

April 25, 1958

Mr. J. E. Carton  
Route 1, Box 845-Y  
Grants Pass, Oregon

Dear Mr. Carton:

You will recall that during our discussion, when I visited your property Friday, April 18th, I advised you that upon my return to the office I would review all matters of record relative to the water rights and pending applications and permits appurtenant to your property, and advise you as to the present status thereof.

I have prepared a sketch map showing the location of the lands involved, which I shall refer to in my review of your rights, and which I enclose herewith so that you may follow my discussion and references.

*See Transfer 2-115*

1 - The original water right, which has been completed and is confirmed by certificated recorded in State Record of Water Right Certificates, Volume 11, Page 13482, was initiated by H. E. Bowser under a priority date of May 21, 1936, said certificate confirms a right to the use of 0.32 c.f.s. of the waters of Louse Creek for the irrigation of 9.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 22, 9.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  and 7.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 27, T. 35 S., R. 6 W., W.M., said acreage may be further described as Tracts 98, 99, 100, 101 and 102. Said lands were served by gravity ditch diverting from the left bank of Louse Creek within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 27, at a point 1940 feet South and 10 feet West of the NE corner of said Section 27. The lands to which this right is appurtenant are shown on the accompanying sketch map, colored with green crayon.

2 - On August 30, 1954, an application for transfer of point of diversion under the above described certificate 13482 was received in this office, being designated as transfer C-112, proposing to change the original point of diversion, as above described, to a pump diversion to be located 2400 feet West and 550 feet South of the NE corner of said Section 27, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$  thereof. This application was approved by order of the State Engineer dated November 23, 1954. The location of the new point of diversion is shown on the sketch map at the letter "A" within Tract 99.

3 - On April 21, 1955, there was filed an application for a permit to appropriate 0.25 c.f.s. of the waters of Louse Creek for the irrigation of 20.0 acres of land, being 2.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 22, 1.5 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  and 16.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 27, T. 35 S., R. 6 W., W.M. This application was assigned number 29934 and subsequently a permit thereon was granted, being designated as number 23585. Under the terms of this permit, construction toward the completion thereof was to be commenced before September 22, 1956, the date for completion was set as October 1, 1957, and the time for complete application of water to the intended use will expire on October 1, 1958.

Under the provisions of the water code, the State Engineer must be notified as to the progress made under the three above mentioned time limits. For the convenience of the applicant in reporting such progress, three forms accompany the permit, designated as Form A, Form B and Form C respectively. To date, Forms A and B have not been submitted although long overdue. On September 21, 1956, a notice was mailed calling attention to this matter, however, no response was received. Under the provisions of ORS 537.410 this permit is subject to cancellation, although to date no action toward cancellation has been taken. If the terms of the permit have been complied with and you wish to use water as allowed, you should submit these notices immediately.

The total fees paid on this application and permit amount to \$15.00 for which State Engineers Receipt No. 3683 was issued on April 25, 1955. The lands to which this right is appurtenant are shown on the sketch map colored with red crayon.

4 - On July 8, 1956, another application for transfer was filed in connection with the water right evidenced by Certificate No. 13482, discussed under Item 1 above. This application was somewhat vague as to just what was intended, and was returned for clarification and completion with our letter of July 14, 1955. To date the application has not been returned to this office nor was any response made to our letter, consequently this application for transfer, designated on our records as Transfer C-115 remains incomplete.

The total fees paid to date on this application for transfer amount to \$15.00 for which State Engineers Receipt No. 4166 was issued on July 12, 1955.

5 - On November 14, 1957, there was filed in this office in the name of Robert William Carton, Route 1, Box 845-Y, Grants Pass, Oregon, by Mr. E. W. Mignot, P. O. Box 202-D, Grants Pass, Oregon, an application for permit to construct a reservoir for the storage of 1.25 acre feet of the waters of Louse Creek and a secondary application for permit to appropriate 0.75 c.f.s. of the waters of Louse Creek and

storage in reservoir for the irrigation of 30.0 acres of land in Section 22, T. 35 S., R. 6 W., W.M., designated as Tracts 132 - 138 inclusive.

These two applications were filed and assigned numbers R-31972 and 31973. Additional data and information was necessary before permits could be issued which was called to Mr. Mignots attention by our letters of November 14, 1957, and March 3, 1958, copies of which were also sent to Robert W. Carton, however, no response has been received and these applications remain pending. Total fees paid thereon amount to \$10.00 on each application for which State Engineers Receipts 13883 and 13884 were issued on November 14, 1957.

The lands involved in these applications are shown on the sketch map colored with blue crayon.

The above resume discloses that, of your property, Tracts 98 - 102 inclusive, situate South of Louse Creek are covered by Certificate No. 13482 with the point of diversion located at "A" as shown on the sketch map under priority of May 21, 1936.

Tracts 83 - 87 inclusive, North of Louse Creek are under Permit No. 23585 with the diversion point located at "B", as shown on the sketch map, under priority of April 21, 1955.

Tracts 132 - 138 inclusive, North of Louse Creek are under Pending Applications R-31972 and 31973, point of diversion from Louse Creek not determined, point of diversion from Reservoir stated as N 59° 30' W 551 feet from SW corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 22, which description does not check with map. Priority of these applications is November 14, 1957.

As I recall, you stated that Tracts 100, 101 and 102 have been subdivided, developed into individual home sites, and sold, but that Tracts 98 and 99 have not been so developed, and are still owned by you. Also that it was your intention to transfer the water right appurtenant to Tracts 98 - 102 inclusive, under Certificate 13482 to Tracts 83 - 87 inclusive. If you are no longer the owner of Tracts 100 - 102 inclusive, you would not be in a position to effect a transfer of the water right appurtenant thereto, unless specific reservation of the water rights was embodied in the contracts of sale or instruments of conveyance in your disposal of said Tracts and provided that the transfer is made within five years from the date of sale.

If such reservations were made and a transfer of the 25.0 acres of water right from Tracts 98 - 102 inclusive to Tracts 83 - 87 inclusive was made, then your authorization to cancel Permit No. 23585 would be required. A transfer in place of use under Permit 23585 could not be made because it is not a completed right.

Mr. J. E. Carton

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The fees which have been paid on these several applications with the exception of \$5.00 recording fee on Transter C-115, are neither returnable nor transferable since they are earned fees which have been turned over to the general fund of the State Treasurer.

If you will inform this office as to just which lands you wish your water rights to cover, where and how you intend to divert the water to be appropriated and how you intend to apply or distribute said waters we will advise you of the necessary procedure to follow.

It is hoped that this explanation of the present status of your several water rights is now clarified for you and that you will advise promptly as to how you wish to proceed toward a satisfactory completion of these matters.

Yours very truly,

LEWIS A. STANLEY  
State Engineer

By

Geo. V. Naderman  
Assistant State Engineer

OVN:jl

enc: map