY 19 1997

For Local Government Use Only

WATER RESOURCES DEPT.

Local planning officials are to complete the remainder of this form. If it cannot be completed while the applicant waits, sign and detach the receipt as instructed below. You will receive notice when the applicant's water right request is filed with the Water Resources Department (WRD). You will have 30 days from the notice date to return this completed land use form to WRD. If no land use information is received from you within that period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

a) 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): 152, 056. Go to section b) on reverse side.

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table on the reverse of this form. Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government cannot provide the above requested land use information while the applicant waits.

City or County: _____

Staff Contact: _____ Phone: _____

Signature: _____ Date of Information Request: _____

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Kenneth E. Gustafson
 Address: 18270 SW Boones Ferry Road
Portland, OR 97227
 Phone: (503) 639-6777

Temporary transfer of Water Right

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project.

- Irrigation (crop type, golf course, nursery or greenhouse): alfalfa, grain, potatoes
- Livestock (type of livestock, feedlot, slaughterhouse): _____
- Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- Institutional (i.e., school library, etc.): _____
- Mining (aggregate, metal, open pit, placer, etc.): _____
- Recreation (park, campsite, pond, etc.): _____
- Fish and wildlife (pond, hatchery, etc.): _____
- Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input checked="" type="checkbox"/> Surface Water Name Sources <u>Umatilla River</u> <u>McKay Reservoir</u>	<input checked="" type="checkbox"/> <u>.63</u> Cubic feet per second. <input type="checkbox"/> Gallons per minute. <input type="checkbox"/> Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input type="checkbox"/> Ground Water	

RECEIVED

MAY 19 1997

WATER RESOURCES DEPT.
 SALEM, OREGON

T 7771

T 7771

AFTER RECORDING RETURN TO:

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO:

B&G Resources, Inc.
3132 SE Tindall Circle
Portland, OR 97202

B&G Resources, Inc.
3132 SE Tindall Circle
Portland, OR 97202

STATUTORY BARGAIN AND SALE DEED

Nomad Alfalfa, Inc., an Oregon corporation, and Gloria M. Lewis, an individual, jointly Grantor, conveys to B&G Resources, Inc., an Oregon corporation, Grantee, the following described real property:

The real property described in Exhibit "A" attached hereto, together with all appurtenances thereto, except this deed does not convey any mineral rights relating to the real property which is the subject of this deed.

The true consideration for this conveyance is \$20,000.

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

RECEIVED

Executed this 28 day of August, 1996.

AUG 30 1996

UMATILLA COUNTY RECORDS

RECEIVED

GRANTOR:

MAY 19 1997

Nomad Alfalfa, Inc.
an Oregon corporation WATER RESOURCES DEPT.
SALEM, OREGON

Gloria M. Lewis, President
Gloria M. Lewis, President

President
Gloria M. Lewis

STATE OF OREGON }
County of Multnomah } ss.

This instrument was acknowledged before me this 28th day of August, 1996, by Gloria Lewis, President of Nomad Alfalfa, Inc., on behalf of the corporation.



Kelly M. Norton
NOTARY PUBLIC FOR OREGON 08/25/00
My Commission Expires: _____

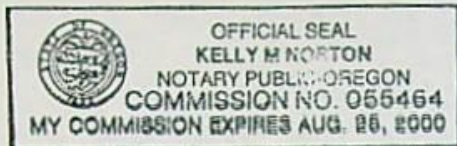
(Acknowledgments continued on next page)

T 7771

(Acknowledgments continued from next page)

STATE OF OREGON }
County of Multnomah } ss.

This instrument was acknowledged before me this 28th day of August, 1996, by Gloria Lewis.



Kelly M. Norton
NOTARY PUBLIC FOR OREGON
My Commission Expires: 08/25/00

RECEIVED
MAY 19 1997
WATER RESOURCES DEPT.
SALEM, OREGON

T 7771
RECEIVED

MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

EXHIBIT A

All of those certain parcels of land heretofore acquired by Oregon-Washington Railroad and Navigation Company by Warranty Deed dated December 20, 1933, filed for record February 5, 1934, in Volume 147 of Deeds at Page 144 of the Records of Umatilla County, Oregon, being more particularly described in said deed as follows:

"Parcel One: An irregular shaped tract of land comprising a part of Sections One (1) and Twelve (12), of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and a part of Section Seven (7), of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of said Section One (1); thence north along the east line of said Section One (1), to the northeast corner of the southeast quarter of the southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$) thereof; thence west along the north line of the south half of the southeast quarter ($S\frac{1}{2} SE\frac{1}{4}$) and the southeast quarter of the southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$) of said Section One (1), to the northwest corner of the said southeast quarter of the southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$); thence south along the west line of the said southeast quarter of the southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$), to an iron monument at a point six hundred eighty-nine (689) feet, more or less, north of the southwest corner thereof; thence south $19^{\circ}57'$ west, seven hundred thirty-three (733) feet, more or less, to an iron monument at a point in the north line of said Section Twelve (12), two hundred fifty (250) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$) of said Section Twelve (12); thence west along the north line of said Section Twelve (12), to a point nine hundred forty (940) feet east of the northwest corner of said Section Twelve (12); thence south thirteen hundred twenty-four and five tenths (1324.5) feet, to a point in the south line of the northwest quarter of the northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$) of said Section Twelve (12), nine hundred forty (940) feet east of the southwest corner of said northwest quarter of the northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$); thence east along the south line of said northwest quarter of the northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$) to the northwest corner of the southeast quarter of the northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$) of said Section Twelve (12); thence south along the west line of said southeast quarter of the northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$) to the southwest corner thereof; thence east along the south line of said southeast quarter of the northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$) to a

