

Tameno/OWC

4416

Name Ray + John Tameno

By _____

Address RT. 1, Box 217
Vale, OR 97918

Change in POD, POD

Date filed March 3, 1980

Date of hearing May 21, 1980 June 18, 1980

Place of hearing Vale

Date of order 1-19-81 Vol. 34, page 238

Date for application of water completed

Proof mailed JUL 28 1989

Proof received _____

Certificate issued 9/29/89 Vol. 59, page 62427
9/29/89 62423 RRent

DESCRIPTION OF WATER RIGHT

Name of stream Willow, Black & Pole Creeks

Trib. of _____ County of Malheur

Use irrigation

Quantity of water _____ No. of acres 102⁰

Name of ditch Highland Canal

Date of priority April 7, 1908, May 29, 1907

In name of Orchards Water Co. (NF-Sears C#7312)

Willow Cr. Adjudication, Vol. 9, page 223 SRB

App. No. _____ Per. No. _____ Cert. No. 45354 SRB

Certificate cancelled _____

Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>3-3-80</u>	<u>113-</u>	<u>16357</u>
TOTAL . . .		
	Cert. Fee	

Malheur Enterprise # 38.22 pd 5/30/80 CLK # 4230

FEES REFUNDED

Date	Amount	Check No.
<u>5/30/80</u>	<u>11.78</u>	<u>4229</u>

Ev 20-

POD 15-

POD 10-

7281 x 9.25 18-

POIN 38.22

101.22

Refund 11.78

INDEX CARDS:

TO BE ENTERED WHERE CHECKED	Entered	Checked
☒ Name	<u>SRB</u>	_____
☒ Stream	<u>SRB</u>	_____
☒ Pt. of Div.	<u>SRB</u>	_____
☒ Calendar	<u>SRB</u>	_____
☒ Twp. & Rgn.	<u>SRB</u>	_____
☒ Decree-vault	<u>SRB</u>	_____
☒ Decree-safe	<u>SRB</u>	_____
☒ Cert. of W/R	<u>SRB</u>	_____
☒ Per. Folder	_____	_____
☒ Chainindex	_____	_____
☒ Cross Ref.	_____	_____
☒ Power Claim	<u>SRB</u>	_____
☒ Abstracts	<u>SRB</u>	_____

REMARKS

Notify Dan Roberts, Fed Land Bank,
188 SW 1st Ave, Ontario, OR 97917, when
order is entered

finis

Survey with T-4527, 4583, 4656

W.R.I.S.

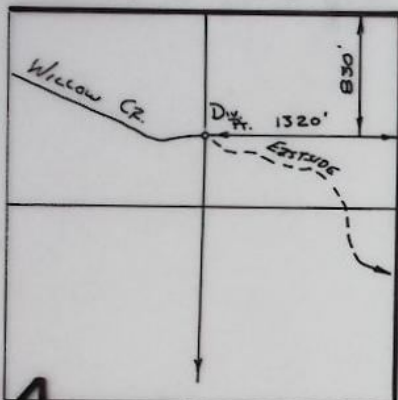
Assembled 2-8-85 by SRB

Entered _____ by _____

Verified _____ by _____

387

T. 15S., R. 42E., W.M.



24



SCALE 1" = 1320'

T. 15S., R. 43E., W.M.



FINAL PROOF SURVEY

UNDER

TRANSFER 4416
IN NAME OF

REX O. & MYRTLE F. BIDDY.....

Surveyed 4-16-1986, by K.L. Church.....

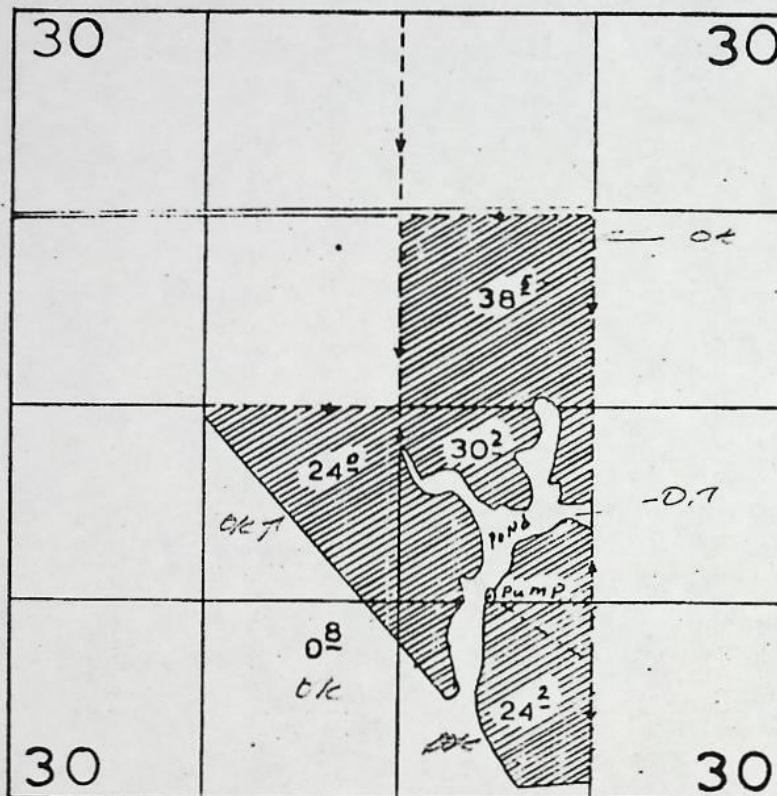
Superseded

RECEIVED
MAR 21

MAR 3 1980
REC'D

MAR 31 1980
WATER RESOURCES DEPT
M. SALEM, OREGON

T.15 S. R. 43 E. W. M^{1/4}



FINAL PROOF SURVEY

UNDER

Application No. 25460 Permit No. 21494
IN NAME OF _____

ORCHARDS WATER COMPANY

Surveyed F.E.B. 12... 1980, by F.W. Elfring.....

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MALHEUR COUNTY

IN THE MATTER OF THE APPLICATION)
OF RAY AND JOHN TAMENO FOR AP-)
PROVAL OF CHANGES IN PLACE OF USE)
AND POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER 4416

On March 3, 1980, an application was filed in the office of the Water Resources Director by Ray and John Tameno for approval of changes in place of use and point of diversion of water from Willow, Black and Pole Creeks, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Malheur County, Oregon, entered January 28, 1926, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Willow Creek and Its Tributaries, a water right was established in the name of Orchards Water Company, tabulated in Volume 9, page 223, Order Record of the Water Resources Director, for use of the waters of Willow Creek stored in Reservoir 3 and Black and Pole Creeks stored in Reservoir 1, and from the direct flow thereof, under a priority date of April 7, 1908 for waters of Willow Creek and May 29, 1907 for waters of Black and Pole Creeks, for irrigation of a certain 7.0 acres in SE 1/4 SE 1/4, Section 6, Township 16 South, Range 43 East, WM; 10.5 acres in SE 1/4 NE 1/4, 33.0 acres in NW 1/4 NE 1/4, 7.5 acres in SE 1/4 NW 1/4, 20.0 acres in NW 1/4 NW 1/4, 19.0 acres in NE 1/4 NW 1/4 and 5.0 acres in SW 1/4 NW 1/4, Section 35, Township 15 South, Range 42 East, WM, as evidenced by the certificate recorded at page 45354, Volume 37, State Record of Water Right Certificates.

The authorized point of diversion from Willow Creek is located 2,300 feet South and 200 feet West from the Northeast Corner of Section 28, being within the SE 1/4 NE 1/4 of Section 28, Township 14 South, Range 42 East, WM (Highline Canal).

The applicants propose to change the place of use therefrom to a certain 23.5 acres in SW 1/4 NE 1/4, 29.5 acres in NW 1/4 SE 1/4, 24.2 acres in SW 1/4 SE 1/4, 24.0 acres in NE 1/4 SW 1/4, and 0.8 acre in SE 1/4 SW 1/4, Section 30, Township 15 South, Range 43 East, WM, and to irrigate said lands from a point located 950 feet South and 1,350 feet West from the Northeast Corner of Section 24, being within the NW 1/4 NE 1/4, Section 24, Township 15 South, Range 42 East, WM (East Side Canal).

Notice of the application, pursuant to ORS 540.520(2), was published in the Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of April 23 and 30, and May 7, 1980.

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

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

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

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion under the subject right.

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;

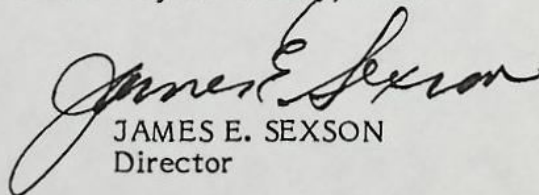
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that NO time need be fixed for completion as the changes in place of use and point of diversion are completed.

The order of the Water Resources Director entered November 20, 1980, approving Transfer Application 4583, provided for cancellation of the certificate of water right recorded at page 45354, Volume 37, State Record of Water Right Certificates, and issuance of a new certificate covering the balance of the right NOT involved in the transfer proceedings.

It is FURTHER ORDERED that upon proof satisfactory to the Water Resources Director of beneficial use of water to the extent intended under the provisions of this and prior orders, a confirming certificate of water right shall be issued to Orchards Water Company.

Dated at Salem, Oregon this 19th day of January, 1981.


