

4491

Name Phyllis McCarthy

By _____

Address _____

Prairie City, OR 97869Change in PODDate filed May 1, 1980Date of hearing July 8, 1980Place of hearing Canyon CityDate of order 7-21-80 Vol. 33, page 459Date for application of water Complete

Proof mailed _____

Proof received _____

Certificate issued OCT 28 1980 Vol. 43, page 49671DEC 29 198963321

REMARKS

FINIS

DESCRIPTION OF WATER RIGHT

Name of stream John Day RiverTrib. of _____ County of GrantUse irr.Quantity of water _____ No. of acres 16Name of ditch Lower McHaleyDate of priority 1869In name of E.P. LauranceJohn Day River Adjudication, Vol. 10, page 544App. No. _____ Per. No. _____ Cert. No. 25451

Certificate cancelled _____

Notation made on record by _____

OK cert

FEES PAID

Date	Amount	Receipt No.
<u>5-1-80</u>	<u>85-</u>	<u>17425</u>
TOTAL . . .		
	Cert. Fee	

Prairie City Pioneer Press \$20.50 pd 6/24/80 Ekt 4244

FEES REFUNDED

Date	Amount	Check No.
<u>6/24/80</u>	<u>21⁵⁰</u>	<u>4245</u>

EX 20-
POD 15-
POD 28⁵⁰
63⁵⁰

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

W.R.I.S.

