



March 20, 2007

Bob,

Please draw the lease application fee from OWT's general account.

You'll notice the tax lots match up but the PDU's are offset slightly which is an anomaly of the PDU layer. I modeled this lease after L-796. The instream reach should be PPD to mouth of Williams Creek.
Steve Parrett

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WATER RESOURCES DEPT
SALEM, OREGON



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): L-808

This Lease is between:

Lessor #1:

Name Robin and Lisa Gerard
Mailing address 250 Homestead Road
City, State, Zip Code Williams, OR, 97544
Telephone number 541-846-1419
Email address rlgerard@neteze.com

Lessor #2, 3, etc.

The water right to be leased is located in Josephine County.

Lessee (if different than Oregon Water Resources Department):

Name Oregon Water Trust
Mailing address 522 SW Fifth Ave., Suite 825
City, State, Zip Code Portland, OR, 97204
Telephone number 503-525-0141
Email address steve@owt.org

Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
(503) 986-0900

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 39 S, Range 5 W, Section 2 & 3 and Tax Lot number 707(S2) & 1601(S3). If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.

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1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of _____, the irrigation district which conveys water to the subject water rights.

Another party with an interest in the subject water rights representing _____.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 54953

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 Water Rights Proposed to be Leased Instream.

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 54953

Priority date: September 10, 1915 Type of use: Irrigation

Legal Season of Use: April 1 through October 31.

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and $\frac{1}{4}$ $\frac{1}{4}$ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 39 S, R 5 W, Section 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 4.32 acres to be leased

Enter additional places of use here, using format above:

T39S, R5E, Section 3, SE1/4 SE1/4 -3.5 acres

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 7.82

Acre-feet of storage, if applicable: na

Maximum rate associated with the right to be leased (cfs): 0.1

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): _____

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: water right is subject to minimum flows established by the Water Resources Commission with an effective date prior to the right.

If you need to enter another leased right, please use the additional water rights form.

1.6 Validity of rights. Lessor(s) attests (mark one) that:

the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

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~II~ Instream Water Right Information

2.1 **Public use.** This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

East Fork Williams Creek
Tributary to Williams Creek in the Rogue Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): The point of diversion is located in the SE1/4 SE1/4, Section 3, T39S, R5W, WM; 1300 feet North and 600 feet West from SE corner Section 3.

Maximum volume in acre-feet: 35.19

Rate in cfs: 0.1

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from April 1 through October 31.
- Other (describe): A seasonal limit of 4.5 acre-feet/acre could be applied to the lease.

If you need to enter more instream uses, please use the additional water rights form.

2.3 **Term of lease.** This lease shall terminate on October 31, 2011.

2.4 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

3.1 **Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

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- 3.2 **Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 **Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 **Termination provision.**
 For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office. For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 **Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 **Fees.** Pursuant to ORS 536.050, the following fee is included:
 \$200 for an application with four or more landowners or four or more water rights.
 \$100 for all other applications.

X Lessor #1: Robin Gerard Date: 3-17-07
X [Signature] Date: 3-17-07

For additional Lessors, type in space for signature and date

Lessee: [Signature] Date: 3-20-07
for Oregon Water Trust

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Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

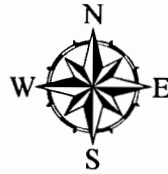
Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