JAMES E. SEXSON
Director

Application for Transfer of Water Right

T-4416
RECEIVED
MAR 3 1980
WATER RESOURCES DEPT
SALEM, OREGON

To the WATER RESOURCES DIRECTOR OF OREGON:

I, Ray Tameno, and I, John Tameno,

(Name of applicant)

of Route 1, Box 217

(Mailing address)

Vale

(City)

State of Oregon

97918

(Zip Code)

473-3300

(Phone number)

, do hereby make application for change

Place of use & POD

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

1. Is the water right recorded in your name? No - Orchards Water Company

(If not, give name)

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

(Yes or No)

Willow River Adjudication Decree on Mandate of Circuit Court, Malheur County, dated January 28, 1926 number of certificate 45354

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.

Willow Creek stored in Reservoir No. 3, and Black Creek and Pole

4. The source of water is Creek stored in Reservoir No. 1 of said Company; also the direct flow thereof, a tributary of Malheur River.

5. What is the date of priority of your water right? April 7, 1908 as to the waters of Willow Creek, and May 29, 1907 as to the waters of Black and Pole Creeks.

6. The authorized point of diversion is located 200 ft. W. and 2300 ft. S. from the NE corner of Sec. 28 of Orchards Water Company from Willow Creek

(E. or W.)

being within the SE 1/4 NE 1/4 of Section 28 Tp. 14 S., R. 42 W. M.,

(No. N. or S.) (No. E. or W.)

in the county of Malheur The name of the ditch used is Highland Canal of Orchards Water Company

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

of Orchards Water Company from Willow Creek

7. The proposed point of diversion is located 1350 ft. W. and 950 ft. S. from the NE corner of Sec. 24 being within the NW 1/4 NE 1/4 of Section 24 Tp. 15 S., R. 42 W. M.,

(N. or S.)

(E. or W.)

(No. N. or S.) (No. E. or W.)

in the county of Malheur The name of the ditch to be used is East Side Canal of Orchards Water Company

Pay \$ 2.0
POD 1.3
POV 1.0
PON 3.0
7200.25 1.8
F 1.3

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 ¼-¼ of Section	Number Acres To Be Irrigated
Twp. 16 S.,	43 E.W.M.	6	Pt. SE¼SE¼	7 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. SE¼NE¼	10.5 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. NW¼NE¼	33 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. SE¼NW¼	7.5 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. NW¼NW¼	20 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. NE¼NW¼	19 acres
Twp. 15 S.,	42 E.W.M.	35	Pt. SW¼NW¼	5 acres

(If more space required, attach separate sheet)

Total: 102 acres

9. Are you the legal owner of the above described lands? No

(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? Not since issuance of Certificate of Water Right No. 45354
(Yes or No) dated April 12, 1978.

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.?
(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 ¼-¼ of Section	Number Acres To Be Irrigated
15 S.,	43 E.W.M.	30	SW¼NE¼	23.5 acres
15 S.,	43 E.W.M.	30	NW¼SE¼	29.5 acres
15 S.,	43 E.W.M.	30	SW¼SE¼	24.2 acres
15 S.,	43 E.W.M.	30	NE¼SW¼	24 acres
15 S.,	43 E.W.M.	30	SE¼SE¼ SW¼	.8 acres
			SW¼SE¼	
			Total:	102 acres

(If more space required, attach separate sheet)

1543C
1400
8

05796

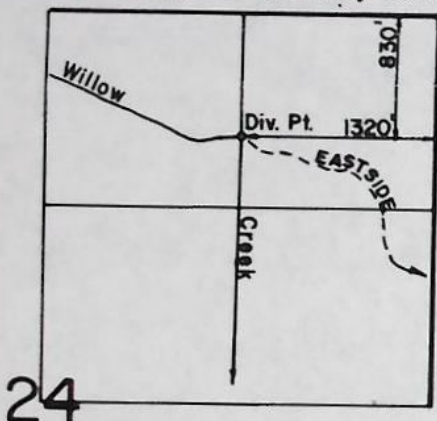
RECEIVED

AUG 10 1989

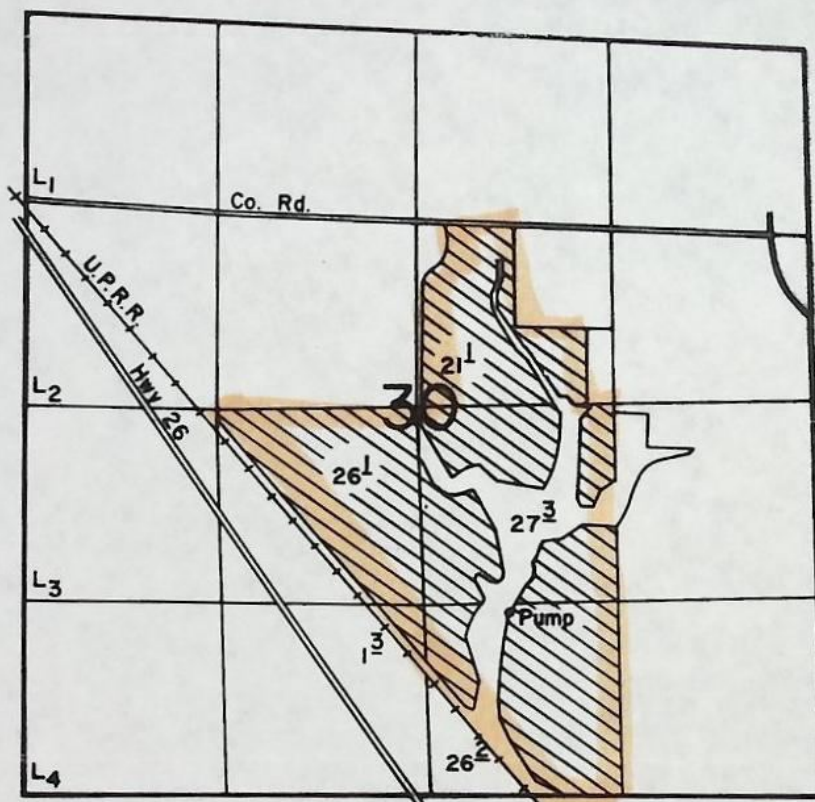
WATER RESOURCES DEPT.
SALEM, OREGON

REX O. & MYRTLE BIDDY
42742 Stetson
Hemet, CA. 92343

T. 15 S., R. 42 E., W.M.



T. 15 S., R. 43 E., W.M.



FINAL PROOF SURVEY
UNDER

TRANSFER 4416

Application No. Permit No.
IN NAME OF

REX O. & MYRTLE F. BIDDY

Surveyed JUNE 16, 1986, by V.L. CHURCH

14. Reasons for the proposed changes are See attached Resolution passed by Board of
Directors of Orchards Water Company dated February 28, 1980 approving change in
place of use.

15. Construction work will be completed on or before Completed; final proof survey dated
February 12, 1980 by F. W. Elfering, watermaster, attached.

16. The water will be completely applied to the proposed use on or before See attached final
proof survey.

Remarks Attached Deed of Conveyance from P. R. Sears et ux to Jack Pearson dated
June 25, 1942, of the lands in Sec. 35, T. 15 S., R. 42 E., W.M., described in Item 8 and
the attached Deed of Phillip R. Sears et ux to Axtel Reed, dated February 3, 1944, of
the lands in Sec. 6, T. 16 S., R. 43 E.W.M., described in Item 8, excepted the water,
water rights and shares of water stock appurtenant to the lands described in each Deed
of conveyance.

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.

See Willow Creek Adjudication map page 8 - T 14 S., R. 42 E.W.M. and Final Proof map
Orchards Water Company permit No. 21494, surveyed September 23-24, 1959 for location
of points of diversion.

AFFIDAVIT OF APPLICANT

I, Ray Tameno and I, John Tameno, 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 _____ day of February, 1980.

Ray Tameno

John Tameno
(Name of applicant)

Subscribed and sworn to before me this 27 day of February, 1980.

[Notarial Seal]

[Signature]
NOTARY PUBLIC FOR OREGON

My commission expires May 24, 1982

AFFIDAVIT OF PUBLICATION

Vale, Oregon May 7 19 80

TO MALHEUR ENTERPRISE, Dr.

To publishing attached Legal Notice In 3 issues \$ 38.22

STATE OF OREGON)
County of Malheur)ss.

I, Warren G. Ayer being first duly sworn, depose and say that I am the Foreman Publisher of the printers of The Malheur Enterprise, which is a weekly newspaper of general circulation, printed and published in Vale in said county and state that such newspaper is made up of at least four pages of eight columns each and at least 21 inches in depth of matter; that such newspaper was regularly and uninterruptedly published each week for at least twelve consecutive months immediately

preceding the first publication of attached Legal Notice and has more than 200

bona fide subscribers within said county; that the Legal Notice of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, once

each week for 3 successive and consecutive weeks, being published 3

times commencing with the issue dated the 23 day of April, 19 80

and ending with the issue dated the 7th day of May, 19 80

That the amount of charge actually made and to be collected for such newspaper for such publication is \$ 38.22

Warren G. Ayer
Foreman Publisher of the Printers

Subscribed and sworn to before me this 7th day of May, 19 80

John Dean Ayer
Notary Public for Oregon

My commission expires August 11, 19 82

Legal notice

NOTICE OF WATER TRANSFER APPLICATION NO. 4416

The Water Resources Director of Oregon has received and filed an application by Ray & John Tameno for approval, without loss of priority, of changes in place of use & point of diversion under a certain water right.