Assembled 6-29-84 by Qcj

Entered _____ by _____

Verified _____ by _____

T. 13 S. R. 33 E. W.M.

RECEIVED

MAY 1 1980

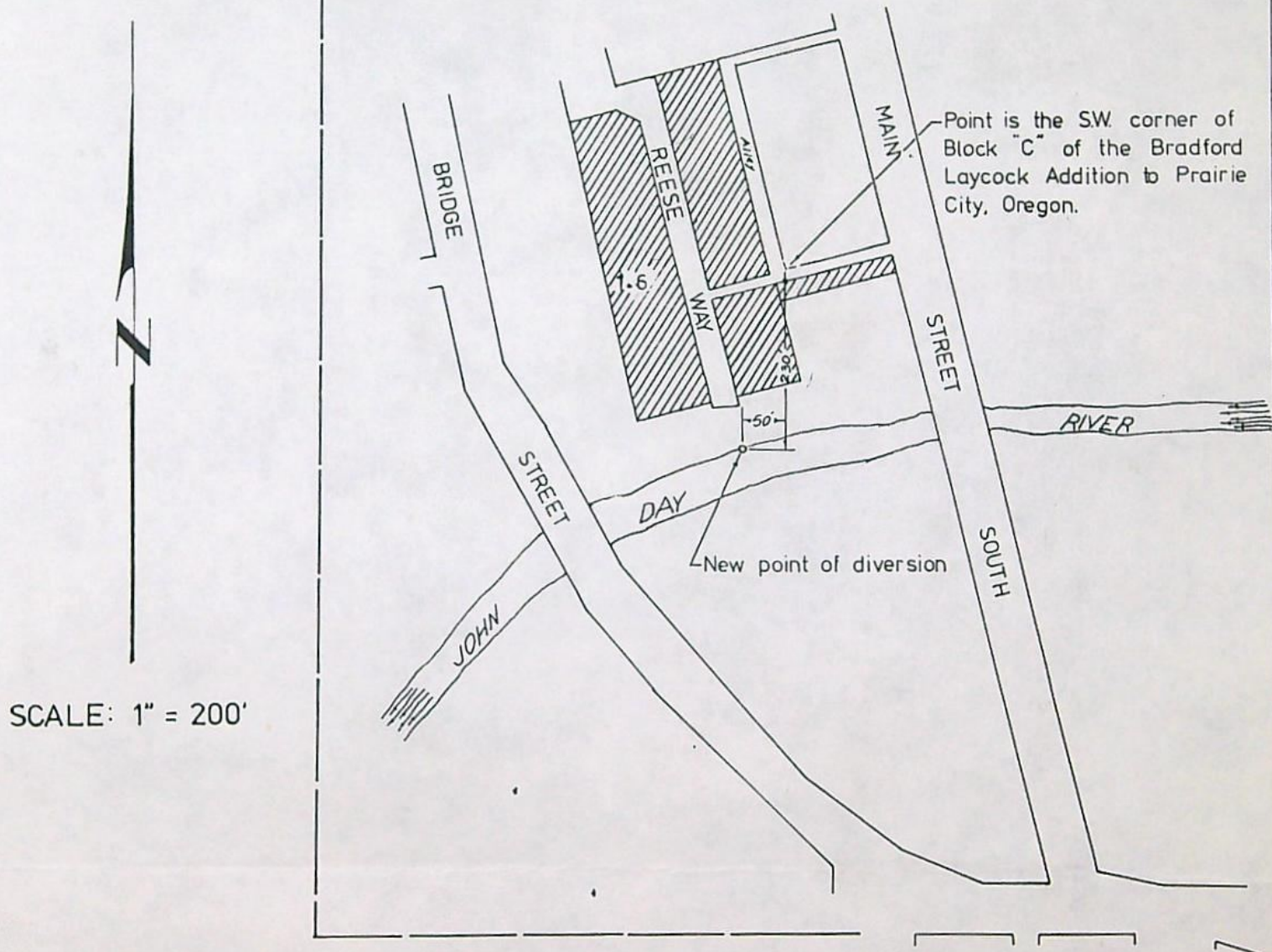
WATER RESOURCES DEPT

SALES Section 2

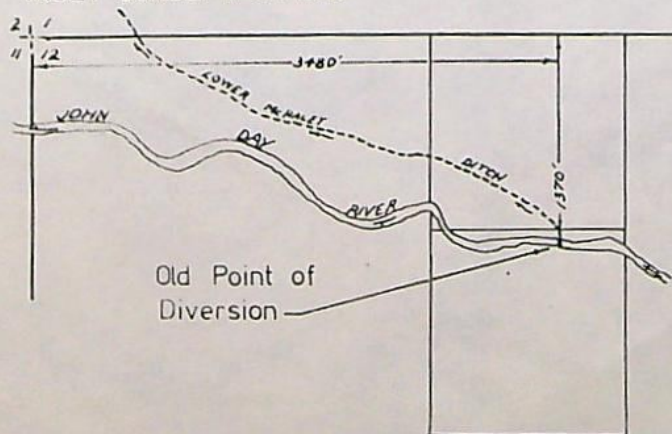
Section 11

NW Corner of the N.E. 1/4 of the N.W. 1/4
of Section 11, T. 13 S., R. 33 E., W.M.