T 7771

point in the center of the channel of the Umatilla River; thence northwesterly along the said center of the channel of the Umatilla River, to a point which is four hundred sixty-two (462) feet north and three hundred ninety-six (396) feet west of the center of said Section Twelve (12); thence northwesterly in a direct line six hundred twenty (620) feet; to a point on the left bank of said Umatilla River; thence east six hundred (600) feet to a point fifty (50) feet east of the center of the old railroad grade of Oregon-Washington Railroad & Navigation Company; thence along a circular curve to the right, with a radius of five hundred twenty-three and seven tenths (523.7) feet along the old right of way of said Oregon-Washington Railroad & Navigation Company to a point one hundred sixty-five (165) feet south of the south line of the northwest quarter of the northeast quarter ($NW\frac{1}{4} NE\frac{1}{4}$) of said Section Twelve (12); thence southeasterly on the southwest side of and along said old right-of-way and terminating at a point forty (40) feet from the high water mark of The Furnish Ditch Company's reservoir, which point bears north five hundred sixty (560) feet from the southeast corner of the southwest quarter of the northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$) of said Section Twelve (12); thence south $62^{\circ}16'$ east fifty-two (52) feet; thence north $33^{\circ}15'$ east one hundred forty (140) feet; thence south $59^{\circ}23'$ east three hundred ninety-eight (398) feet; thence south $9^{\circ}48'$ east three hundred sixty-three (363) feet; thence south $10^{\circ}30'$ west three hundred seventeen (317) feet, more or less, to a point on the north boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the northeast quarter of the southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$) of said Section Twelve (12); said point being three hundred ninety-three (393) feet, more or less, distant southeasterly, measured along said north boundary line of Oregon-Washington Railroad & Navigation Company's right of way, from the west boundary line of said northeast quarter of the southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$); thence southeasterly along the northerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as the same is now located through the northeast quarter of the southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$) of said Section Twelve (12) of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and through the southwest quarter ($SW\frac{1}{4}$) and the southwest quarter of the southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, to a point on the east boundary line of said southwest quarter of the southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) of said Section Seven (7); thence north along the east boundary line of said southwest quarter of the southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) of said Section Seven (7), to the northeast corner thereof; thence west along the north boundary line of said southwest quarter of the southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) and the southeast quarter of the southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$) of said Section Seven (7), to the southeast corner of the northwest quarter of the southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$) of said Section Seven (7); thence north along the east boundary line of said northwest quarter of the southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$) and the southwest quarter of the northwest quarter ($SW\frac{1}{4} NW\frac{1}{4}$) of said Section Seven (7), to the

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northeast corner of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Seven (7); thence West along the north boundary line of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Seven (7), to the section line common to said Section Seven (7) and said Section Twelve (12); thence north along said section line to the southeast corner of said section one (1), the place of beginning; excepting therefrom all that part of the northeast quarter of the northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Twelve (12) and the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the South Half of the Southeast quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section One (1), that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir; also except a piece or parcel of land, containing thirty-five (35) acres, more or less, being all that part of the southwest quarter of the southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Seven (7), that lies north of Oregon-Washington Railroad & Navigation Company's right of way and east of a line parallel to and forty (40) feet above the highwater line of The Furnish Ditch Company's Reservoir.

Parcel Two: A tract of land, containing two (2) acres, more or less, being all that part of the northeast quarter of the southwest quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, lying within The Furnish Ditch Company's Reservoir and extending back from said reservoir a distance of forty (40) feet above the highwater level in said reservoir.

Parcel Three: An irregular shaped tract of land comprising a part of the east half of the southeast quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Twelve (12) of Township Two (2) North, Range Thirty (30) East, of the Willamette Meridian, and a part of Sections Seven (7) and Eighteen (18) of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18); thence north along the east line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18), to the southerly boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the said northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18); thence northwesterly along the southerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as same is now located through the northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18), the southwest quarter of the southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the west half of the southwest quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of said Section Seven (7), and the northeast quarter of the southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Twelve (12), to a point on the southwesterly boundary line of

