

Only 2 acres irrigated

TRANSFER No. 2379
Application No. _____ Permit No. _____
IN NAME OF _____

Surveyed SEPT. 24, 1974, by R. MUCKEN.

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF CANCELLATION)
OF A PORTION OF A WATER RIGHT)
IN THE NAME OF ELIZABETH BREESE)

O R D E R

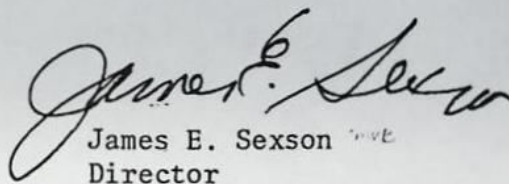
On May 21, 1970, Philip E. and Erma L. Carter and on February 25, 1980, Blaine H. and Dorothy C. Brook submitted affidavits that they are the owners of a certain water right and the lands to which the water right is appurtenant; that they have abandoned any and all interest in and to the said water right and request the same be canceled.

The water right in question was established by Decree of Circuit Court for Jackson County, entered April 26, 1919, in the Matter of the Determination of the Relative Rights of the Use of the Waters of Rogue River, tabulated in the name of Elizabeth Breese, at Page 13, Volume 4, Order Record of the Water Resources Director, and is a portion of the right described by the certificate recorded at Page 16045, Volume 13, State Record of Water Right Certificates, in the name of Elizabeth Breese, and is for the use of not to exceed 0.08 cubic foot per second of water from Wagner Creek, with a date of priority of 1885, for irrigation of 3 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, Township 38 South, Range 1 West, W.M.

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

NOW, THEREFORE, it is hereby ORDERED that the said water right, being a portion of the right described by the prior certificate recorded at Page 16045, Volume 13, State Record of Water Right Certificates, is canceled.

Dated at Salem, Oregon, this 5th day of March, 1980.


James E. Sexson
Director

RECEIVED

FEB 25 1980

WATER RESOURCES DEPT
SALEM, OREGON

A F F I D A V I T

STATE OF OREGON)
)
County of)

We, Blaine H. and Dorothy C. Brook, legal owners of 232 Talent Street, Talent, Oregon, 97540, being first duly sworn, depose and say that we are the legal owners of the following described property:

Beginning at a point in the center of the County Road 4.91 chains North 52 degrees West from the intersection of the center line of said road with the east line of Donation Land Claim No. 64 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, being the most northerly corner of tract described in Volume 11 page 360 of the Deed Records of Jackson County, Oregon; thence South 32 degrees 20 minutes West along the westerly line of said tract 12.80 chains, to the railroad right of way; thence Northerly along said railroad right of way, 3.38 chains; thence North 34 degrees East 12.05 chains, to the center of the County Road; thence South 52 degrees East along the center of the County Road 3.00 chains to the point of beginning.

and the water right that is appurtenant thereto, it being a portion of certificate of water right recorded at page 16045, Volume 13, State Record of Water Right Certificates, in the name of Elizabeth Breese, under date of priority of 1885, for the use of water from Wagner Creek for irrigation in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 38 S., R. 1 W., W.M.; that we have abandoned any and all interest in and to the use of 0.05 cubic foot per second of water for the irrigation of 2.0 acres appurtenant to our land and request said right be canceled.

IN WITNESS WHEREOF, we hereunto set our hands this

21st day of February, 1980.

Blaine H. Brook
Dorothy C. Brook

Subscribed and sworn to before me this 21st day of Feb.,

1980.

David L. Hendrix

Notary Public of Oregon
My Commission expires Nov. 3, 1980

STATE OF OREGON

County of Jackson

ss.

A F F I D A V I T

We, Philip E. and Erma L. Carter, of 236 South Old Pacific Highway, Talent, Oregon 97540, being first duly sworn, depose and say that we are the legal owners of the following described land:

Beginning at a point where the line between the lands described in Vol. 11, page 655, and Vol. 13, page 89, of the Deed Records of Jackson County, Oregon, intersects the easterly right-of-way line of the Oregon and California Railroad Company; thence Southeasterly along said right-of-way line, 448.0 feet; thence in a Northerly direction 100.0 feet; thence Northwesterly 448.0 feet; thence Southwesterly 100.0 feet to the point of beginning,

and the water right appurtenant thereto; which is for the use of not to exceed 0.026 c.f.s. of water from Wagner Creek through the Evergreen Garden Ditch for the irrigation of one acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, Township 38 South, Range 1 West, Willamette Meridian, Jackson County, Oregon, with a priority date of 1885, as evidenced by Certificate No. 16045 and issued in the name of Elizabeth Breese; that, we have abandoned any and all interest in and to this part of said water right and request the same be cancelled.