The affected water right is a portion of the right described by the certificate recorded at page 45354, Volume 37, State Record of Water Right Certificates, in the name of Orchards Water Company, and is for the use of waters of Willow Creek stored in Reservoir No. 3, and Black & Pole Creeks stored in Reservoir No. 1, and from the direct flow thereof, under a priority date of April 7, 1908 for waters of Willow Cr., & May 29, 1907 for waters of Black & Pole Cr., for irrigation of a certain 7.0 ac in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 6, T 16S, R 43E, WM; 10.5 ac in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 33.0 ac in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 7.5 ac in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 20.0 ac in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 19.0 ac in NE $\frac{1}{4}$ NW $\frac{1}{4}$ & 5.0 ac in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec 35, T 15S, R 42E, WM.

The authorized point of diversion from Willow Cr. is located 200 ft. W & 2300 ft. S from the NE Corner of Sec 28, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 28, T 14S, R 42E, WM (Highland Canal).

The applicant proposes to change the place of use therefrom to a certain 23.5 ac in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 29.5 ac in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 24.2 ac in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 24.0 ac in NE $\frac{1}{4}$ SW $\frac{1}{4}$, & 0.8 ac in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec 30, T 15S, R 43E, WM and to irrigate said lands from a point located 950 ft. S & 1350 ft. W from the NE Corner of Sec 24, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec 24, T 15S, R 42E, WM (East Side Ditch).

Pursant to ORS 540.520 (2), a hearing is scheduled for 9:30 a.m. on Wednesday, June 18, 1980 at the Malheur County Courthouse, Vale, Oregon. Any objection to the proposed changes must be prepared in writing: one copy to be served on the applicant at Rt. 1, Box 217, Vale OR 97918; and one copy filed in the office of the Water Resources Director, Salem, OR 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. Rules for filing objections will be furnished upon request.

IF NO OBJECTIONS ARE FILED THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING.

Dated at Salem, Oregon this 18th day of March, 1980.

James E. Sexson
Director

Publish: April 23, 30, May 7, 1980.



STATE OF OREGON

INTEROFFICE MEMO

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: March 11, 1980

FROM: ** Frank Elfering, Watermaster

SUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4416

IN THE NAME OF Ray & John Tameno

In my opinion the proposed change in place of use of water Willow, Black & Pole Creeks
MAY BE MADE WITHOUT INJURY ~~WILL BE MADE WITHOUT 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
(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 _____

** Frank Elfering
Watermaster's signature or initials

RECEIVED
MAR 13 1980
WATER RESOURCES DEPT
SALEM, OREGON



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-3066 or
1-800-452-7813

March 6, 1981

Charles W. Swan
Swan, Butler, and Looney, PC
PO Box 430
Vale, Oregon 97918

Dear Mr. Swan:

REFERENCE: File T-4656

In response to your letter of February 26, 1981 regarding the certificate to be issued confirming the transfer of 20.0 acres of water right by John F. Pugh, what I had in mind was keeping track of movement of rights within the boundaries of Orchards Water Company by periodically issuing a single certificate confirming all movements to date.

The right, as are all water rights in Oregon, still would be appurtenant to the land noted on the record.

I do agree with you that the "Old Form Contract" rights were treated separately by the Courts and, I suppose, could still be identified separately since the distribution system is noted in the body of the order as being Orchards Water Company.

Therefore, per your letter, I will have this and future "Old Form Contract" confirming certificates issued in the names of the owners of the lands to which the rights are transferred.

Thank you for bringing this matter to my attention.

Sincerely,

SAMUEL R. ALLISON
Supervisor
Transfer Section

SRA:wpc
4152A



STATE OF OREGON

INTEROFFICE MEMO

TO: Transfer 4416

DATE: March 6, 1980

FROM: Chris Wheeler 

SUBJECT: Orchards Water Company ----- Tameno transfer

I have reviewed the file and though it may be subject to argument, we should accept the letter of Charles W. Swan of February 8, 1980 together with the attached documents (1) photocopies of shares of stock assigned to Roy Waters (June 1, 1942); (2) copies of deeds issued not long after (June 25, 1942, Jack Pearson; and February 3, 1944, Axtel Reed) which deeds withheld the water rights and shares that had been assigned to Roy Waters, as evidence of the agreement of the owner of the respective parts of Section 6, T. 16 S., R. 42 E. and Section 35, T. 15 S., R. 42 E., to a current transfer to be submitted by Tameno's transfer 4416. This is and has to be supported by the resolution of Orchards Water Company dated February 28, 1980 and submitted in support of this application.

This will also permit proof be made under permit 21494 for the same acreages. The final proof survey of 1959 should be amended to agree with Frank Elfering's survey of February 12, 1980 (minor discrepancy) for this proof.

cc: Sam Allison
Tom Shook

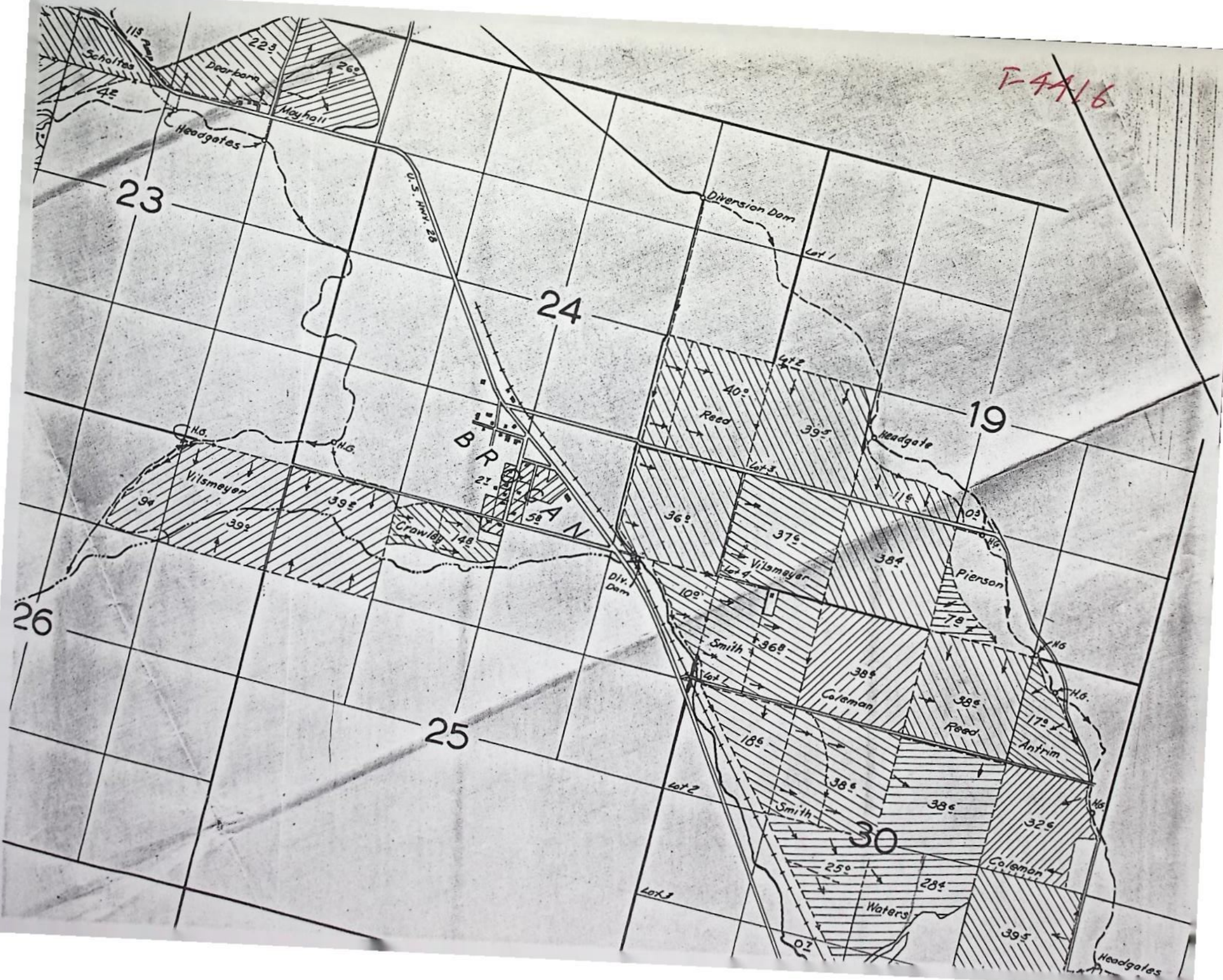


Contains
Recycled
Materials

81-125-1387

SP*75683-125

T-4A16



RECEIVED

FEB 11 1980

WATER RESOURCES DEPT.
SALEM, OREGON

58355

61 1 446 4 34
1 518 5 406
3 327 6 519
3 342 5 557
3 344 6 30
4 33 7 245

SWAN, BUTLER & LOONEY, P. C.