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SALMON DIVISION

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the old right of way of said Oregon-Washington Railroad & Navigation Company in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Twelve (12), distant fifty (50) feet southwesterly from, measured at right angles to, the center line of the old main track of said Oregon-Washington Railroad & Navigation Company as said old main track was formerly constructed and operated over and across the east half of the southeast quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of said Section Twelve (12) and the southwest quarter of the southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Seven (7); thence southeasterly along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the north boundary line of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Twelve (12); thence west along the north boundary line of said southeast quarter of the southeast quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Twelve (12), following said southwesterly boundary line of the old right of way, to a point, distant one hundred (100) feet southwesterly from, measured at right angles to, the center line of said old main track; thence southeasterly, along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the section line common to said Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, and said Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian; thence south along the Section line common to said Section Twelve (12) and said Section Seven (7) to the southwest corner of said Section Seven (7); thence east along the section line common to said Section Seven (7) and said Section Eighteen (18) to an iron monument at a point five hundred thirty-eight (538) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Eighteen (18); thence south 65°21' east five hundred ninety-two (592) feet, more or less, to an iron monument at a point on the east line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section Eighteen (18), distant two hundred forty-seven (247) feet, more or less, south of the northeast corner thereof; thence continuing south 65°21' east, seven hundred ninety-seven and five tenths (797.5) feet; thence south 40°29' east, one hundred eighty-five (185) feet; thence south 52°17' east, five hundred (500) feet; thence south 79°35' east, eighty and nine tenths (80.9) feet, more or less, to a point in the west line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18), distant ten hundred forty (1040) feet, more or less, south of the quarter section corner common to said Sections Seven (7) and Eighteen (18); thence south along the west line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18), - to the southwest corner thereof; thence east along the south line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Eighteen (18), to the southeast corner thereof, the place of beginning; excepting therefrom, a piece or parcel of land, containing twenty-six (26) acres, more or less, being all that part of the southwest quarter of the southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Seven (7), Township 2 North,

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Range 31 East, Willamette Meridian, that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir as said Reservoir now exists.

Alternative Description of all Property Above Described

The tracts of land hereinbefore described are hereby further described for greater certainty as follows:

Parcel A: All that property in Section One (1), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Samuel Smith, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 58 on page 385 of Deed Records of said Umatilla County; also, all that property in said Section One (1) conveyed by Lee Hummell and Mary L. Hummell, his wife, to The Furnish Ditch Co. by deed dated April 21, 1913 and recorded in Book 82 at page 558 Deed Records of said County; also

All that property in Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, as conveyed by Matt Saari, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 59 at page 96 of Deed Records of said County; also all that property in said Section Twelve (12) as conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909 and recorded in Book 59 at page 88, Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Anna Holverson, wife of Herman Holverson, to The furnish Ditch Company by deed dated February 27, 1909, recorded in Book 59 at page 91, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated october 20, 1915, recorded in Book 94 at page 4, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by James L. Smith and Hattie Smith, his wife, to The Furnish Ditch Company by deed dated December ____, 1913, filed for record on January 3, 1914 and recorded in Book 61 at page 406, Deed Records of said County; excepting therefrom the areas in said Section Twelve (12) conveyed by The Furnish Ditch Co. to Lee Hummell by deed dated May 12, 1915, and recorded in Book 91 at page 211, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by Furnish Ditch Company to J. A. Turnbow by deed dated August 31, 1912, and recorded in Book 81 at page 192, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by The Furnish

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Ditch Co. to J. A. Turnbow by deed dated December 8, 1914, and recorded in Book 90 at page 90, Deed Records of said County; also except in the area in said Section Twelve (12) and said Section One (1) conveyed by The Furnish Ditch Company to Christopher Stanull by deed dated June 21, 1916, and recorded in Book 95 at page 232, Deed Records of said County; and also except the areas in said Section Twelve (12) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268 of Deed Records of said County;

Parcel B: All that property in Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 88 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Anna Holverson, wife of Herman Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 91 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by W. M. Smith and Katie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909 and recorded in Book 59 on page 89 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. L. Smith and Hattie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909, and recorded in Book 59 on page 90 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. E. Perigo and Mollie E. Perigo, his wife, to The Furnish Ditch Company by deed dated September 2, 1919, and recorded in Book 106 at page 240 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915 and recorded in Book 94 on page 4, Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Inland Irrigation Co., Inc., to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239 of Deed Records of said County; excepting therefrom the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to

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J. E. Perigo by deed dated May 16, 1919 and recorded in Book 106 at page 247, Deed Records of said County; also except the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268, Deed Records of said County; also except the area in said Section Seven (7) conveyed by Furnish Ditch Company to Domatilla Gross by deed dated December 8, 1915, and recorded in Book 94 on page 583, Deed Records of said County.

Parcel C: All that property in Section Eighteen (18), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Inland Irrigation Co., Inc. to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239, Deed Records of said County; also

All that property in said Section Eighteen (18) conveyed by J. E. Smith Livestock Company to Furnish Ditch Company by deed dated November 14, 1913, and recorded at page 27 in Book 89, Deed Records of said County."

