

4488

Name David J. Kuboushek
~~1161 Cedar Flat Rd~~ 681 Meadow View Rd
 Address Williams, OR 97544

DESCRIPTION OF WATER RIGHT

Name of stream W.F. Williams Creek
 Trib. of _____ County of Josephine
 Use irrigation
 Quantity of water _____ No. of acres _____
 Name of ditch Chapman
 Date of priority 1875
 In name of Retzloff Lathan, Bridges
Rogue River Adjudication, Vol. 4, page 27⁵⁸⁰⁶
 App. No. _____ Per. No. 16326 Cert. No. 48462⁵⁸⁰¹
 Certificate cancelled _____
 Notation made on record by _____

Change in POD
 Date filed April 25, 1980
 Date of hearing June 25, 1980
 Place of hearing Grants Pass
 Date of order 7-21-80 Vol. 33, page 457
 Date for application of water 10-1-81
 Proof mailed _____
 Proof received _____
 Certificate issued OCT 28 1980 Vol. 43, page 49703^{AR}
DEC 19 1996 Vol. 74, page 73646
to run 10/81

REMARKS

FEES PAID

Date	Amount	Receipt No.
<u>4/25/80</u>	<u>85.00</u>	<u>17302</u>
TOTAL . . .		
	Cert. Fee	

McDuffy Lewis \$35.00 pd 6/24/80 BR# 4254

FEES REFUNDED

Date	Amount	Check No.
<u>6/24/80</u>	<u>14.56</u>	<u>4255</u>

EX 20-
POD 15-
POD 35.44
70.44

INDEX CARDS:

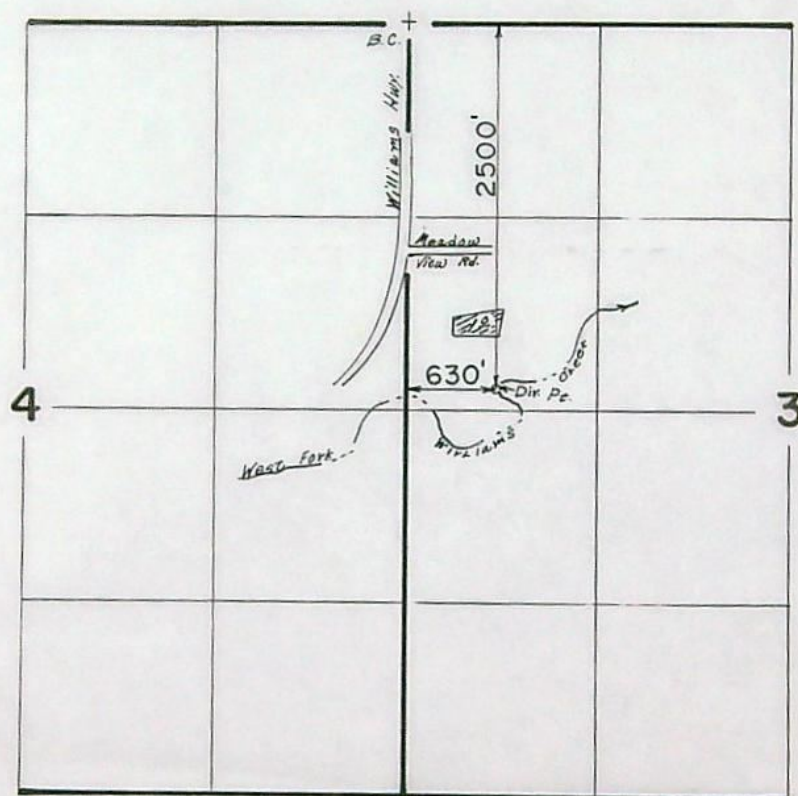
	Entered	Checked
☒ Name	<u>SRA</u>	_____
☒ Stream	<u>SRA</u>	_____
☐ Pt. of Div.	_____	_____
☒ Calendar	<u>Ecj</u>	_____
☒ CHECKED TO RECORDS	<u>SRA</u>	_____
☒ Twp. & Rge.	<u>SRA</u>	_____
☒ Decree-vault	<u>SRA</u>	_____
☒ Decree-safe	<u>SRA</u>	_____
☒ Cert. of W/R	<u>SRA</u>	_____
☐ Per. Folder	_____	_____
☐ Chaindex	_____	_____
☐ Cross Ref.	_____	_____
☒ Power Claim	<u>Ecj</u>	_____
☒ Abstracts	_____	_____

W.R.I.S.

