

Name John Beeler

4115

By _____

Address 1599 Apple Lane

DESCRIPTION OF WATER RIGHT

FEES PAID

Grants Pass, Oregon 97526

Name of stream Louse Creek

Date	Amount	Receipt No.
<u>12-27-78</u>	<u>85.00</u>	<u>8252</u>

Change in POD

Trib. of _____ County of Josephine

Date filed December 27, 1978

Use irrigation

Date of hearing March 7, 1979

Quantity of water _____ No. of acres 20

Place of hearing Grants Pass

Name of ditch McDonough Ditch

TOTAL . . .		
<u>2-14-79</u>	<u>\$2 Cert. Fee</u>	<u>Temp. 8252</u>
<u>The Daily Courier pd 2/14/79 ck# 3072 \$39.72</u>		

Date of order 3-12-79 Vol. 31, page 678

Date of priority 1859 & 1887

Date for application of water 10-1-80

In name of W.J. Savage & G.M. Savage

Proof mailed _____

Rogue Riv. Adjudication, Vol. 4, page 36
(orig C-16512)

Proof received _____

App. No. _____ Per. No. _____ Cert. No. 37378

Certificate issued APR 23 1979 Vol. 41, page 47814

Certificate cancelled _____

MAY 25 1990 64313

Notation made on record by _____

FEES REFUNDED

Date	Amount	Check No.
<u>2-14-79</u>	<u>828</u>	<u>3073</u>

REMARKS

CARD FOR NOV 4 1980

See PC 81-12
March 20, 1990 PC mailed

W.R.I.S.
Assembled 4-10-85 by 906
Entered _____ by _____
Verified _____ by _____

INDEX CARDS: Entered Check
☒ Name John Beeler
☒ Stream Louse Creek
☒ Trib. of Div. Josephine
☒ Calendar Dec 27 1978
☒ CHECKED TO REFUSE
☒ Title & Map Original
☒ Description Original
☒ Date of W.R. 1859
☐ For Poster _____
☐ Changes _____
☐ Other Ref. _____
☒ Power Claim Original
Abstracts _____