IN WITNESS WHEREOF, we have hereunto set our hands this 20th day of May, 1970.

Philip E. Carter
Erma L. Carter

Subscribed and sworn to before me this 20th day of May 1970.

David L. Hendrix
Notary Public of Oregon
My commission expires Nov. 3, 1972

RECEIVED
MAY 21 1970
STATE ENGINEER
SALEM, OREGON

RECEIVED

MAY 21 1970

STATE ENGINEER
SALEM OREGON

T. 385, R. 1 W.

J. Wagner DLC 64

To be canceled
by R+E. Carter.
Elizabeth Bruce
16045

C-16056
"1852"

34 17

94

125

C-16056

Ditch

0 1/2

0 1/2

0 1/2

0 1/2

0 1/2

0 1/2

0 1/2

0 1/2

0 1/2

Correct
Deed is in
error as
you indicated
Plot

8 1/2
"1864"
C-16056

2.54

2.54

2.54

2.54

6 1/2
C-16056 "1864"
J. Thornton DLC 65
37

Davenport Ditch

A. Rockfeller DLC 68

Geo. Rockfeller DLC 69

Beson AD LC 63

J.

J. Rolfsen DLC 66

see transfer no. 2379 for proof of claim maps



STATE OF OREGON

Water Resources- Adjudications 378-8453

INTEROFFICE MEMO

DEPT.

TELEPHONE

TO: Larry Jebousek

DATE: June 29, 1979

FROM: Wes Carr

SUBJECT: Transfer 2379

Certificate #16045 was issued for 5.0 acres irrigation from Wagner Creek, 1885 Priority, Elizabeth Breese

May 1970 Transfer app. filed for Ch. Pt. of Div. only!

Dec. 1970 Order entered approving Ch. Pt. of Div. only!

Sept. 1974 F. P. Survey of new diversion and land irrigated as per Jebousek's letter of 5-5-70.

F. P. Survey shows only 2.0 acres irrigated.

March 1975 Proof of Appropriation signed by Brook for 2.0 acres and diversion point.

March 1975 Superceding Certificate #41924 issued for 2.0 acres and new diversion point.

NOTE: Acceptance of F. P. Map does not constitute authority to cancel 3.0 acres of water right.

NOTE: Need Special Order to Cancel 3.0 acres of right.

NOTE: 3.0 acres was not lost by attrition, nor by failure to make proof on total acres of transfer.

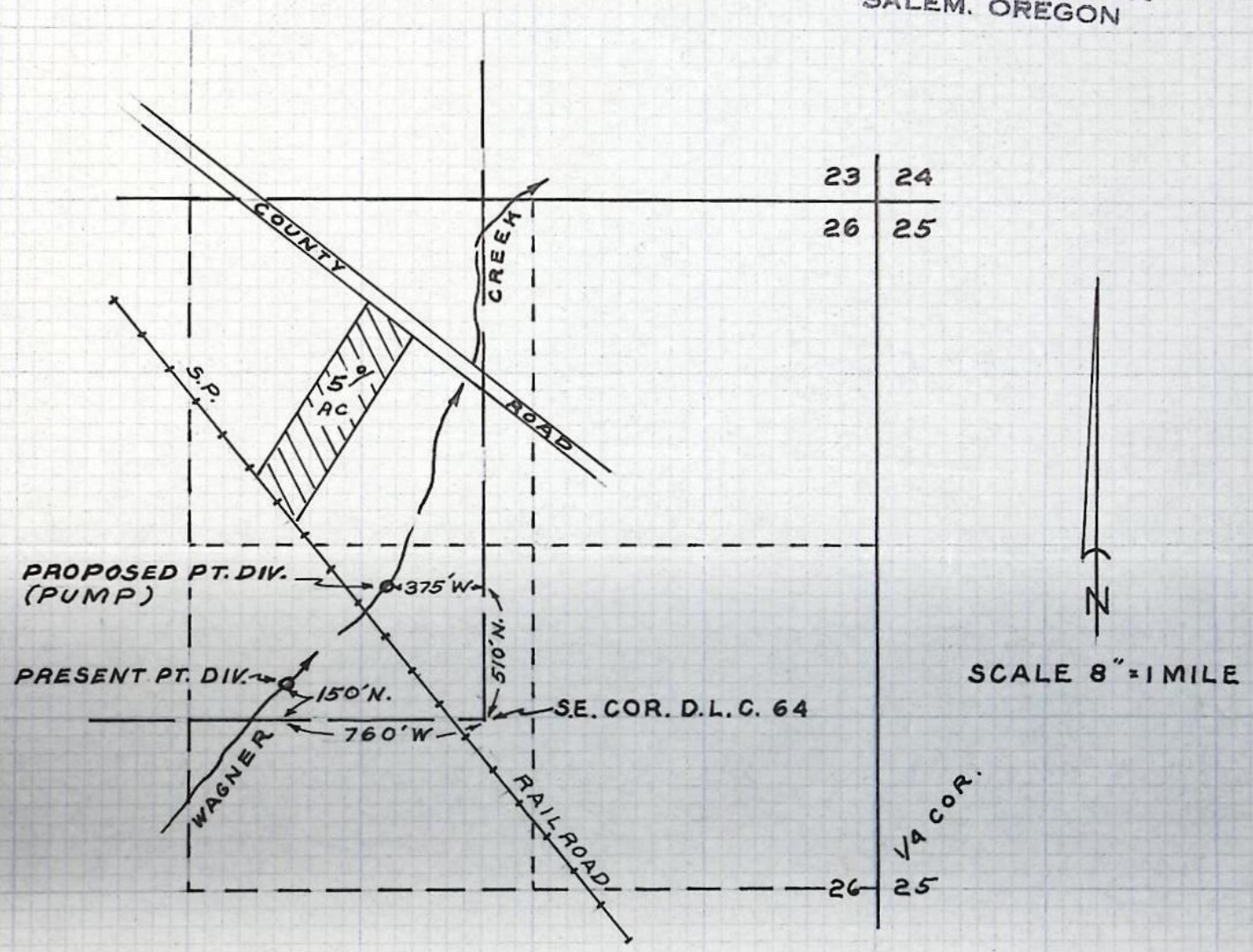
Conclusion: It is recommended that we issue a correction certificate for 5.0 acres.

