

Name Lee Gillins
 By 13405 Elkin Road
 Address Monmouth, OR 97361

4177

DESCRIPTION OF WATER RIGHT

Name of stream Little Luckiamute River
 Trib. of _____ County of POLK
 Use _____
 Quantity of water _____ No. of acres 4.5
 Name of ditch _____
 Date of priority Nov. 18, 1960
 In name of Jesse Payne
 _____ Adjudication, Vol. _____, page _____
 App. No. 34470 Per. No. 27073 Cert. No. 31514
 Certificate cancelled _____
 Notation made on record by _____

FEES PAID

| Date | Amount | Receipt No. |
|----------------|--------------|--------------|
| <u>3-23-79</u> | <u>45.00</u> | <u>98.39</u> |
| TOTAL . . . | | |
| | Cert. Fee | |

FEES REFUNDED

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

Change in POV & POD
 Date filed March 23, 1979
 Date of hearing _____
 Place of hearing _____
 Date of order 5-14-79 Vol. 32, page 98
 Date for application of water 10-1-80
 Proof mailed _____
 Proof received _____
 Certificate issued SEP 4 1980 Vol. 43, page 40472

Survey
7-79

REMARKS

W.R.I.S.

Assembled 7-25-85 by hvs

Entered _____ by _____

Verified _____ by _____

| TO BE ENTERED WHERE CHECKED | INDEX CARDS: | |
|--|--------------|-----------|
| | Entered | Checked |
| <input checked="" type="checkbox"/> Name | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Stream | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Pl. of Div. | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Calendar | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Twp. & Rge. | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Decree-vault | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Decree-safe | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Cert. of W/R | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Per. Folder | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Chainindex | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Cross Ref. | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Power Claim | <u>fg</u> | <u>fg</u> |
| <input checked="" type="checkbox"/> Abstracts | <u>fg</u> | <u>fg</u> |

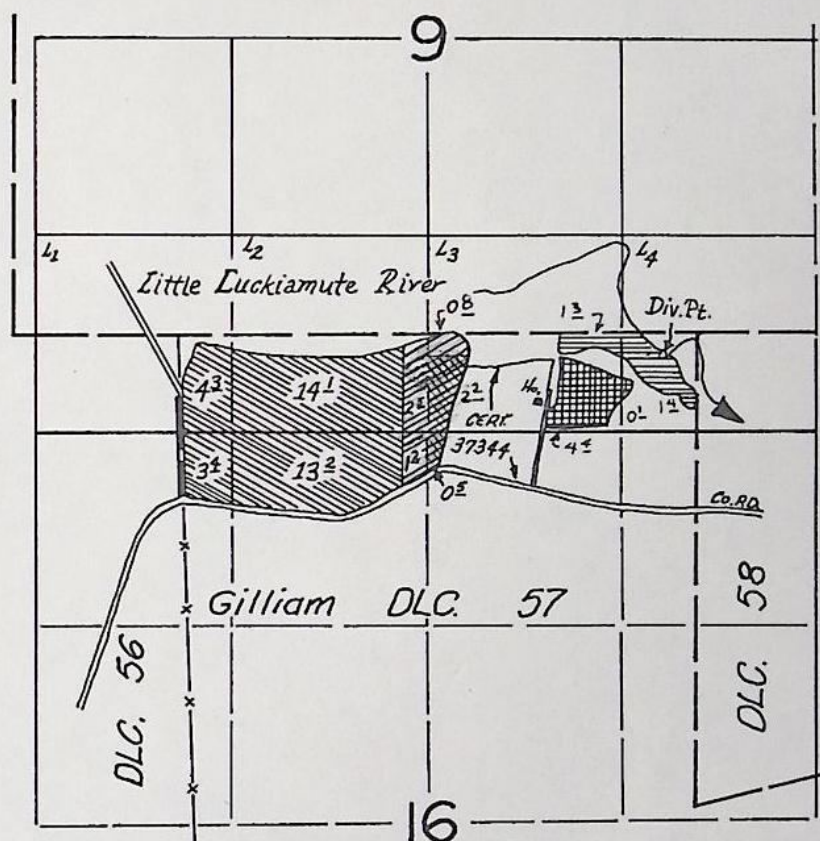
T-4177

RECEIVED

MAR 23 1979

WATER RESOURCES DEPT
SALEM, OREGON

T.9S., R.5W., W.M.