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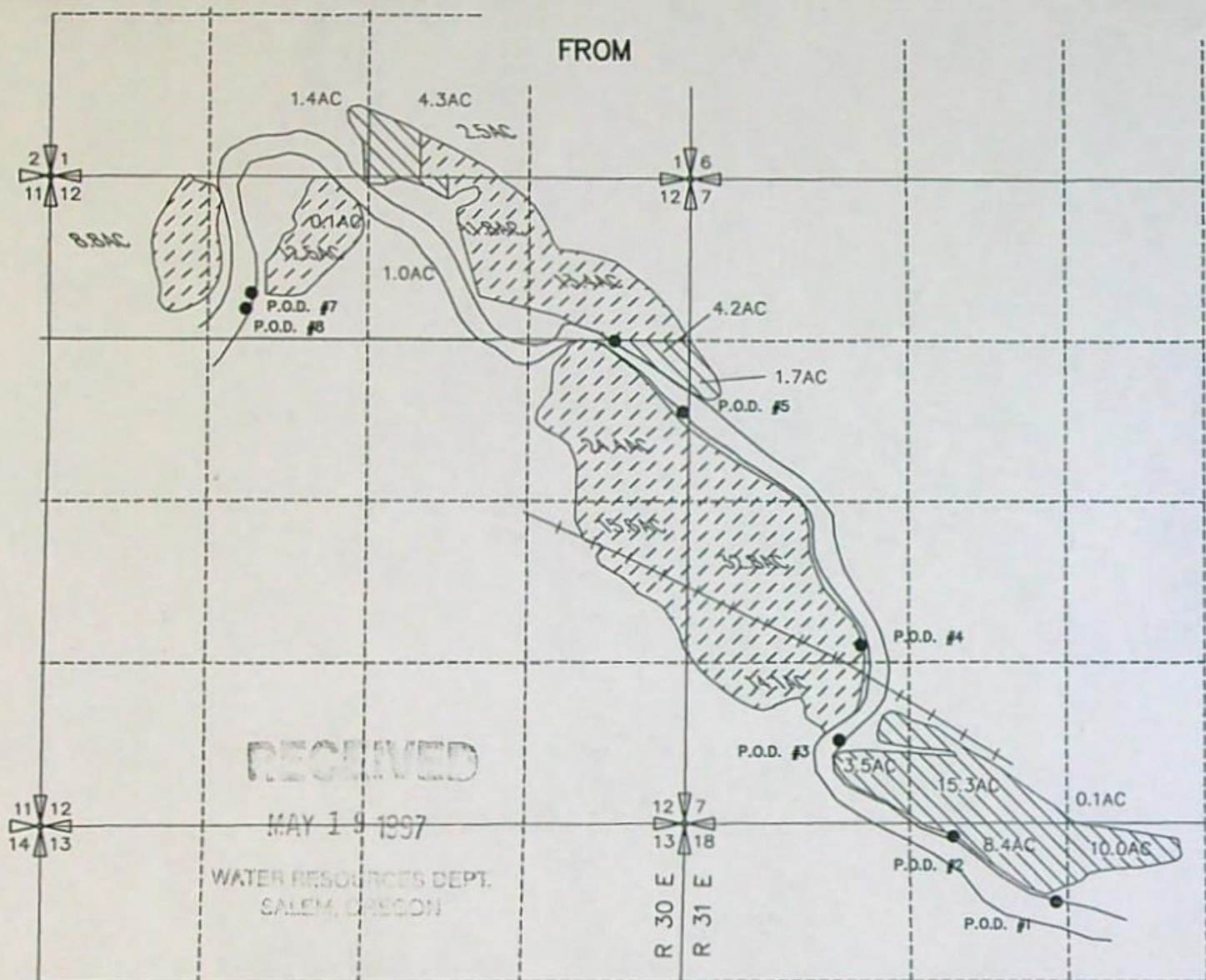
State of Oregon)
)
County of Umatilla)
This instrument was received and recorded on
08-30-96 at 12:35
in the record of document code type DE-B&S

Location R296-0886
Document number 1996-222533
Fee 75.00

Office of County Records
Received by *[Signature]*
Records Officer

GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T2 & 3N, R30 & 31E WM

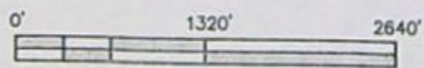
T 7771



AUTHORIZED POINTS OF DIVERSION

- P.O.D. #1 700 FEET SOUTH AND 3100 FEET EAST FROM THE NW CORNER SECTION 18, R31E, WM.
- P.O.D. #2 100 FEET SOUTH AND 2230 FEET EAST FROM THE NW CORNER SECTION 18, R31E, WM.
- P.O.D. #3 680 FEET NORTH AND 1250 FEET EAST FROM THE SW CORNER SECTION 7, R31E, WM.
- P.O.D. #4 1540 FEET NORTH AND 1410 FEET EAST FROM THE SW CORNER SECTION 7
- P.O.D. #5 1930 FEET SOUTH AND 60 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #7 960 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER SECTION 12
- P.O.D. #8 1050 FEET SOUTH AND 3680 FEET WEST FROM THE NE CORNER SECTION 12