2379

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MAY 13 1970
STATE ENGINEER
SALEM, OREGON

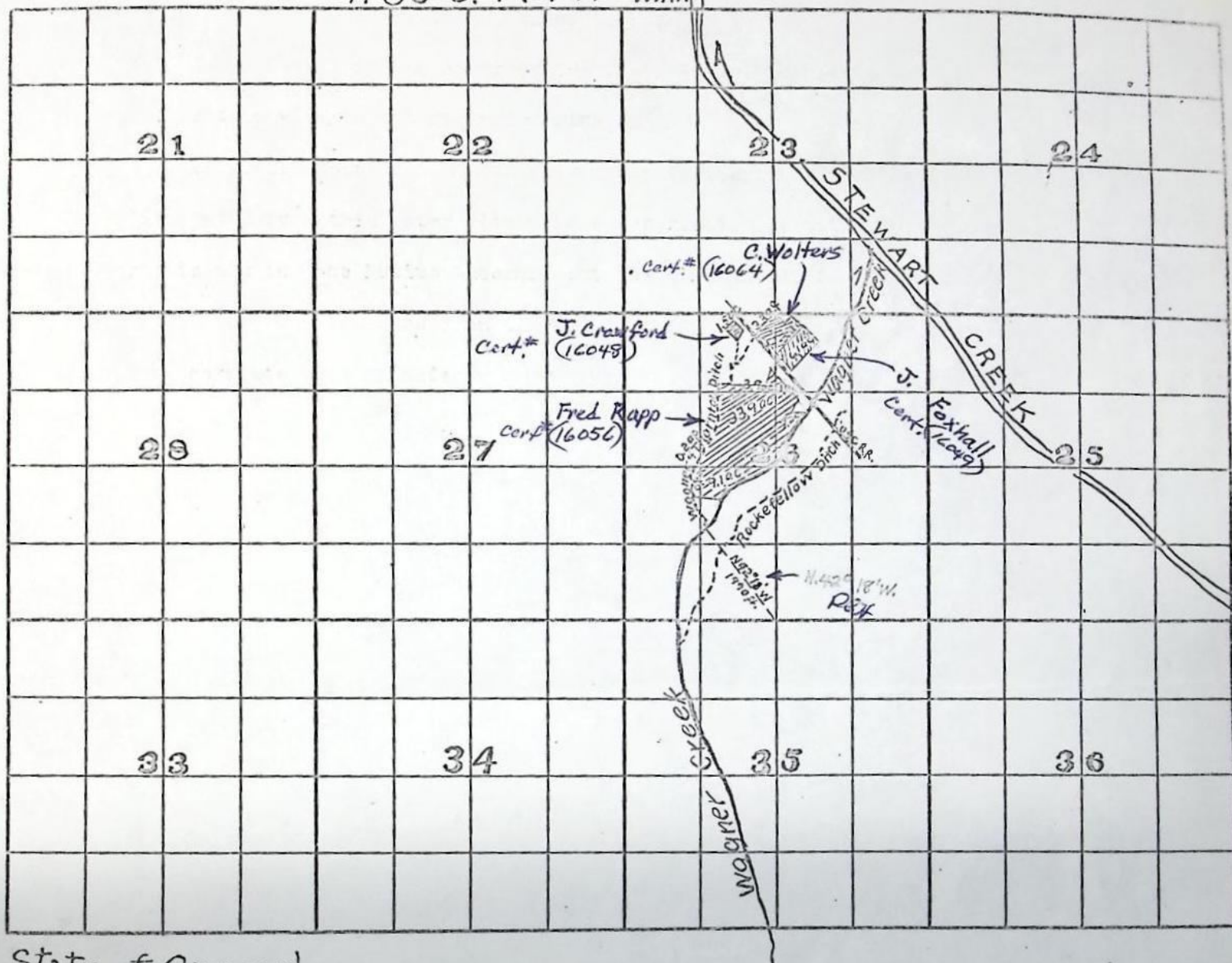
MAP TO ACCOMPANY APPLICATION IN THE NAME OF
BLAIN H. & DOROTHY C. BROOK FOR CHANGE IN
POINT OF DIVERSION. LOCATED IN SEC. 26
T 38 S R 1 W W. M. MAY 11, 1970