Dir. Pt. loc: 150 ft S & 230 ft W. from NE cor Gilliam DLC. 57.

LEE Gillins

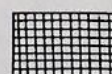
27073 & 28307



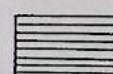
Permit No.
39091
Lee Gillins



Area Covered
by Transfer
from Jesse Payne
Permits



Permit No.
27073
Jesse Payne



Permit No.
28307
Jesse Payne

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
POLK COUNTY

IN THE MATTER OF THE APPLICATION OF)
LEE GILLINS FOR APPROVAL OF CHANGES)
IN PLACE OF USE AND POINT OF DIVER-)
SION OF WATER)

ORDER APPROVING
TRANSFER NO. 4177

On March 23, 1979, an application was filed in the office of the Water Resources Director by Lee Gillins for approval of changes in place of use and point of diversion of water from Little Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 31514, Volume 23, State Record of Water Right Certificates, in the name of Jesse Payne, describes a right for the use of not to exceed 0.24 cubic foot per second from Little Luckiamute River for irrigation of a certain 4.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 0.1 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9; 9.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 5.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 9 South, Range 5 West, W.M., with a date of priority of November 18, 1960. 4.5

The authorized point of diversion of record for said right is located 350 feet South and 80 feet West from the Northeast Corner of D.L.C. No. 57, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 9 South, Range 5 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, without loss of priority, by severing the right from the ~~4.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 0.1 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$~~ of Section 9 above described and in lieu thereof irrigate a certain other 2.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 0.8 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, and 1.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 9 South, Range 5 West, W.M., and to irrigate these lands, together with the remaining 9.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 5.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16 from a point of diversion located 150 feet South and 230 feet West from the Northeast Corner of D.L.C. No. 57, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 9 South, Range 5 West, W.M.

Mr. Michael F. Ladd, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes in place of use and point of diversion may be made without injury to existing rights,

the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested changes in place of use and point of diversion, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion under the subject right, and shall not exceed 0.24 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:

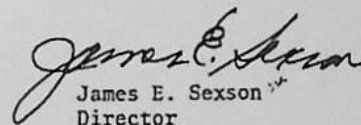
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion made and that said water so transferred shall be applied to beneficial use on or before October 1, 1980.

It is FURTHER ORDERED that the certificate of water right recorded at page 31514, Volume 23, State Record of Water Right Certificates, is canceled; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 14th day of May, 1979.