- AREA INVOLVED IN THIS TRANSFER
- AREA NOT INVOLVED IN THIS TRANSFER

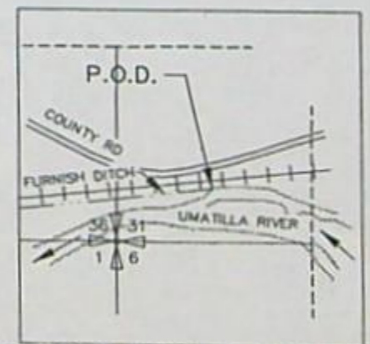
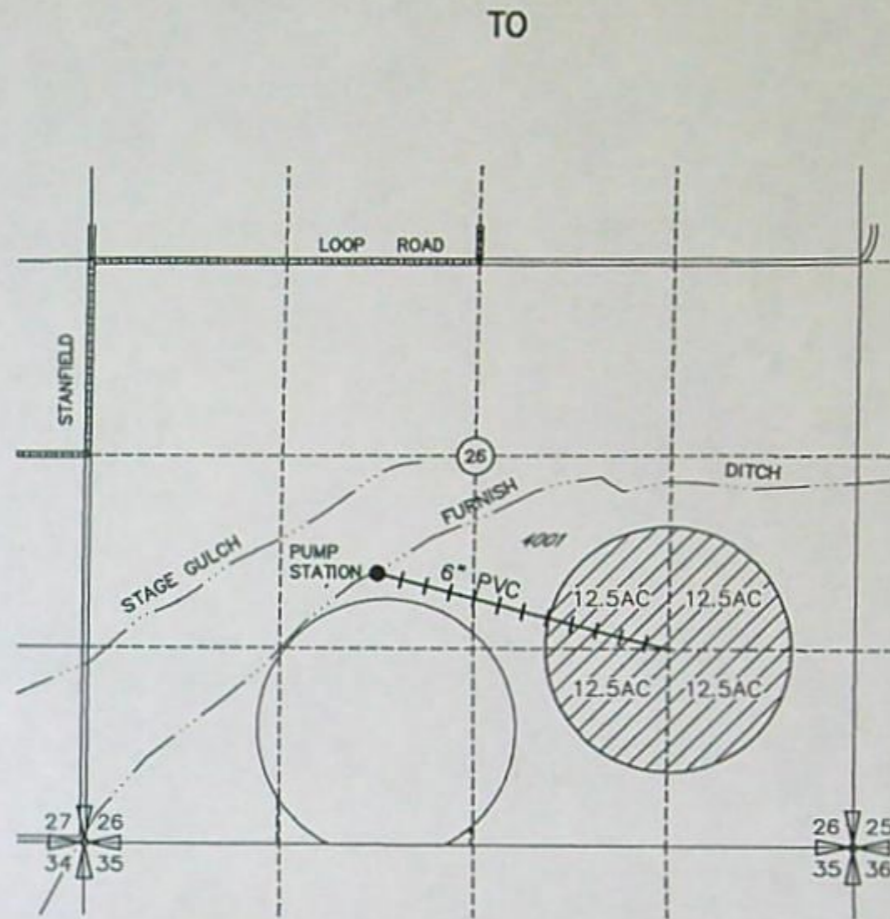


NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

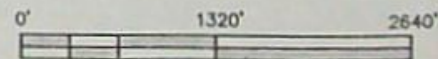
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3/20/97

GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T4N, R29E WM

COPY



P.O.D. POINT LOCATED 380' NORTH AND 650' EAST FROM SW COR. SEC 31, T. 3N., R. 30E. WM.



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

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3/20/97

TEMPORARY T7771

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

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COPY

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for 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)
E. F. Burlingham & Sons

B) Was the water right determined by a court decree? No
(Yes, No)

1. If yes, list the title of the proceedings: _____

2. Certificate No: _____

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

1. If yes, list the Permit No: 16393

2. Certificate No: 28484

D) Date of priority right: July 3, 1945

E) What are your reasons for the proposed changes? Change in cropping program

F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

C) What is the name of the ditch used? N/A

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
See Exhibit A attached				

F) Is the land within an irrigation district? Yes _____ No X

If yes, which district? _____

G) County Umatilla

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

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? No
(Yes, No)

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

Encumbrance	Held By	Amount
Mortgage	Gloria Lewis	excess of \$10,000.00

D) What is the use to which the water will be applied? Irrigation of crops

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
4N	29 E	26	NE SE	12.5
4N	29 E	26	NW SE	12.5
4N	29 E	26	SW SE	12.5
4N	29 E	26	SE SE	12.5

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.

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

H. Richard (Dick) Snow
33263 Oregon Trail Road Echo, OR 97626

6. REMARKS: An application requesting an additional point of diversion has been filed which affects this temporary transfer application.

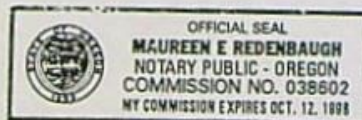
I (we) Kenneth E. Gustafson, applicant(s), hereby swear that I (we) have read the above application for transfer of water right and that the statements made are true and correct. Dated and signed this _____ day of _____, 1997.

[Signature] /s/ R
(Signature)
B & G Resources, Inc.
(Signature)

Subscribed and sworn to before me

(Notarial Seal)

[Signature]
Notary Public for Oregon



My commission expires: 10/12/1998

TEMPORARY T7771

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

MAY 19 1997

WATER RESOURCES DEPT.
Salem, Oregon

COPY

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for 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)
E. F. Burlingham & Sons
- B) Was the water right determined by a court decree? No
(Yes, No)
1. If yes, list the title of the proceedings: _____
2. Certificate No: _____
- C) Was the water right acquired by a water permit? Yes
(Yes, No)
1. If yes, list the Permit No: 16393
2. Certificate No: 28484
- D) Date of priority right: July 3, 1945
- E) What are your reasons for the proposed changes? Change in cropping program
- F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

- A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River
- B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

- C) What is the name of the ditch used? N/A
- 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
See Exhibit A attached				

- F) Is the land within an irrigation district? Yes ___ No X
If yes, which district? _____
- G) County Umatilla