37378

T. 35 S., R. 5 W., W. M.

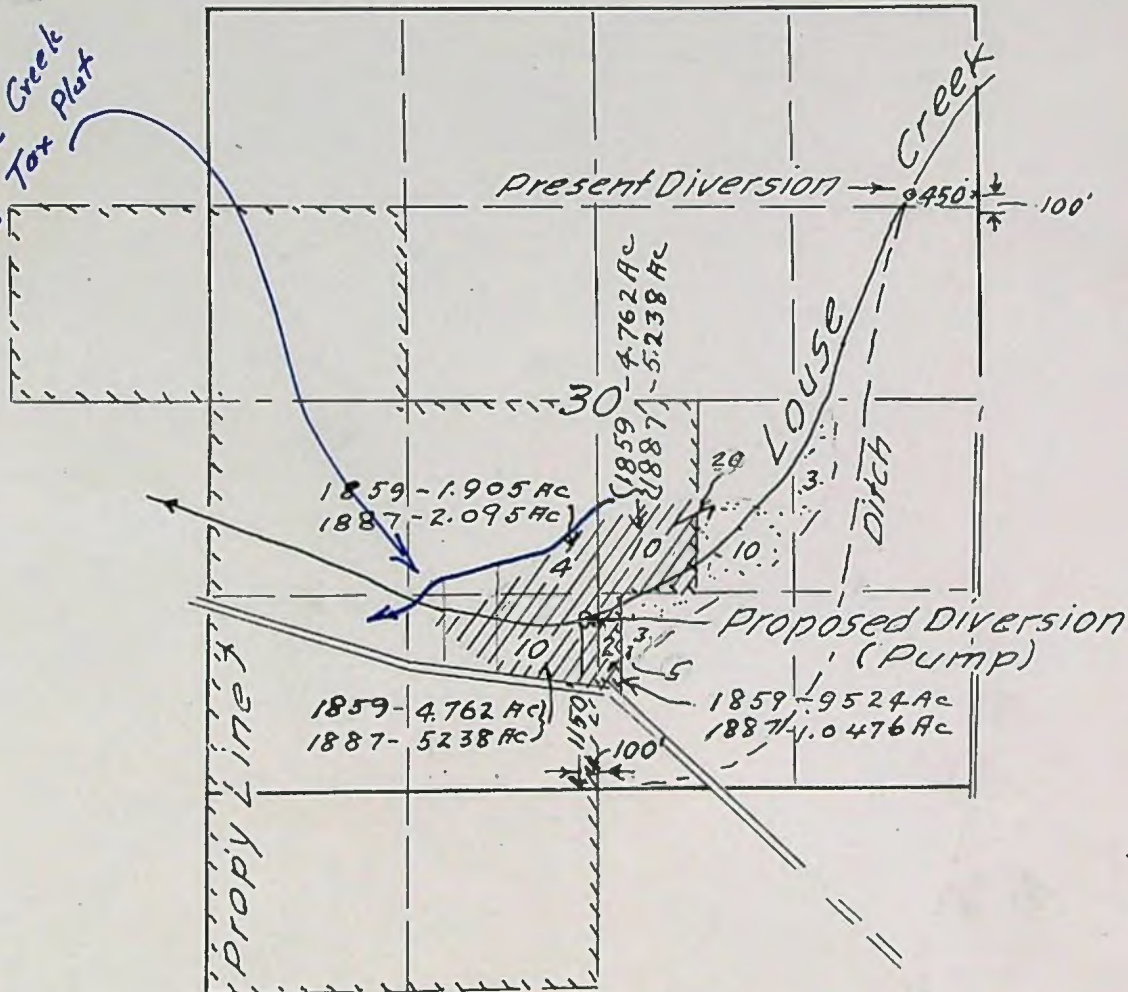
Scale 4" = 1 mile

Sept. 1954

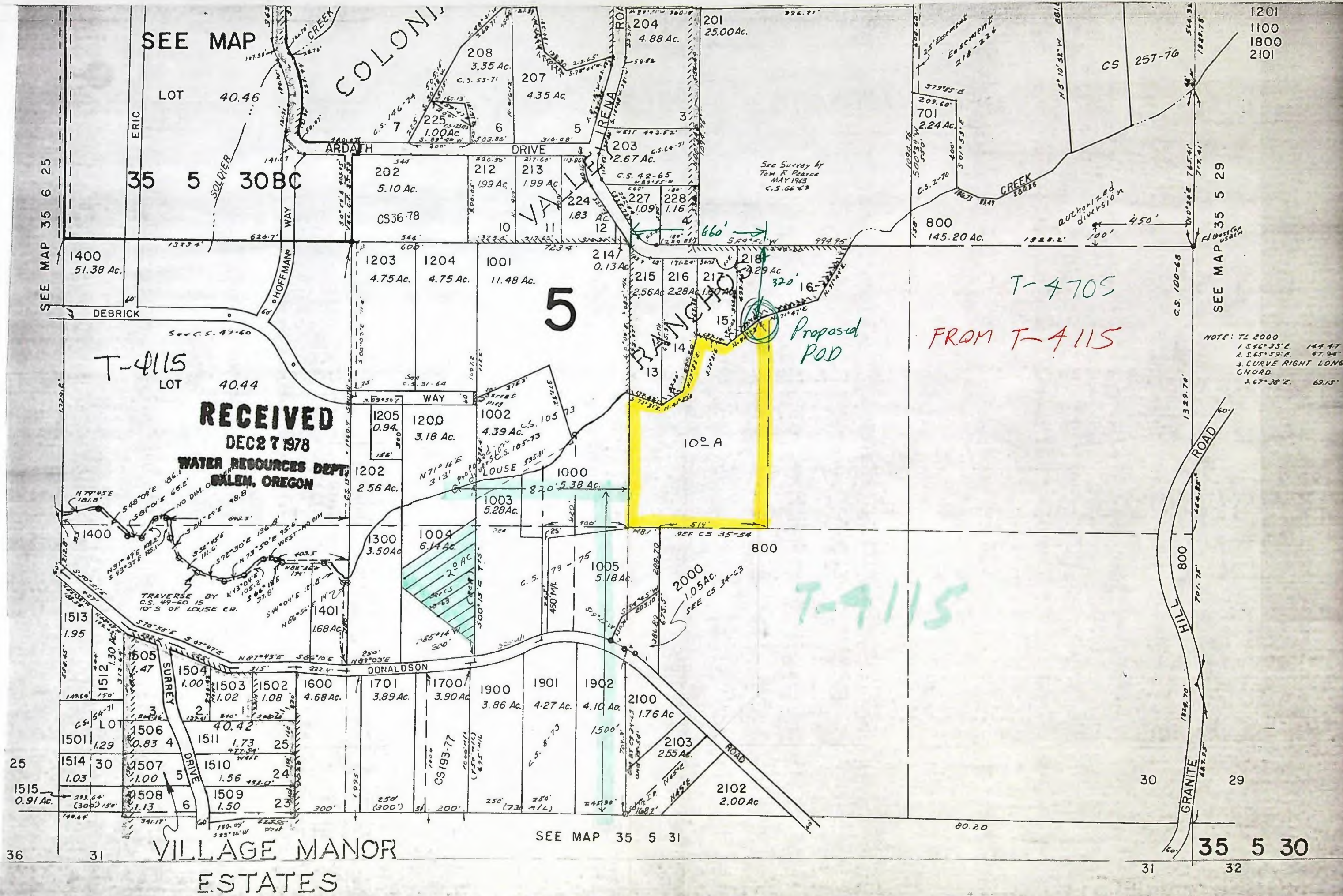
Alys S. Craig

Application for Transfer of Water Right

Location of Louse Creek
now according to
Tax Plat



RECEIVED
SEP 14 1954
STATE ENGINEER
SALEM, OREGON



SEE MAP

COLONY

35 5 30BC

T-4115

RECEIVED
DEC 27 1978

WATER RESOURCES DEPT.
SALEM, OREGON

5

10° A

Proposed
POD

T-4705
FROM T-4115

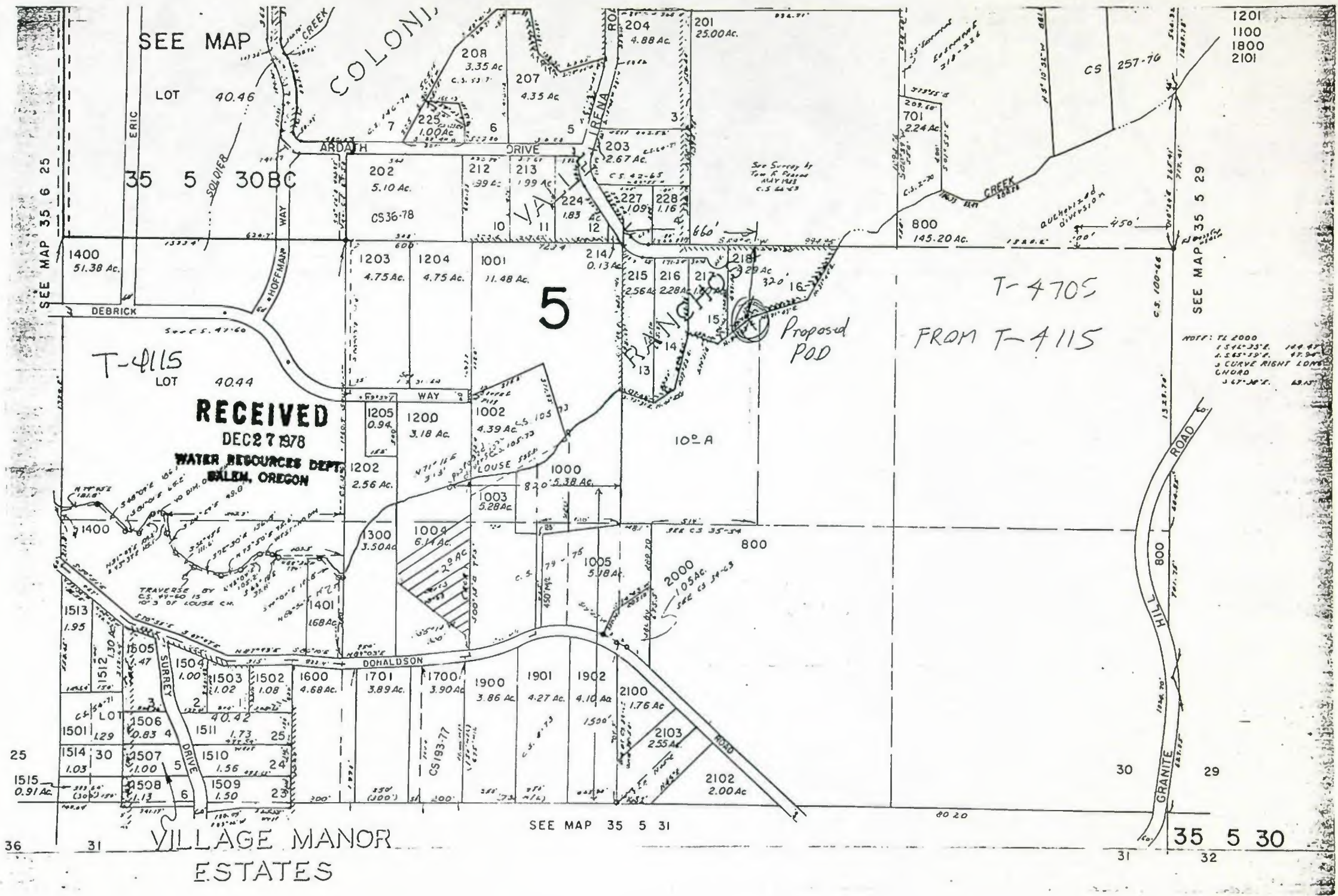
T-4115

VILLAGE MANOR
ESTATES

SEE MAP 35 5 31

35 5 30

NOTE: TL 2000
1. S 46° 35' E 144.47'
2. S 65° 59' E 47.94'
3. CURVE RIGHT LONG
CHORD
S 67° 38' E 69.15'



SEE MAP

COLONY

LOT 40.46

35 5 30BC

1400 51.38 Ac.