James E. Sexson
Director

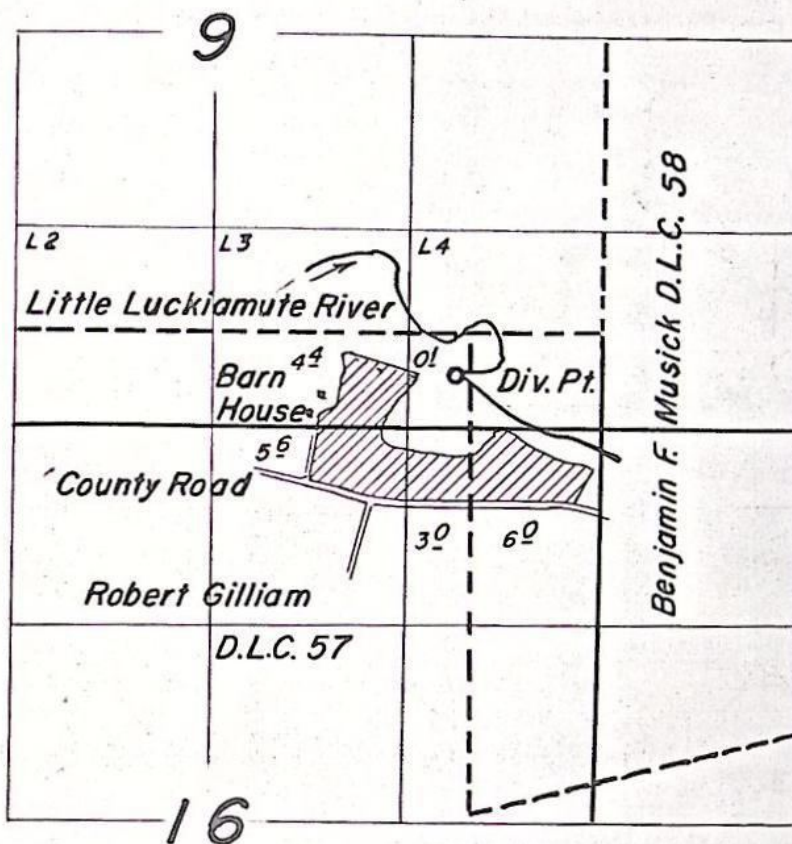
T-4177

RECEIVED

MAR 23 1979

WATER RESOURCES DEPT
SALEM, OREGON

T.9S.R.5W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 34470 Permit No. 27073
IN NAME OF

Jesse Payne

Surveyed May. 24 1963, by Floyd L. Siegmund

DFP-2D-1 89

STATE OF OREGON

COUNTY OF

POLK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

LEE GILLINS

of 13405 Elkins Road, Monmouth, State of Oregon 97361, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Little Luckiamute River

a tributary of Luckiamute River
irrigation of 19.1 acres

for the purpose of

under Permit No. 27073 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 November 18, 1960

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.24 cubic foot per second, if available at the original point of diversion; SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected within Gilliam DLC 57, Section 9, T. 9 S., R. 5 W., W.M.; 350 feet South and 80 feet West from NE Corner, DLC 57

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected within Gilliam DLC 57, Section 9, T. 9 S., R. 5 W., W.M.; 150 feet South and 230 feet West from NE Corner, Gilliam DLC 57

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

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

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

SEE NEXT PAGE

2.5 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
0.8 acre SW $\frac{1}{4}$ SE $\frac{1}{4}$
both as projected within Gittiam DLC 57
Section 9

6.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
as projected within Musick DLC 58

3.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
5.6 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
1.2 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
all as projected within Gittiam DLC 57
Section 16
T. 9 S., R. 5 W., W.M.

This certificate is issued to confirm a change in place of use and point of diversion approved by an order of the Water Resources Director entered on May 14, 1979, and supersedes certificate of water right recorded at page 31514, Volume 23, State Record of Water Right Certificates.

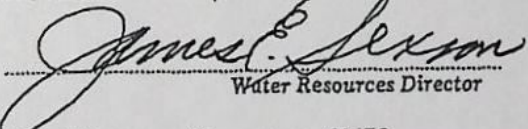
The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

101873

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

WITNESS the signature of the Water Resources Director, affixed

this date. September 4, 1980


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 43 , page 49472

T-4177

RECEIVED

MAR 23 1979

WATER RESOURCES DEPT
SALEM, OREGON

Application for Transfer of Water Right

To the WATER RESOURCES DIRECTOR OF OREGON:

I, Lee Gillins

(Name of applicant)

of 13405 Elkins Road

(Mailing address)

Monmouth

(City)

State of Oregon97361

(Zip Code)

838-0541

(Phone number)

do hereby make application for change

Place of use and point of diversion

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

1. Is the water right recorded in your name? No. Jesse Payne

(If not, give name)

2. Was your water right determined by Decree of Court? No If so, give title of proceedings

(Yes or No)

number of certificate

3. Was your water right acquired by Water Right Permit? Yes If so, give number

(Yes or No)

of permit 27073 Number of certificate 31514, Vol. 23

NOTE: If the entire right of record is not directly involved in the requested change, only that part of the right that is directly involved should be considered in answering the balance of the questions on this form.

4. The source of water is Little Luckiamute River5. What is the date of priority of your water right? November 18, 19606. The authorized point of diversion is located 350 ft. S and 80 ft. W from the NE

(N. or S.)

(E. or W.)

corner of DLC 57 being within the SE 1/4 SE 1/4 of Section 9 Tp. 9 S R. 5 W W. M.,

(No. N. or S.)

(No. E. or W.)

in the county of Polk The name of the ditch used is Pump

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

7. The proposed point of diversion is located 150 ft. S and 230 ft. W from the NE

(N. or S.)