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

T 7771

Attachment A

Temporary Transfer for the 1997 Irrigation Season

Kenneth E. Gustafson

COPY

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
2N	30E	1	SE SW	400	7/3/45	IR	1.4	6
2N	30E	1	SW SE	400	7/3/45	IR	4.3	6
2N	30E	12	NW NE	400	7/3/45	IR	1.0	6
2N	30E	12	SE NE	400	7/3/45	IR	4.2	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4	1,2,3

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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

TEMPORARY T7771

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

RECEIVED

MAY 19 1997

COPY

WATER RESOURCES DEPT.
SHEM, OREGON

Applicant: B & G Resources, Inc. % Kenneth E. Gustafson

Mailing Address: 18270 SW Boones Ferry Road

Portland OR 97227 (503) 639-6777
City or Town State Zip Phone

Type of Change: Temporary one year transfer for 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)
E. F. Burlingham & Sons

B) Was the water right determined by a court decree? No
(Yes, No)

1. If yes, list the title of the proceedings: _____
2. Certificate No: _____

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

1. If yes, list the Permit No: 16393
2. Certificate No: 28484

D) Date of priority right: July 3, 1945

E) What are your reasons for the proposed changes? Change in cropping program

F) The water will be completely applied to the proposed use on or before: July 15, 1997

2. LOCATION OF AUTHORIZED USE

A) What is the source of water (river, stream, well)? Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

B) Describe the authorized point of diversion:

Location in Reference to Survey Corner	1/4, 1/4 of Section	Section	Township	Range
700' S + 3100' E From the NW corner	NE NW	18	2N	31 E
100' S + 2230' E From the NW corner	NE NW	18	2N	31 E
680' N + 1250' E From the SW corner	SW SW	7	2N	31 E
1330' S + 610' W From the NE corner	SE NE	12	2N	30E

C) What is the name of the ditch used? N/A

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
See Exhibit A attached				

F) Is the land within an irrigation district? Yes _____ No X

If yes, which district? _____

G) County Umatilla

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

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? No
(Yes, No)

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

Encumbrance	Held By	Amount
Mortgage	Gloria Lewis	excess of \$10,000.00

D) What is the use to which the water will be applied? Irrigation of crops

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
4N	29 E	26	NE SE	12.5
4N	29 E	26	NW SE	12.5
4N	29 E	26	SW SE	12.5
4N	29 E	26	SE SE	12.5

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WATER RESOURCES DIVISION
OREGON

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.

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

H. Richard (Dick) Snow
33263 Oregon Trail Road Echo, OR 97826

6. REMARKS: An application requesting an additional point of diversion has been filed which affects this temporary transfer application.

I(we) Kenneth E. Gustafson, 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 _____ day of _____, 1997.

Laura A. Schroeder / L.R.
(Signature)
attty for
B & G Resources, Inc.
(Signature)

Subscribed and sworn to before me

(Notarial Seal)

Maureen E Redenbaugh
Notary Public for Oregon



My commission expires: 10/12/1998

Attachment A

T 7771
COPY

Temporary Transfer for the 1997 Irrigation Season

Kenneth E. Gustafson

Certificate No. 28484, Permit No. 16393 - Authorized Source: Umatilla River and McKay Reservoir constructed under Application No. R-7526, Permit No. R-584, a tributary of Columbia River

Priority date: July 3, 1946

Location of Authorized Place of Use:

Township	Range	Section	Q/Q	T.L.	Priority	Use	Acres	POD
2N	30E	1	SE SW	400	7/3/45	IR	1.4	6
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2N	30E	12	NW NE	400	7/3/45	IR	1.0	6
2N	30E	12	SE NE	400	7/3/45	IR	4.2	6
2N	30E	12	NE NW	400	7/3/45	IR	0.1	6
2N	31E	7	SW NW	5400	7/3/45	IR	1.7	1,2,3
2N	31E	7	SW SW	5400	7/3/45	IR	3.5	1,2,3
2N	31E	7	SE SW	5400	7/3/45	IR	15.3	1,2,3
2N	31E	7	SW SE	5400	7/3/45	IR	0.1	1,2,3
2N	31E	18	NW NE	5400	7/3/45	IR	10.0	1,2,3
2N	31E	18	NE NW	5400	7/3/45	IR	8.4	1,2,3