RECEIVED
JUN 3 1970
STATE ENGINEER
SALEM, OREGON



RECEIVED
MAY 13 1970
STATE ENGINEER
SALEM, OREGON

T. 38 S. R 1 W W.M. (S)



State of Oregon } ss.
County of Jackson }

1, C. Frank Rhodes, of Medford Oregon do hereby certify that this map was made from notes taken during an actual survey made by me on October 4th and 5th 1911, and that it correctly represents the works described in the accompanying application, together with the location of streams and other ditches in the immediate vicinity and has written thereon the area in each smallest legal subdivision which it is proposed to irrigate

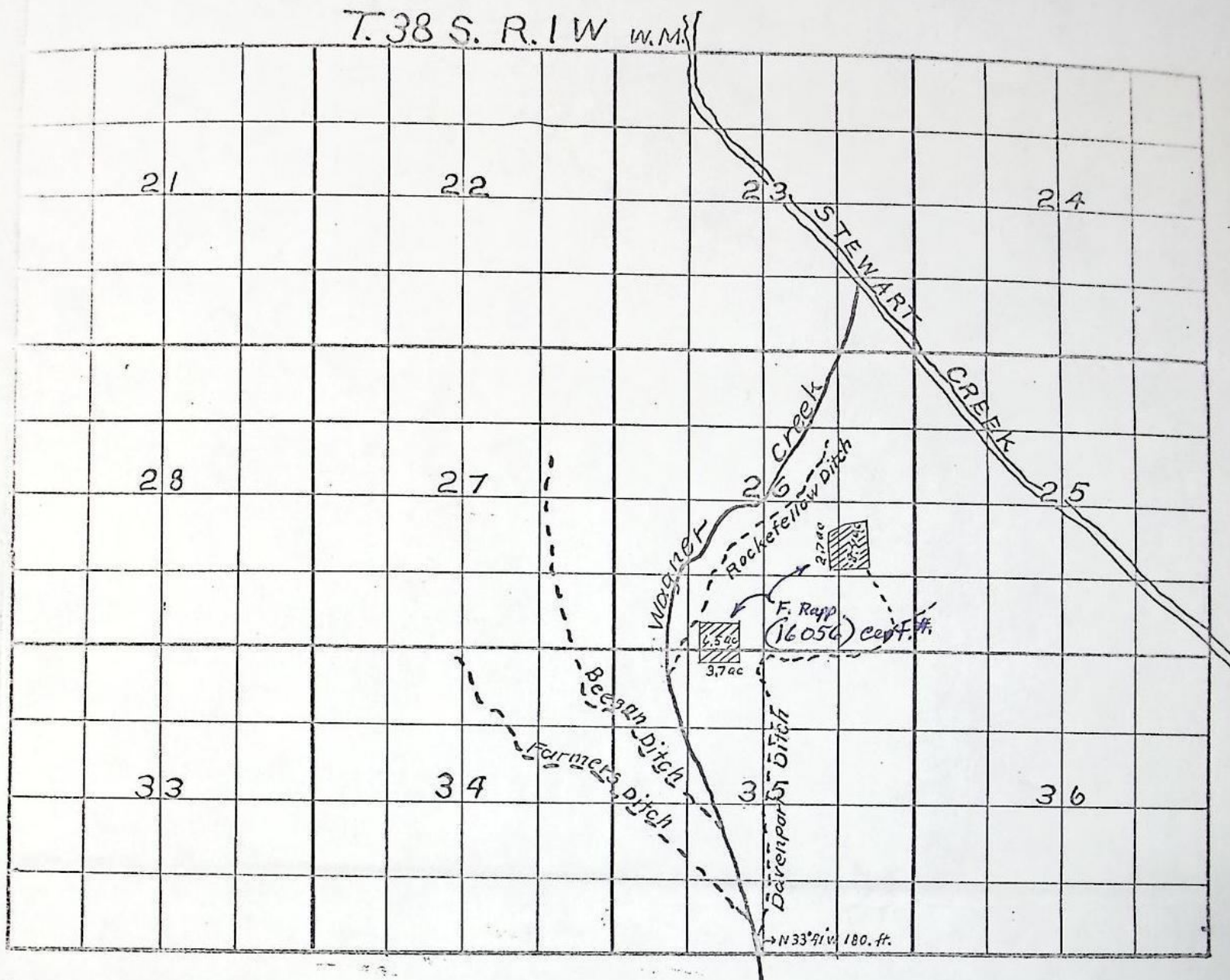
C. Terrell Rhodes.
Surveyor.