(E. or W.)

corner of DLC 57 being within the SE 1/4 SE 1/4 of Section 9 Tp. 9 S R. 5 W W. M.,

(No. N. or S.)

(No. E. or W.)

in the county of Polk The name of the ditch to be used is Pump

8. The use to which the water is applied is Irrigation
 (Irrigation, Mining, Power, Manufacturing, etc.)

Location of area irrigated, or place of use if other than irrigation:

| Township North or South | Range E. or W. of Willamette Meridian | Section | List 1/4-1/4 of Section | Number Acres To Be Irrigated |
|----------------------------|---|---------|-------------------------|------------------------------|
| 9 S | 5 W | 9 | SW 1/4 SE 1/4 | POU&POD 4.4 POD only |
| | | | SE 1/4 SE 1/4 | 0.1 |
| | | | | 4.5 |
| | | 16 | NE 1/4 NE 1/4 | 9.0 |
| | | | NW 1/4 NE 1/4 | 5.6 |
| | | | | |

(If more space required, attach separate sheet)

9. Are you the legal owner of the above described lands? Yes
 (If not owner, explain your interest)

10. To your knowledge, has any portion of the water right above described undergone a period of five or more consecutive years of nonuse? No
 (Yes or No)

NOTE: Answer questions 11, 12 and 13 if application is for change in use or place of use.

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

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

| NATURE OF ENCUMBRANCE | HELD BY | AMOUNT |
|-------------------------------|---------|------------|
| Mortgage to Federal Land Bank | | \$ 64,000. |
| | | |

13. The use to which the water is to be applied is Irrigation
 (Irrigation, power, mining, manufacturing, domestic supplies, etc.)

Location of area to be irrigated, or place of use if other than irrigation:

| Township North or South | Range E. or W. of Willamette Meridian | Section | List 1/4-1/4 of Section | Number Acres To Be Irrigated |
|----------------------------|---|---------|-------------------------|------------------------------|
| 9 S | 5 W | 9 | SE 1/4 SW 1/4 | 2.5 |
| | | | SW 1/4 SE 1/4 | 0.8 |
| | | 16 | NE 1/4 NW 1/4 | 1.2 |
| | | | | 4.5 |
| | | | | |
| | | | | |

(If more space required, attach separate sheet)

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

POLK COUNTY

IN THE MATTER OF THE APPLICATION OF)
LEE GILLINS FOR APPROVAL OF CHANGES)
IN PLACE OF USE AND POINT OF DIVER-)
SION OF WATER)

ORDER APPROVING
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The applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, without loss of priority, by severing the right from the 4.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 0.1 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9 above described and in lieu thereof irrigate a certain other 2.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 0.8 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, and 1.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 9 South, Range 5 West, W.M., and to irrigate these lands, together with the remaining 9.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 5.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16 from a point of diversion located 150 feet South and 230 feet West from the Northeast Corner of D.L.C. No. 57, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 9 South, Range 5 West, W.M.

Mr. Michael F. Ladd, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes in place of use and point of diversion may be made without injury to existing rights,

V87072

the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested changes in place of use and point of diversion, as described herein, without loss of priority, are approved.

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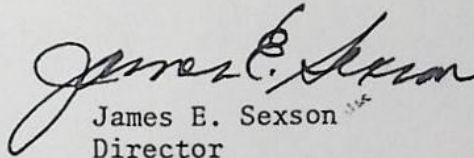
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Dated at Salem, Oregon this 14th day of May, 1979.


James E. Sexson
Director

14. Reasons for the proposed changes are to complete irrigation of the field.

The areas that were covered will not be irrigated in the future.

15. Construction work will be completed on or before Oct. 1, 1980

16. The water will be completely applied to the proposed use on or before Oct. 1, 1981

Remarks _____

NOTE: THIS APPLICATION MUST BE ACCOMPANIED BY A MAP OR MAPS SHOWING THE BEFORE AND AFTER LOCATIONS OF THE POINT OF DIVERSION AND/OR PLACE OF USE, AS THE CASE MAY BE.