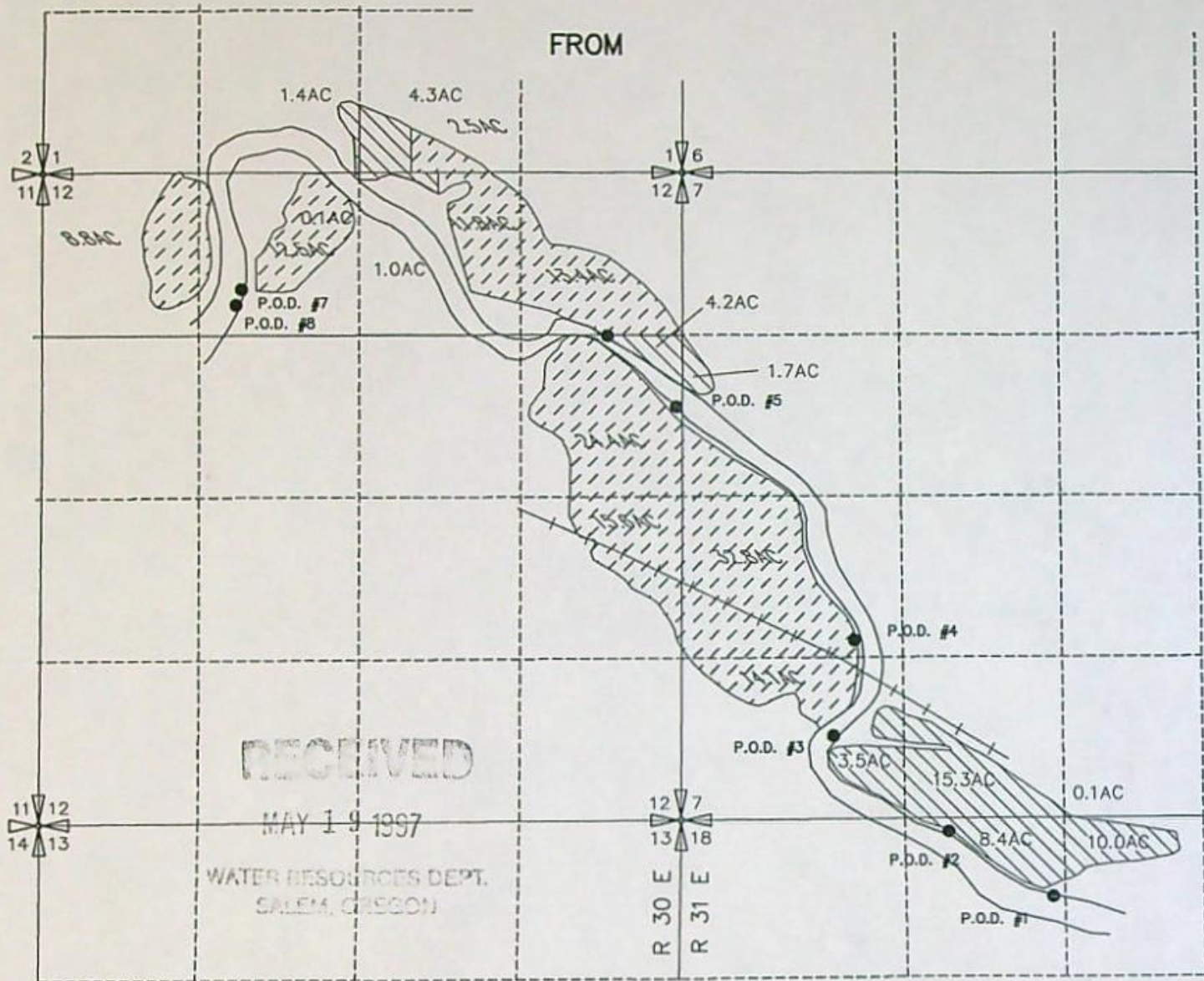
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MAY 19 1997

WATER RESOURCES DEPT.
SALEM, OREGON

GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T2 & 3N, R30 & 31E WM

T 7771



- AUTHORIZED POINTS OF DIVERSION**
- P.O.D. #1 700 FEET SOUTH AND 3100 FEET EAST FROM THE NW CORNER SECTION 18, R31E.WM.
 - P.O.D. #2 100 FEET SOUTH AND 2230 FEET EAST FROM THE NW CORNER SECTION 18, R31E. WM.
 - P.O.D. #3 680 FEET NORTH AND 1250 FEET EAST FROM THE SW CORNER SECTION 7, R31E. WM.
 - P.O.D. #4 1540 FEET NORTH AND 1410 FEET EAST FROM THE SW CORNER SECTION 7
 - P.O.D. #5 1930 FEET SOUTH AND 60 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #7 960 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER SECTION 12
 - P.O.D. #8 1050 FEET SOUTH AND 3680 FEET WEST FROM THE NE CORNER SECTION 12