Subscribed and sworn to
before me this 10th Day of
November - 1911 P. 1

LeRamee
Notary Public for Oregon.

depth 1.7 feet; grade, or fall in feet per 1000 feet, 3.7 Northern Creek

Map Showing Irrigated Land Under Davenport Ditch.
Scale 1 inch = 40 chains.

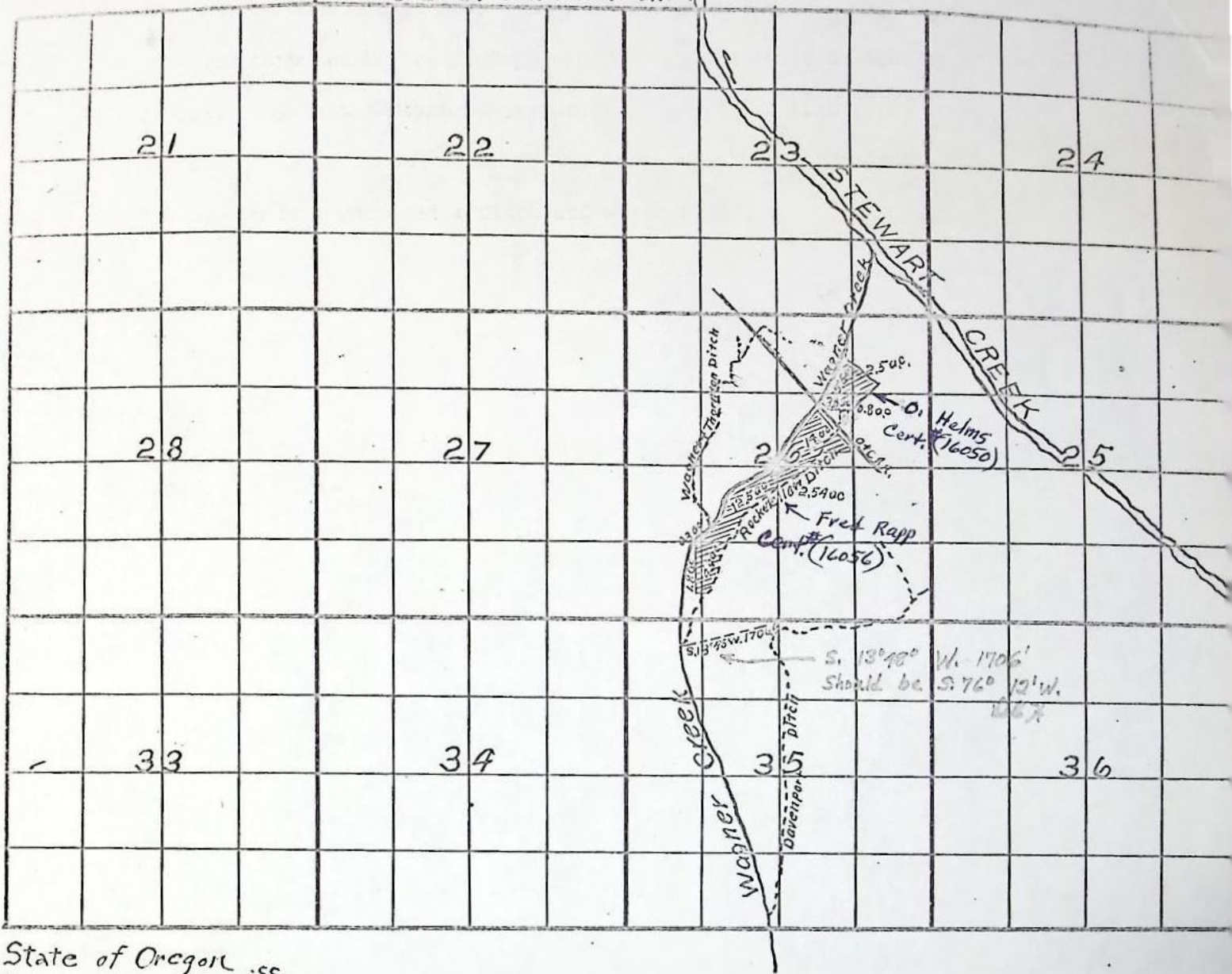


State of Oregon ss. I, C. Frank Rhodes, of Medford Oregon do hereby
County of Jackson certify that this map was made from notes taken
during an actual survey made by me on October
9th and 5th 1911, and that it correctly represents
the works described in the accompanying application,
together with the location of streams and other
ditches in the immediate vicinity and has written
thereon the area in each smallest legal subdivision
which it is proposed to irrigate. C. Frank Rhodes
Surveyor.

Subscribed and sworn to before me
this 10th Day of November 1911.

Leif Rasmussen
Notary Public for Oregon

T. 38 S. R. 1 W. W.M.)



State of Oregon ss.
County of Jackson

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C. Frank Rhodes
Surveyor.

Subscribed and sworn to before me this
10th Day of November, 1911.

John R. Ramey
Notary Public for Oregon.

Notary Public for Oregon.

Permit No. _____

Transfer No. 2379

County - JACKSON

PROOF OF APPROPRIATION OF WATER

1. Name - BLAIN H. & DOROTHY C. BROOK 2. Address - 232 S. Old Pacific Highway
Talent OR 97540
3. Source of supply - Wagner Creek
Tributary of Bear Creek
4. Amount of water - 0.05 cubic foot per second 5. Priority date 1885
6. Use - irrigation of 2.0 acres
7. Location of point of diversion - SW $\frac{1}{4}$ NE $\frac{1}{4}$, as projected within Wagner DLC 64, Section