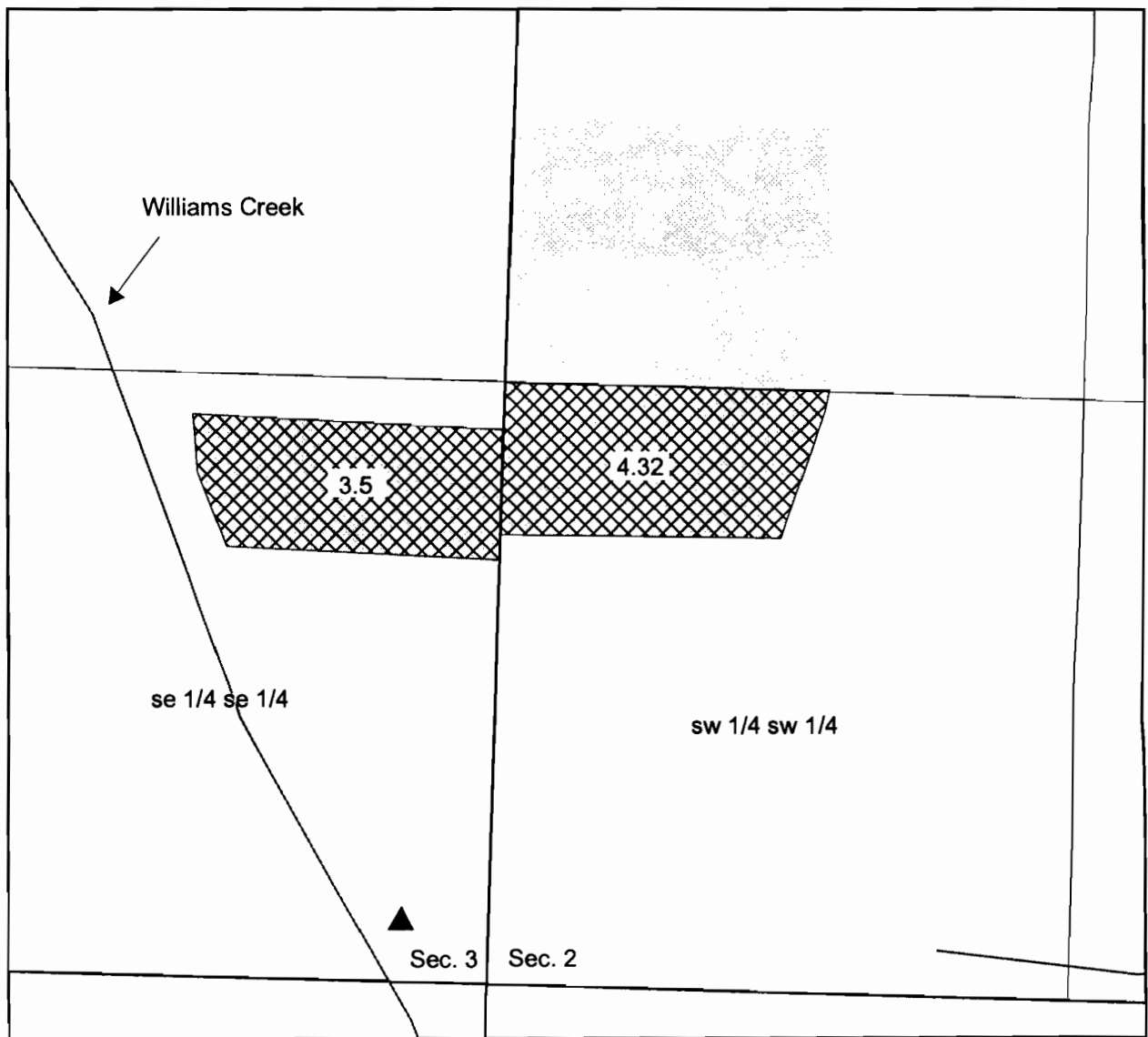
Location of Gerard irrigated lands

Attachment 2

- ▲ Gerard POD
- Certificate 54953
- Section and Quarter Quarter Lines



1 inch equals 400 feet
Created by David Pilz
March 14, 2007



T. 39 S., R. 5 W., W.M., Sections 2 and 3

11/10/2007
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WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON

COUNTY OF

JOSEPHINE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That DANNY LLOYD SUMMERS

of 783 Agee Drive, Grants Pass, State of OR 97526, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of East Fork Williams Creek

a tributary of Williams Creek for the purpose of irrigation of 18.12 acres

under Permit No. 2667 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from September 10, 1915

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.24 cubic foot per second, if available at the original point of diversion; SE 1/4 SE 1/4, Section 3, T39S, R5W, WM; 500 feet North and 400 feet West from SE corner Section 3

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the SE 1/4 SE 1/4, Section 3, T39S, R5W, WM; 1300 feet North and 600 feet West from SE corner Section 3.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

SEE NEXT PAGE

1/80 = 0.2265

7.82 cc =

0.104 cfs

Met. at 124 Mc7 - 10/24
1st 4.5 AF/ac
D.L. [unclear]

10.30 acres NW 1/4 SW 1/4
4.32 acres SW 1/4 SW 1/4
Section 2

3.50 acres SE 1/4 SE 1/4
Section 3
Township 39 South, Range 5 West, WM

This certificate is issued to confirm a change in point of diversion approved by an order of the Water Resources Director entered December 13, 1977, and together with certificate of water right recorded at page 45297, Volume 37, State Record of Water Right Certificates, supersedes certificate 44306, Volume 36, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described. and is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.
WITNESS the signature of the Water Resources Director, affixed

this date. October 13, 1986

/s/ William H. Young

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 50 , page 54953

62450/TS
T-3739

Attachment 1a

BOOK 19

This map was prepared for assessment purposes only.