Assembled 2-15-85 by SRA
 Entered _____ by _____
 Verified _____ by _____

Mr. & Mrs. David J. Kuboushek
5011 Leeds Street
Simi Valley, CA 93063

T. 39 S., R. 5 W., W. M.



Scale: 1" = 1320'

FINAL PROOF SURVEY

UNDER

TRANSFER NO. 4488 & 5912

Application No. Permit No.

IN NAME OF

DAVID J. KUBOUSEK

Surveyed JUL 13, 1988, by R. S. JAMES



POD
POU
USE
Add '1 POD

County Josephine

1. Name David J. Kubousek

2. Source of Supply W. F. Williams Co., Trib of _____

3. Use in 13.4ac Chapman Ditch

4. Amount of Water 0.06 cfs

5. Priority Date 1875

6. Proposed Point of Diversion 100' N + 650' E from E $\frac{1}{4}$ Cor, S4, w/in SW $\frac{1}{4}$ NW $\frac{1}{4}$, S3, T39S, R5W, Wm

7. Completion Date 10-1-87

8. Place of Use:

[illegible]

INFO: SAME OWNER: ADDRESS AS ABOVE.
MR. EARNEST SMITH (DAVID KUBOUSEK'S FATHER-IN-LAW)
1/2 CHRETAHER WHILE FAMILY IS ON VACATION FOR
2 WEEKS, SHOWED US SYSTEM. ALSO GAVE US
"C" FORM FOR TRANSFER 5912, COMPLETED SURVEY
FOR BOTH TRANSFERS.

PUMP DIRECT FROM CREEK THRU BURIED MAIN
LINE WITH RISERS FOR PORTABLE HAND LINE
1/2 DRIP SYSTEM IN GARDEN'S.

SOURCE: WEST FORK WILLIAMS CREEK

~~PIPE~~
DIVERSION: DIRECT POOL IN CREEK

MOTOR: Century elect 2HP @ 3450 RPM

PUMP: Berkeley 2" X 1 1/2"

PIPE: 2" alum = 480', RB25-5/32 X 0 = 12

2" PVC, buried = 1200'

MAY USE - all

USE: PASTURE, MAY 1/2 GARDEN.

LIFT: SUCTION: 5'

DISCHARGE: 4'

TIE: 41033-179-1076

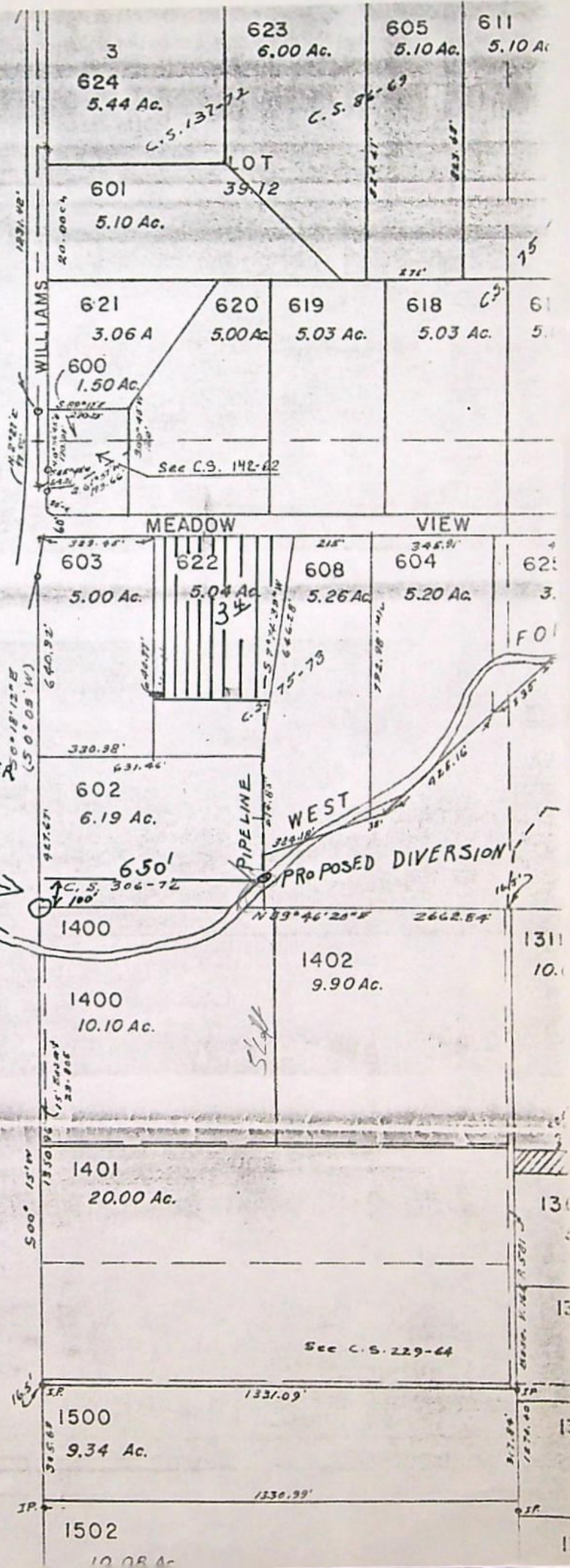
MONT: $\frac{33}{4} \frac{34}{3}$ B.C. & OTHERS.

