

4345

Name Wampler & Werth Farms
 By Cl. Central Oregon Irrigation Dist.
 Address P.O. Box 548
Redmond, OR 97756

DESCRIPTION OF WATER RIGHT

Change in POU
 Date filed Dec. 13, 1979
 Date of hearing _____
 Place of hearing _____
 Date of order 1-28-80 Vol. 32, page 690
 Date for application of water 10-1-81
 Proof mailed _____
 Proof received _____
 Certificate issued _____ Vol. _____, page _____

Name of stream Deschutes River
 Trib. of _____ County of Deschutes
 Use irrigation
 Quantity of water _____ No. of acres 126²
 Name of ditch Central Oregon Canal
 Date of priority Oct 31, 1900 & Dec 2, 1907
 In name of E.B. Williams
Deschutes R., Adjudication, Vol. 16, page 36^{SRB} 150^{SRB}
 App. No. _____ Per. No. _____ Cert. No. 29052^{SRB}
 Certificate cancelled _____
 Notation made on record by _____

FEEES PAID

Date	Amount	Receipt No.
<u>12-13-79</u>	<u>54⁰⁰</u>	<u>15351</u>
TOTAL		
	Cert. Fee	

FEEES REFUNDED

Date	Amount	Check No.

to see 12/10

REMARKS

see also 4238, 4239, & 4285
WDLF 1979 All & 1980 BS
Surveyed 10/3/84

- finis - 5-30-89

note to see when order approving transfer is issued so permit can be issued under appl 6-9-89

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	
	Entered	Checked
Name	<u>OK</u>	
Stream	<u>OK</u>	
Pt. of Div.	<u>OK</u>	
Calendar	<u>OK</u>	
CHECKED TO RECORDS:		
Twp. & Rge.	<u>SRB</u>	
Decree-vault	<u>SRB</u>	
Decree-safe	<u>SRB</u>	
Cert. of W/R	<u>SRB</u>	
Per. Folder	<u>SRB</u>	
Chaindex		
Cre. Ref.		
Per. Main		
Abstracts		

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CROOK COUNTY

IN THE MATTER OF THE APPLICATION OF)
WAMPLER & WERTH FARMS (CENTRAL OREGON)
IRRIGATION DISTRICT) FOR APPROVAL OF)
A CHANGE IN PLACE OF USE OF WATER)

ORDER APPROVING
TRANSFER NO. 4345

On December 13, 1979, an application was filed in the office of the Water Resources Director by Wampler and Werth Farms for approval of a change in place of use of water from Deschutes River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Deschutes County, Oregon, entered September 30, 1958, in the matter of the Determination of the Relative Rights to the use of the waters of Deschutes River and Its Tributaries, a water right was allowed in the name of Central Oregon Irrigation District for the use of the waters of Deschutes River for irrigation of, among other lands, a certain 13.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11; 25.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12; 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 25.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 25.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 18.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 10.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, Township 15 South, Range 14 East, W.M., being tabulated in the names of E. B. Williams at Volume 16, page 36 and Central Oregon Irrigation District at Volume 16, page 150, with dates of priority of October 31, 1900 and December 2, 1907, as evidenced by certificate of water right recorded at page 29052, Volume 21, State Record of Water Right Certificates. These lands also have a supplemental right under permit No. 23256 to the use of water stored in Crane Prairie Reservoir with a date of priority of February 28, 1913. These lands are irrigated by means of the Central Oregon Canal.

The applicants herein, contract purchasers of the lands above described, propose to transfer the water right therefrom, without loss of priority, to a certain 31.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 31.5 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 31.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 31.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 15 South, Range 14 East, W.M.

The lands involved herein are within the boundaries of the Central Oregon Irrigation District and the Board of Directors of said District approved the proposed change in place of use of water at a regular meeting held January 16, 1979.

Mr. Robert F. Main, Jr., Watermaster, has filed a statement to the effect

that the proposed change in place of use may be made without injury to existing rights.

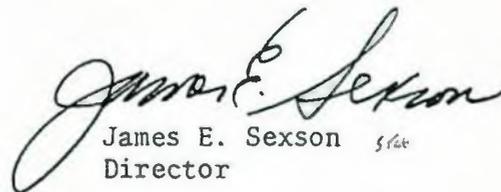
No objections having been filed and it appearing that the proposed change in place of use may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in place of use, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1981.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the Water Resources Director of complete application of water to beneficial use on the lands to which the water is transferred hereby, a certificate of water right shall be issued to Central Oregon Irrigation District confirming this and prior changes within the District.

Dated at Salem, Oregon this 28th day of January, 1980.


James E. Sexson *s/s*
Director

STATE OF OREGON

COUNTY OF CROOK

PROOF OF APPROPRIATION

Name: WAMPLER & WERTH FARMS

Address: ROUTE 1, BOX 144, POWELL BUTTE, OR 97753

c/o Bob Anderson, Asst. Manager, Central Oregon Irrigation District, PO Box 548, Redmond, Oregon 97756

Source of supply: DESCHUTES RIVER AND CRANE PRAIRIE RESERVOIR

Transfer: 4345

Tributary of: COLUMBIA RIVER

Priority date: OCTOBER 31, 1900, DECEMBER 2, 1907, AND FEBRUARY 28, 1913

Use: IRRIGATION OF 126.0 ACRES

Location of Point of Diversion: CENTRAL OREGON CANAL

The description of land given below and as shown on the attached map corresponds to that found to be irrigated:

31.6 ACRES NE1/4 SW1/4

32.4 ACRES NW1/4 SW1/4

31.8 ACRES SW1/4 SW1/4

30.2 ACRES SE1/4 SW1/4

126.0 SECTION 35

TOWNSHIP 15 SOUTH, RANGE 14 EAST, WM

I have read the above and foregoing proof of appropriation of water defining the extent of use of water under the change in place of use approved by the order of the Water Resources Director entered January 28, 1980; I know the contents thereof, and that the facts therein stated are true.