T-4491



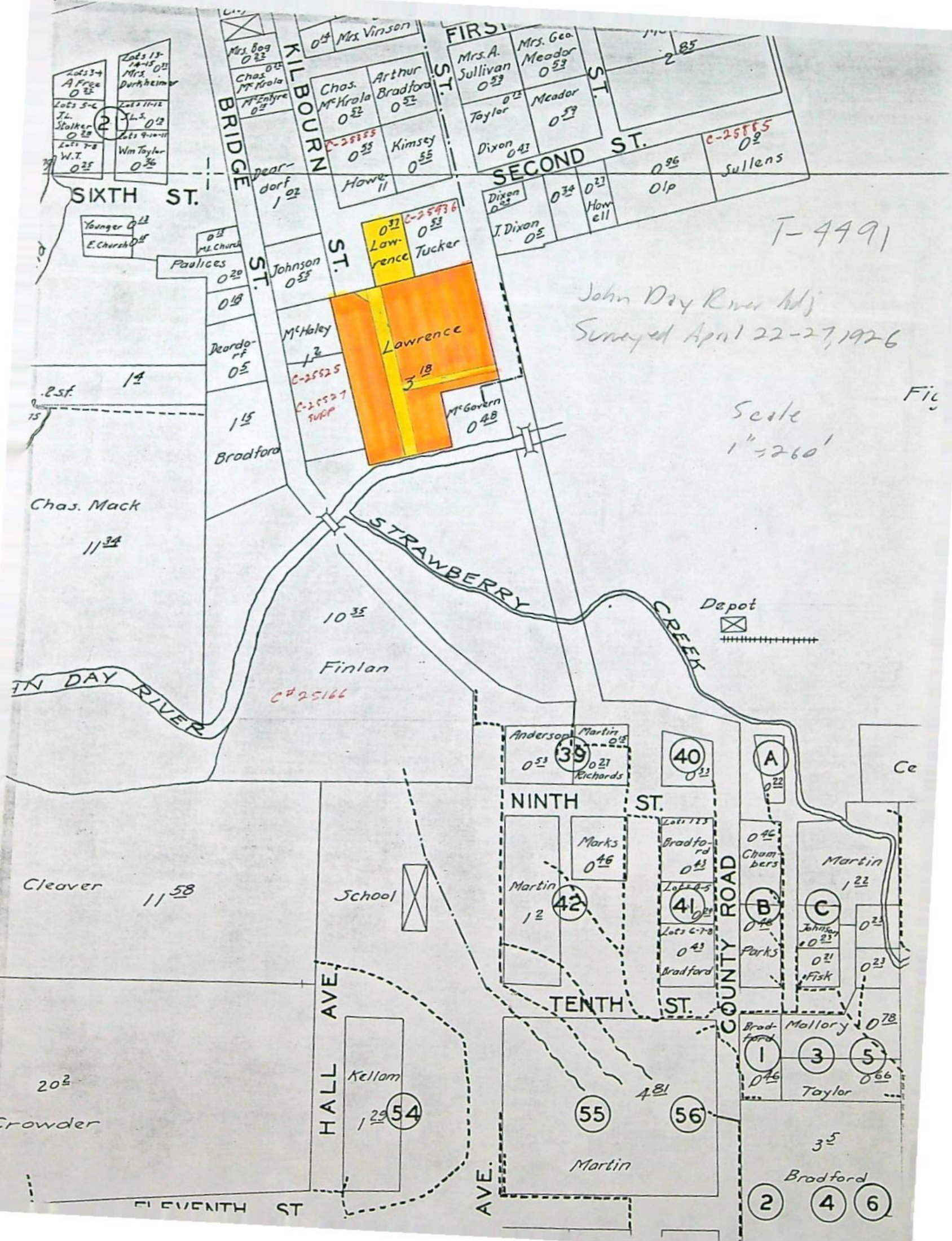
INSET SCALE: 4" = 1 mile



Transfer application map for
Phyllis McCarthy, for a change
in point of diversion on a
portion of Certificate 25451.

This map prepared by Rod Allen from
information furnished by the applicant,
county assessor's map, and John Day
River adjudication map.

APPROVED *Phyllis McCarthy*



T-4491

John Day River Adj
Surveyed April 22-27, 1926

Scale
1" = 260'

Fig

: POD
POU
USE
Add'1 POD

County GRANT

1. Name Phyllis McCarthy
Address Prairie City, Oregon 97869

3. Use irrigation of 16 ac

4. Amount of Water 1/40 ac. total 5 ac. 4 c. Priority Date 1869

5. Proposed Point of Diversion 230' S & 50' W from SW Corner of Block C of Bradford

Laycock Addition to Prairie City, within NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec 11, T 13S, R 33 E, W.M.

6. Completion Date COMPLETED

7. Place of Use:

Township	Range	Section	Forty Acre Tract	Use for Which Transfer Made
				C 25166
				25255
				25451
				829
				885
				936
				527
				A 15830
				42482

Lot 2 ✓

T-

8-27-81

Info: inspection

Source: John Day River

Use: Irrigation

Crop: Potato, C & G

Pump: GE 2 hp 3450
Dayton CDP Split case $1\frac{1}{2} \times 1\frac{1}{2}$

heads	-	III	RB 20	$\frac{5}{32} \times 0$	} ALL MAX
	1-	PB 40	$\frac{11}{64} \times \frac{1}{8}$		
	1-	RB 30	$\frac{1}{8} \times 0$		
	1-	RB 30	$\frac{5}{32} \times \frac{1}{8}$		
	1-	RB 30	$\frac{5}{32} \times \frac{5}{32}$		
	1-	RB 40B	$\frac{3}{16} \times \frac{1}{8}$		
1st suction	1-	RB 40B	$\frac{3}{16} \times 0$		
		5 ft	discharge	0 ft	

tie: insp. Map looks good.

