

September 3, 1937

Mr. Geo. H. Brewster
Attorney at Law
Redmond, Oregon

Dear Mr. Brewster:

I have for acknowledgment your letter of September 2, relative to the application of Nellie M. Miller for approval of a change in place of use of water from Lots 7, 8, 9 and 10 of Block 2, original townsite of Sisters, to Lots 9, 10, 11 and 12 of Block 6, Davidson's Addition to Sisters.

From an examination of our records, it appears that there are no water rights appurtenant to Lots 7, 8, 9 and 10 of Block 2, original townsite of Sisters, although the court did award water rights to various other lots and blocks within said original townsite of Sisters and McCaffery's Addition to Sisters.

The supplemental decree referred to in your letter, which was entered May 5, 1913, awarded Rachel McCaffery, F. W. McCaffery and John Dennis a water right for the irrigation of 120 acres in the SW $\frac{1}{4}$ of Section 4, T. 15 S., R. 10 E., W.M., with a date of priority of 1885. A copy of this decree is being enclosed for your convenience in checking the rights awarded.

At our request, Mr. Aubrey Perry, watermaster of Deschutes County, investigated this matter and attempted to locate the affidavits of John Dennis and F. W. McCaffery and your affidavit as watermaster of said county, referred to in the enclosed copy of the decree, but was unable to locate same. He also discussed the matter with Frank McCaffery, who informed him that there were two water rights, one for 120 acres lying north of the town of Sisters (which is the one mentioned above) and the other in the names of Rachel McCaffery, F. W. McCaffery and Robert Smith for town lots within the boundaries of the town of Sisters. From an examination of the decree of the court dated May 1, 1911, it appears that the latter right (Rachel McCaffery, F. W. McCaffery and Robert Smith) is for the irrigation of 3 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 21 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, T. 15 S., R. 10 E., W.M., no reference being made to any lots or blocks within the town of Sisters. However, Mr. Perry examined the original claim #96, Book 1 of Statements and Proofs of Claim, filed by Rachel McCaffery, F. W. McCaffery and Robert Smith, which claim described the lands as follows:

Blocks 1, 2, 3, 4, 5 and 7 and Lots 1, 2, 3, 4, 5 and 6 of Block 6 in McCaffery's New Addition and Block 4; Lot 7 of Block 3; Lots 7, 8, 9 and 10 of Block 2; Lots 7, 8, 9, 10, 11 and 12 of Block 5; Lots 2, 7, 8, 9, 10, 11 and 12 of Block 6 and Lots 1 and 2 of Block 8 of the original town of Sisters.

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Apparently, the decree does not conform to the claim as filed. In this connection, I advised Mrs. Miller that the court might enter a supplemental decree or order correcting this matter if the parties of interest would file a petition setting forth the facts and requesting that a supplemental decree or order be entered correcting the description of the lands irrigated. I also advised her that if such a supplemental decree or order were entered, we would be in a position to approve her application for a transfer.

I might add that Mr. Perry found another discrepancy while searching the records in this connection. The decree of the court awarded John Dennis a water right for the irrigation of 0.2 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, T. 15 S., R. 10 E., W.M., whereas the original claim set forth that such lands as were irrigated were located in Lots 5 and 6 of Block 1 of Sisters.

Mr. Perry has gone into this matter quite thoroughly, having prepared a map showing the various lots and blocks irrigated within the town of Sisters. It is suggested that you contact him, as it may be possible that he has information other than that noted above.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By

Max F. Rogers, Assistant

MFR/b
Enc.