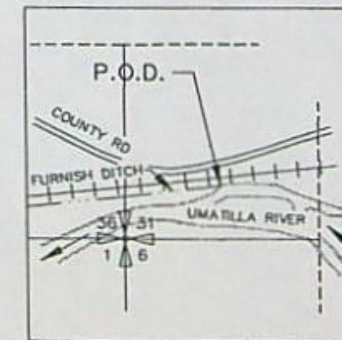
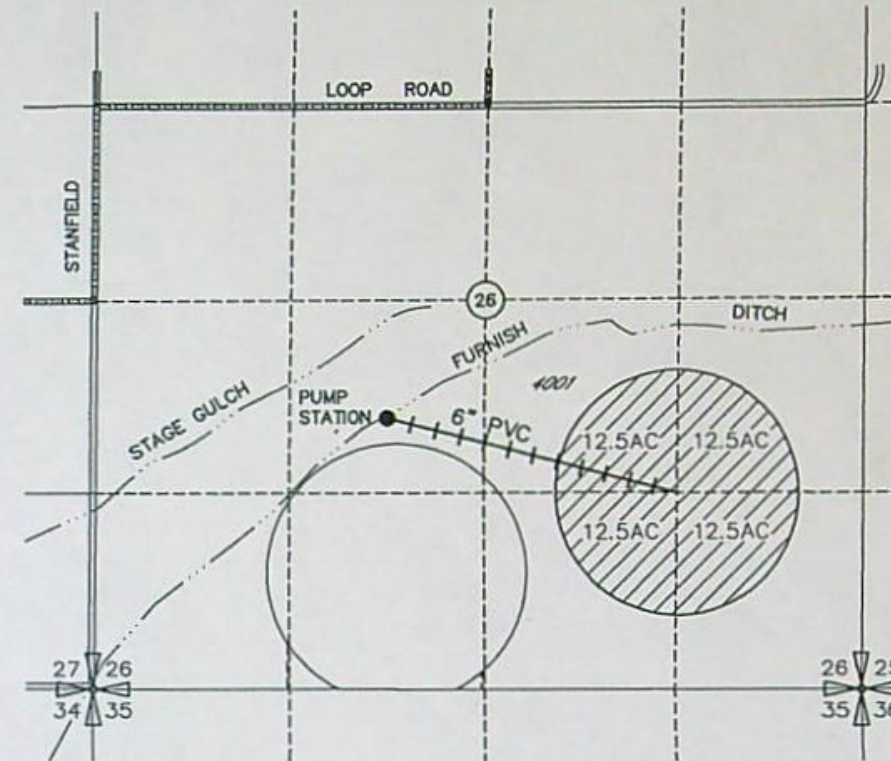
- AREA INVOLVED IN THIS TRANSFER
- AREA NOT INVOLVED IN THIS TRANSFER

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.056
3522GUST.DWG
3/20/97

GUSTAFSON TRANSFER TO
SNOW
PERMIT 16393 CERTIFICATE 28484
T4N, R29E WM

TO



P.O.D. POINT LOCATED 380' NORTH AND 650' EAST FROM SW COR SEC 31, T. 3N., R. 30E. WM.

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.056
3522GUST.DWG
3/20/97

COPY

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **12377**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: <u>B+ G Resources, Inc.</u>	APPLICATION
BY: _____	PERMIT
	TRANSFER <u>7771</u>

CASH: CHECK: # 7 24-22 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 120.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY) _____	\$
OTHER: (IDENTIFY) _____	\$

REDUCTION OF EXPENSE

CASH ACCT.	\$
VOUCHER #	

0427 WRD OPERATING ACCT

PCA 66111

0407 MISCELLANEOUS	\$
0410 COPY & TAPE FEES	\$
0408 RESEARCH FEES	\$
TC165 MISC REVENUE: (IDENTIFY) _____	\$
DEPOSIT LIAB. (IDENTIFY) _____	\$

WATER RIGHTS:	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$ <u>50.00</u>	0206	\$ <u>70.00</u>
WELL CONSTRUCTION	EXAM FEE		LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$

OTHER (IDENTIFY) _____

0437 WELL CONST. START FEE

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

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS	\$
-----------------------	----

0467 HYDRO ACTIVITY

0233 POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HRDRO APPLICATION		\$

RECEIPT # **12377**

DATED: 5-19-97 BY: G. Bushnell

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
G 5732	44900	V									6.60							
G 4962											(1R)							
G 12698	0	V									4.60							
G 11791											(1R)							
											(S)							
S 20936	28484	V										1.40					6.80	
S 16393												(1R)					(1R)	
S 52447	0	V									4.60							
S 39444											(1R)							

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NK	NW	SW	SE	NK	NW	SW	SE	NK	NW	SW	SE	NK	NW	SW	SE
G 5732	44900	V									6.60							
G 4962											(1R)							
G 12698	0	V									4.60							
G 11791											(1R)							
											(S)							
S 20936	28484	V													7.40			6.80
S 16393															(1R)			(1R)
S 52447	0	V									4.60							
S 39444											(1R)							

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NK	NW	SW	SE	NK	NW	SW	SE	NK	NW	SW	SE	NK	NW	SW	SE
G 12698	0	V					32.90	38.00			6.30							
G 11791							(1R)	(1R)			(1R)							
							(S)	(S)			(S)							
S 20936	28484	V	3.40	12.80			28.60	12.60	8.80								15.60	
S 16393			(1R)	(1R)			(1R)	(1R)	(1R)								(1R)	
S 33006	32699	V			7.60					27.50	25.20	15.00					2.00	
S 26122					(1R)					(1R)	(1R)	(1R)					(1R)	
S 52447	0	V					32.90	38.00			6.30							
S 39444							(1R)	(1R)			(1R)							
S 49008	0	V		8.60	16.50				3.00			9.00						
S 41362				(1R)	(1R)				(1R)			(1R)						

OREGON WATER RESOURCES PLAT CARD: Township 2.00 N Range 31.00 E SECTION 18

6/ 3/1997

APP. NO. / CERT	GOV'T LOT	NE				NW				SW				SE			
PERMIT NO. NO.	DLC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
S 20936	28484 V		10.00			8.40											
S 16393			(R)			(R)											

OREGON WATER RESOURCES PLAT CARD: Township 2.00 N Range 31.00 E SECTION 7

6/ 3/1997

APP. NO. / CERT	GOV'T LOT	NE				NW				SW				SE			
PERMIT NO. NO.	DLC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
S 20936	28484 V					7.40		32.80		17.60	15.30					0.10	
S 16393						(R)		(R)		(R)	(R)					(R)	