MB
F.E.

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

GRANT COUNTY

IN THE MATTER OF THE APPLICATION)
OF PHYLLIS MCCARTHY FOR APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER)

ORDER APPROVING
TRANSFER NO. 4491

On May 1, 1980, an application was filed in the office of the Water Resources Director by Phyllis McCarthy for approval of a change in point of diversion of water from John Day River, pursuant to the provisions of ORS 540.510 to 540.530.

The water right in question was allowed by Decree of Circuit Court for Grant County, entered November 16, 1956, in the Matter of the Determination of the Relative Rights to the Use of the Waters of John Day River, tabulated at page 544, Volume 10, Order Record of the Water Resources Director, in the name of E.P. Laurance, and is a portion of the right described by the certificate recorded at page 25451, Volume 17, State Record of Water Right Certificates, in the name of E.P. Laurance, and is for the use of not to exceed 1/40 cubic foot per second per acre irrigated from April 1 to September 30; further limited to one acre-foot per acre per calendar month to July 1 and 3/4 acre-foot per acre thereafter; total five acre-feet per acre for season, of water from John Day River, with a date of priority of 1869, for irrigation of a certain 1.6 acres in NE 1/4 NW 1/4, Section 11, Township 13 South, Range 33 East, W.M.

Water for the said right is diverted, through the Lower McHaley Ditch, from a point located 1370 feet South and 3480 feet East from the Northwest Corner of Section 12, being within the SW 1/4 NE 1/4 of Section 12, Township 13 South, Range 33 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion, without loss of priority, to a point located 230 feet South and 50 feet West from the Southwest Corner of Block C of the Bradford Laycock Addition to Prairie City, being within the NE 1/4 NW 1/4, Section 11, Township 13 South, Range 33 East, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Pioneer Press, a newspaper printed and having general circulation in Grant County, Oregon, for a period of three weeks in the issues of May 15, 22 and 29, 1980.

Mr. Jerry Rodgers, 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:

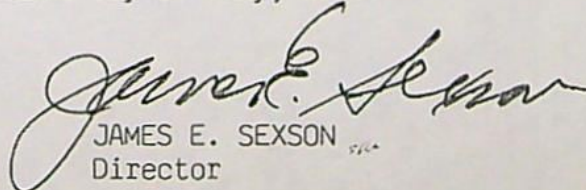
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 NO time need be fixed for completion as the change in point of diversion is completed.

It is FURTHER ORDERED that the certificate recorded at page 25451, Volume 17, 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

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That E. P. LAURANCE

of Prairie City, State of Oregon 97859, has
a right to the use of the waters of
John Day River

a tributary of for the purpose of
irrigation of 1.95 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Grant County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 15, at page 461; that the priority of the right thereby confirmed dates from 1869

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 1/40 cubic foot per second per acre irrigated from April 1 to September 30; further limited to one acre-foot per acre per calendar month to July 1 and 3/4 acre-foot per acre thereafter; total five acre-feet per acre for season, measured at point of diversion.

The point of diversion is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, T. 13 S., R. 33 E., W.M.; Lower McHaley Ditch - 1370 feet South and 3480 feet East from NW Corner, Section 12.

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

1.95 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 11
T. 13 S., R. 33 E., W.M.

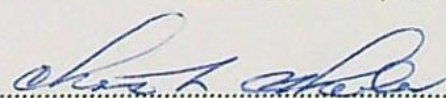
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 25451, Volume 17, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on July 21, 1980, approving transfer application No. 4491.

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, 1980.