AFFIDAVIT OF APPLICANT

I, _____, 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 23rd day of March, 1979.

x Lee H. Gillin
(Name of applicant)

Subscribed and sworn to before me this 23rd day of March, 1979.

[Notarial Seal]

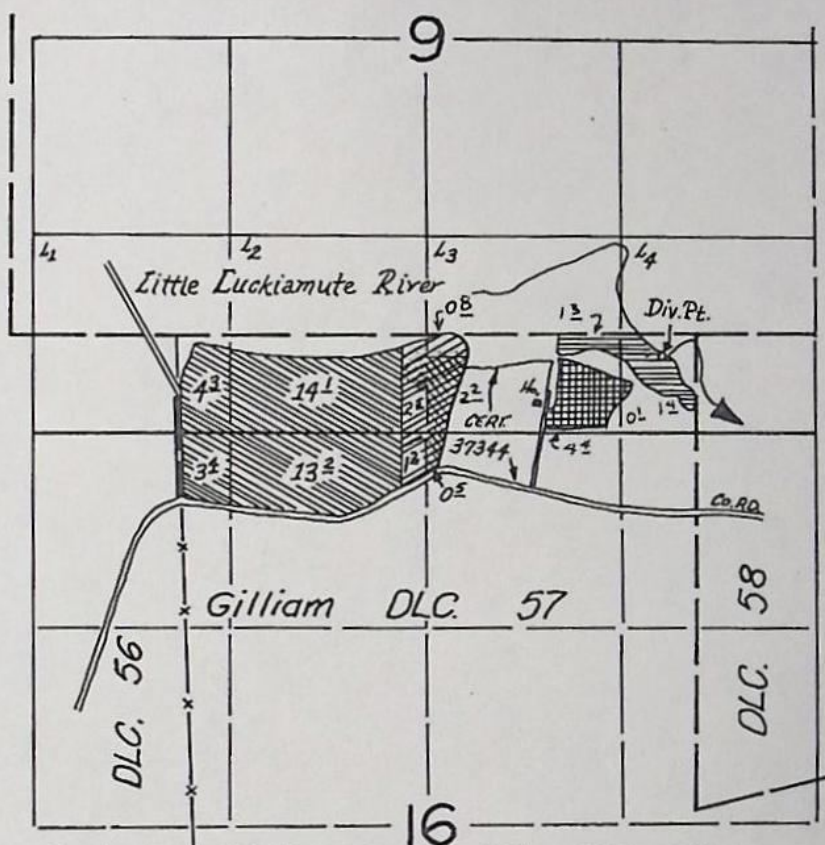
James W. Carver
NOTARY PUBLIC FOR OREGON

My commission expires 8-8-80

T-4177

T.9S., R.5W., W.M.

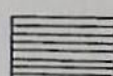
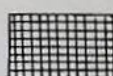
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MAR 28 1979
WATER RESOURCES DEPT
SALEM, OREGON



Dir. Pt. loc: 150 ft S & 230 ft W. from NE cor Gilliam DLC. 57.

LEE Gillins

27073 & 28307



Permit No.
39091
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Area Covered
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Permit No.
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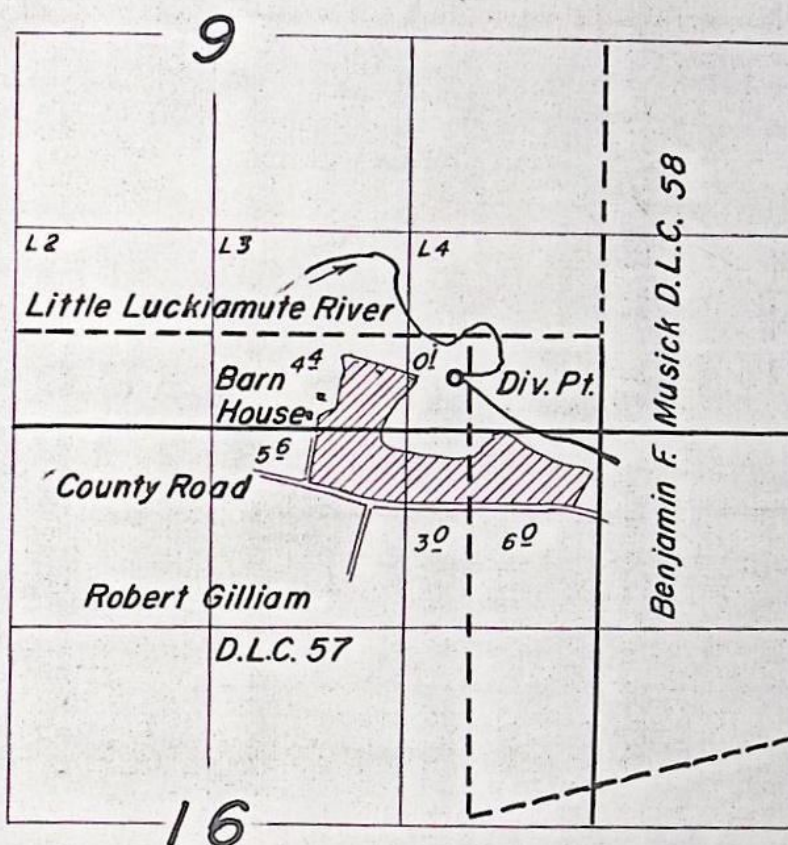
T-4177