T-4115 LOT 40.44

RECEIVED
DEC 27 1978

WATER RESOURCES DEPT.
SALEM, OREGON

5

Proposed
POD

T-4705
FROM T-4115

NOTICE: T-2000
1. 546'-33" x 144'-47"
2. 546'-33" x 144'-47"
3. CURVE RIGHT LONG
CHORD
3. 67'-30" x 144'-47"

VILLAGE MANOR
ESTATES

SEE MAP 35 5 31

35 5 30

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JOHN BEELER
5980 DONALDSON ROAD
GRANTS PASS, OREGON 97526

confirms the right to use the waters of LOUSE CREEK, a tributary of JUMP OFF JOE CREEK, for the purpose of IRRIGATING 1.4 ACRES.

The right has been confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at page 1. The date of priority is 1859 FOR 0.01 CFS AND 1887 FOR 0.01 CFS.

The right is limited to not more than 0.02 CUBIC FOOT PER SECOND IF AVAILABLE AT THE ORIGINAL POINT OF DIVERSION FOR MCDONOUGH DITCH.

The point of diversion is located as follows:

NE 1/4 SW 1/4, SECTION 30, T 35 S, R 5 W, W.M.; 1560 FEET NORTH AND 3450 FEET WEST FROM THE SE CORNER OF SECTION 30.

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

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

SE 1/4 SW 1/4 1.4 ACRES
SECTION 30
TOWNSHIP 35 SOUTH, RANGE 5 WEST, W.M.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered MARCH 12, 1979, AS MODIFIED BY AN ORDER ENTERED JULY 9, 1982, and together with certificates 51460 and 57557, supersedes certificate 37378, State Record of Water Right Certificates.

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

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

WITNESS the signature of the Water Resources Director, affixed this date .

Water Resources Director

Recorded in State Record of Water Right Certificates numbered

T-4115.VRG

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION OF)
WATER RIGHTS IN THE NAMES OF)
W. J. SAVAGE AND G. M. SAVAGE FOR)
USE OF WATERS OF LOUSE CREEK)

PC 81-12

STATEMENT, FINDINGS,
CONCLUSIONS & ORDER

This proceeding was initiated by the Water Resources Director under the provisions of ORS 540.610 to 540.650 for the cancellation of certain water rights, based on information furnished to the Director alleging that the water rights in question had been forfeited by failure to make beneficial use of water under the provisions of the water rights for a period of five and more successive years of nonuse.

The water rights in question were allowed by decree of the court in the Matter of the Determination of the Relative Rights of the Various Claimants to the Use of the Waters of Rogue River and Its Tributaries, in the names of W. J. Savage and G. M. Savage, for appropriation of waters of Louse Creek, through the McDonough Ditch, under priority dates of 1859 for 0.29 cubic foot per second and 1887 for 0.32 cfs for irrigation of a certain 4.0 acres in NE 1/4 SW 1/4, 10.0 acres in SE 1/4 SW 1/4, 3.0 acres in NE 1/4 SE 1/4, 20.0 acres in NW 1/4 SE 1/4 and 5.0 acres in SW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM; and 1859 for 0.20 cfs for the purpose "To carry waste material from saw mill in SE 1/4 SW 1/4" of said Section 30.

The aforesaid water rights were also described by the certificate issued to W.J. Savage and G.M. Savage and recorded at page 16512, Volume 13, State Record of Water Right Certificates. The said certificate was superseded by certificates recorded at page 37378, Volume 29; page 47814, Volume 41; and page 48020, Volume 41 of said record; and the Orders recorded at pages 680 and 681, Volume 31; and pages 560 and 561, Volume 34, of the Special Order Record (Exhibit WRD #1).

Notice dated January 4, 1982 of initiation of the proceeding for cancellation of the said water rights was given to the following parties as owners of record, contract purchasers and/or occupants of the real property to which the water rights are appurtenant:

Lee Roy and Billie Jean Lookabaugh
(Tax Lots 801, 803 and 804)
248 Gunnell Road
Grants Pass, Oregon 97526

Hollis M. and Susan A. Gunter
(Tax Lot 801)
376 Bonnie Lane
Grants Pass, Oregon 97526

John W. and Linda L. Intlekofer
(Tax Lot 1000)
6010 Donaldson Road
Grants Pass, Oregon 97526

Edwin C. and Virginia Edlefsen
(Tax Lot 1003)
6000 Donaldson Road
Grants Pass, Oregon 97526

John H. and Patricia J. Beeler
(Tax Lot 1004)
5980 Donaldson Road
Grants Pass, Oregon 97526

Ronald E. and Mary Jenner
(Tax Lot 1005)
6060 Donaldson Road
Grants Pass, Oregon 97526

Thomas R. and Pamela Sue Blanchard
(Tax Lot 1300)
590 Azalea Drive
Grants Pass, Oregon 97526

Wayne Allen and Adienne Basye
(Tax Lot 2000)
24445 Park Street
Torrance, California 90505

Protests against the proposed cancellation of the water rights in question, as said rights pertain to their properties, were filed by Hollis Gunter, John Beeler, Thomas Blanchard, Edwin C. and Virginia Edlefsen, and Jack Intlekofer within the time period specified by the notice pursuant to ORS 540.631.

Pursuant to the Director's Notice of Hearing dated March 23, 1982, the matter was brought to hearing at Grants Pass, Oregon on April 27, 1982, before James W. Carver, Jr., an employee of the Water Resources Department, authorized to preside in behalf of the Director.

Proponents of cancellation, Robert W. Roark, George W. Newcombe, Rufus M. Hagar and Donald R. Dennis, appeared in person and represented themselves without the services of legal counsel.

Protestants, Hollis Gunter, John Beeler, Thomas Blanchard, Edwin C. Edlefsen and Jack Intlekofer, appeared in person and represented themselves without the services of legal counsel.

The relative locations of the protestants' properties, the channel of Louse Creek, and Donaldson Road are shown on Figure 1, herein. Figure 1 is prepared on a duplicate of the aerial photograph used and received as Exhibit WRD #4, using property line information presented on Exhibit WRD #5.

FINDINGS OF FACT

The map prepared by the State Engineer in the Matter of the Determination of the Relative Rights to the Waters of the Rogue River and Its Tributaries does not define the specific land to which the water right in question is appurtenant. However, the applicant's map received in support of Water Right Transfer Application C-114 filed on September 14, 1954 in the name of Alys S. Craig, then owner of record of certain lands which include all of the lands now owned by the several protestants, does specifically locate the pertinent portions of the water right in question (Exhibit WRD #2).

With reference to the lands now owned by the several protestants, specific testimony of the several witnesses does not go back beyond the fall of 1975. However, testimony established that substantial portions of the subject lands are, or have been in recent years, covered with trees, brush, and herbaceous plants not susceptible to beneficial irrigation, and that certain other portions of the lands were used for pasture, garden and lawn areas.