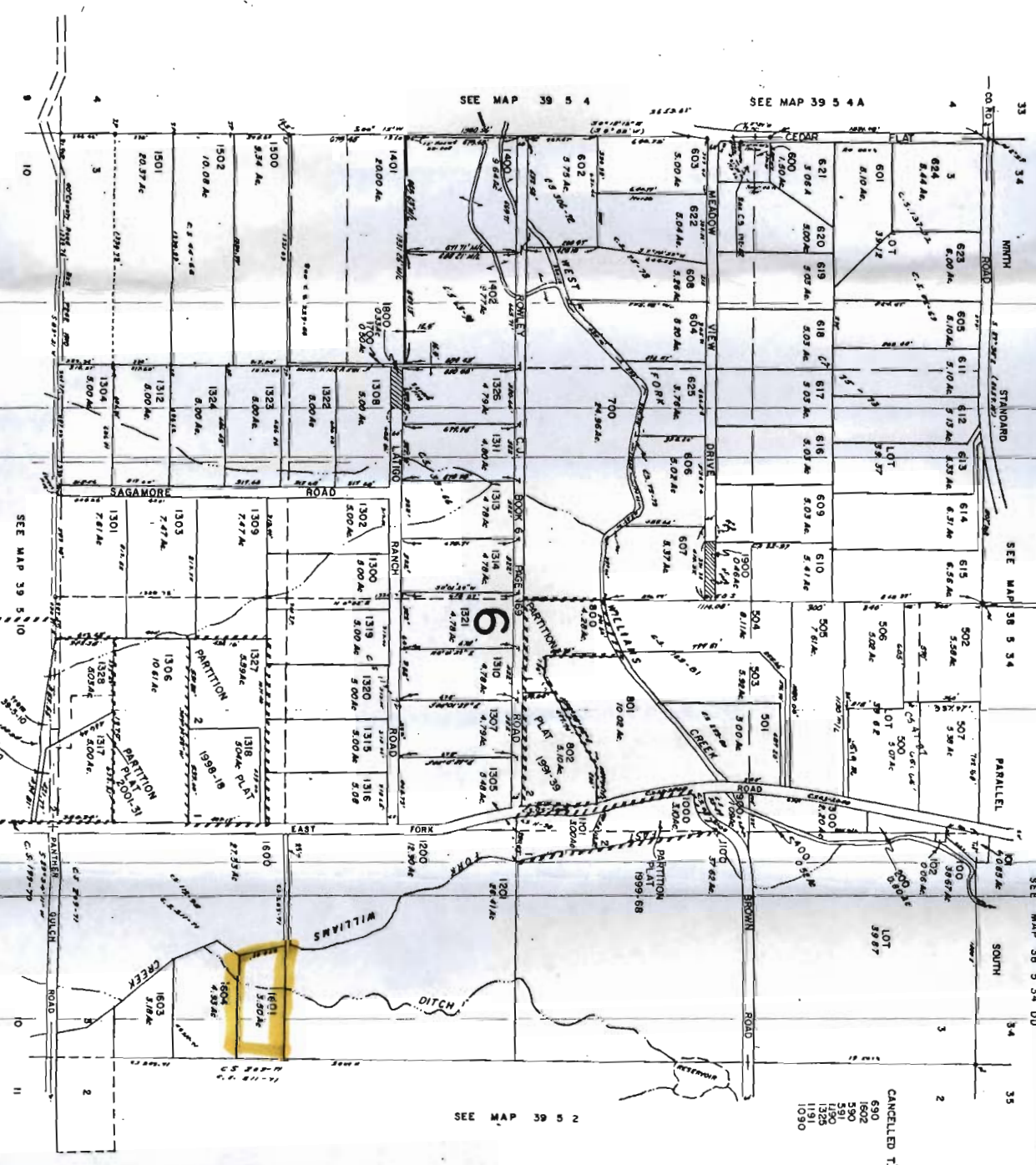
SECTION 3 T 39 S R 5 W WM.
JOSEPHINE COUNTY
1"=400'