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MAR 23 1979

WATER RESOURCES DEPT
SALEM, OREGON

T.9S.R.5W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 34470 Permit No. 27073
IN NAME OF

Jesse Payne

Surveyed May 24 1963, by Floyd L. Sigmund

DFP-2D-1 89

L. LUCKIAMUTE R.

WRJT-0982-01

*** OREGON WATER RESOURCES DEPARTMENT ***
 *** WATER RIGHTS DIVISION ***
 *** WATER RIGHT DATA INPUT FORM ***

PAGE 1
 RUN ON: 3/20/81 AT: 9:08

WATER RIGHT NO. 1000041771 PERMIT NO. 027073 CERTIF. NO. 0049472 NAME: LEE GILLINS

ORIG. NO. A000344701 PREV. NO. A00344701 SUPER. NO.

ADDRESS: 13405 ELKINS RD

CITY/STATE/ZIP/COUNTY: NONMOUTH, OR 97361

STREAM-ID 02 1140 1140 0080

RIV. MI.

WM. DIST. 18 W.R. TYPE SA STATUS V

27

| | | | | | |
|-----------------------------|------------------------------|---------------------|-------|---------------------|-------|
| CANCEL YEAR---- | CONSTR. COMPLT--> 06 28 1979 | YR. LAST USED-----> | --- | NEXT ACTION DUE--> | --- |
| PRIORITY-----> 11 18 1960 | PUT TO USE-----> 06 28 1979 | LAST TRANS. DATE--> | --- | LAST TRANS. TYPE--> | --- |
| APPLICATION----> 03 23 1979 | SURVEYED-----> 07 19 1979 | EXAM. FEE-----> | 20.00 | RECORDING FEE-----> | 25.00 |
| PERMIT ISSUE--> 05 14 1979 | CONCURRENCE----> 07 19 1979 | CYCLE STATUS-----> | --- | REPORTED FLAG-----> | --- |
| CONSTR. STRT.--> 05 14 1979 | CERTIFIED-----> 09 04 1980 | CORRES. INIT.-----> | --- | CORRES. DATE-----> | --- |

POINT-OF-DIVERSION DATA;
 TWSNP RNGE SECT QTR/QTR STREAM-ID

0905 050W 09 D D 02 1140 1140 0080

RIV. MI. RATE

0.240

STATUS S OR P

V P

** REMARKS; - - - - -
 ** DATED-->

** POD! 150'S E 230'W FM NE COR

** DLE ST. CHANGES POD! POD

** C- 31519.

PLACE-OF-USE DATA:

TWSNP RNGE SECT QTR/QTR CNTY USE % CNSMTV ACRES STATUS S OR P

0905 050W 09 C D 27 1R 100 2.50 V P

09 D C 0.80

16 A A 9.00

A B 5.60

B A 1.20

** - - - - -

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| | |
|-----------|----------------|
| W.R.I.S. | |
| Assembled | 4-25-85 by SDH |
| Entered | _____ by _____ |
| Verified | _____ by _____ |