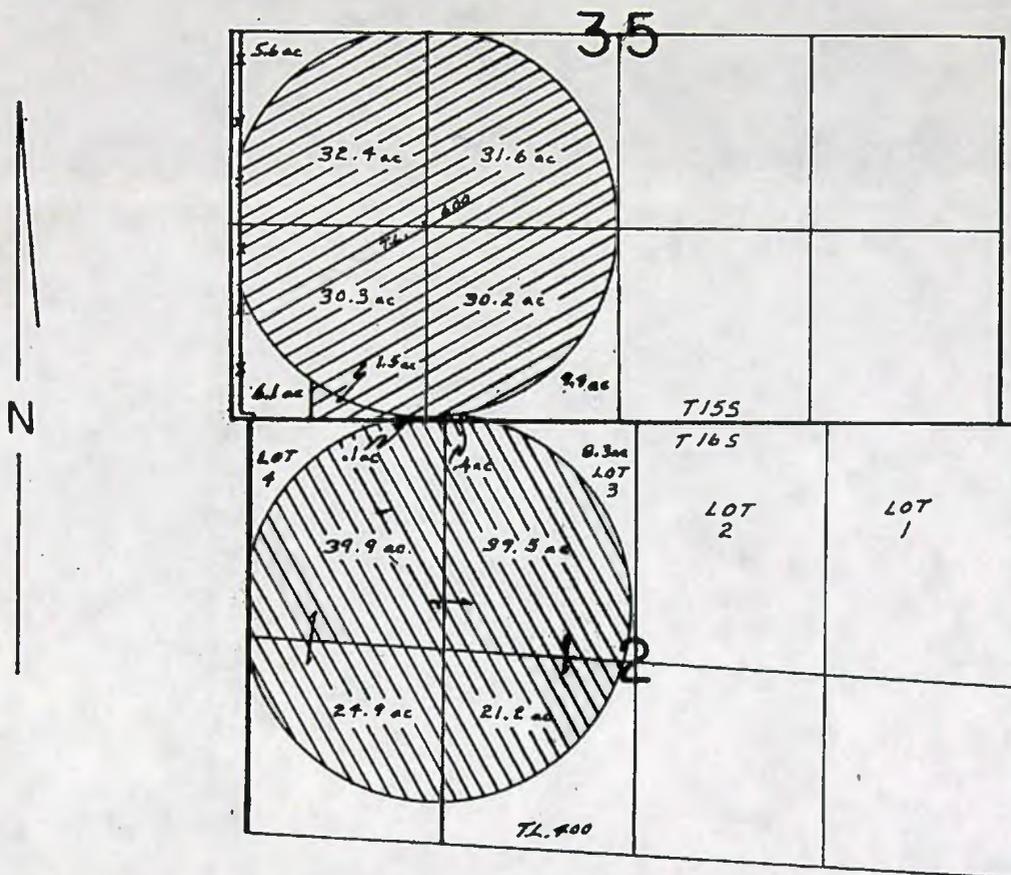
IN WITNESS WHEREOF, We have hereunto set our hands this 25 day of May 1989.

Wampler - Werth Farms

Bernard Werth
Legal owner of the above described lands

James E. Wampler

T.15 & 16S., R.14E., W.M.



SCALE: 1" = 1320'

FINAL PROOF SURVEY

UNDER

TRANSFER 4345 
 " 4239  PORTION ONLY

IN NAME OF

WAMPLER & WERTH FARMS

Surveyed OCT. 3 19.84, by L. OLSON

Srpf: Ken Werth

Crop: Turnips, spuds

Pump: 2x125 & 1x40 hp turbines

Hdp: $\frac{1}{4}$ mi center pivot

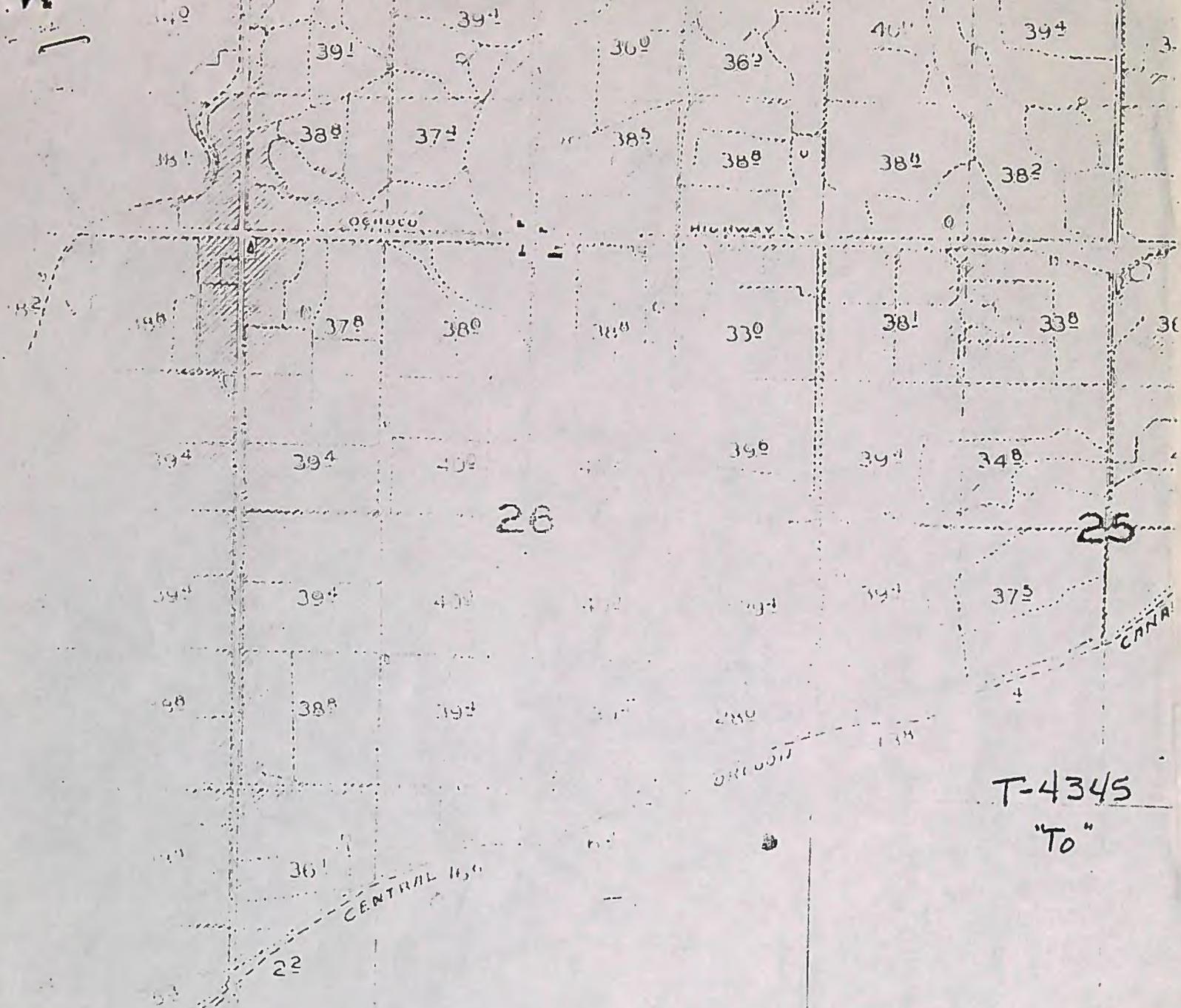
Remarks: water NW, SW & SE corners w/ hand lines

Found pipe in rd at W $\frac{1}{4}$ corner. The line
between this section & Sec 2 to south is
skewed. (locate on photo)