CHARLES W. SWAN
ROBT. D. BUTLER
H. CLIFFORD LOONEY

*Discussed with Charlie Swan
proceed to file with
Orchards OK
attached.*

POST OFFICE BOX 430
VALE, OREGON 97918
AREA CODE 503 • PHONE 473-3111

February 8, 1980

Mr. Chris Wheeler
Deputy Director
Water Resources Department
Mill Creek Office Park
555 13th St. N. E.
Salem, Oregon 97310

Dear Chris:

Reference is made to my letter to you of January 11, 1980 concerning water rights from Orchards Water Company for lands in Sec. 30, Twp. 15 S., R. 43 E., W.M., formerly owned by Roy Waters, now deceased, which lands were acquired some years ago by Tameno Bros. from the heirs of the decedent.

I have been able to examine a carton of Orchards Water Company papers and records which were delivered by Bob Lytle's office to the Company secretary after Bob's death. In this carton of papers I have discovered Orchards Water Company stock certificates numbered 176, 682, 683, 684, 685, 686 and 687, for 102 shares of "new form" stock appurtenant to lands in Sec. 35, Twp. 15 S., R. 42 E., W.M., and in Sec. 6, Twp. 16 S., R. 43 E., W.M., which certificates were assigned to Roy Waters June 1, 1942. It further appears that the stock certificates are for water rights adjudicated for the lands of one P. R. Sears by Decree on the Mandate of the Supreme Court dated January 28, 1926, as follows:

Name	Sec.	T.	R.	Subdivision	Acres
P. R. Sears	6	16	43	Pt. SE $\frac{1}{4}$ SE $\frac{1}{4}$	7
P. R. Sears	35	15	42	Pt. SE $\frac{1}{4}$ NE $\frac{1}{4}$	10.5
P. R. Sears	35	15	42	Pt. NW $\frac{1}{4}$ NE $\frac{1}{4}$	33
P. R. Sears	35	15	42	Pt. SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.5
P. R. Sears	35	15	42	Pt. NW $\frac{1}{4}$ NW $\frac{1}{4}$	20
P. R. Sears	35	15	42	Pt. NE $\frac{1}{4}$ NW $\frac{1}{4}$	19
P. R. Sears	35	15	42	Pt. SW $\frac{1}{4}$ NW $\frac{1}{4}$	5

7312
8961

3/21
45354

And that thereafter Certificate of Water Right No. 83030 recorded in State Record of Water Right Certificates Vol. 8 page 8961 was issued to Orchards Water Company, and that a further certificate of said water rights, No. 45354 was issued to Orchards Water Company April 12, 1978.

Chris Wheeler

-2-

February 8, 1980

I further find that subsequent to his assignment of the stock certificates to Roy Waters on June 1, 1942, P. R. Sears sold and conveyed the lands in Sec. 35, T. 15 S., R. 42 E., W.M., to one Jack Pearson by deed dated June 25, 1942, and sold the lands in Sec. 6, T. 16, S., R. 43 E., W.M., to one Axtel Reed by deed dated February 3, 1944, and that in both deeds the water, water rights and shares of stock were excepted out of the conveyance. Photocopies of the stock certificates and the assignments thereof by P. R. Sears to Roy Waters, and also photocopies of the deeds from Sears to Pearson and to Reed, above referred to are enclosed for your examination.

It would appear that the water right under Orchards Water Company Certificate No. 45353 for 15 shs for 22.4 ac. in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 30 T. S., R. 43 E., W.M., together with 102 shs represented by the stock certificates assigned by Sears to Waters, forms the basis for the water charges for 117 acres made during past years by Orchards Water Company to Roy Waters and to the Tamenos.

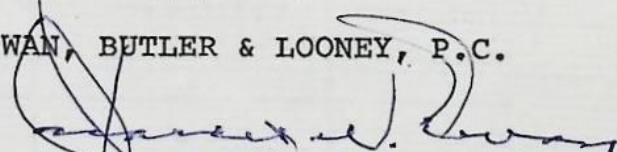
I can only assume that the stock certificates found in the carton of Orchards Water Company papers had been delivered to Bob by Roy Waters for whatever proceedings were necessary to transfer the Sears water rights to the Roy Waters lands, and it could well be that at that time, the Board of Orchards Water Company knew of the transaction, otherwise, why the assessment of the water charges during all these years to the Roy Waters land in Sec. 30, T. 15 S., R. 43 E., W.M.

I am not sure that Charlie Swan is capable of completing an application for transfer in 1980 which should have been done in 1942. I would appreciate any suggestions which you and Tom Shook may have as to the contents of a resolution from the Orchards Water Company Board, as well as the contents of an application to your agency for a transfer of the place of use of the P. R. Sears rights.

The helpfulness of both you and Tom Shook in this matter will not only be appreciated by the writer but also by the Tameno Bros. who have a substantial land sale transaction dependent upon a resolution of this situation.

Very truly yours,

SWAN, BUTLER & LOONEY, P.C.


By: Charles W. Swan

CWS:mg
cc: John Tameno and
Frank Elfering
Enclosures

#11107.

P. R. Sears et ux
To
Jack Pearson

RECEIVED

FEB 11 1980

WATER RESOURCES DEPT
SALEM, OREGON

KNOW ALL MEN BY THESE PRESENTS, That P. R. SEARS and CLARA C. SEARS, his wife of Seattle, State of Washington in consideration of Ten and No/100 Dollars, to them paid by JACK PEARSON of State of Oregon, have bargained and sold, and by these presents do grant, bargain, sell and convey unto said Jack Pearson his heirs and assigns, all the following bounded and described real property, situated in the County of Malheur and State of Oregon:

The Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$), and the Northwest Quarter (NW $\frac{1}{4}$) of Section Thirty-five (35), Township Fifteen South (15 S), Range Forty-two East (42 E) of Willamette Meridian,

together with the tenements, appurtenances thereunto belonging or in anywise appertaining, save and except the water, water rights and shares of water stock heretofore appertaining to said premises, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and also all their estate, right, title and interest in and to the same, including dower and claim of dower.

TO HAVE AND TO HOLD, the above described and granted premises unto the said Jack Pearson his heirs and assigns forever. And P. R. Sears and Clara C. Sears, his wife, grantors above named do covenant to and with Jack Pearson the above named grantee his heirs and assigns that they are lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the grantors above named, have hereunto set their hands and seals this 25 day of June, 1942.

Executed in the Presence of:

...

P. R. SEARS (SEAL)

CLARA C. SEARS (SEAL)

STATE OF OREGON)

County of Malheur)

BE IT REMEMBERED, That on this 25 day of June A. D. 1942 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named P. R. Sears who is known to me to be the identical person 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 seal, the day and year last above written.

(Notarial seal)

C. C. MUELLER
Notary Public for Oregon
My Commission Expires
June 27, 1943.

STATE OF WASHINGTON)

County of King)

On this day personally appeared before me, Clara C. Sears, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 23rd day of June, 1942.

(Notarial seal)

CHAS. E. ALLEN
Notary Public in and for the
State of Washington, residing at
Seattle
Commission Expires Aug. 15, 1943

Filed for Record July 20, 1942
At 11:00 o'clock A. M.
H. S. Sackett, County Clerk
By Hilton M. Clark, Deputy

Philip R. Sears et ux
To
Axtel Reed

T-4416

KNOW ALL MEN BY THESE PRESENTS, That PHILIP R. SEARS and CLARA C. SEARS, his wife of Seattle, King County, State of Washington in consideration of twenty (20.00) Dollars, to them paid by AXTEL REED of Brogan, Malheur Co., State of Oregon, have bargained and sold, and by these presents do grant, bargain, sell and convey unto said Axtel Reed his heirs and assigns, all the following bounded and described real property, situated in the County of Malheur and State of Oregon: to-wit:

An irregular tract of land in the Southeast Quarter of the Southeast quarter of Section Six (6), Township Sixteen (16) South, Range Forty-three (43) East Willamette Meridian, in Malheur County, Oregon, described as follows:

Beginning at a point on the South line of Section 6, Township 16 South, Range 43 E. W. M., which point bears north 88° 17' West a distance of 338 feet from the Southeast corner of said Section 6; thence North 64° 15' West a distance of 50 feet, parallel to and 100 feet from the Center line of a Canal as now located by the Willow River Land & Irrigation Company; thence North 37° 57' West a distance of 186 feet; thence North 61° 09' West a distance of 703 feet; thence North 88° 42' West a distance of 215 feet; thence South 75° 11' West a distance of 45 feet to the West line of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 6; thence Southerly along the West line of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 6, a distance of 453 feet to the Southwest corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6; thence South 88° 17' East a distance of 982 feet to the place of beginning.

Said tract containing 7 acres, more or less.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, save and except the water, water rights, and shares of water stock heretofore appertaining to said premises, also any and all State and County taxes which may have become due since Aug. 31st, 1942, and also all their estate, right, title and interest in and to the same, including dower and claim of dower.

TO HAVE AND TO HOLD, the above described and granted premises unto the said Axtel Reed his heirs and assigns forever. And Philip R. Sears and Clara C. Sears, his wife grantors above named do covenant to and with Axtel Reed the above named grantee his heirs and assigns that they are lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, except as above noted and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the grantors above named, have hereunto set their hands and seals this third day of February 1944.

Executed in the Presence of

G. E. McCall

Elizabeth S. Bell

PHILIP R. SEARS

(SEAL)(s)

CLARA C. SEARS

(SEAL)

STATE OF WASHINGTON)

ss.