Blue Jean FI
7-13-88

REMARKS: SEE TR. #5912

C.S. 75-73

4



ALL BUILT MAIN LINE
R. 205-4250
MAY 12

E 1/4 CORNER
SEC 4
1/2

SEE MAP

CHAPMAN
DITCH
DIVERSION

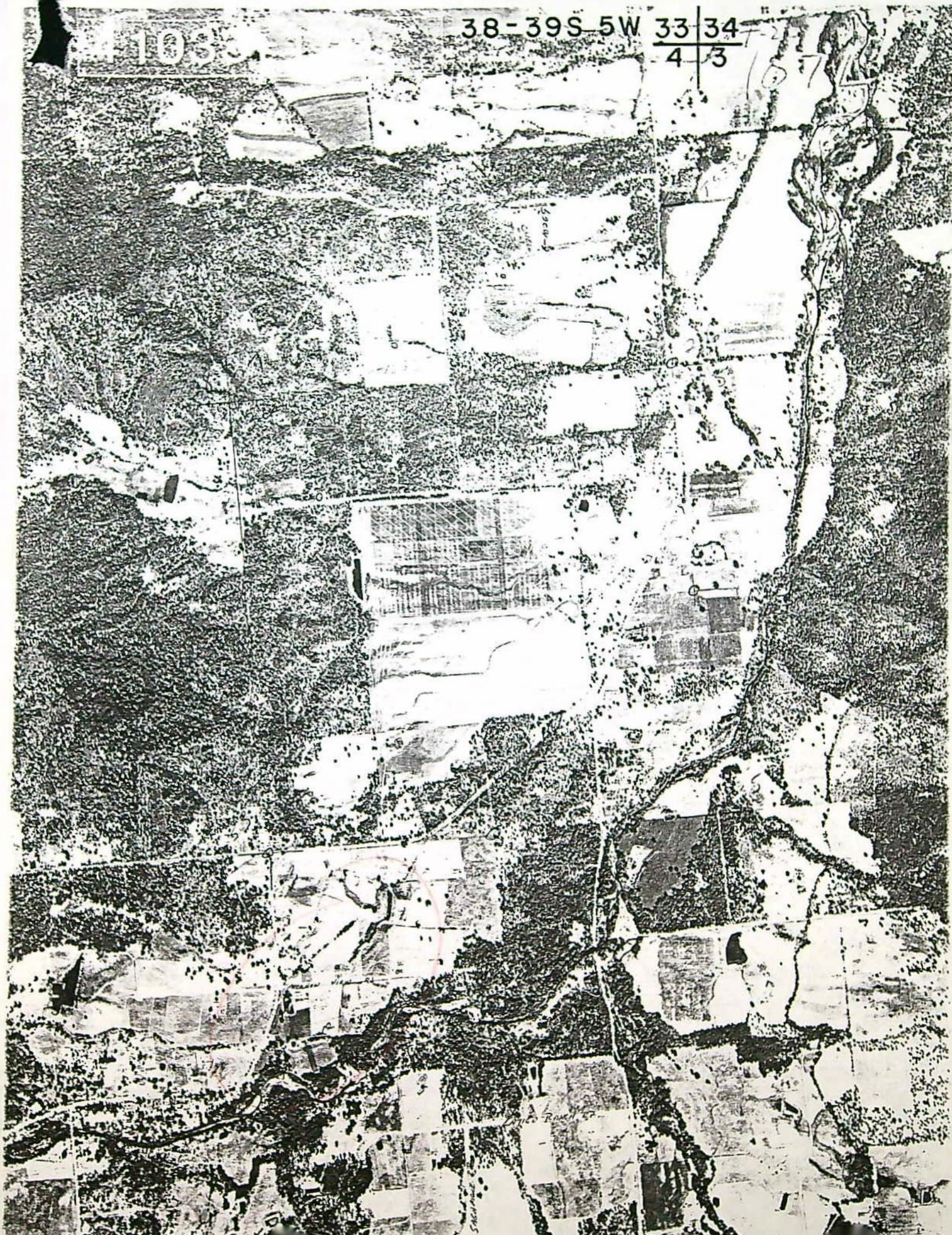
See C.S. 229-64

103

38-39S 5W 33 34

4 3

1872



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION)
OF DAVID J. KUBOUSHEK FOR APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER)