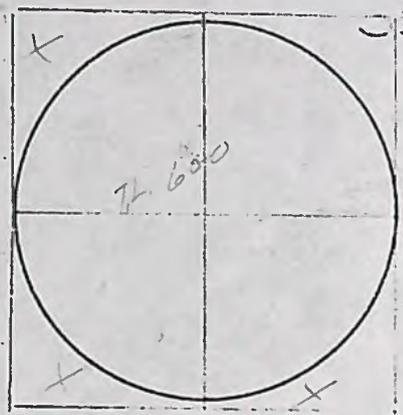
TG: PTS 11-1984-G

10-3-84

Geoff Ober
WRE



T-4345
"To"



RECEIVED
DEC 13 1979
WATER RESOURCES DEPT.
SALEM, OREGON



F-4238

F-4239

F-4345

F-4485

F-5238
OUT

R63593

F-4345

F-4239
IN

F-4238
IN

F-4239
IN

F-4345
IN

1870 000 FEET
Map edited and

T. 15 S.
4890
930 000
FEET
T. 16 S.

12'30"

4896



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-8453

March 20, 1986

Kenneth Werth
Wampler & Werth Farms
Route 1, Box 123
Powell Butte, OR 97753

Dear Mr. Werth:

REFERENCE: File 11729

As I promised you at our meeting with Central Oregon Irrigation District on January 30th, I have researched our records on the Central Oregon Irrigation District waste water permit No. 8140. This permit, which has a priority date of August 29, 1927, was issued with a provision that...."The right herein granted is limited to the appropriation of waste water from the Central Oregon Irrigation District, tributary of Crooked River for irrigation purposes, and is also limited to the water available at the proposed point of diversion and does not carry with it the right to divert water from the stream from which the waste is diverted nor the right to require the wasteful use of water by others."

It appears that Permit 8140 was approved long before the District was able to deliver Deschutes River water to this area.

Technically, the waste water right was probably abandoned as soon as the District began delivering a full supply of Deschutes River water to the area and certainly when the September 30, 1958, Decree confirmed these lands in the name of Central Oregon Irrigation District for primary irrigation.

This matter should have been cleared up before the certificates were issued on the Deschutes River Decree and before your transfers were approved. Even though the record still shows this right of record, I don't believe the right is valid and cancellation proceedings should be started. I am enclosing a copy of a letter dated March 9, 1948, from Charles E. Stricklin, State Engineer, to Blaine Hallock, an attorney in Baker, Oregon, citing several Oregon Supreme Court cases on this same subject, just to demonstrate to you that this is not a new decision on policy.

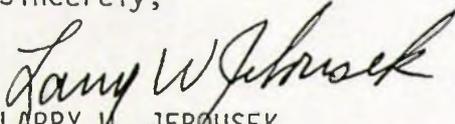
If there is any question that you are pumping more water out of the repump reservoir than is allowed for those Central Oregon Irrigation District acres remaining on the original land, a totalizing flow meter may be required on the pump. If the wells are to be pumped into the reservoir and repumped to all the lands, then the pipe line from the wells to the reservoir must also be metered.

Proof can be made under the terms of the transfers only if the land from which the right was removed does not receive any Central Oregon Irrigation District water. If there is a question of this being accomplished, the transfers can not be perfected and the center pivots on the new land must not operate.

Kenneth Werth
Page 2
March 13, 1986

I would be glad to meet with you to discuss this further, after you have had an opportunity to consider the complexities of this matter.

Sincerely,



LARRY W. JEBOUSEK
Administrator
Water Rights Division

LWJ:lgc

Enclosure

cc: Robert Main, Jr., Watermaster
Ron Nelson, Manager, Central Oregon Irrigation District
Bruce Estes
C. O. Bud Bartels

March 9, 1943

Mr. Blaine Hallock
Hallock, Donald, Bantz & Silven.
Attorneys at Law
Suite 201 Sommer Building
Baker, Oregon

RE: Application of Frank Baird for change in
place of use of Powder River waters.

Dear Mr. Hallock:

This will acknowledge receipt of your letter of the 2nd inst., relative to the application filed by Frank Baird for a change in place of use of the waters of Powder River.

First, I wish to express to you my appreciation for the suggestion set forth in your letter for a solution of the question.

In this state there are over 1,000,000 acres of lands irrigated, the rights to the use of water having been adjudicated or initiated under the 1909 Water Code. In many instances there are overlapping rights, that is, the records show that there are rights from several sources for a definite acreage in a forty acre tract which aggregate an acreage in excess of the total area in the forty acre tract. Also, there exists in many instances, rights from the same source with different dates of priorities, in excess of the total area in the forty acre tracts. This is not a serious error in our records of water rights if we do not depart from the principals of the rights to the use of water in this state set forth in decisions of our supreme court, some of which are summarized as follows:

In the case of Williams v. Altnow, 51 Ore. 275, it was stated:

"but the first cases where water rights were litigated in Oregon the rule established is that an appropriator has a right to apply only so much water as is necessary for his use and actually beneficial."

In Simmons v. Winters, 21 Ore. 35, our supreme court held:

"The needs or the purpose for which the appropriation is made is the limit to the amount of water which may be taken. He can only appropriate so much as he needs for a given purpose."

In Williams v. Altnow, 51 Ore. 275, our court held:

"By such appropriation he acquired a prior right to water sufficient for that purpose. He did not, however, acquire title to the water, but only the right to use it for the purposes for which it was appropriated."

In the case of Hough v. Porter, 51 Ore. 318, it was held:

"The result is that the law has become well settled that beneficial use and needs of an appropriator is the measure and limit of such appropriation."

In the case of Ison v. Sturgell, 57 Ore. 109, it was held:

"According to the modern accepted doctrine, it is the use of the water, and not the water itself, in which one acquires property in general."

In the case of In Re Waters of Deschutes River, 134 Ore. 623, our supreme court held:

"The burden upon the use should not be enlarged by the change."

Our supreme court in the case of In Re Waters of Deschutes River, 134 Ore. 623, held:

"It is the duty of the court in adjudicating water rights to suppress all wasting of water and the court may go further and declare what shall constitute the economical use of water and fix its proper duty by a decree awarding the use of a certain amount of water for that purpose."

In the case of Broughton v. Stricklin, 146 Ore. 259, our court held:

"We do not question the general rule that where a party has a prior right to a certain quantity of water he is entitled to it, but only to the extent needed for the use to which it is appropriated."

Our supreme court in the case of Tudor v. Jaca et. al., stated:

"The land to which the water was appurtenant continued to be irrigated, under a claim date of priority

as of 1885, the appellant now asserts the right to spread the 100 miners inches of water not only over the lands to which it was originally appurtenant, but over additional lands, claiming an 1885 priority for all lands so irrigated. The law will not permit this. If, as the appellant now contends, 100 miners inches is a sufficient quantity of water to irrigate 300 acres of land, then the surplus over the amount reasonably necessary to irrigate the land for which it was originally appropriated (119.9 acres) was not within the original appropriation." "In considering the effect of the certificate as evidence, therefore, the conditions and limitations contained in the decree must be regarded as embodied therein * * * *.