County of King)

BE IT REMEMBERED, That on this Third day of February A. D. 1944 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Philip R. Sears and Clara C. Sears, his wife who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal, the day and year last above written.

(Notarial Seal)

E. S. BELL

Notary Public in and for the
State of Washington residing at
Seattle.

My Commission Expires Nov. 1, 1947.
Notary Public

RECEIVED

MAR 31980

WATER RESOURCES DEPT
SALEM, OREGON

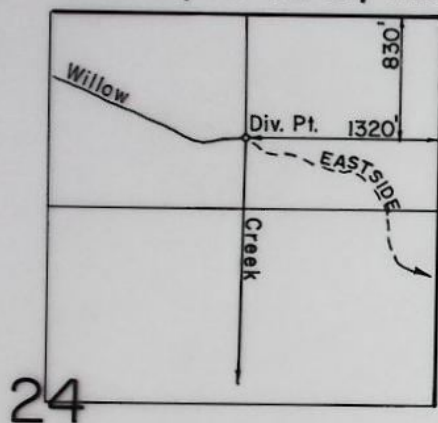
Filed for Record April 12, 1945

At 11:00 o'clock A.M.

H. S. Seckett, County Clerk

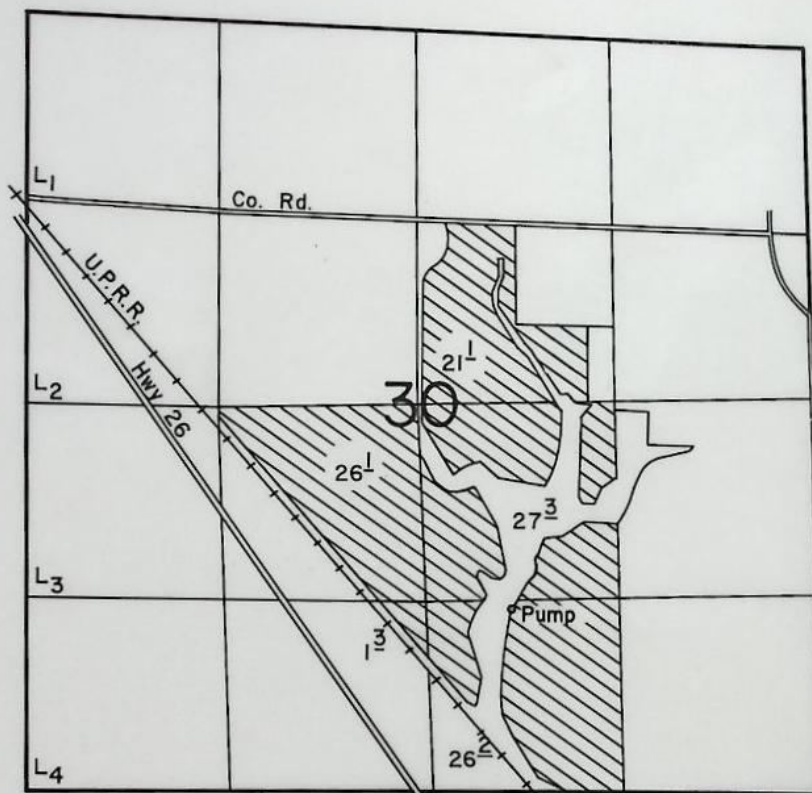
By Johannes Smit, Deputy

T. 15 S., R. 42 E., W.M.



SCALE: 1" = 1320'

T. 15 S., R. 43 E., W.M.



FINAL PROOF SURVEY

UNDER

TRANSFER 4416

Application No. Permit No.
IN NAME OF

REX O. & MYRTLE F. BIDDY

Surveyed JUNE 16, 1986, by V. L. CHURCH

5KK-12
REPORT ON INSPECTION OF TRANSFER
OF WATER RIGHT FOR CHANNEL: N:

POD

POU

USE

Add'l POD

178-94L
Transfer No. 4416

County MALHEUR

Old Certificate No. 45354

1. Name Ray & John Tameno

Biddy, Rex O. & Myrtle F.

Address Route 1, Box 217, Vale, OR 97918

2. Source of Water Willow, Black & Pole Creeks Trib of

3. Use irrigation/ 102.0 acres

4. Amount of Water

5. Priority Date 4/7/1908 & 5/29/1907

6. Proposed Point of Diversion ^{830 1320} 950' S & 1350' W from NE Cor, Sec 24, being within

NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec 24, T15S, R42E, WM (East Side Canal)

7. Completion Date COMPLETED.

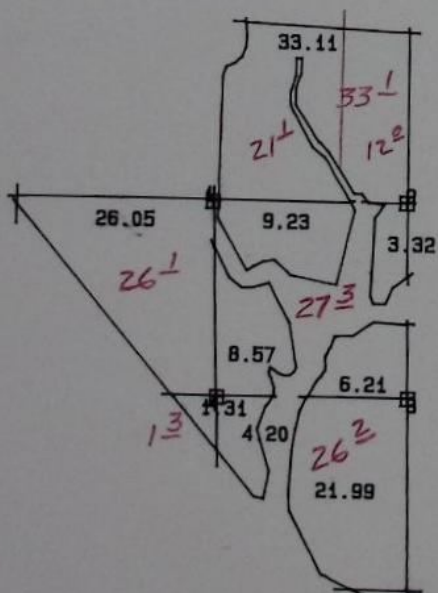
8. Place of Use:

Township	Range	Section	Forty Acre Tract	Use for Which Transfer Made
15S	43E	30	SW $\frac{1}{4}$ NE $\frac{1}{4}$	23.5 acres 27.6 21.1
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.5 ac 25.7 27.3
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	24.2 ac 24.2 26.2
			NE NW $\frac{1}{4}$ SW $\frac{1}{4}$	24.0 ac 23.1 26.1
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	0.8 ac 0.7 1.3
				102.0 102.0

when 4-35
4-35
willow 64-
VLC

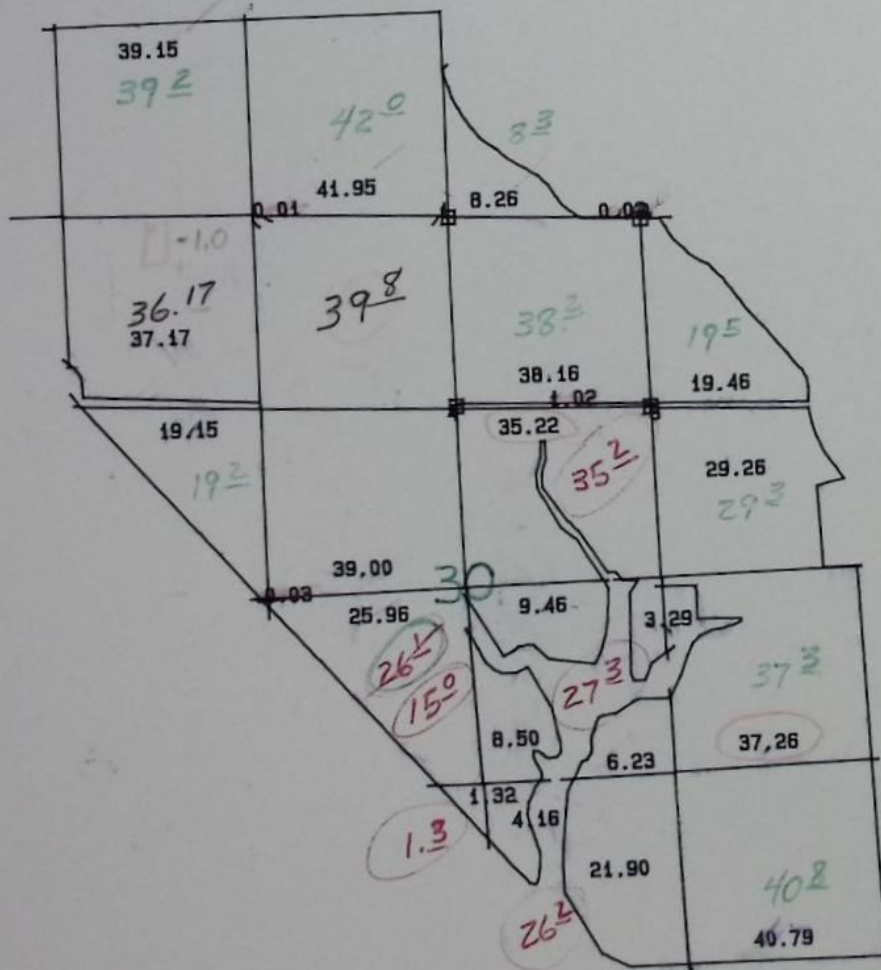
Pat McGarty 979-2207

DICK HEVENER



114²
 - 102²
 12² over

Concerning A# G-6347 P# G-5950
T- 4416



LAW OFFICES
SILVEN, YOUNG & SCHMEITS

1950 THIRD STREET

P. O. BOX 965

BAKER, OREGON 97814

TELEPHONE (503) 523-4442

DAVID C. SILVEN
THOMAS F. YOUNG
ALAN J. SCHMEITS
FLOYD C. VAUGHAN

NICHOLS & HALLOCK
1919-1922
NICHOLS, HALLOCK & DONALD
1923-1929
HALLOCK, DONALD & BANTA
1930-1945
HALLOCK, DONALD, BANTA & SILVEN
1946-1950
HALLOCK, BANTA, SILVEN & HORTON
1951-1954
BANTA, SILVEN & HORTON
1955-1959
BANTA, SILVEN, HORTON & YOUNG
1960-1962
BANTA, SILVEN & YOUNG
1963-1978

April 14, 1980

RECEIVED
APR 16 1980
WATER RESOURCES DEPT
SALEM, OREGON

James E. Sexson, Director
Water Resources Department
Mill Creek Office Park
555 13th Street, N.E.
Salem, Oregon 97310

RE: Transfer Application No. 4416

Dear Sir:

The published notice of the above referenced transfer has called to attention certain issues which may give rise to formal objections being filed. No objections are being filed at this date until further information is obtained from the Department.