ORDER APPROVING
TRANSFER NO. 4488

On April 25, 1980, an application was filed in the office of the Water Resources Director by David J. Kuboushek for approval of a change in point of diversion of water from West Fork Williams Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 48462, Volume 42, State Record of Water Right Certificates, in the name of Charles H. Retzloff, et al, describes a right which includes the use of not to exceed 0.06 cubic foot per second from West Fork Williams Creek for irrigation of a certain 3.4 acres in SW 1/4 NW 1/4, Section 3, Township 39 South, Range 5 West, W.M., with a date of priority of 1875.

Water for the said right is diverted, through the Chapman Ditch, from a point located 440 feet South and 1200 feet West from the East Quarter Corner of Section 4, being within the NE 1/4 SE 1/4 of Section 4, Township 39 South, Range 5 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 100 feet North and 650 feet East from the East Quarter Corner of Section 4, being within the SW 1/4 NW 1/4, Section 3, Township 39 South, Range 5 West, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of May 5, 12 and 19, 1980.

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

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

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

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

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

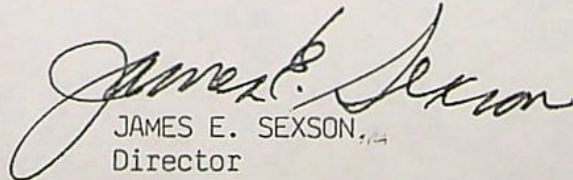
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1981.

It is FURTHER ORDERED that the certificate recorded at page 48462, Volume 42, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 21st day of July, 1980.


JAMES E. SEXSON,
Director

field form

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF TRANSFER APPLICATION	)	STATEMENT, FINDINGS OF FACT,
5912 IN THE NAMES OF ERNEST AND ROSA	)	CONCLUSIONS OF LAW AND
SMITH FOR CHANGES IN PLACE OF USE AND	)	ORDER APPROVING APPLICATION
POINT OF DIVERSION OF WATER FROM WEST	)	
FORK OF WILLIAMS CREEK	)	

STATEMENT

On March 4, 1987, an application was filed with the Water Resources Department by Ernest and Rosa Smith for approval of a change in place of use and point of diversion of water from the West Fork of Williams Creek. Application was made pursuant to ORS 540.510 to 540.530.

The water right which is the subject of Transfer Application 5912 is for the appropriation of not to exceed 0.017 cubic foot per second of water from the West Fork of Williams Creek for irrigation of a certain 1.0 acre within the SW 1/4 NW 1/4 of Section 3, Township 39 South, Range 5 West, WM, under a date of priority of 1875. The place of use is also described as Tax Lot 600. The right is a portion of the right allowed by decree of the court in the Rogue River adjudication proceeding in the name of E.E. Blanchard and described by the Certificate recorded at page 49703, Volume 43, State Record of Water Rights Certificates.

The authorized point of diversion is described as being located 440 feet south and 1200 feet west from the East Quarter Corner of Section 4, being within the NE 1/4 SE 1/4 of Section 4, Township 39 South, Range 5 West, WM, being the head of the Chapman Ditch.

The applicants propose to sever the water right from the above described place of use and to irrigate in lieu thereof a certain other 1.0 acre located within Tax Lot 622, also within the said SW 1/4 NW 1/4 of Section 3.

The proposed point of diversion for pumping directly from the Creek channel is described as being 100 feet north and 650 feet east from the West Quarter Corner of said Section 3, being within the SW 1/4 NW 1/4 of Section 3.

Notice of the application, pursuant to ORS 540.520(2), was published in the Grants Pass Daily Courier, a newspaper of general circulation in the area in which the water right is located, for a period of three weeks in the issues of April 21, 28, and May 5, 1987.

David Kubashek
681 Meadows View Dr.
Williams, Or 97544

The Hearings Officer also noted that between pipe sections the ditch was partially filled with dirt and leaves, that the ditch below the flume had, in one section, sloughed in with the result that the water was backed up through the flume, and that the flume showed no movement of water.

Protestant Hemphill testified without contradiction that there was no organization of users on Chapman Ditch for maintenance of the ditch, and that each property owner was responsible for upkeep of that portion of the ditch crossing that users property.