REPORT ON INSPECTION UNDER TRANSFER
OF WATER RIGHT FOR CHANGE IN:

POD
POU
USE
Add'l POD

Transfer NO. 4177

County Polk

Old Certificate NO. 31514

1. Name Lec Gillins
Address 13405 Elkin Road MORMON, OR 97361
2. Source of Supply Little Luckiamute River, Trib of _____
3. Use irrigation
4. Amount of Water _____ Priority Date November 18, 1960
5. Proposed Point of Diversion 150 feet south and 230 feet west from the NE corner, DLC 57, being 1/4 SE 1/4 SE 1/4, Section 9, Township 9 South, Range 5 West, W.M.
6. Completion Date October 1, 1980
7. Place of Use:

| Township | Range | Section | Forty Acre Tract | Use for Which Transfer Made |
|----------|-------|---------|------------------|-----------------------------|
| 9S | 5W | 9 | SE 1/4 SW 1/4 | 2.5 acres |
| | | | SW 1/4 SE 1/4 | 0.8 |
| 9S | 5W | 16 | NE 1/4 NW 1/4 | 1.2 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

34470
37956

26780
T-2920

INSP
7/19/79 CLH

Info: Lee Gilling son. Irr. as applied.

Source: Little Luckiamote R. Div. dir. through 5" suction
pump. GE 30HP @ 3550 RPM
Cornell CDD 5x4½ running @ 92 psi

Use: Irr. of pasture for dairy.

Equip: pipe - 5" mainline
3" laterals

heads - 3-100 gal guns (max)

Lift: See quad.

Tie: Inspection.

Chris Hughes

FE

7/19/79

RECEIVED

JUN 28 1979

WATER RESOURCES DEPT
SALEM, OREGON

NOTICE OF COMPLETION OF CHANGE IN

place of use & point of diversion from Little Luckiamute River

PURSUANT TO TRANSFER APPLICATION NO. 4177

I, Joe H. Dillins, hereby certify that completion
of works and use of water to the extent intended within the provisions
of the order of the Water Resources Director approving said water
right transfer application was accomplished by June 27, 1979

June 27, 1979
Date

Joe H. Dillins
Signature

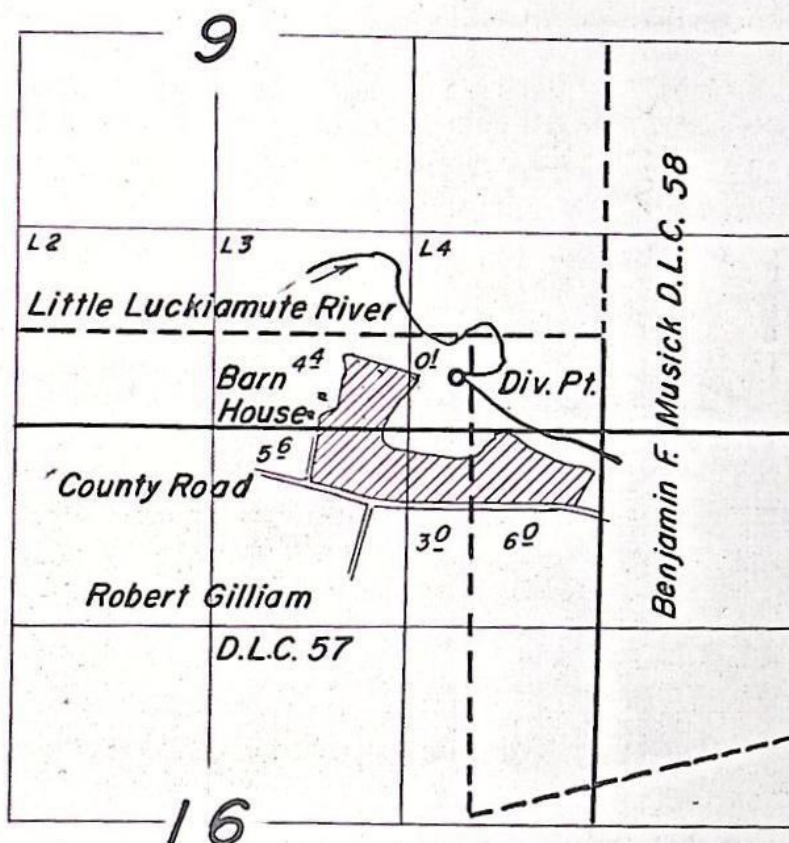
(Mail to the Water Resources Department, Salem, Oregon 97310.)

ok
by

T-4177

T.9S.R.5W.W.M.