Deputy Water Resources Director



STATE OF OREGON

INTEROFFICE MEMO

TO: TRANSFERS, WATER RIGHTS DIVISION

DATE: 6/2, 1980.

FROM: ** Jerry Rodgers, Watermaster

SUBJECT: WATER RIGHT TRANSFER APPLICATION NO. 4491IN THE NAME OF Phyllis McCarthy

RECEIVED
JUN 4 1980
WATER RESOURCES DEPT
SALEM, OREGON

In my opinion the proposed change in point of diversion from John Day River
MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY* to an existing water right.

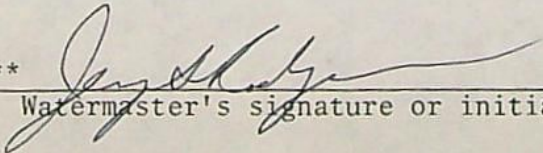
Headgate notices HAVE HAVE NOT been issued for diversion from the sources which serves this right.

If for change in point of diversion, is there any intervening point of diversion between the authorized and the proposed points of diversion? yes
(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 _____

** 
Watermaster's signature or initials

T-4491

RECEIVED
MAY 1 1980
WATER RESOURCES DEPT
SALEM, OREGON

Application for Transfer of Water Right

To the WATER RESOURCES DIRECTOR OF OREGON:

I, Phyllis McCarthy
(Name of applicant)
of Prairie City
(Mailing address) (City)
State of Oregon 97869 820-3541, 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, Laurance, E.P.
(If not, give name)
2. Was your water right determined by Decree of Court? Yes If so, give title of proceedings
(Yes or No) John Day River Adjudication number of certificate 25451
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 John Day River
5. What is the date of priority of your water right? 1869
6. The authorized point of diversion is located 1370 ft. S and 3480 ft. E from the NW
(N. or S.) (E. or W.)
corner of Section 12 being within the SW 1/4 NE 1/4 of Section 12 Tp. 13 S. R. 33 E. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of Grant The name of the ditch used is Lower McHaley

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

7. The proposed point of diversion is located 230 ft. S and 50 ft. W from the S.W.
See (N. or S.) (E. or W.)
corner of Remarks being within the NE 1/4 NW 1/4 of Section 11 Tp. 13 S. R. 33 E. W. M.,
(No. N. or S.) (No. E. or W.)
in the county of Grant The name of the ditch to be used is

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

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

Township North or South	Range E. or W. of Willamette Meridian	Section	List $\frac{1}{4}$ - $\frac{1}{4}$ of Section	Number Acres To Be Irrigated
13 S	33 E	11	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.6

(If more space required, attach separate sheet)

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

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

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

11. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.?
(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 Ditch no longer exists into Prairie City, I have always used this pumping point, and legalizing what has always been done.

15. Construction work will be completed on or before already completed.

16. The water will be completely applied to the proposed use on or before already applied.

Remarks The diversion point of the Lower McHaley ditch was established from the adjudication map and from proof claim of Mr. McHaley who established the ditch originally, being proof claim #848, attached copy enclosed with this application.

The proposed point of diversion is located 230' S. and 50' W. from the S.W. corner of Block "C" of the Bradford Laycock Addition to Prairie City, Oregon. This is a found corner according to Grant County Survey #331, on file in the County Surveyor's Office in Canyon City.

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, Phyllis M. Carthy, 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 24 day of April, 1980

Phyllis M. Carthy
(Name of applicant)

Subscribed and sworn to before me this 24 day of April, 1980

[Notarial Seal]

Carl J. Born
NOTARY PUBLIC FOR OREGON

My commission expires Oct 21, 1982

AFFIDAVIT OF PUBLICATION

State of Oregon
County of Grant

I, HELEN L. PATIENT being first duly sworn,
depose and say that I am the owner, publisher, manager,
principal clerk of the PRAIRIE CITY PIONEER PRESS, a
newspaper of general circulation, as defined by ORS
193.010 and 193.020; printed and published at Prairie
City, in the aforesaid county and state; that the