Considering Mr. Frank Bairds proposed application with the decision of our supreme court as summarized above. In paragraph 4 of the proposed application it is stated, that in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, there is an adjudicated right of 40 acres with a date of priority of 1867, and an adjudicated right for 10 acres with a priority of 1869, and in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said section 9, there is an adjudicated right for the irrigation of 40 acres with a date of priority of 1887, also an adjudicated irrigation right of 30 acres with a date of priority of 1869. It is further alleged in said paragraph 4, that the quantity of water with a date of priority of 1887 is ample for the irrigation of the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of section 9.

The applicant has said that I have more water than is needed to irrigate the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of section 9, therefore, I desire to transfer the water which is not needed, whereas our supreme court has held that beneficial use and needs of an appropriator is the measure and limit of the right of an appropriator. Also, Section 116-437, O.C.L.A., states: "beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state."

The law under which the application was filed by the Baker City Mutual Irrigation Co., and Mr. Luper's, then state engineer, order approving the same was quite different from the present law. The law then (in 1925) related only to the change in irrigation rights, and a change in place of use could only be made were it to become impractical to beneficially or economically use the water for irrigation of the lands to which the water right was appurtenant. The law then made no reference to certificates of water rights. It is my opinion that the water right appurtenant to the E $\frac{1}{2}$ of the SE $\frac{1}{4}$, section 9, Township 9 South, Range 40 East, W.H., has only a vested right for the irrigation of 30 acres and the total quantity of water appurtenant to this tract cannot exceed that fixed in the Powder River decree. Therefore, as stated in my previous letter to you, this office cannot approve any application which is based upon there being appurtenant to the lands water

Mr. Blaine Hallock

- 4 -

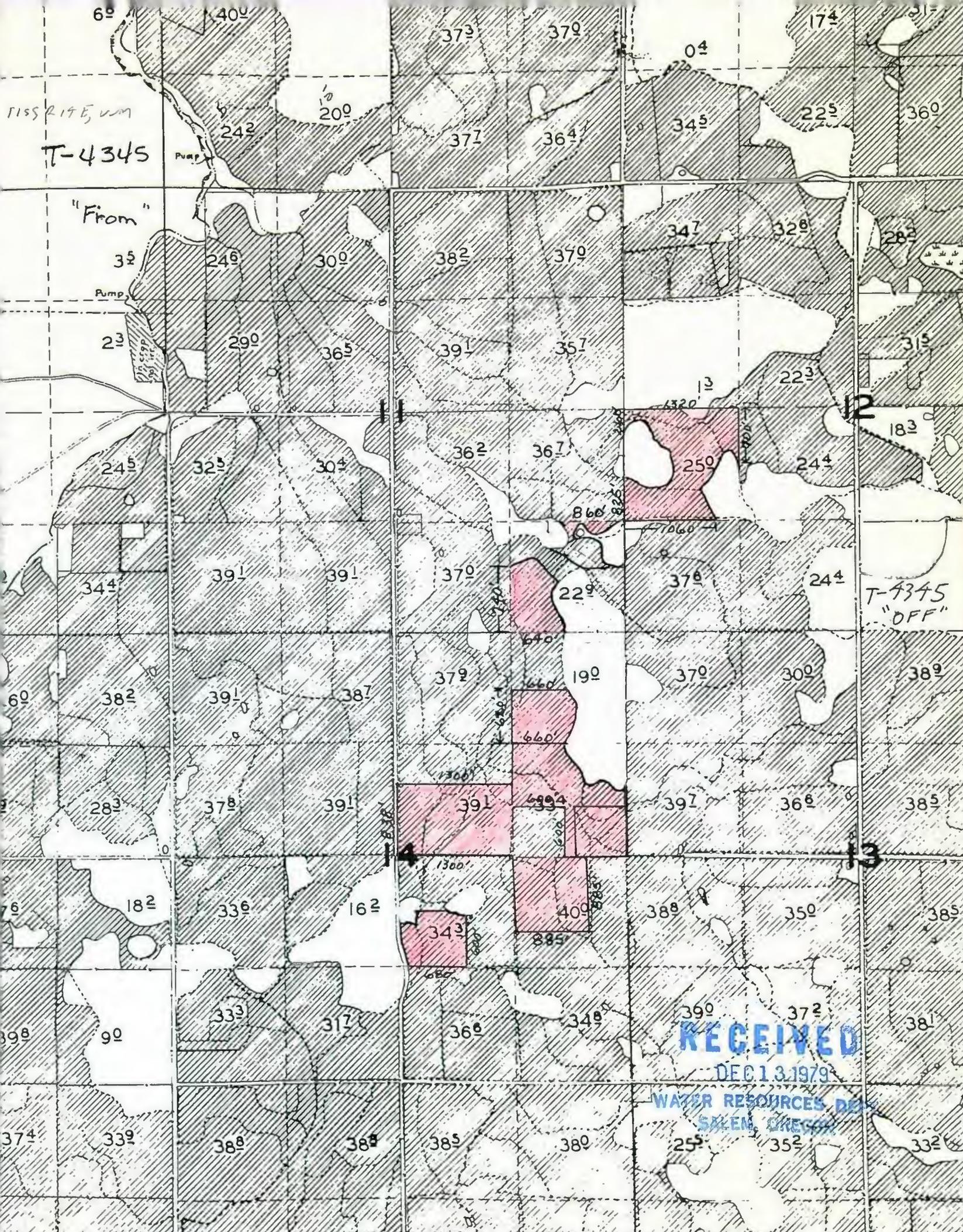
March 9, 1948

rights in excess of that required to beneficially and economically irrigate the lands, and not exceeding the rate of flow set forth in the Powder River decree or 1/40 of a cubic foot for each acre irrigated.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