39 5 3

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39 5 3

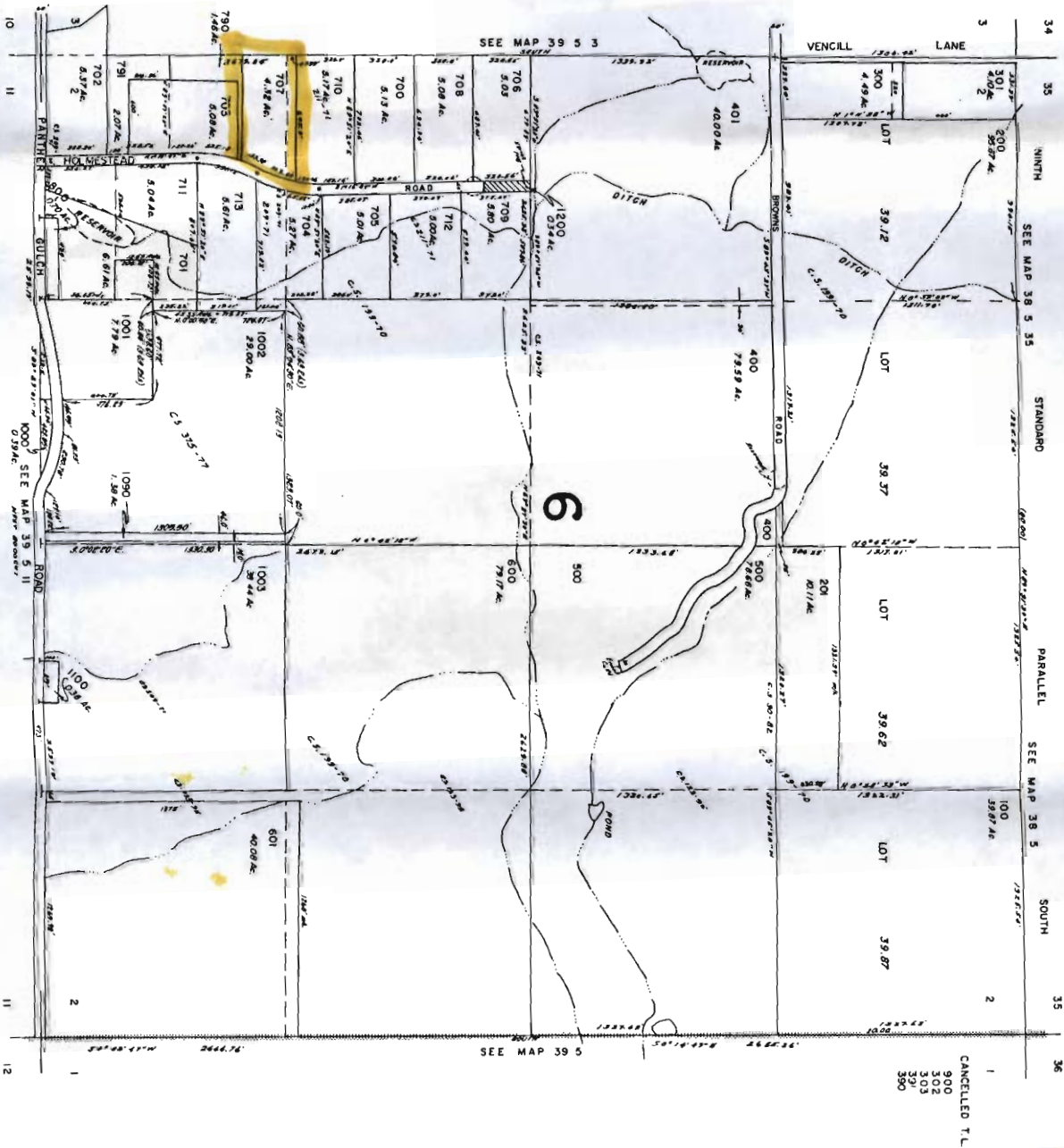
Attachment 16

BOOK 19

This map was prepared for assessment purposes only.

SECTION 2 T39S R5W.M.
JOSEPHINE COUNTY
1" = 400'

39 5 2



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39 5 2