The thrust of the testimony is that the users of Chapman Ditch have for some time been experiencing erratic and generally inadequate flows, and that this problem is quite unrelated to the amount of water coming in at the headgate or to the application for transfer. These problems are, rather, a function of inadequate ditch maintenance.

The elimination of 0.017 cfs, or 7 gpm, from a total combined right of .60 cfs, or 269.3 gpm, will not have any impact on the water flowing -- or not flowing -- through Chapman Ditch. Robert B. Steimer, 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. We agree with this conclusion. There is nothing in the record to support protestants' allegations that the proposed change in place of diversion or use will have any adverse impact on protestants' or others' water rights.

CONCLUSIONS OF LAW

The changes in point of diversion and place of use of water as proposed by Transfer Application 5912 can be effected without injury to existing water rights. Therefore, the application should be approved pursuant to the provisions of ORS 540.530.

ORDER

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

It is FURTHER ORDERED that the quantity of water transferred shall not exceed 0.017 cubic foot per second, and shall be used only during the irrigation season of each year, in accordance with the terms of the original certificate.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the Watermaster the same shall become necessary:

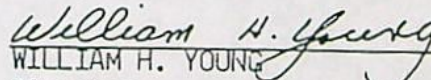
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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 construction of all works necessary to the changes in point of diversion and place of use of water as authorized herein be completed on or before October 1, 1988, and that the water be fully applied to beneficial use on the proposed place of use prior to October 1, 1989.

It is FURTHER ORDERED that the certificate recorded at page 49703, Volume 43, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the owner of the land to which the subject water right is transferred.

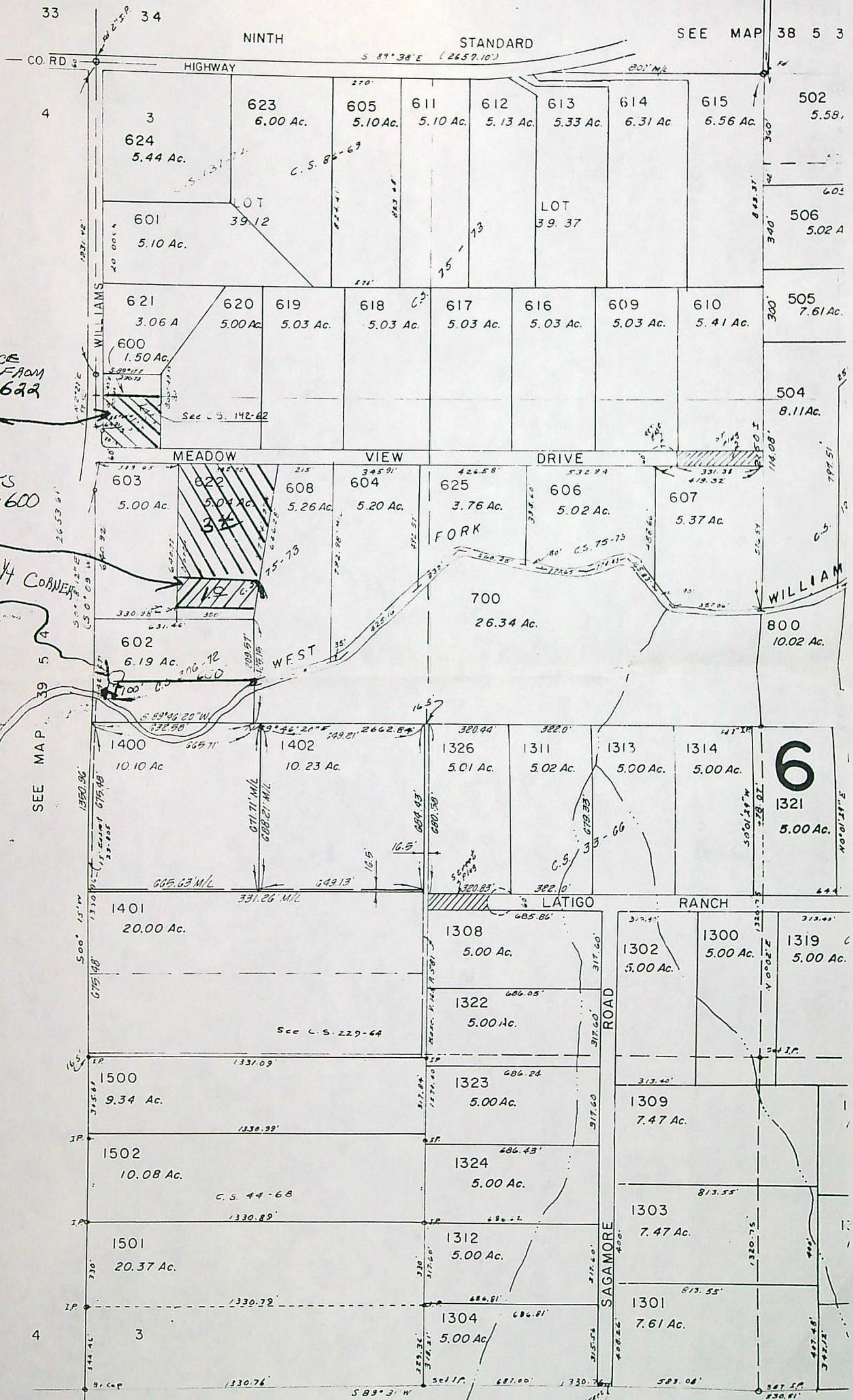
Dated at Salem, Oregon this 8th day of January, 1988.