After a careful consideration and review of the testimony and evidence adduced, including a June 8, 1975 aerial photograph of the lands in question (Exhibit WRD #6) and a June 19, 1980 aerial photograph of the same area (Exhibit WRD #4), the Director makes the following findings regarding the individual properties of the several protestants.

Hollis Gunter

Protestant is continuing irrigation on what were "open areas" of his lands. The said open areas which were covered with a "good thick duff of grass" when he acquired the property in December of 1980, covered a total of 3.5 acres. Since December of 1980, the protestant has constructed a pond on his property, which occupies approximately 0.7 acres of what was open area. Therefore, the total area which continues in irrigation under the provisions of the water right in question is 2.8 acres within the NW 1/4 SE 1/4 of Section 30, as shown by yellow shading on Figure 1. The point of diversion for irrigation of these lands is the subject of Water Right Transfer Application 4705 in the name of Hollis Gunter.

The water right in question, as it is appurtenant to other portions of the Gunter property, has gone without use for a period of more than five successive years of nonuse prior to December of 1980.

John Beeler

Protestant is continuing irrigation of 1.4 acres of his lands, as shown by yellow shading on Figure 1, under the provisions of the water right in question. The point of diversion for the said 1.4 acres is the subject of Water Right Transfer Application 4115.

The water right in question, as it applies to other portions of the Beeler property, has gone without use for a period of five and more successive years of nonuse prior to the beginning of the irrigation season of 1982.

Thomas Blanchard

Protestant is continuing irrigation of 0.3 acre of his lands, as shown by yellow shading on Figure 1, under the provisions of the water right in question. While diversion of water from Louse Creek for the said 0.3 acre has been from another location, the authorized point of diversion remains at the location of the head of the old, abandoned McDonough Ditch.

The water right in question, as it may be appurtenant to other portions of the Blanchard property, has gone without use of a period of five and more successive years of nonuse prior to the beginning of the irrigation season of 1982.

Edwin C. and Virginia Edlefsen

Protestants are continuing irrigation of 0.8 acre of their lands, as shown by yellow shading on Figure 1, under the provisions of the water right in question. While diversion of water from Louse Creek for the said 0.8 acre has been from another location, the authorized point of diversion remains at the location of the head of the old, abandoned McDonough Ditch.

The water right in question, as it is appurtenant to other portions of the Edlefsen property, has gone without use for a period of five and more successive years of nonuse prior to the beginning of the irrigation season of 1982.

Jack Intlekofer

Protestant is continuing irrigation of 1.2 acres of his lands, as shown by yellow shading on Figure 1, under the provisions of the water right in question. While diversion of water from Louse Creek for the said 1.2 acres has been from another location, the authorized point of diversion remains at the location of the head of the old, abandoned McDonough Ditch.

The water right in question, as it is appurtenant to other portions of the Intlekofer property, has gone without use for a period of five and more successive years of nonuse prior to the beginning of the irrigation season of 1982.

The water right in question, with the exception of that portion of the right which is appurtenant to the certain lands of the several protestants as identified above and located as shaded with yellow on Figure 1, has not been used for the beneficial irrigation of the lands to which it is appurtenant for a period of five and more successive years of nonuse.

That portion of the said water right which is appurtenant to the certain lands of the several protestants as identified above and located as shaded with yellow on Figure 1, may have been forfeited by the occurrence of a period of five and more successive years of nonuse during some past period of years. However, the burden of proof is upon the proponents of cancellation, and that burden has not been met in regard to these lands.

In addition to the lands owned by parties receiving notice as set forth above, the water right in question is appurtenant to 3.0 acres in NE 1/4 SE 1/4 and 10.0 acres in E 1/2 NW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM, which land was owned by Lee Roy Lookabaugh and Billie J. Lookabaugh as of August 28, 1981.

On August 28, 1981, Lee Roy Lookabaugh and Billie J. Lookabaugh executed an affidavit abandoning the portion of the water right in question appurtenant to said lands and authorizing the Water Resources Director to cancel said portion of said water right.

The evidence adduced established that the saw mill in SE 1/4 SW 1/4 which was served with water from Louse Creek, through the McDonough Ditch, in the amount of not to exceed 0.20 cfs under a priority date of 1859 for the purpose of "To carry waste material from saw mill ..." has been gone for at least ten years, and that water has not been used under the provisions of the subject water right for a period of five and more successive years of nonuse.

ULTIMATE FINDINGS OF FACT

I

That portion of the water right in question for the appropriation of not to exceed 0.25 cubic foot per second with a priority date of 1859 and 0.27 cfs with a priority date of 1887 from the waters of Louse Creek for irrigation of a certain 2.8 acres in NE 1/4 SW 1/4, 7.5 acres in SE 1/4 SW 1/4, 3.0 acres in NE 1/4 SE 1/4, 17.2 acres in NW 1/4 SE 1/4 and 5.0 acres in SW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM, was not used for beneficial irrigation of said lands for a period of at least five successive years of nonuse prior to the beginning of the irrigation season of 1981.

II

The evidence adduced does not establish the occurrence of any period of five successive years of nonuse of that portion of the water right in question for the appropriation of not to exceed 0.04 cfs with a priority date of 1859 and 0.05 cfs with a priority date of 1887 from the waters of Louse Creek for irrigation of the certain 1.2 acres in NE 1/4 SW 1/4, 2.5 acres in SE 1/4 SW 1/4, and 2.8 acres in NW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM, as identified by yellow shading on Figure 1.

III

No water has been appropriated to beneficial use under the provisions of the water right in question for the appropriation of not to exceed 0.20 cfs from the waters of Louse Creek under a priority date of 1859 for the purpose of "To carry waste material from saw mill in SE 1/4 SW 1/4" of Section 30, Township 35 South, Range 5 West, WM, for a period of five and more successive years of nonuse, and continuing to the present time.

CONCLUSIONS OF LAW

That the question before the Water Resources Director is one of fact concerning forfeiture of the water right, not one concerning abandonment, or voluntary relinquishment, of the water right, is made clear by *Withers v. Reed*, 194 Or 541 (p 558) wherein the court states in reference to ORS 540.610(1):

"Under the statute in question failure of 'the owner of a perfected and developed water right' to use the water appropriated for a period of five successive years works a forfeiture of the right not for the benefit of any individual as in the case of an ordinary statute of limitations -- which this is not -- but for the benefit of the public, to the end that the 'water right shall revert to the public and become again the subject of appropriation in the manner provided by law, ...'."

The court further commented in *Bausch v. Myers*, 273 Or 376:

"Urbanites might not know that the water rights are conclusively presumed abandoned for failure to use for five successive years. This law, however, is common knowledge among all in Oregon who are dependent upon an adequate supply of water for irrigation. We believe it is equally well known that five years of nonuse is a conclusive abandonment whether proceedings before the State Engineer are brought immediately after the five years of nonuse or 10 or 15 years later"

Beneficial use without waste is the framework of Oregon's water law (See ORS 540.610(1)). The elements of an appropriation are as stated in *Hutchinson v. Sticklin*, 146 Or 297:

- (1) Intent manifested to appropriate to some beneficial use existing at the time or contemplated in the future;
- (2) A diversion from the natural channel by means of a ditch, canal, or other structure;
- (3) The application of it within a reasonable time to some useful industry.