CES:gk



1155 R14E, W1M
T-4345

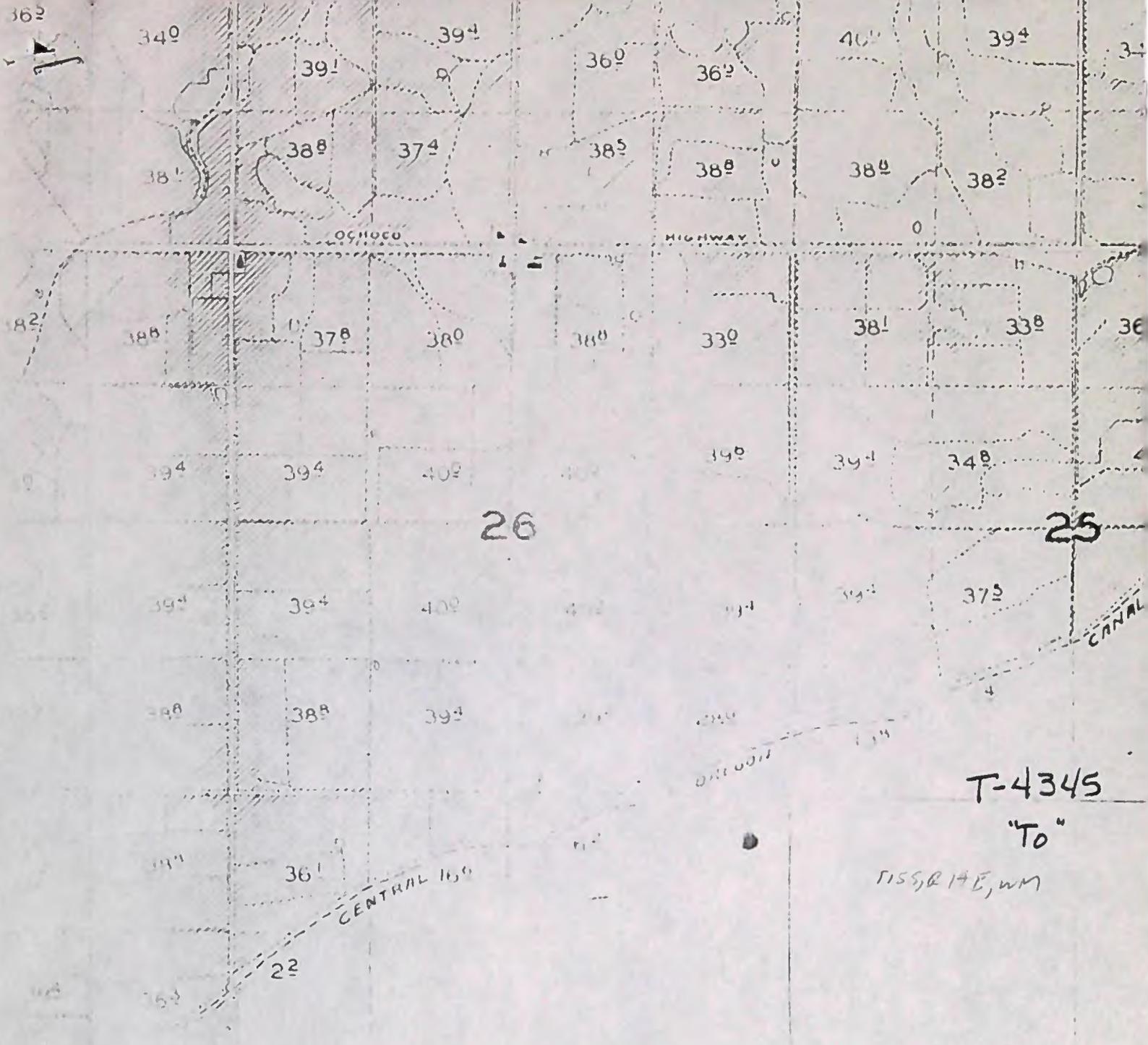
"From"

T-4345
"OFF"

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DEC 13 1979

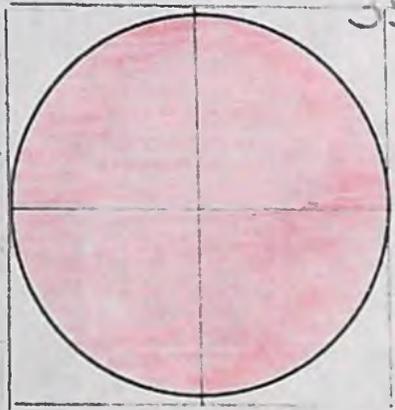
WATER RESOURCES DEPT.
SALEM, OREGON



T-4345

"To"

MISSOURI, WM



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 DEC 13 1979
 WATER RESOURCES DEPT.
 SALEM, OREGON

ANNUAL INSPECTION
Wampler and Werth
1979 A-11 and 1980 B-5

WDLF 1979 A-11
G-9049
T-4345
T-4239
T-4238
T-4985

On August 16, 1983 I inspected the Wampler and Werth irrigation project near Powell Butte in Crook County.

The project under loan number 1979 A-11 is composed of three separate systems as follows: System #1 has two wells, booster pumps, buried mainline, and a center pivot to irrigate 150 acres.
System #2 has two pumps on COID canal, buried mainline, and two pivots to irrigate 251 acres.
System #3 has two pumps on COID canal, booster pumps, buried mainline, two pivots and handline to irrigate 331 acres.

The project under loan number 1980 B-5 is a turbine pump, eight inch steel mainline, two pivots, seven wheel lines and some used eight inch aluminum mainline. This project irrigates about 310 acres.

As of the date of this inspection, the equipment is on site as previously inspected and is operating. Equipment appears to be in good condition.

Crops are mint, potatoes, wheat, carrots (for seed) and pasture. The crops look very good. Grain harvest is presently under way.

Engineer: Gary Williams
Date: August 16, 1983

RECEIVED

DEC 7 1981

WATER RESOURCES DEPT
SALEM, OREGON

NOTICE OF COMPLETION OF CHANGE IN

Place of Use

PURSUANT TO TRANSFER APPLICATION NO. 4345

I, Kenneth Werth, 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 October 1, 1979

10-1-81
Date

Womple - Werth Farms -
Kenneth Werth
Signature

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

*OK
GAY*

Dated
12-10-79

RECEIVED

DEC 13 1979

WATER RESOURCES DEPT.
SALEM, OREGON

T-4345

Application for Transfer of Water Right

To the WATER RESOURCES DIRECTOR OF OREGON:

I, Wampler and Werth Farms (James E. Wampler-Kenneth Werth Partners)
(Name of applicant)
of Rt. 1 Box 123, Powell Butte,
(Mailing address) (City)
State of Oregon, 97753, 548-1718, do hereby make application for change
(Zip Code) (Phone number)
in place of use
(In point of diversion; place of use; use heretofore made of the water)

1. Is the water right recorded in your name? No. E.B. Williams, page 36. COID, page 145-E
(If not, give name)

2. Was your water right determined by Decree of Court? yes If so, give title of proceedings
(Yes or No)
Adjudication of the Deschutes River number of certificate 29052

3. Was your water right acquired by Water Right Permit? No 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 Deschutes River, Central Oregon Canal

5. What is the date of priority of your water right? Oct. 31, 1900 and Dec. 2, 1907

6. The authorized point of diversion is located ft. and ft. from the
(N. or S.) (E. or W.)
corner of being within the $\frac{1}{4}$ $\frac{1}{4}$ of Section Tp. R. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of Crook The name of the ditch used is