WILLIAM H. YOUNG
Director

NOTICE You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service (date of mailing) of this order. Judicial review is pursuant to the provisions of ORS 536.075 and 183.482.

1" = 400'

T-5912



TRANSFERRING
1 ACRE SURFACE
WATER RIGHTS FROM
LOT 600 TO 622

ADDITION OF 1 ACRE
SURFACE WATER RIGHTS
TRANSFERRED FROM LOT 600
TO LOT 622.
TOTAL WATER RIGHTS
622 IS 4.4

Sec 4

CHAPMAN
DITCH
DIVERSION

INFO: SAME OWNER: ADDRESS AS ABOVE.
MR. EARNEST SMITH (DAVID KUBOUSEK'S
FATHER IN-LAW SHOWED US SYSTEM.

SEE FILE T# 4488

TIE: 41033-179-1076

B. Bue Jernan T.I. 8-18-88

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That CHARLES H. RETZLOFF, RICHARD W. & VIVIAN C. LATHAN, and RONDEL C. BRIDGES

of 1991 SE Portola Drive, Grants Pass, State of Oregon 97526, has
a right to the use of the waters of
West Fork Williams Creek

a tributary of Williams Creek for the purpose of
irrigation of 34.8 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at page 1; that the priority of the right thereby confirmed dates from 1875

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.60 cubic foot per second.

The point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, T. 39 S., R. 5 W., W.M.; 440 feet South and 1200 feet West from E $\frac{1}{4}$ Corner, Section 4.

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

SEE NEXT PAGE

And said right shall be subject to all laws, regulations, and decrees of the State of Oregon.
The right to the use of the water for the purposes aforesaid is subject to the terms and conditions of the decree of the Circuit Court of the State of Oregon for Jackson County.

WITNESSED the signature of the Water Resources Director, official

his date October 28, 1980

[Signature]
Deputy Water Resources Director

3.00 acres Lot 3
 NE $\frac{1}{4}$ NW $\frac{1}{4}$
 3.50 acres Lot 1
 3.50 acres Lot 12
 2.42 acres Lot 13
 1.50 acres Lot 14
 3.30 acres Lot 22
 1.80 acres Lot 23
 6.55 acres Lot 24
 NW $\frac{1}{4}$ NW $\frac{1}{4}$
 2.18 acres Lot 13
 0.55 acre Lot 14
 3.40 acres Lot 15
 SW $\frac{1}{4}$ NW $\frac{1}{4}$
 3.10 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
 Section 3
 T. 39 S., R. 5 W., W.M.

NOTE: Lots within forty acre tracts refer to Retzloff partition of the NW $\frac{1}{4}$ of Section 3, T. 39 S., R. 5 W., W.M., recorded in Josephine County.

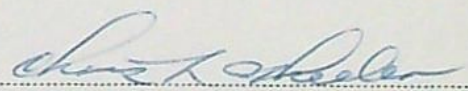
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 48462, Volume 42, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on July 21, 1980, approving transfer application No. 4488.

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

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date October 28 , 19 80 .


 Deputy Water Resources Director

W. F. WILLIAMS 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. T002044881 PERMIT NO. 004027 CERTIF. NO.
 ORIG. NO. C000163261 PREV. NO. C00048462 SUPER. NO.

NAME: DAVID J. KUBOUSHEK

ADDRESS: 681 MEADOW VIEW RD

CITY/STATE/ZIP/COUNTY: WILLIAMS, OR 97544

17

STREAM-ID 15 1680 1540 0340 120

RIV. MI.