Emil, Warner, and Robert Maag, clients of this office, who are downstream users on Willow Creek and long time residents of the Brogan area, have advised me that it is common knowledge in the area that the lands under the right described at page 45354, Volume 37, state record of water right certificates, have not been irrigated for a number of years, well in excess of the five consecutive years required for abandonment under Oregon law. Sworn affidavits to support this statement can be obtained if necessary.

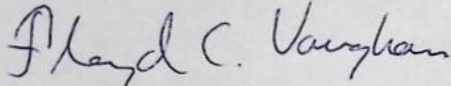
It may be that the owner of that water right merely transferred his use to different lands using the same source, Willow Creek, without following the then applicable statutory procedure but whether this constitutes abandonment appears to be an open question under Oregon law. That question may be resolved by a case now pending in the Oregon Court of Appeals, Orchards Water Company et al, Petitioners, vs. Water Resources Department Emil W. Maag, et al, Respondents, CA 16688, in which this office represents the Maag interest. As you may be

James E. Sexson, Director
April 14, 1980
Page 2

aware, the issue there is whether a water right is deemed lost by abandonment where the user, or his predecessor in interest, failed to follow the statutory procedure for changing his point of diversion when the actual change was made more than five years ago.

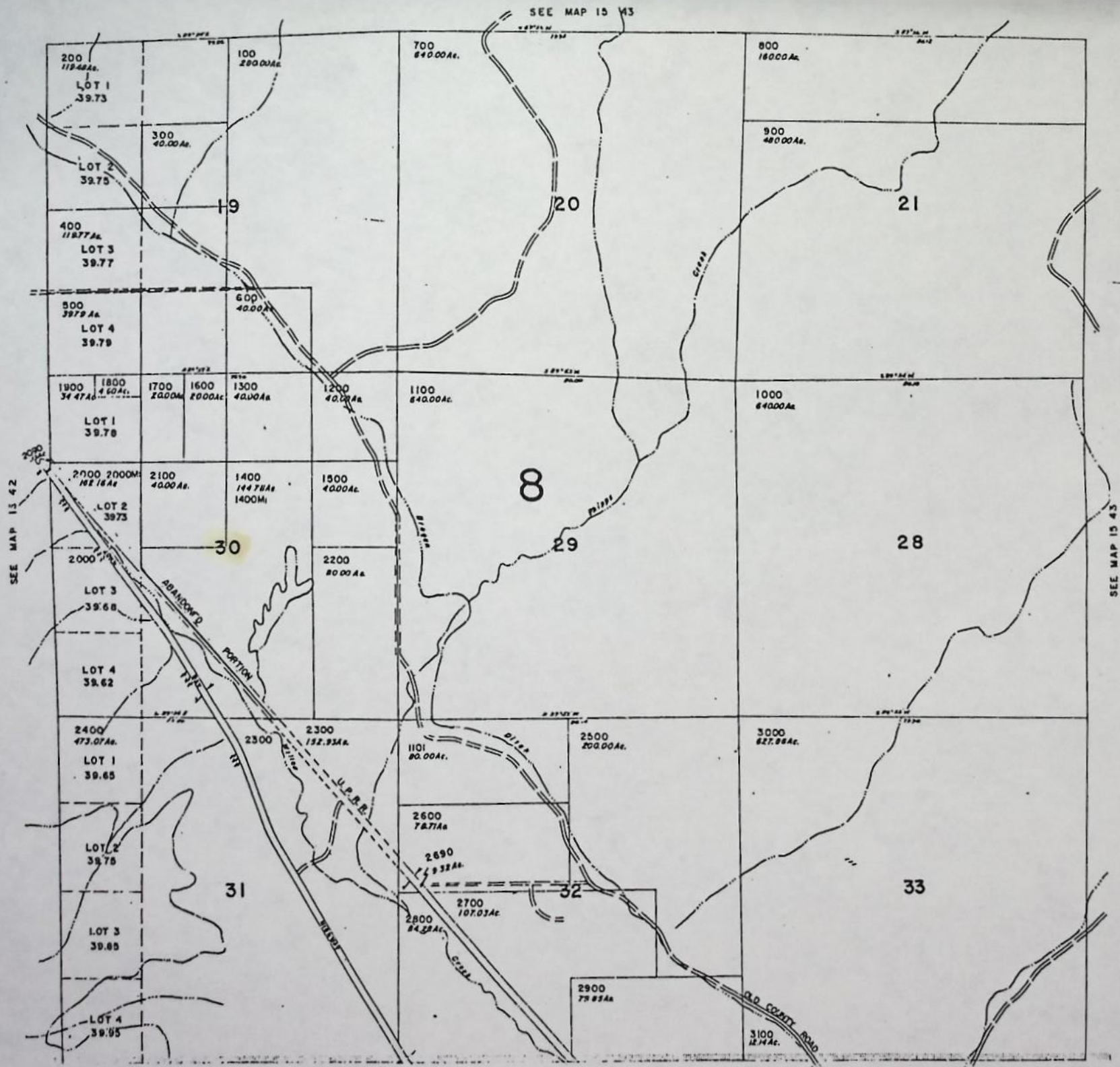
It seems that approval of transfer no. 4416 should be withheld pending that decision unless the Department feels the question presented by the transfer and the information herein is already resolved. Your further advise on this situation would be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Floyd C. Vaughan".