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

7. The proposed point of diversion is located ft. and ft. from the
(N. or S.) (E. or W.)
corner of being within the $\frac{1}{4}$ $\frac{1}{4}$ of Section Tp. R. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of 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 1/4-1/4 of Section	Number Acres To Be Irrigated
15	14	11	SE 1/4 SE 1/4	13 ✓ P36
15	14	12	NW 1/4 SW 1/4	25 ✓ 20 P36, V16 ✓ 30 P150, V16 ✓
15	14	14	SW 1/4 NE 1/4	25 ✓ P36
15	14	14	NE 1/4 NE 1/4	10 ✓ 8 P36 ✓ 20 P150 ✓
15	14	14	NW 1/4 SE 1/4	10 ✓ P36
15	14	14	SE 1/4 NE 1/4	25 ✓ 50 P36 ✓ 19 P150 ✓
15	14	14	NE 1/4 SE 1/4	18 ✓ 15 P36 ✓ 30 P150

(If more space required, attach separate sheet)

126

9. Are you the legal owner of the above described lands? Contract Purchaser
(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
Lands Sales Contract	Charles E. Williams	Agreement attached
Loan <i>Approval given by COPCA by 12/10/79</i>	<i>W. J. Cherry</i> PCA	Ltr. of consent attached.

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
15	14	35	SW 1/4 SW 1/4	31.5
15	14	35	NE 1/4 SW 1/4	31.5
15	14	35	SE 1/4 SW 1/4	31.5
15	14	35	NW 1/4 SW 1/4	31.5

126

(If more space required, attach separate sheet)

14. Reasons for the proposed changes are More beneficial use

15. Construction work will be completed on or before June 1st

16. The water will be completely applied to the proposed use on or before June 1st

Remarks Prior approval of this application was granted by the Board of Directors of the Central Oregon Irrigation District at a regular meeting held January 16, 1979.

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

Wex, James E. Wampler and Kenneth Werth, 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 6TH day of JUNE, 1979.

x James E. Wampler
x Kenneth Werth
(Name of applicant)

Subscribed and sworn to before me this 6TH day of JUNE, 1979.

[Notarial Seal]

Robert C. Anderson
NOTARY PUBLIC FOR OREGON

My commission expires Sept. 14, 1979





STATE OF OREGON

RECEIVED

INTEROFFICE MEMO

JAN 3 1980

WATER RESOURCES DEPT

SALEM, OREGON

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: Dec 26, 1979

FROM: ** Robert F. Main, Jr., Watermaster

SUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4345

IN THE NAME OF Wampler & Werth Farms

In my opinion the proposed change in place of use of water from Deschutes River 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? (yes or no)

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

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

* The approval of this transfer application would result in injury to other water rights because Check the sales contract to be sure that the piece in the NE of SE 1/4 SE 1/4 of sec 11 belongs to Wampler & Werth. Otherwise, all OK.

** [Signature] Watermaster's signature or initials

T-4345



CENTRAL OREGON PRODUCTION CREDIT ASSOCIATION

AGRICULTURAL LOANS FOR FARMERS AND STOCKMEN

POST OFFICE BOX 607 / PHONE 548-2126
559 SOUTH SEVENTH / REDMOND, OREGON 97756

December 10, 1979

RECEIVED
DEC 13 1979
WATER RESOURCES DEPT.
SALEM, OREGON

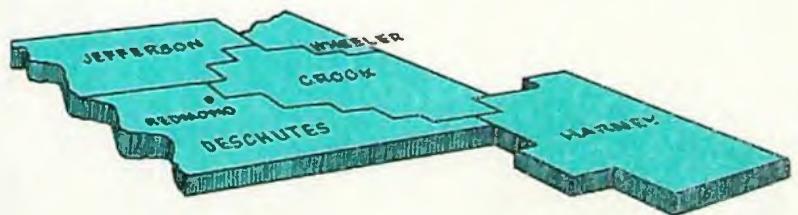
Central Oregon Irrigation District
847 S. 6th
Redmond, Oregon 97756

Gentlemen:

Central Oregon PCA, mortgagee, gives its consent for James E. Wampler and Kenneth Werth to transfer COI water rights as per the attached application dated December 10, 1979 and signed by a Central Oregon PCA corporate officer.

Very truly yours,
Wm. J. Cherry
Wm. J. Cherry
Vice President

WJC/mj



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SALEM, OREGON**

A G R E E M E N T

The parties to this agreement are CHARLES E. WILLIAMS and HELEN R. WILLIAMS, husband and wife, herein called "SELLERS", and JAMES E. WAMPLER and CAROL WAMPLER, husband and wife, and KEVIN D. WERTHEIM and JANUS WERTHEIM, husband and wife, dba WAMPLER AND WERTHEIM FARMS, a co-partnership, herein called "BUYERS".

R E C I T A S

1. On the 15th day of January, 1960, the parties hereto entered into a conditional sales contract for the sale of certain lands located in Crook County, Oregon.

2. Said contract is in good standing, each party hereby acknowledging that the other has faithfully performed the terms and conditions thereof to the date of this agreement.

3. The real property herein referred to as "the property" being described as follows:

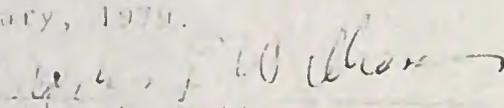
The Southeast quarter of Section 11, Township 15 South, Range 14 East of the Willamette Meridian, less the following described tract: Beginning at a point which is the Southeast corner of Section 11, thence South 90 feet, thence East 350 feet, thence North 210 feet, thence West 350 feet, thence South 120 feet to the point of beginning; the Northwest quarter of the Southwest quarter of Section 12, and the Northeast quarter and the north half of the Southeast quarter of Section 13, Township 15 South, Range 14 East of the Willamette Meridian.

4. The buyers wish to develop this property and other property by transferring water rights.

NOW, THEREFORE, IT IS AGREED as follows:

1. The above recitals are made a part of this agreement.
2. It is understood and agreed that the buyers heretofore purchased 95 acres of water rights from the Central Oregon Irrigation District which water rights belong to the buyers but are appurtenant to the property. Buyers represent that they have other unimproved lands where said water rights can be used. Therefore, it is agreed that said 95 acres of water rights may be transferred by the buyer to other lands without restriction.
3. It is further understood and agreed that the original C.O.I.D. water rights on the property may be transferred by the buyer to other lands on the following terms and conditions:
 - (a) The buyers must file and improve upon sufficient ground waters to replace the C.O.I.D. rights transferred away from the property.
 - (b) In the event, prior to the full performance of the contract, the wells which will be used to provide the ground water rights, prove inadequate to irrigate the lands as they are now irrigated by the C.O.I.D. water rights, buyer agrees to return so much of the C.O.I.D. water rights to the property as necessary to cover any such shortage.
4. Seller agrees to join in the signing of any documents that may be necessary to carry out the intent of this agreement.
5. The aforementioned agreement of January 15, 1966, is hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this 8TH day of January, 1979.