MAR 23 1979
WATER RESOURCES DEPT
SALEM, OREGON



FINAL PROOF SURVEY
UNDER

Application No. 34470 Permit No. 27073
IN NAME OF

Jesse Payne

Surveyed May 24 1963, by Floyd L. Siegmund

DFP-2D-1 89



STATE OF OREGON

INTEROFFICE MEMO

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: April 27, 1979FROM: ** Michael F. Ladd, WatermasterSUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4177IN THE NAME OF Lee Gillins

RECEIVED
APR 30 1979
WATER RESOURCES DEPT.
SALEM, OREGON

In my opinion the proposed changes in POU & POD of water from Little Luckiamute R.
MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY* to an existing water right.

Headgate notices HAVE HAVE NOT been issued for diversion from the sources which serves this right.

If for change in point of diversion, is there any intervening point of diversion between the authorized and the proposed points of diversion? NO
(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 . . .

X (2) When in the judgment of the watermaster it becomes necessary . . .

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

** Michael F. Ladd
Watermaster's signature or initials



STATE OF OREGON

INTEROFFICE MEMO

TO: Transfer file 4777

DATE: June 13, 1987

FROM: Tom Shook

SUBJECT: Objection to order approving transfer T-4777

Pat and Joe Martin were in office on 6-12-87 about 4 PM to discuss our decision regarding T-4777. They felt our approval of the POU transfer injured their existing rights and that the watermaster, Bob Main, would not allow them an adequate share of the available water through Barney Ditch. Mr Martin was also unhappy about learning he did not get all of the information he had requested from the transfer file, but I was unable to determine when or how he asked for copies of our records. I showed him a copy of certificate 516, which might not have been in file at time of request, and he claimed that this was the first time he was aware of such a document. He did have a copy of cert 50329, however. I also explained cert 516 had been cancelled by the order approving T-4777.

Understandably, he was confused with our procedures regarding considering a transfer application for approval. I felt he did grasp the idea of the transfer allowing the place of use change, but not the follow-up, the remaining right or confirming cert.

Early in our discussion, I understood their problem was the amount of water available to them in Barney Ditch and I suggested they seek the advise of an attorney since this would be a matter to be settled by the ditch owners and not the WRD. Mr Martin said two attorneys had already suggested that they discuss the information on the application with us and how it was misrepresented to the Dept. We even issued an order stating "Water for the said right is diverted through the Barney Ditch". Even though the watermaster submitted a statement of non-injury, he felt there was enough info for us to question the location of the POD and cause this request to be published before the requested POU change was approved. I pointed out that the map supporting the transfer was also used for applications for new permits so there was info on the map required for the new applications that was not needed for the transfer application and the info did not necessarily represent what had been done.

Our position was again restated but he felt I was saying they should sue the Dept. I disagreed with him but suggested they talk with Jim Carver. At 4:30, I introduced them to Jim. He looked over the file and listened to their dilemma. He advised them the WM report addressed injury to other rights and not the balance of cert 516 which was not involved with the transfer and also suggested an attorney advise them because the problem was use of or lack of use of the Barney Ditch and that the POD was not an issue with the POU appl.

They left at about 5:10.
(CON'T)

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Pat and Joe Martin arrived at our office on 6-13 at 8AM. They wanted copies of the transfer application 4777 and to request a hearing so they could make a matter of record their concerns about injury to their land, if a cert is issued confirming the change allowed in the order approving T-4777.

Copies were made available for them and I told them a hearing was unlikely but they might be able to protest issuance of the cert confirming the POU change. Again, Mr Carver was invited to the discussion and he again said we had followed standard procedures and that there was no basis for a hearing. He also added, it appeared they were not in a position to protest the issuance of the cert, since the priority date was the same.

They left about 10 AM with the idea, I think, that they would have to pursue legal action pertaining to use of the Barney Dithch.