Mere application of water to lands without the intent of reaping a benefit from the nourishment of plants with the water would not constitute beneficial use.

No water was appropriated to beneficial use under the provisions of that portion of the water right in question for irrigation purposes, described in Ultimate Findings of Fact I, above, within a period of five and more successive years of nonuse prior to the beginning of the irrigation season of 1981. Therefore, the said portion of the said water right was forfeited and should be canceled pursuant to the provisions of ORS 540.610 to 540.650.

No water was appropriated to beneficial use under the provisions of the water right for carrying away mill wastes, described in Ultimate Finding of Fact III, above, within a period of five and more successive years of nonuse. Therefore, the said water right was forfeited and should be canceled pursuant to the provisions of ORS 540.610 to 540.650.

ORDER

NOW, THEREFORE, it is ORDERED that the portion of the water right in question for the purpose of irrigation, described in Ultimate Finding of Fact I, above, be and the same hereby is canceled.

It is FURTHER ORDERED that the water right in question for the purpose of carrying away saw mill wastes, described in Ultimate Finding of Fact III, above, be and the same hereby is canceled.

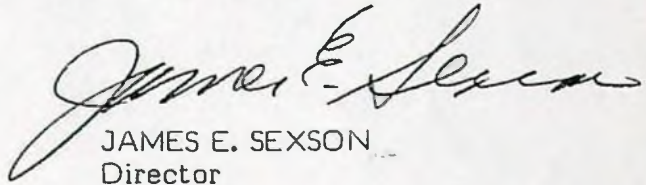
It is FURTHER ORDERED that the certificate recorded at page 48020, Volume 41, State Record of Water Right Certificates, be and the same hereby is canceled.

It is FURTHER ORDERED that the remaining right certificate to be issued pursuant to the Director's order dated May 27, 1981 approving Water Right Transfer Application 4705, be limited to describe the appropriation of not to exceed 0.01 cfs under a priority date of 1859 and 0.02 cfs under a priority date of 1887 from the waters of Louse Creek for irrigation of a certain 0.3 acre in SE 1/4 SW 1/4 on the Blanchard property, 0.3 acre in NE 1/4 SW 1/4 and 0.5 acre in SE 1/4 SW 1/4 on the Edlefsen property, and 0.9 acre in NE 1/4 SW 1/4 and 0.3 acre in SE 1/4 SW 1/4 on the Intlekofer property, all within Section 30, Township 35 South, Range 5 West, WM.

It is FURTHER ORDERED that when a certificate is issued to confirm the change in point of diversion as authorized by the Director's order approving Water Right Transfer Application 4705 in the name of Hollis Gunter, the description of the water right be limited to describe the appropriation of not to exceed 0.02 cfs under a priority date of 1859 and 0.02 cfs under a priority date of 1887 from the waters of Louse Creek for the irrigation of a certain 2.8 acres in NW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM. T-4705

It is FURTHER ORDERED that when a certificate is issued to confirm the change in point of diversion as authorized by the Director's order approving Water Right Transfer Application 4115 in the name of John Beeler, the description of the water right be limited to describe the appropriation of not to exceed 0.01 cfs under a priority date of 1859 and 0.01 cfs under a priority date of 1887 from the waters of Louse Creek for the irrigation of a certain 1.4 acres in SE 1/4 SW 1/4 of Section 30, Township 35 South, Range 5 West, WM. T-4115

Dated at Salem, Oregon this 9th day of July, 1982.


JAMES E. SEXSON
Director

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482.

1537B

POD
POU
USE
Add'l POD

County Josephine

1. Name John Beeler

2. Source of Water Louse Cr. Trib of Juniper

4. Amount of Water 0.029 cfs 0.014 cfs/1887 0.015 cfs/1859

6. Proposed Point of Diversion 1560' N + 3450' W from SE
1520' N + 810' W from S4Cor, S30,
win NE Sec, S30, T35S, R5W, Wm

8. Place of Use:

[illegible]

INFO: SAME OWNER AS APPLIED.

MAILING ADDRESS 5980 DONALDSON RD, G.P. 97526.

JOHN BEELER SHOWED US SYSTEM.

SOURCE: LOUSE CREEK

SYSTEM: PUMP DIRECT FROM CREEK THRU PORTABLE
MAIN V/ SPRINKLERS.

DIVERSION: DIRECT

P/M: BARNES 2" X 2" CENT

" 1/4 HP ELECT MOTOR

EQUIPMENT: 2" P.V.C. 600 ±'

GARDEN HOSES

RB'S 5/32 ZATED @ 7 G.P.M.

MAX. USE: 2

LIFT: SUCTION = 3', DISCHARGE = 6'

USE: PASTURE (SHEEP & GOATS)

TIE: 41033-179-135 R

MONT: C 1/2 COR SEC. 30

Blue Jean WRE 7-28-87

REMARKS: SEE FILE R-58204, 58205; G-9063.

SEE MAP

COLONIAL

LOT 40.46

ERIC

35 5 30BC

ARDATH

DRIVE

RENA ROAD

See Survey by
Tom R. Pearce
MAY 1965
C.S. 66-23

CREEK

authorized diversion

SEE MAP 35 6 25

DEBRICK

T-4115

LOT 40.44

RECEIVED

DEC 27 1978

WATER RESOURCES DEPT.
DALEM, OREGON

5

BRANCH

PUMP FROM
2" PVC MAIN
DIRECT TO SPANLER
2 RB'S
PHSTOPE (Sheep/Gate)

TRAVERSE BY
C.S. 49-60 15
10' S OF LOUSE CR.

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

WAY

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1901

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ORDER

NOW, THEREFORE, it is ORDERED that the portion of the water right in question for the purpose of irrigation, described in Ultimate Finding of Fact I, above, be and the same hereby is canceled.

It is FURTHER ORDERED that the water right in question for the purpose of carrying away saw mill wastes, described in Ultimate Finding of Fact III, above, be and the same hereby is canceled.

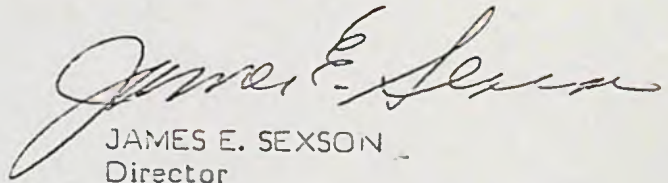
It is FURTHER ORDERED that the certificate recorded at page 48020, Volume 41, State Record of Water Right Certificates, be and the same hereby is canceled.