Charles L. Williams



Helen L. Williams

WAMPLER & WERTH FARMS

By James L. Wampler

By Carol Wampler

By Kenneth Werth

By Janus Werth

"BUYERS"

KNOW ALL MEN BY THESE PRESENTS, That I, CHARLES E. WILLIAMS

of County of Crook State of Oregon, in consideration of Ten and no/100 Dollars

to me paid by HELEN L. WILLIAMS of County of Crook State of Oregon have bargained and sold, and by these presents do grant, bargain, sell and convey unto HELEN L. WILLIAMS

an undivided one-half interest in all the following bounded and described real property, remaining to myself a like undivided one-half interest therein, situated in the County of Crook State of Oregon; for the purpose of creating an estate in entirety between myself the grantor herein and my wife the grantee herein:

The Northwest quarter of the Southwest quarter of Section 12; The Northeast quarter and the North half of the Southeast quarter of Section 14; and The East half of the Southeast quarter of Section 15; all in Township 15 South of Range 14 East of the Willamette Meridian.

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Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and also my estate, right, title and interest in and to the same. To Have and to Hold, the above described and granted premises unto the said HELEN L. WILLIAMS

Witness my hand and seal this 14th day of May 1965

STATE OF OREGON

Charles E. Williams (Seal)

County of Crook On this 14th day of May 1965, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Charles E. Williams

known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon My commission expires

DEED CREATING ESTATE IN ENTIRETY

STATE OF OREGON County of Crook

I certify that the within instrument was received for record on the 17 day of May 1965 at 3:50 o'clock P.M. and recorded in book 92 of page 384 Record of Deeds of Crook County

Witness my hand and seal of County affixed

County Clerk-Recorder

By Deputy

DO NOT USE THIS SPACE FOR RECORDING

DOCKET No. 95821

AFTER RECORDING RETURN TO

PC Brown

JAMES F. BODIE
JAMES B. MINTURN
RODNEY R. GLANTZ
ANNE MACDONALD

PHONE 447-4146
AREA CODE 503

BODIE AND MINTURN
ATTORNEYS AT LAW
203 N. MAIN P. O. Box 356
PRINEVILLE, OREGON
97754

January 13, 1966

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Mr. Ralph J. Brown
Attorney at Law
204 North Main
Prineville, Oregon

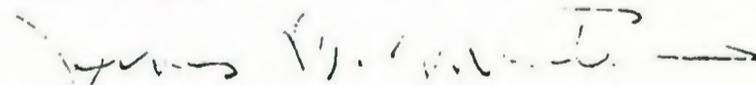
Re: Williams - Wampler & Werth
Real Estate Transaction

Dear Ralph:

On closing the real estate transaction between your client, Mr. and Mrs. Williams, and my client, Wampler & Werth, on this day, we had some additional discussion about the contract of sale. As you know the first paragraph on the top of page two of the contract of sale permits my clients as purchasers to maintain a gate at the end of the lane where it intersects with the County Road for a period not to exceed one year. Subsequent to the drawing of this paragraph for the contract, it was brought to our attention that the United States Post Office uses the road in question as a part of their mail route and if it should be obstructed by a gate at any time, the delivery of mail to the premises upon which your client is retaining a life estate would be interrupted. My clients agreed at the time of closing this transaction that not withstanding the paragraph set forth in the contract, they would not obstruct the lane at any time during the life of the contract. They have agreed to immediately install a cattle guard at the end of the lane where it intersects with the County Road or to so fence the land as to make the installation of a cattle guard unnecessary.

On behalf of my clients, Wampler & Werth, you may consider this letter as an acknowledgement that the provision above mentioned in the contract of sale is null and void as of this date in so far as the construction of the gate is concerned.

Sincerely,



James B. Minturn

JBM:amg

cc: Wampler & Werth

CONTRACT OF SALE

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THIS AGREEMENT, Made and entered into this 12 day of January, 1966, by and between CHARLES E. WILLIAMS and HELEN L. WILLIAMS, husband and wife, hereinafter called the Sellers, and JAMES E. WAMPLER and CAROL WAMPLER, husband and wife, and KENNETH WERTH, a single man, doing business as WAMPLER & WERTH FARMS, a partnership, hereinafter called the Buyers;

WITNESSETH:

That for and in consideration of the sum of ONE HUNDRED FIVE THOUSAND DOLLARS (\$105,000.00), and in consideration of all the other terms and conditions of this agreement to be kept and performed by the parties hereto, the Sellers agree to sell and the Buyers agree to buy all of the following described real property located in the State of Oregon, County of Crook, to-wit:

The Southeast quarter of Section 11, Township 15 South, Range 14 East of the Willamette Meridian, less the following described tract:

Beginning at a point which is the Southeast corner of the Northeast quarter of the Southwest quarter of said Section 11, thence South 90 feet, thence East 330 feet, thence North 210 feet, thence West 330 feet, thence South 120 feet to the point of beginning;

The Northwest quarter of the Southwest quarter of Section 12, and the Northeast quarter and the North Half of the Southeast quarter of Section 14, Township 15 South, Range 14 East of the Willamette Meridian.

SUBJECT TO the conditions hereinafter set out, the Sellers do hereby reserve a life estate to each of them and the survivor of either of them, in and to the following described tract of land now occupied as their residence, and more particularly described as follows:

Beginning at the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 11, thence West 900 feet, thence South 135 feet, thence Southeasterly following the existing fence line to a point 570 feet South and 270 feet West of the point of beginning, thence East 270 feet to a point on the East line of the said Northeast quarter of the Southeast quarter of said Section 11, thence North 570 feet to the point of beginning, containing not over 10 acres, TOGETHER with an easement and right of way of ingress and egress along the existing lane from the above described property approximately one-half mile to its intersection with the county road.

It is understood and agreed that the Sellers shall be responsible for the establishment and maintenance of the cattle guard at the exit from their property above described, hereby reserved, to the said lane; that thereafter they shall have an unobstructed right of way to said county road during the period of said life estate, or unless sooner terminated as hereinafter set out; and further provided that the Buyers may for a period of one year from the date hereof maintain a gate at the end of said lane where it intersects with said county road, but that thereafter no gate shall be maintained and the access shall be by cattle guard or otherwise erected and maintained by the Buyers.

It is the intention of the parties that as soon as practical hereafter, they shall cause the above reserved premises to be segregated on the county tax rolls and hereafter during the period of said life tenancy and until it is terminated, the Sellers will pay all of the taxes levied and assessed against the same and shall not allow said taxes to become delinquent more than two years. Any such delinquency in excess of two years shall be cause for the Buyers, their heirs, executors or assigns, to cause said life estate to be cancelled and terminated, together with the easement herein granted, which said easement shall terminate upon the termination of said life estates.