26, T. 38 S., R. 1 W., W. M., 480 feet North and 420 feet West from SE Corner, Wagner DLC
64.
8. The description of land given below and as shown on the attached map corresponds
to that found to be irrigated.

2.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
As projected within Wagner DLC 64
Section 26
T. 38 S., R. 1 W., W. M.

RECEIVED
MAR 6 1975
STATE ENGINEER
SALEM, OREGON

I have read the above and foregoing proof of appropriation of water defining the
extent of use of water under the change of point of diversion
approved by order of the State Engineer entered December 29, 1970; I
know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this FOURTH day of MARCH
1975.

Blaine H. Brook
Legal Owner of the above described lands

Dorothy C. Brook

$C = 16050 = 55$
 $C = 16056 = 10$
 $C = 33328 = 60$
 $C = 16064 = 30$
 $C = 16056 = 072$

A 1760 - 2¹³

1974-H
9-24-74
R.G.M.
Tra

County Jackson

- [illegible]

SURVEY IRRIGATION
No "C" REC'D

INFO: Mr. Brook

Div. Pt is moved as filed.

Land inv. is a trailer court.

NOTE → Entire area enclosed by loop rd is inv.

Approx 50% of area around outside of loop is inv.

Trailers & parking spaces alongside them occupy the other 50%.

AREA of TRAILERS 2⁵

AREA INSIDE LOOP = 0⁴

$60 \times 2.5 + 0.4 = 19 \text{ AC}$ - ROUNDED TO 20

DIV. PT. - Small rock den above cr.

PUMP - $1\frac{1}{4}$ " x $1\frac{3}{4}$ " D.D. CENTR

MOTOR - SAID 2HP. :- NAMEPLATE INACCESSIBLE

PIPE - 2" PVC. THROUGHOUT WITH RISERS THROUGHOUT
& GARDEN HOSES.

HEADS - SAID CAN RUN ABOUT 40 YARD SPR. MAX.

CROP - GRASS

LIFT - +10'

TIE - S.E. COR. DLE 69, A B.C. IN FIELD
ALONG RR. TRACKS.