It is FURTHER ORDERED that the remaining right certificate to be issued pursuant to the Director's order dated May 27, 1981 approving Water Right Transfer Application 4705, be limited to describe the appropriation of not to exceed 0.01 cfs under a priority date of 1859 and 0.02 cfs under a priority date of 1887 from the waters of Louse Creek for irrigation of a certain 0.3 acre in SE 1/4 SW 1/4 on the Blanchard property, 0.3 acre in NE 1/4 SW 1/4 and 0.5 acre in SE 1/4 SW 1/4 on the Edlefsen property, and 0.9 acre in NE 1/4 SW 1/4 and 0.3 acre in SE 1/4 SW 1/4 on the Intlekofer property, all within Section 30, Township 35 South, Range 5 West, WM.

Please change point of diversion S accordingly
Tom
It is FURTHER ORDERED that when a certificate is issued to confirm the change in point of diversion as authorized by the Director's order approving Water Right Transfer Application 4705 in the name of Hollis Gunter, the description of the water right be limited to describe the appropriation of not to exceed 0.02 cfs under a priority date of 1859 and 0.02 cfs under a priority date of 1887 from the waters of Louse Creek for the irrigation of a certain 2.8 acres in NW 1/4 SE 1/4 of Section 30, Township 35 South, Range 5 West, WM.

It is FURTHER ORDERED that when a certificate is issued to confirm the change in point of diversion as authorized by the Director's order approving Water Right Transfer Application 4115 in the name of John Beeler, the description of the water right be limited to describe the appropriation of not to exceed 0.01 cfs under a priority date of 1859 and 0.01 cfs under a priority date of 1887 from the waters of Louse Creek for the irrigation of a certain 1.4 acres in SE 1/4 SW 1/4 of Section 30, Township 35 South, Range 5 West, WM.

Dated at Salem, Oregon this 9th day of July, 1982.


JAMES E. SEXSON
Director

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482.

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION)
OF JOHN BEELER FOR APPROVAL OF A)
CHANGE IN POINT OF DIVERSION OF)
WATER FROM LOUSE CREEK)

ORDER APPROVING
TRANSFER NO. 4115

On December 27, 1978, an application was filed in the office of the Water Resources Director by John Beeler for approval of a change in point of diversion from Louse Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 37378, Volume 29, State Record of Water Right Certificates, in the names of W. J. and G. M. Savage, describes a right which includes the use of not to exceed 0.029 cubic foot per second from Louse Creek, being 0.014 cubic foot per second for irrigation of 0.95 acre with a priority date of 1887 and 0.015 cubic foot per second for irrigation of 1.05 acres with a priority date of 1859, in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 35 South, Range 5 West, W.M.

Water for the said right is diverted, through the McDonough Ditch, from a point located 100 feet North and 450 feet West from the Southeast Corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 35 South, Range 5 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 1520 feet North and 810 feet West from the South Quarter Corner of Section 30, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 35 South, Range 5 West, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon for a period of three weeks in the issues of January 11, 18 and 25, 1979.

Mr. Robert B. Steimer, Watermaster, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in point of diversion may be made without injury to existing rights, the application should be approved.

231, 2680
1980

NOW, THEREFORE, it hereby is ORDERED that the requested change in point of diversion, as described herein, without loss of priority, is 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 0.029 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:

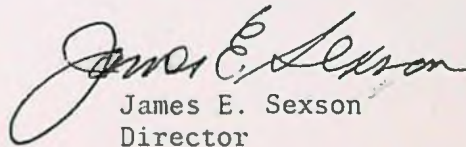
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 of water made on or before October 1, 1980.

It is FURTHER ORDERED that the certificate of water right recorded at page 37378, Volume 29, State Record of Water Right Certificates, is canceled; and in lieu thereof, a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the terms of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 12th day of March, 1979.


James E. Sexson
Director

LOUSE CR

NR T-0982-C1

*** 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. 5000041152 PERMIT NO. 004036 CERTIF. NO.
ORIG. NO. 0000165121 PREV. NO. SUPER. NO.

NAME: JOHN BEELER

ADDRESS: 1599 APPLE LANE

CITY/STATE/ZIP/COUNTY: GRANTS PASS, OR 97526 17

STREAM-ID	RIV.MI.	WM.DIST.	W.R.TYPE	SC	STATUS	V
CANCEL YEAR--->	CONSTR.COMPLT-->	YR.LAST USED----->	---	NEXT ACTION DUE-->	---	
PRIORITY----->	PUT TO USE----->	LAST TRANS.DATE-->	---	LAST TRANS.TYPE-->	---	
APPLICATION--->	SURVEYED----->	EXAM.FEE----->	20.00	RECORDING FEE----->	15.00	
PERMIT ISSUE-->	CONCURRENCE----->	CYCLE STATUS----->	---	REPORTED FLAG----->	---	
CONSTR.STRT.-->	CERTIFIED----->	CORRES.INIT.----->	---	CORRES.DATE----->	---	

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

RIV.MI. RATE STATUS S OR P

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

** POOL 1520' N & 810' W FM S 1/4 COR

** S 30. CHANGES POOL PART OF

** C-37378. ACREAGE & DUTY SET

** BY PL 81-12. RRL-47814.

** SEE 5000041151.

** - - - - -

** - - - - -

PLACE-OF-USE DATA:
TWNSP RNGE SECT QTR/QTR CNTY USE % CNSMTV ACRES STATUS S OR P

3505 050W 30 C D 17 1R 100 1.90 V P

W.R.I.S.

Assembled 4-10-85 by SOM

Entered by

Verified by

CASE CR

U/R T-0982-C1

*** 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. T000041151 PERMIT NO. 004036 CERTIF. NO.
 ORIG. NO. C000165121 PREV. NO. C000373781 SUPER. NO.

NAME: JOHN BEELER

ADDRESS: 1599 APPLE LANE

CITY/STATE/ZIP/COUNTY: GRANTS PASS OR 97526

17

STREAM-ID 15 1680 1410 0060

RIV. MI.

WM. DIST. 14 W.R. TYPE SC STATUS V

CANCEL YEAR----	CONSTR. COMPLT--> 10 01 1980	YR. LAST USED----->	---	NEXT ACTION DUE-->	---
PRIORITY-----> 1231 1859	PUT TO USE-----> 10 01 1980	LAST TRANS. DATE-->	---	LAST TRANS. TYPE-->	---
APPLICATION----> 1227 1978	SURVEYED----->	EXAM. FEE----->	20.00	RECORDING FEE----->	15.00
PERMIT ISSUE--> 03 12 1979	CONCURRENCE----->	CYCLE STATUS----->	---	REPORTED FLAG----->	---
CONSTR. STRT.--> 03 12 1979	CERTIFIED----->	CORRES. INIT.----->	---	CORRES. DATE----->	---

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

RIV. MI. RATE

STATUS S OR P

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

** POD: 1520' N & 810' W FM S1/4
 ** COR S 30. CHANGES POD PART
 ** OF C-37378. ACREAGE & DUTY

** SET BY PC 81-12. RRC-47814.

** SEE T000041152.

** - - - - -

** - - - - -

PLACE-OF-USE DATA:

TWNSP RNGE SECT QTR/QTR CNTY USE % CHSMTV ACRES STATUS S OR P

3505 OSOW 30 C D 17 1R 100 1.40 V P

47814

0.01 cfs 1859

0.01 cfs 1887

PC PC 81-12

W.R.I.S.