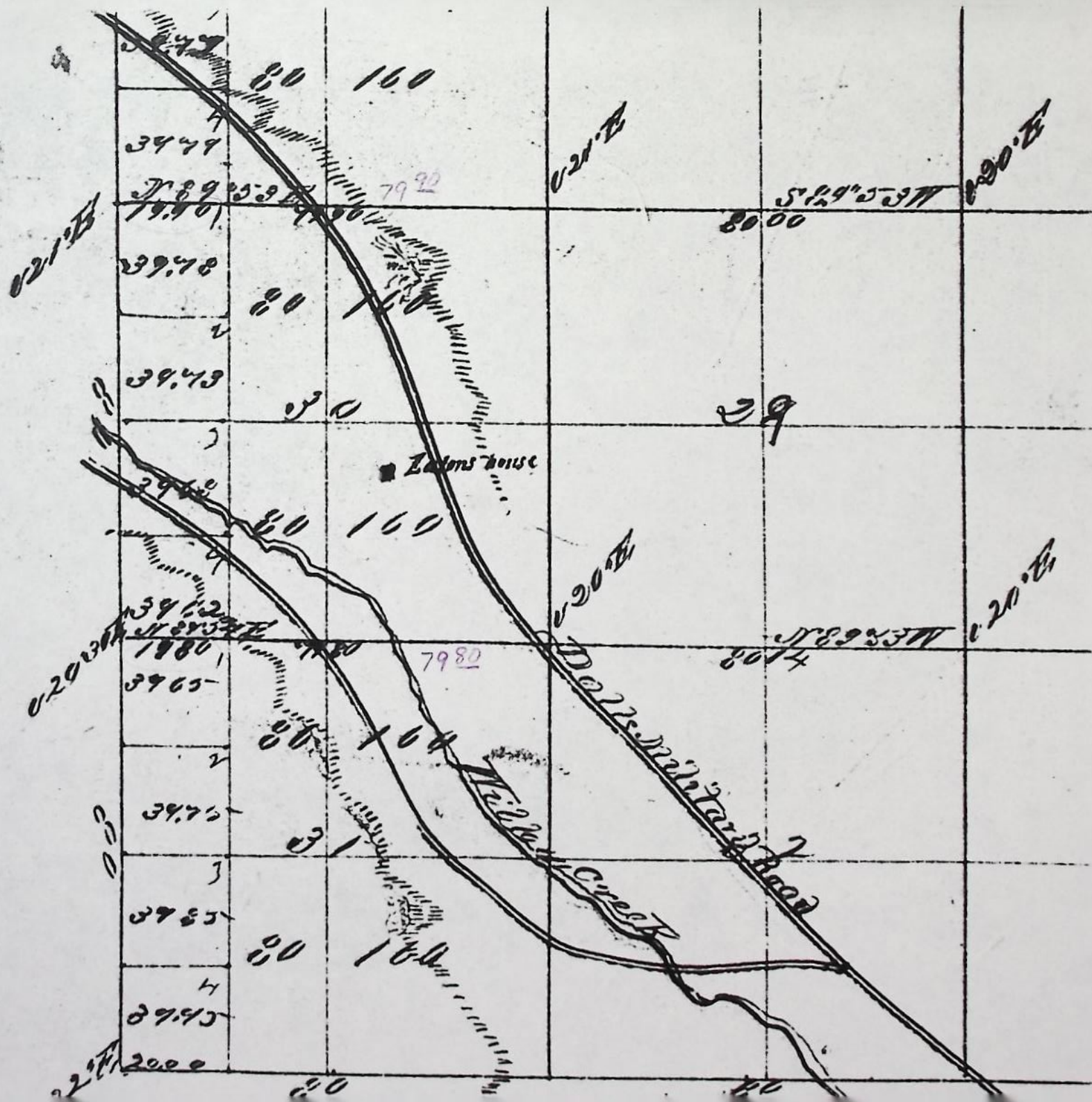
Floyd C. Vaughan
FCV:tl

13.73C

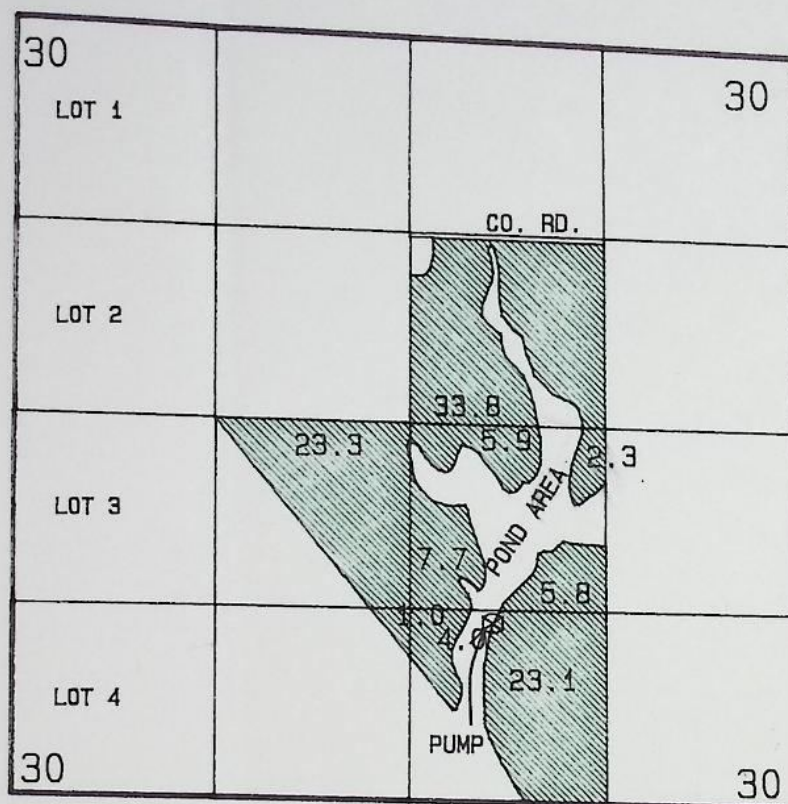


T. 15 S., R. 43 E

30 640.00
16402 29029.75



T. 15 S., R. 43 E., WM



DIVERSION LOCATED: 950 FT SOUTH AND 1350 FT WEST
FROM THE NE CORNER OF SECTION 24
SCALE 1" = 1320 FT

FINAL PROOF SURVEY
UNDER

TRANSFER 4416

IN THE NAME OF

RAY AND JOHN TAMENO

SURVEYED JULY 15, 1986 BY: VERN CHURCH

COMPUTER DRAFTED: DLM
PHOTO 41025-179-34R

WILLOW CR

WPT-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. T000049161 PERMIT NO. 009223 CERTIF. NO. 0095354
 ORIG. NO. C000453541 PREV. NO. C000453541 SUPER. NO.
NAME: RAY F JOHN TAMENOADDRESS: OWC, PO BOX 430CITY/STATE/ZIP/COUNTY: VALE, OR 97918STREAM-ID 10 5990 0080

RIV. MI.

WM. DIST. 09 W.R. TYPE SC STATUS V

23

CANCEL YEAR---->

CONSTR. COMPLT--> 0119 1981YR. LAST USED-----> NEXT ACTION DUE--> PRIORITY-----> 0907 1908PUT TO USE-----> 0119 1981LAST TRANS. DATE--> LAST TRANS. TYPE--> APPLICATION--> 0303 1980

SURVEYED----->

EXAM. FEE-----> 20.00RECORDING FEE-----> 25.00PERMIT ISSUE--> 0119 1981

CONCURRENCE----->

CYCLE STATUS-----> REPORTED FLAG-----> CONSTR. STRT.--> 0119 1981

CERTIFIED----->

CORRES. INIT.-----> CORRES. DATE----->
 POINT-OF-DIVERSION DATA:
 TWP/SP RNGE SECT QTR/QTR STREAM-ID

RIV. MI. RATE

STATUS S OR P

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

 ** POD: EAST SIDE CANAL, 950'S

 ** \$ 1350' W FM NE COR S 24.

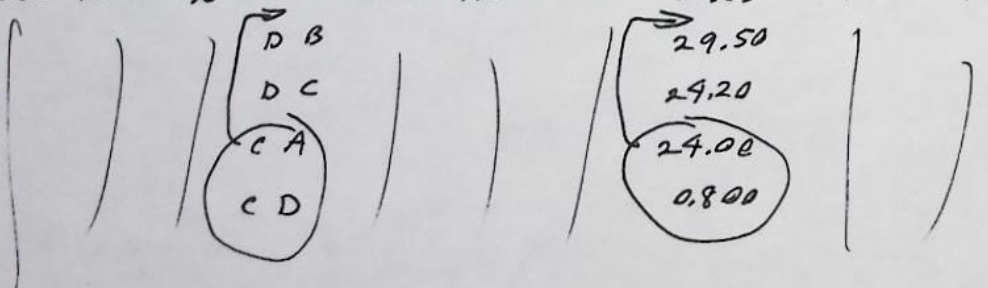
 ** CHANGES POW & POD PART OF
"NEW FORM"

 ** ORCHARDS WATER CO, C-45354,

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

 ** -----
 ** -----
 ** -----

V.O.I.S.	
APPROVED	<u>2-8-85</u> <u>1</u> <u>SD</u>
EXT.	<u> </u>
VERIFIED	<u> </u> <u> </u>

1505 930E 30 A C 23 1R 100 23.50 V P


BLACK CR & POLE CR

WF 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. 1000044162 PERMIT NO. 009223 CERTIF. NO. 0045354
 ORIG. NO. 0000453541 PREV. NO. 0000453541 SUPER. NO.

NAME: RAY & JOHN TAMENO

ADDRESS: OWC, PO BOX 430

CITY/STATE/ZIP/COUNTY: VALE, OR 97918

23

STREAM-ID 10 5940 0080 0177

RIV. MI.

WM. DIST. 09 W.R. TYPE SC STATUS V

CANCEL YEAR---

CONSTR. COMPLT--> 01 19 1981

YR. LAST USED-----> —

NEXT ACTION DUE--> —

PRICRITY-----> 05 29 1907

PUT TO USE-----> 01 09 1981

LAST TRANS. DATE--> —

LAST TRANS. TYPE--> —

APPLICATION--> 03 03 1980

SURVEYED-----> —

EXAM. FEE-----> 20.00

RECORDING FEE-----> 25.00

PERMIT ISSUE--> 01 19 1981

CONCURRENCE-----> —

CYCLE STATUS-----> —

REPORTED FLAG-----> —

CONSTR. STRT.--> 01 09 1981

CERTIFIED-----> —

CORRES. INIT.-----> —

CORRES. DATE-----> —

 POINT-OF-DIVERSION DATA:
 TWP/SP RNGE SECT QTR/QTR STREAM-ID

RIV. MI. RATE

STATUS S OR P

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

 ** CHANGES POB & POD FM willow
 ** CR PART OF ORCHARDS WATER
 ** CO C-45354.
 ** "NEW FORM"
 **

 1505 430E 22 A D 10 5940 0080 0177
 0190

V P

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

 **
 **
 **
 **

1505 430E 30 A C 23 1R 100 23.50 V P

C A 24.00

C D 0.800

D B 29.50

D C 24.20

V.I.S.

APPROVED 2-8-85 J. S. H.

EVALUATED

VERIFIED

T-4416

RECEIVED
MAR 31 1980
WATER RESOURCES DEPT
SALEM, OREGON

A RESOLUTION AUTHORIZING THE CHANGE OF
PLACE OF USE OF WATER APPURTENANT TO
STOCK CERTIFICATES NUMBERED 176, 682,
683, 684, 685, 686, and 687.

WHEREAS, ROY WATERS, now deceased, was the owner of Stock
Certificates numbered 176, 682, 683, 684, 685, 686, and 687 for 102
shares of "New Form" stocks of Orchards Water Company sold, assigned,
transferred and delivered by one P. R. Sears to said Roy Waters on
or about June 1, 1942, said shares being appurtenant to lands as
follows:

<u>Cert No.</u>	<u>Shares</u>	<u>Sec.</u>	<u>T.</u>	<u>R.</u>	<u>Subdivision</u>
176	7	6	16	43	Pt SE $\frac{1}{4}$ SE $\frac{1}{4}$
682	10.5	35	15	42	Pt SE $\frac{1}{4}$ NE $\frac{1}{4}$
683	33	35	15	42	Pt NW $\frac{1}{4}$ NE $\frac{1}{4}$
684	7.5	35	15	42	Pt SE $\frac{1}{4}$ NW $\frac{1}{4}$
685	20	35	15	42	Pt NW $\frac{1}{4}$ NW $\frac{1}{4}$
686	19	35	15	42	Pt NE $\frac{1}{4}$ NW $\frac{1}{4}$
687	5	35	15	42	Pt SW $\frac{1}{4}$ NW $\frac{1}{4}$

consisting of a total of 102 shares of stock.