N.W. COR DLE 69, A B.C. IN $\frac{1}{2}$ RD

ORIENTATION SHOULD BE GOOD
BECAUSE WHOLE SURVEY WAS
BACKSIGHTED

9-24-74

F.E.

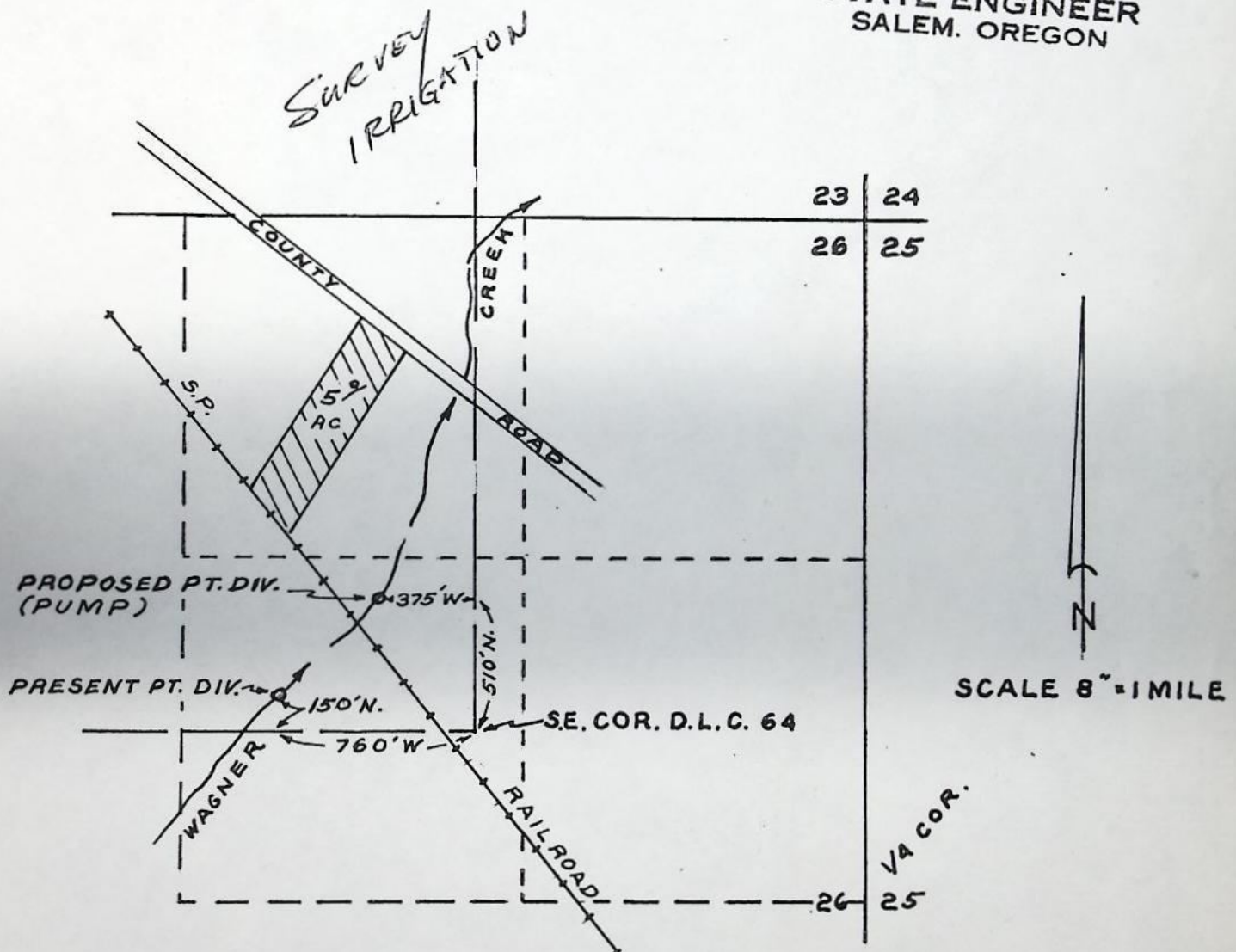
R.G. Muehlen

2379

RECEIVED
MAY 13 1970
STATE ENGINEER
SALEM, OREGON

MAP TO ACCOMPANY APPLICATION IN THE NAME OF
BLAIN H. & DOROTHY C. BROOK FOR CHANGE IN
POINT OF DIVERSION. LOCATED IN SEC. 26
T 38 S R 1 W W. M. MAY 11, 1970

RECEIVED
JUN 3 1970
STATE ENGINEER
SALEM, OREGON



Permit No. _____

Transfer No. 2379

County - JACKSON

PROOF OF APPROPRIATION OF WATER

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Talent, OR 97540
- 3.. Source of supply - Wagner Creek
Tributary of Bear Creek
- 4.. Amount of water - 0.05 cubic foot per second 5. Priority date 1885
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As projected within Wagner DLC 64
Section 26
T. 38 S., R. 1 W., W. M.