Assembled 4-10-85 by SDA

Entered by

Verified by

RECEIVED

APR 8 1982

WATER RESOURCES DEPT
SALEM, OREGON

NOTICE OF COMPLETION OF CHANGE IN

PURSUANT TO TRNASFER APPLICATION NO. T-4115

I, JOHN BEELER, 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 See Below, 19 .

9-6-82
Date

[Signature]
Signature

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

BECAUSE OF PENDING LITIGATION WHICH
WILL BEGIN WITH A HEARING CHALLENGING
MY WATER RIGHT I HAVE DELAYED
INSTALLATION OF PUMP AND REQUEST AN
EXTENSION, I HAVE PUMPED FROM THE
CREEK THE PAST SUMMER. HOWEVER I
DO NOT HAVE A PERMANENT SYSTEM
INSTALLING

RECEIVED

DEC 27 1978

WATER RESOURCES DEPT.
SALEM, OREGON**Application for Transfer of Water Right****T-4115**

To the WATER RESOURCES DIRECTOR OF OREGON:

I, John and Patricia Beeler

(Name of applicant)

of 1599 Apple Lane

(Mailing address)

Grants Pass

(City)

State of Oregon97526

(Zip Code)

476-4657 (home)479-8331 (business)

do hereby make application for change

in point of diversion

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

979-4109 Ballinger Realty, G.P.1. Is the water right recorded in your name? no - Savage

(If not, give name)

2. Was your water right determined by Decree of Court? yes If so, give title of proceedings

(Yes or No)

Rogue River Decreenumber of certificate 165123. Was your water right acquired by Water Right Permit? If so, give number

(Yes or No)

of permit Number of certificate

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 Louse Creek5. What is the date of priority of your water right? 1859 and 18876. The authorized point of diversion is located 100 ft. N and 450 ft. W from the SE

(N. or S.)

(E. or W.)

corner of NE 1/4 NE 1/4 being within the NE 1/4 NE 1/4 of Section 30 Tp. 35 S R. 5 W W. M.,

(No. N. or S.)

(No. E. or W.)

in the county of Josephine The name of the ditch used is McDonough Ditch

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

7. The proposed point of diversion is located 1520 ft. N and 810 ft. W from the S 1/4

(N. or S.)

(E. or W.)

corner of Sec. 30 being within the NE 1/4 SW 1/4 of Section 30 Tp. 35 S R. 5 W W. M.,

(No. N. or S.)

(No. E. or W.)

in the county of Josephine The name of the ditch to be used is

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 $\frac{1}{4}$ - $\frac{1}{4}$ of Section	Number Acres To Be Irrigated
35 S	5 W	30	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2.0 *
* See Transfer C-114, letter from Max Rogers to Tom Pearce dated 9-15-54, Proportionally, this would be 95 ac with 1859 priority and 1.05 ac with 1887 priority				

(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

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 $\frac{1}{4}$ - $\frac{1}{4}$ of Section	Number Acres To Be Irrigated

(If more space required, attach separate sheet)

14. Reasons for the proposed changes are to locate diversion on own land

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

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

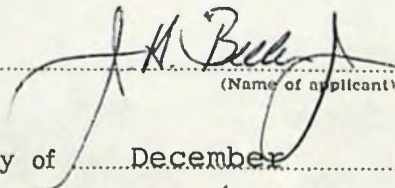
Remarks

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

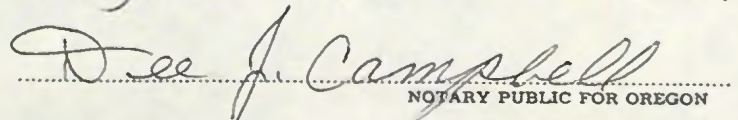
I, John ~~and Patricia~~ Beeler, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 22nd day of December, 1978


(Name of applicant)

Subscribed and sworn to before me this 22nd day of December, 1978

[Notarial Seal]


NOTARY PUBLIC FOR OREGON

My commission expires March 20, 1981



35 5 30
& INDEX

$$1'' = 400'$$

SEE MAP 35 5 19CD

SEE MAP 35 5 19DC

SEE MAP 35 5 19

29

CANCELLED T.L.

600
900
1500
400
401
402
403
404
405
210
211
500
501
502
601
1201
1100
1800
2101

NOTE: TL 2000

1. S. 46° 35' E.	144.47'
2. S. 65° 59' E.	47.94'
3. CURVE RIGHT LONG	
CHORD	
S. 67° 38' E.	69.15'

RECEIVED
DEC 27 1978

WATER RESOURCES DEPT
SALEM, OREGON

VILLAGE MANOR
ESTATES

SEE MAP 35 5 31

35 5 30

3

32



STATE OF OREGON

INTEROFFICE MEMO

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: January 11, 1979.FROM: ** Robert B. Steimer, WatermasterSUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4115IN THE NAME OF John Beeler

In my opinion the proposed change in point of diversion from Louse Creek
MAY BE MADE WITHOUT INJURY ~~REDACTED~~ to an existing water right.

Headgate notices ~~REDACTED~~ 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? yes
(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 _____

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JAN 18 1979

**WATER RESOURCES DEPT.
SALEM, OREGON**

**

Watermaster's signature or initials

RECEIVED

JAN 18 1979

WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED

JAN 9 1979

WM. DIST. 14
GRANTS PASS, ORE

LEGAL NOTICE

NOTICE OF WATER RIGHT TRANSFER APPLICATION NO. 4115

Notice is given hereby that an application has been filed in the office of the Water Resources Director by John Beeler for approval of a change in point of diversion from Louise Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 37378, Volume 29, State Record of Water Right Certificates, in the name of W.J. & G.M. Savage, describes a right which includes the use of not to exceed 0.029 cubic foot per second from Louise Cr. for irrigation of 0.95 ac. with a priority date of 1859, and 2.05 ac. with a priority date of 1887, in the SE 1/4 SW 1/4 of Sec 30, T 35S, R 5W, WM.

Water for the said right is diverted, through the McDonough Ditch, from a point located 100 ft N & 450 ft W from the SE Corner of the NE 1/4 NE 1/4 of Sec 30, being within the NE 1/4 NE 1/4 of Sec 30, T 35S, R 5W, WM.

The applicant herein, owner of the lands above described, proposes to change the point of diversion herefrom, without loss of priority, to a point located 1520 ft N & 810 ft W from the S 1/4 Corner of Sec 30, being within the NE 1/4 SW 1/4 of Sec 30, T 35S, R 5W, WM.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Grants Pass, Oregon, on March 7, 1979, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing: One copy to be served on John Beeler, 1599 Apple Lane, Grants Pass, OR 97526; and one copy, filed with the Water Resources Department, Salem, OR 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTIONS ARE FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Dept. upon request.

Dated at Salem, Oregon this 8th day of January, 1979.

James E. Sexson
Director

No. 102—Thurs.—Jan. 11, 18 & 25, 1979

AFFIDAVIT OF PUBLICATION

State of Oregon }
County of Josephine } ss.