WHEREAS, by Decree on Mandate of the Circuit Court of
Malheur County dated January 28, 1926 In the Matter of the Determina-
tion of the Relative Rights to the Use of the Waters of Willow Creek
and its Tributaries, a right to the use of waters of Willow Creek,
stored in Reservoir No. 3 and Black Creek and Pole Creek stored in
Reservoir No. 1, and the direct flow thereof was recognized for the
irrigation of the lands as above set forth, with a date of priority
of April 7, 1908, as to the waters of Willow Creek, and May 29, 1907
as to the waters of Black Creek and Pole Creek; and that Certificate
of Water Right No. 45354 dated April 12, 1978 was issued to Orchards
Water Company for said lands; and

WHEREAS Roy Waters purchased the aforesaid Stock Certifi-

cates from the said P. R. Sears for the purpose of transferring the place of use of the water right from Orchards Water Company represented by said Stock Certificates to the following described lands owned by said Waters, to-wit:

The Southwest one-quarter of the Northeast one-quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$), the Northwest one-quarter of the Southeast one-quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$), and all that part of the Northeast one-quarter of the Southwest one-quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and of the Southwest one-quarter of the Southeast one-quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) lying North and East of the right of way of the Oregon Washington Railway Company, all in Section Thirty (30), Township Fifteen South (15 S.), Range Forty-three (43), East of the Willamette Meridian, Malheur County, Oregon.

but there appears to be no record of any application to the State Engineer of the State of Oregon for a transfer of the place of use of said water rights to the above described lands.

WHEREAS, each year since the year 1942 Orchards Water Company has caused irrigation water from its irrigation system to be delivered for the irrigation of 117 acres of the above described lands and has assessed the annual "New Form" charges therefor upon the basis of a transfer of the place of use of the 102 shares represented by said Stock Certificates number 176, 682, 683, 684, 685, 686, and 687, plus the 15 shares for the irrigation of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 30, T. 15 S., R. 43 E., W.M., as now set forth in Certificate of Water Right No. 45353 issued to Orchards Water Company dated April 12, 1978; and

WHEREAS Robt. D. Lytle, an attorney at Law at Vale, Oregon, and who is now deceased, was for many years an officer and the attorney for Orchards Water Company, and was also the private attorney for Roy Waters during his lifetime. That the aforesaid Stock Certificates numbered 176, 682, 683, 684, 685, 686, and 687, assigned and delivered by said P. R. Sears to Roy Waters on June 1, 1942 have just been discovered in the office file of said Robt. D. Lytle for the Orchards Water Company. It is reasonable to infer that the said Stock Certificates were delivered to Robt. D. Lytle by Roy Waters for such proceedings as necessary before the State

Engineer for a transfer of the place of use of the water rights represented by said Certificates to the above described Roy Waters lands in Sec. 30, T. 15 S., R. 43 E., W.M.

WHEREAS Ray Tameno and John Tameno acquired the above described lands in Sec. 30, T. 15 S., R. 43 E., W.M., together with all water and water rights appurtenant thereto by a Warranty Deed of conveyance dated November 20, 1963 from the heirs at law of Roy Waters deceased, which said Deed is recorded as Instrument No. 140602 in the Deed Records of Malheur County, Oregon, and that at all times since said Tamenos have been and now are the owners of said lands. That for approximately ten years prior to the purchase of said lands the Tamenos leased said lands from Roy Waters during his lifetime and that Roy Waters repeatedly told them that he had a good water right from Orchards Water Company for the irrigation of the 117 acres in Sec. 30 T. 15 S., R. 43 E., W.M., being irrigated with water delivered by the irrigation system of Orchards Water Company; and

WHEREAS Ray Tameno and John Tameno have prepared and are about to submit their application to the Water Resources Board of the State of Oregon for the change of place of use of irrigation water of Orchards Water Company represented by said Stock Certificates Numbered 176, 682, 683, 684, 685, 686 and 687 to the lands in Sec. 30, T. 15 S., R. 43 E., W.M., as follows:

<u>Cert. No.</u>	<u>Shs. to be transferred</u>	<u>Lands to be transferred in Sec. 30, T. 15 S., R. 43 E.W.M.</u>
176	7	SW $\frac{1}{4}$ NE $\frac{1}{4}$
682	10.5	SW $\frac{1}{4}$ NE $\frac{1}{4}$
683	6	SW $\frac{1}{4}$ NE $\frac{1}{4}$
683	27	NW $\frac{1}{4}$ SE $\frac{1}{4}$
684	2.5	NW $\frac{1}{4}$ SE $\frac{1}{4}$
684	5	SW $\frac{1}{4}$ SE $\frac{1}{4}$
685	19.2	SW $\frac{1}{4}$ SE $\frac{1}{4}$
685	.8	NE $\frac{1}{4}$ SW $\frac{1}{4}$
686	19	NE $\frac{1}{4}$ SW $\frac{1}{4}$

687	4.2	NE $\frac{1}{4}$ SW $\frac{1}{4}$
687	.8	SW $\frac{1}{4}$ SW $\frac{1}{4}$

102 total shares

WHEREAS all of the tracts of land in Sec. 30 T. 15 S., R. 43 E., W.M., above described and which said shares of water are to be transferred are served out of that part of the company's irrigation system which is most economically operated from the standpoint of water conservation and cost of operation and the service of water to said lands is economically feasible and the experience of the company in delivering said water to said lands since about the year 1942 has shown that a completion of the legal proceedings before the Water Recourses Board of the State of Oregon for a transfer of the place of use of said water rights will in no manner interfere with the rights or use of water of any other stockholder or water uses entitled to the delivery of water from the irrigation system of Orchards Water Company;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Orchards Water Company in regular monthly session assembled:

Section 1. That the changes of place of use of the waters appurtenant to the Certificates and lands above described be allowed as follows:

<u>Cert. No.</u>	<u>Shs. to be transferred</u>	<u>Lands to be transferred in Sec. 30, T. 15 S., E.R. 43 E.W.M.</u>
176	7	SW $\frac{1}{4}$ NE $\frac{1}{4}$
682	10.5	SW $\frac{1}{4}$ NE $\frac{1}{4}$
683	6	SW $\frac{1}{4}$ NE $\frac{1}{4}$
683	27	NW $\frac{1}{4}$ SE $\frac{1}{4}$
684	2.5	NW $\frac{1}{4}$ SE $\frac{1}{4}$
684	5	SW $\frac{1}{4}$ SE $\frac{1}{4}$
685	19.2	SW $\frac{1}{4}$ SE $\frac{1}{4}$
685	.8	NE $\frac{1}{4}$ SW $\frac{1}{4}$

686	19	NE $\frac{1}{4}$ SW $\frac{1}{4}$
687	4.2	SW $\frac{1}{4}$ SE $\frac{1}{4}$
687	.8	SW $\frac{1}{4}$ SW $\frac{1}{4}$

102 total shares

and that the lands to which the shares and right are being transferred are now watered from the Company's East Side Canal for the best production of crops and that it is to the best interest of the company and its water users that the transfer be made and the same is hereby confirmed and approved.

Section 2. That the Secretary issue over her signature and the seal of the Company a certified copy of this Resolution for transmission to the Water Resources Board of the State of Oregon.

Section 3. That upon the order and approval by the Water Resources Board of the State of Oregon of the application of Ray Tameno and John Tameno for the change in place of use of the 102 shares of water rights from Orchards Water Company represented by the aforesaid Stock Certificates numbered 176, 682, 683, 684, 685, 686 and 687 and upon the surrender of said Certificates, that the President and Secretary be, and they are hereby authorized and directed to issue new Stock Certificates to Ray Tameno and John Tameno for said 102 shares as ordered transferred by the State Water Board and also a Certificate for the 15 shares "New Form" now appurtenant to the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 30 T. 15 S., R. 43 E., W.M., under Certificate of Water Right No. 45353 issued to Orchards Water Company dated April 12, 1978.

It was moved by Director John Pugh,
 seconded by Director Michael Singleton that the foregoing
 Resolution be adopted, the roll was called with the following results:
 Ayes: Stephen McBride,
John Pugh,
Michael Singleton, Nays: none

_____, absent and not voting: Roger Jones
Dick Harada The President and Chairman of
the Board thereupon declared the Resolution adopted this 28th
day of February, 1980.

Steph. L. McNeil
President and Chairman of the
Board of Directors

ATTEST:

Elizabeth Smith
Secretary

STATE OF OREGON)
)
County of Malheur)
 :SS
ORCHARDS WATER COMPANY)
)
Brogan, Oregon)

I, ELIZABETH SMITH, the duly appointed, qualified and acting Secretary of Orchards Water Company, do hereby certify that the foregoing copy of Resolution has been by me compared with the original and that it is a correct transcript therefrom and the whole of such original Resolution passed and adopted by the Board of Directors of Orchards Water Company at the regular meeting held Thursday, February 28, 1980, at the Community Hall in Brogan, Oregon.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said corporation this 28 day of February, 1980.

Elizabeth Smith
Elizabeth Smith, Secretary
of Orchards Water Company

(CORPORATE SEAL)