The reservation above-mentioned for the life of the Sellers shall terminate nevertheless if at any time hereafter the Sellers shall not maintain said premises as their permanent home, it being the intention of the parties that the said life estate and all incidents thereto shall terminate and revert and be transferred to the buyers, their heirs or assigns, at any time when the Sellers shall establish a permanent residence elsewhere. It is further recognized, understood and agreed between the parties that in connection with the reservation hereinabove mentioned, the Sellers reserve 3/4 acres of water right for use in and about said reserved premises, the same to be paid by them together with the real property

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taxes.

The Sellers do hereby covenant and agree that there are 149 acres of water rights appurtenant to said premises under the Central Oregon Irrigation District, and that there is in addition thereto certain waste water rights which have been filed and recorded with the State of Oregon which belong to said premises and are hereby considered a part of this agreement.

The principal sum hereunder, namely \$105,000.00 shall bear interest from the date hereof at the rate of five per cent (5%) per annum, and it is understood and agreed that the payment of said interest shall be made annually hereafter on April 1st of each year, commencing with April 1, 1967, and for the first ten (10) payments hereunder interest only shall be required to be paid, and that thereafter, commencing with the 1st day of April, 1977 and thereafter for twenty-one (21) years, the required payments hereunder shall be the sum of FIVE THOUSAND DOLLARS (\$5,000.00) per year on the unpaid principal balance, plus accrued interest at the rate of 5 per cent per annum.

The schedule of payments herein outlined are minimum payments only and the Buyers may prepay all or any portion of the unpaid balance hereunder at any time without penalty; provided, however, any such prepayment shall be applied on the last payments accruing under this contract and shall not be in lieu of immediate future payments required hereunder.

Possession of the above described premises shall be given to the buyers as of the date hereof.

The Sellers covenant and agree that during the period of the reservation of said life estate, they will keep the improvements located on the said tract hereinabove described reserved to them insured against loss by fire for their insurable value; and in the event of any loss, damage or destruction by fire, will utilize the proceeds of said insurance to restore said premises as nearly as possible to the condition they were immediately preceding said fire loss.

All payments to be made under this contract shall be made at the United States National Bank of Oregon, Bend Branch, to the account of the Sellers and the said United States National Bank of Oregon, Bend Branch, is hereby designated as an escrow agent to hold a copy of this contract and the deed to be delivered to the Buyers upon full payment hereunder. On full payment hereunder the Sellers agree to convey the above described premises by a good and sufficient deed of warranty, free and clear of all encumbrances as of the date hereof, save and excepting reservations contained in patents from the United States of America and deeds from the State of Oregon; rights of way for roads, highways, irrigation ditches and canals, and assessments of the Central Oregon Irrigation District within which said lands are located; and further subject to an easement to Pacific Power & Light Company over the Northwest quarter of the Southeast quarter of Section 11, as set forth in Book 49 at page 606, Deed Records of Crook County, Oregon. The Sellers further covenant and agree that they will furnish the Buyers with a purchaser's policy of title insurance as of the date hereof in the sum of \$105,000.00 showing such marketable title.

It is understood and agreed that during the period of this contract the Buyers will keep insured against loss by fire, with extended coverage endorsement, loss payable to the Sellers as their interest may appear, on the following buildings located on the above described premises, namely: the shop, the chicken house, pump house, sheep shed, cat shed, tenant house, garage and tractor shed; said insurance to be maintained to the full insurable value of said buildings as determined from time to time.

This contract may not be assigned by the Buyers without the prior written consent of the Sellers, provided, however, Sellers agree that they will not arbitrarily withhold the consent to such assignment to a proper party.

The Buyers covenant and agree that they will, during the term hereof, pay all taxes, assessments, water charges and other claims against the above described premises promptly before the

shall become delinquent and that they will keep said premises free and clear of liens and encumbrances of whatever kind or nature, and will suffer or allow no waste or strip of the premises.

The Buyers shall not be held to be in default herein on account of the failure to pay any sum of principal or interest becoming due hereunder until the same shall have been delinquent thirty (30) days; provided, however, no notice of such default in such case shall be required to be given by the Sellers or their assigns. In the event the Sellers claim a default under this contract for any reason other than nonpayment, then the Sellers shall notify the Buyers in writing of the claimed default at their address at Powell Butte, Oregon, and the said Buyers shall be accorded thirty (30) days in which to remedy said claimed default before any action by the Sellers may be maintained.

In the event default is claimed hereunder as herein set out, and the same be not remedied within the time or in the manner herein prescribed, then the Sellers may at their option immediately declare the whole unpaid balance of principal and interest hereunder immediately due and payable and proceed at law to collect the same, or in such event the Sellers may proceed to foreclose this contract by a suit in equity, either by strict foreclosure or by foreclosure and sale; or in such event, the Sellers may elect to declare this contract terminated and thereupon all of the right, title and interest of the Buyers shall immediately cease and terminate and the Sellers may immediately enter upon and retake possession of said premises and retain any and all sums paid hereunder by the Buyers as the reasonable rental for the use and occupancy of said premises.

The remedies herein enumerated in case of default shall not be exclusive and are not intended to deprive the Sellers of any other remedy available to them either at law or equity.

In the event it becomes necessary for either party hereunder to institute any action at law or equity to gain possession of said premises, to enforce any of the terms or conditions hereof, or to

5-CONTRACT OF SALE

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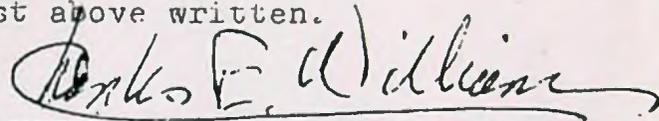
to disclose this contract, then in that event the prevailing party in such suit or action shall be allowed such sum as the Court adjudges reasonable as and for attorney's fees therein.

The Buyers further agree that a waiver by the Sellers of any of the provisions or covenants of this agreement shall not constitute a waiver by the Sellers of a further breach by the Buyers of the same provision or covenant or any other provision or covenant of this agreement.

It is agreed between the parties that the Buyers may from time to time destroy or remove any of the buildings located on the above described premises, save and except those specifically mentioned herein to be covered by insurance by the Buyers, it being contemplated that there are certain old sheds and other structures which no longer serve a useful purpose.

This agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators and assigns of the parties hereto.

IN WITNESS WHEREOF, The parties hereto have set their hands and seals the day and year first above written.



Charles E. Williams

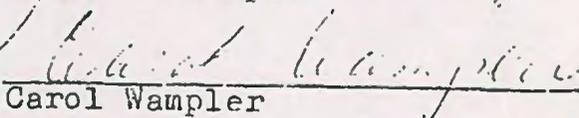


Helen L. Williams

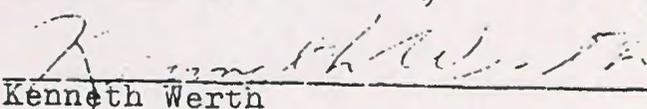
SELLERS



James E. Wampler



Carol Wampler



Kenneth Werth

BUYERS