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

CANCEL YEAR--->

CONSTR. COMPLT---> 10 01 1981

YR. LAST USED----->

NEXT ACTION DUE--->

PRIORITY-----> 12 31 1875

PUT TO USE-----> 10 01 1981

LAST TRANS. DATE--->

LAST TRANS. TYPE--->

APPLICATION---> 0425 1980

SURVEYED----->

EXAM. FEE-----> 20.00

RECORDING FEE----->

15.00

PERMIT ISSUE---> 0721 1980

CONCURRENCE----->

CYCLE STATUS----->

REPORTED FLAG----->

CONSTR. STRT.---> 0721 1980

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--->

3905 050W 03 B C 15 1680 1540 0340 120

0.060

V

P

** POD: 100' N E 650' E PM E 1/4

** COR S 40 CHANGES POD PART

** OF C-48462. RRC-49703.

PLACE-OF-USE DATA:

TWP/SP RNGE SECT QTR/QTR CNTY USE % CNSMTV ACRES

STATUS S OR P

3905 050W 03 B C 17 1R 100 3.40

V

P

V.F.I.S.

APPROVED 2-15-85 J. SDA

E. J. S. S. S. S. S.

Verified S. S. S. S. S.

RECEIVED

SEP 28 1981

WATER RESOURCES DEPT
SALEM, OREGON

NOTICE OF COMPLETION OF CHANGE IN

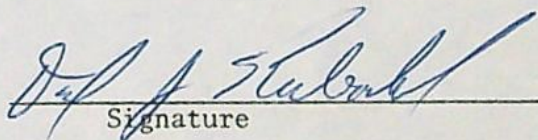
point of diversion of water from West Fork Williams Creek

PURSUANT TO TRANSFER APPLICATION NO. 4488

I, David J. Kuboushek, 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 9/20, 1981.

9/24/81

Date


Signature

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

OK
Dij

Application for Transfer of Water Right

RECEIVED
APR 25 1980
WATER RESOURCES DEPT
SALEM, OREGON

To the WATER RESOURCES DIRECTOR OF OREGON:

I, David J. Kuboushek
(Name of applicant)
of 1161 Cedar Flat Rd. Williams
(Mailing address) (City)
State of Oregon 97544 503-846-7157, do hereby make application for change
(Zip Code) (Phone number)
In point of diversion
(In point of diversion; place of use; use heretofore made of the water)

1. Is the water right recorded in your name? NO - Retzloff, Lathan, Bridges
(If not, give name)
2. Was your water right determined by Decree of Court? YES If so, give title of proceedings
(Yes or No) ROGUE RIVER DECREE
48462
number of certificate (formerly 16326)
3. Was your water right acquired by Water Right Permit? ---- If so, give number
(Yes or No)
of permit ----- Number of certificate -----

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

4. The source of water is W.F. Williams Creek
5. What is the date of priority of your water right? 1875
6. The authorized point of diversion is located 440 ft. S. and 1200 ft. W. from the E 1/4
(N. or S.) (E. or W.)
corner of Sec 4 being within the NE 1/4 SE 1/4 of Section 4 Tp. 39 S. R. 5 W. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of JOSEPHINE The name of the ditch used is CHAPMAN

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

7. The proposed point of diversion is located 100 ft. N and 650 ft. E from the E 1/4
(N. or S.) (E. or W.)
corner of Sec 4 being within the SW 1/4 NW 1/4 of Section 3 Tp. 39 S. R. 5 W. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of JOSEPHINE The name of the ditch to be used is (Pump & pipeline)

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

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

Township North or South	Range E. or W. of Willamette Meridian	Section	List $\frac{1}{4}$ - $\frac{1}{4}$ of Section	Number Acres To Be Irrigated
39 S.	5 W.	3	SW $\frac{1}{4}$ NW $\frac{1}{4}$	3 $\frac{1}{4}$

(If more space required, attach separate sheet)

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

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

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

11. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.?
(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, power, mining, manufacturing, domestic supplies, etc.)

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

Township North or South	Range E. or W. of Willamette Meridian	Section	List $\frac{1}{4}$ - $\frac{1}{4}$ of Section	Number Acres To Be Irrigated

(If more space required, attach separate sheet)

14. Reasons for the proposed changes are

15. Construction work will be completed on or before2/1/81.....

16. The water will be completely applied to the proposed use on or before10/1/81.....

Remarks

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

AFFIDAVIT OF APPLICANT

I, DAVID J. KUBOUSHEK, 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 22 day of APRIL, 1980

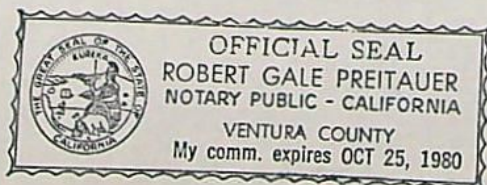
David J. Kuboushek
(Name of applicant)