Notice of Water Right

Transfer Application No. 4491

a printed copy of which is hereto attached was published
in the entire issue of said newspaper for #20-21-22
successive and consecutive weeks in the following issues:

May 15, 22 and 29, 1980

May 30 1980

Helen L. Patient

Subscribed and sworn to before me this 30 day of May
19 80

Carl J. Born

Notary Public for Oregon

My commission expires Oct 21, 19 82

(Seal)

NOTICE OF WATER RIGHT
TRANSFER APPLICATION No. 4491

The Water Resources Director of Oregon has received and filed an application by Phyllis McCarthy 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 25451, Volume 17, State Record of Water Right Certificates, in the name of E.P. Laurance, and is for the use of not to exceed 0.04 cubic feet per second from John Day River, under a priority date of 1869, for irrigation of a certain 1.6 ac in NE 1/4 NW 1/4, Sec 11, T.13S., R.33E, WM.

The authorized point of diversion is located 1370 ft S & 3480 ft E from the NW Corner of Sec 12, being within the SW 1/4 NE 1/4 of Sec 12, T 13S, R 33E, WM (Lower McHaley Ditch).

The applicant proposes to change the point of diversion therefrom to a point located 230 ft S & 50 ft W from the SW Corner of Block C of the Bradford Laycock Addition to Prairie City, being within the NE 1/4 NW 1/4, Sec 11, T 13S, R 33E, WM.

Pursuant to ORS 540.520(2), a hearing is scheduled from 9:30 a.m. on Tuesday, July 8, 1980, at the Grant County Courthouse, Canyon City, Oregon. Any objection to the proposed change must be prepared in writing: one copy to be served on the applicant at Prairie City, OR 97869; 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 8th day of May, 1980.

James E. Sexson, Director
[20-22c]

54

BEFORE THE STATE ENGINEER OF OREGON

Beaver

Count

T-4491

In the Matter of the Determination of the Relative Rights
to the Waters of *John Day River*
and its Tributaries,
a Tributary of *Columbia River*

STATEMENT AND PROOF OF CLAIM
2.

(The claimant must submit separate proof as to each ditch through which a water right is claimed.)

I, the undersigned, of *Portland*, Oregon, being called as a witness
in support of this statement of claim, and being first duly sworn, testify as follows:

1. Q.—What is claimant's name and postoffice address? If a corporation, give the place of
incorporation and the authority by which you make this proof.

A.—*R. R. Mc Haley - P. O. Box 51*
Prineville, Oregon
(If this proof is made by you as agent, or attorney, the written
authorization therefor must be signed by the claimant upon the back hereof.)

2. Q.—Do you claim a right to the waters of the above named stream or a tributary thereof?
If from a tributary, give its name.

A.—*Yes - from John Day River*

3. Q.—What is the nature of the right or use on which this claim to the waters of said
stream is based?

A.—*Irrigation*
(Irrigation, power, mining, domestic, stock, etc.)

4. Q.—How was such right initiated, or upon what is it based?

A.—*Appropriation - by diversion and use*
(Appropriation, diversion and use, etc.)

5. Q.—State the date of the initiation of such water right. A.—*1869*

6. Q.—What steps were taken by this claimant or his predecessor in interest to initiate said
right? Answer fully, attaching separate sheet if necessary.

A.—*Constructed ^{mining} ditch, and used*
the water for irrigation at the above date

7. Q.—When was water first used for irrigation, or other beneficial purposes?

A.—*1869*

8. Q.—State the means of utilizing such water, giving the name by which the ditch is most
commonly known, if a ditch is used.

A.—*Lower Mc Haley Ditch diverting*
water from stream on SW 1/4 Sec 12-13 T. 33 N. W. 11.

9. Q. State the interest claimant has in such ditch, with the names of any other water users
interested therein.

A.—*Proportional interest in ditch along*
with Nelson & Co., R. T. Mc Haley

[Proof No. 348]

RECEIVED

MAY 1 1980
WATER RESOURCES DEPT.
SALEM, OREGON