I have read the above and foregoing proof of appropriation of water defining the
extent of use of water under the change of point of diversion
approved by order of the State Engineer entered December 29, 1970; I
know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____
19____.

Legal Owner of the above described lands

Application for Transfer of Water Right

To the STATE ENGINEER OF OREGON:

I, Blaine H. and Dorothy C. Brook
(Name of applicant)
of 232 S. Old Pacific Hwy., Talent, County of Jackson
(Postoffice)
State of Oregon 97540, do hereby make application for change in point of diversion.

(In point of diversion; place of use; use heretofore made of the water)

1. The source of present water right is Wagner Creek.
(Name of stream)
2. The use to which the water is applied is irrigation.
(Irrigation; Mining; Power; Manufacturing; etc.)
3. The name of the ditch, canal or pipe line is Evergreen Garden Ditch.
4. The point of diversion is located 150 ft. N. and 760 ft. W. from the SE
(N. or S.) (E. or W.)
corner of DLC #64 being within the SW¼ NE¼
(Section or subdivision)
of Section 26 Tp. 38 S. R. 1 W. W. M., in the County of Jackson.
(No. N. or S.) (No. E. or W.)

5. Give the number of acres irrigated in each smallest legal subdivision (40-acre tract). Only show the acreage which is being transferred. If the water is used for power, mining or other use, show place of use.

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼
38 S	1 W	26	5.0															

NOTE: If you own less than 40-acre tracts, attach a description of your land as it appears in your deed.

(Attach separate sheet if necessary)

6. Are you the legal owner of the above described lands? Yes.
(If not owner, explain your interest)
7. Have the lands above described been irrigated during the past 5 years? Yes.
8. What is the priority date of your water right? 1885
9. Was your water right acquired by State Engineer's Permit? No. If so, give number of permit _____
(Yes or No)

10. Do you hold a water right certificate? Yes. If so, give number of certificate 16045.
(Yes or No)

11. Was your water right determined by State Engineer's order of Determination or Decree of Court?

Yes. If so, give title of proceedings Rogue River Decree (Page 13, Col. 2).
(Yes or No)

12. Is the water right recorded in your name? No, Elizabeth Breese.
(If not, give name)

13. I propose to transfer the water right to the following described lands: (Do not answer if your application is for change in point of diversion only.)

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$

(Attach separate sheet if necessary)

NOTE: Answer questions 14, 15, 16 and 17, if the application is for change in point of diversion.

14. The proposed point of diversion is located 510 ft. N. and 375 ft. W. from the SE
corner of DLC #64 being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26 Tp. 38 S. R. 1 W. W. M.,
(Smallest legal subdivision) (N. or S.) (E. or W.) (No. N. or S.) (No. E. or W.)
in the county of Jackson. The name of the ditch to be used is pump.

15. Are you the owner of the land on which the proposed point of diversion is to be located? No.

16. If not the owner of the land on which the proposed point of diversion is to be located, give the name and address of owner and submit evidence of your right-of-way for your proposed ditch, canal, or pipe line.
See enclosed copy of 20-foot easement from Philip E. and Erma L. Carter of
236 S. Old Pacific Hwy., Talent, Oregon.

17. Are there any diversions between your present point of diversion and the proposed point of diversion? No.

NOTE: Answer questions 18 and 19 if application is for change in use or place of use.

18. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.?
(Answer Yes or No)

19. If not, give below a description of existing encumbrances:

NATURE OF ENCUMBRANCE	HELD BY	AMOUNT

20. Reasons for the proposed changes are it is not feasible to maintain ditch
any longer.

RECEIVED
RECEIVED
RECEIVED

AFFIDAVIT OF APPLICANT

STATE OF OREGON,

County of Jackson.

} ss.

I, Blaine H. and Dorothy C. Brook, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 29th day of April, 1970

X

Blaine H. Brook

X

Dorothy C. Brook
(Name of applicant)

Subscribed and sworn to before me this 29th day of April, 1970

[Notarial Seal]

Phyllis Gilman
NOTARY PUBLIC FOR OREGON

My commission expires 3-2-73

Remarks

This application must be accompanied by a map showing the location of the point of diversion, place of use and works utilized under the present water right. The map should also show the new point of diversion or place of use, as the case may be.