Subscribed and sworn to before me this 22nd day of April, 1980

[Notarial Seal]

Robert Gale Preitauer
NOTARY PUBLIC FOR CALIFORNIA

My commission expires 10/25/80





STATE OF OREGON

INTEROFFICE MEMO

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: April 30, 19 80.FROM: ** Robert B. Steimer, WatermasterSUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4488IN THE NAME OF David J. Kuboushek

RECEIVED

MAY 7 1980

WATER RESOURCES DEPT
SALEM, OREGON

In my opinion the proposed change in POD from W. Fk. Williams Creek
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 . . .
x (2) When in the judgment of the watermaster it becomes necessary . . .

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

** Robert B. Steimer
Watermaster's signature or initials

LEGAL NOTICE

NOTICE OF WATER RIGHT
TRANSFER APPLICATION
NO. 4488

The Water Resources Director of Oregon has received and filed an application by David J. Kuboushek for approval, without loss of priority, of a change in 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 48462, Volume 42, State Record of Water Right Certificates, in the name of Charles H. Retzliff, et al, and is for the use of not to exceed 0.06 cubic foot per second from W. Fk. Williams Cr., under a priority date of 1875, for irrigation of a certain 3.4 ac in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec 3, T 39S, R 5W, WM.

The authorized point of diversion is located 440 ft S & 1200 ft W from the E $\frac{1}{4}$ Corner of Sec 4, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 4, T 39S, R 5W, WM (Chapman Ditch).

The applicant proposes to change the point of diversion therefrom to a point located 100 ft N — 650 ft E from the E $\frac{1}{4}$ Corner of Sec 4, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec 3, T 39S, R 5W, WM.

Pursuant to ORS 540.520(2), a hearing is scheduled for 9:30 a.m. on Wednesday, June 25, 1980, at the Josephine County Courthouse, Grants Pass, Oregon. Any objection to the proposed change must be prepared in writing: one copy to be served on the applicant at 1161 Cedar Flat Rd, Williams, OR 97544; 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 28th day of April, 1980.

James E. Sexson,
Director

AFFIDAVIT OF PUBLICATION

RECEIVED
JUN 11 1980
WATER RESOURCES DEPT
SALEM, OREGON

State of Oregon }
County of Josephine } ss.

John E. Voorhies

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

NOTICE OF WATER RIGHT TRANSFER APPLICATION NO. 4488, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 3 successive and consecutive weeks in the following issues May 5, 12 & 19, 1980

John E. Voorhies
Subscribed and sworn to before me this 19th day of May, 19 80

A. Kathleen Zahner
Notary Public of Oregon.

My commission expires 4th day of February, 19 84

32020

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KNOW ALL MEN BY THESE PRESENTS, That

BARBARA FERN Q. ZILLIG

hereinafter called the grantor,

for the consideration hereinafter stated to the grantor paid by

DAVID J. KUBOUSHEK and ERMA JEAN KUBOUSHEK

husband and wife,

hereinafter called the grantees, does hereby grant, bargain, sell and convey unto the grantees, as tenants by the entirety, the heirs of the survivor and their assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Josephine, State of Oregon, described as follows, to-wit:

A parcel of land in the Northwest Quarter of Section 3, Township 39 South, Range 5 West of the Willamette Meridian, Josephine County, Oregon, being more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of said Section 3; thence along the East line of the Northwest Quarter of said Section 3, South 0° 11' 36" West 1567.15 feet to an iron rod on the Southerly right of way line of Meadow View Drive; thence along said right of way line, West 1939.75 feet to an iron rod for the true point of beginning; thence continue along said right of way line, West 385.22 feet to an Iron rod; thence South 640.77 feet to an iron rod; thence North 89° 58' 26" East 300.00 feet to an iron rod; thence North 7° 34' 39" East 646.28 feet to the true point of beginning..

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

And grantor hereby covenants to and with grantees and the heirs of the survivor and their assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances Except: Liens, covenants and encumbrances of record, or apparent on the ground.

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 26,750.00

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

Witness my hand and seal this 21st day of November, 1979.

(SEAL)

Barbara Fern Q. Zillig (SEAL)
Barbara Fern Q. Zillig

(SEAL)

(SEAL)

STATE OF OREGON

ss

County of Marion

November 21, 1979

BEFORE ME PERSONALLY appeared the above named Barbara Fern Q. Zillig

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

TITLE INSURANCE

ESCROWS