I, Charles J. Moore, being first duly sworn, depose and say that I am the owner, editor, publisher, manager, advertising manager, principal clerk of the Grants Pass Daily Courier, printer or his foreman of the Grants Pass Daily Courier, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Grants Pass, in the aforesaid county and state; that the

NOTICE OF WATER RIGHT
TRANSFER APPLICATION
NO. 4110

, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 3 successive and consecutive weeks in the following issues Thurs. - January 11, 18 & 25, 1979

Subscribed and sworn to before me this 25th day of January, 19 79

S. Kathleen Johnson
Notary Public of Oregon.

My commission expires 4th day of February, 19 80.

No.

In the Court of the

STATE OF OREGON
for the
COUNTY OF JOSEPHINE

Affidavit of Publication

Filed, 19

.....
Clerk.

By
Deputy.

From the Office of

.....
Attorney for.....

RECEIVED

JAN 26 1979

**WATER RESOURCES DEPT.
SALEM, OREGON**

RECEIVED

FEB 6 1979

**WATER RESOURCES DEPT.
SALEM, OREGON**

Re: Transfer 4115 (Certificate 37378)

I, John Beeler, would like to clarify my application for a change in point of diversion as follows:

For the 2 acres of this water right which is appurtenant to my property, I have a right to .029 cfs of water from Louse creek under two priorities -- 1859 and 1887. I would like this .029 cfs to be divided by priority date, being .015 cfs with a priority of 1859 and .014 cfs with a priority of 1887.



John Beeler

2/1/79
date

September 15, 1954

Mr. Tom R. Pearce
Watermaster, District No. 16
County Court House
Grants Pass, Oregon

Re: Transfer No. C-111

Dear Mr. Pearce:

I have your letter of September 13th submitting application on behalf of Alys S. Craig for the approval of a change in point of diversion of water from Louse Creek, together with map and check in the amount of \$40 for which our official receipt No. 2210 is enclosed.

From an examination of the Rogue River decree it appears that W. J. Savage and G. M. Savage were adjudicated a water right as follows:

1859 for 20 acres and 1887 for 22 acres, or a total of 42 acres

<u>No. Acres</u> <u>Water Right</u>	<u>Sub-division</u>	<u>No. Acres involved</u> <u>in change in diversion</u>
4	NE $\frac{1}{4}$ SW $\frac{1}{4}$	4
10	SE $\frac{1}{4}$ SW $\frac{1}{4}$	10
3	NE $\frac{1}{4}$ SE $\frac{1}{4}$	
20	NW $\frac{1}{4}$ SE $\frac{1}{4}$	10
<u>5</u>	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2</u>
42		26

In examining the application it is noted that the applicant claims a date of priority of 1887 for 26 acres or 4 acres in excess of the total acreage having an 1887 priority. If Mr. Craig owns the whole 42 acres adjudicated a water right in the name of W. J. and G. M. Savage, then, of course, he can fix that part of the acreage having an 1859 priority and that part of the acreage having an 1887 priority. On the other hand the facts may show that some other party owns part of the lands and unless there is some agreement with respect to which lands have the 1859 and which lands have the 1887 priority, it would appear to me that the lands would have a proportionate share of each of said priorities involved, computed as follows:

Mr. Tom R. Pearce

-2-

September 15, 1954

20/42 of 4 equals 1.905 acres of 1859 priority

22/42 of 4 equals 2.095 acres of 1887 priority

20/42 of 10 equals 4.762 acres of 1859 priority (Same for
(both 10 acre

22/42 of 10 equals 5.238 acres of 1887 priority (tracts

20/42 of 2 equals .9524 acres of 1859 priority

22/42 of 2 equals 1.0476 acres of 1887 priority

I believe in a proceedings of this kind, Tom, that the applicant should be required to indicate the acreages in each sub-division and the priorities attached thereto in order that it will become a matter of record and for future distribution problems arising if and when the lands may be further sub-divided.

For your convenience in checking the matter, I am returning the application and map herewith.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Max F. Rogers, Assistant

MFR:VC
Encs.

all 1887
according to
Transfer No C-201

① 38022 35-5-30 1004

6-5-89

KNOW ALL MEN BY THESE PRESENTS, That DANIEL W. ROGERS & LOIS M. ROGERS

....., hereinafter called the grantor,
for the consideration hereinafter stated to the grantor paid by
JOHN H. BEELER, JR. & PATRICIA J. BEELER
....., husband and wife,
hereinafter called the grantees, does hereby grant, bargain, sell and convey unto the grantees, as tenants by
the entirety, the heirs of the survivor and their assigns, that certain real property, with the tenements, heredit-
aments and appurtenances thereunto belonging or appertaining, situated in the County of Josephine
State of Oregon, described as follows, to-wit:

Commencing at the Northwest corner of the Northeast Quarter of the Southwest
Quarter of Section 30, Township 35 South, Range 5 West of the Willamette Meridian,
Josephine County, Oregon; thence South along the West line of the East Half of the
Southwest Quarter of said Section 30, a distance of 1960.9 feet to an iron pipe,
at the Northerly line of the Donaldson Road; thence North 89° 03' East along said
line, 250.00 feet to the true point of beginning of this description; thence
North 694.2 feet to the center line of Louse Creek; thence North 52° 55' West along
said center line, 62.2 feet; thence upstream, along the center line of Louse Creek,
the calculated course being North 71° 16' East 313.0 feet to a point that is
600 feet East of the West line of the Northeast Quarter of the Southwest Quarter of
said Section; thence leaving the creek and running South 0° 15' East 20 feet to a
rock mound and continuing South 0° 15' East 788.0 feet and parallel with the West
line of the Northeast Quarter of the Southwest Quarter of said Section to the Northerly
line of the Donaldson Road; thence along said road line, South 85° 14' West 300.0
feet; thence South 89° 03' West, along said road line 50.0 feet to the true point
of beginning.

To Have and to Hold the above described and granted premises unto the said grantees, as tenants by
the entirety, their heirs and assigns forever.

And grantor hereby covenants to and with grantees and the heirs of the survivor and their assigns, that
grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances
except 1976-77 real property taxes are now a lien but not yet payable; easements &
reservations of record, and no responsibility is assumed for change in the Northerly
boundary of herein described property which may occur due to changes in course of Louse
Creek and that grantor will warrant and forever defend the above granted premises and every part and parcel
thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the
above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 22,000.00

In construing this deed and where the context so requires, the singular includes the plural, the masculine
includes the feminine and the neuter and, generally, all grammatical changes shall be made, assumed and
implied to make the provisions hereof apply equally to corporations and to individuals.

Witness our hand and seal this 1st day of September, 1976

(SEAL)

DANIEL W. ROGERS

(SEAL)

(SEAL)

LOIS M. ROGERS

(SEAL)

RECEIVED

STATE OF OREGON

DEC 27 1978

County of JOSEPHINE

WATER RESOURCES DEPT.

SALEM, OREGON

BEFORE ME PERSONALLY appeared the above named

DANIEL W. ROGERS & LOIS M. ROGERS, husband and wife

and acknowledged the foregoing instrument to be their voluntary act and deed.

ESCROWS