

Name Ralph J. Lane **ASSIGNED**
 By P.O. Box 268
 Address Shady Cove, Oregon

Application No. 22413
 Permit No. 17705
 Certificate No. 29264 **CANCELLED**
~~76934~~ 80969
 Stream Index, Page No. 15-78F

FEES PAID		
Date	Amount	Receipt No.
4/9/47	20.40	2778
4/29/47	1.20	2874
7/29/47	0.10	2874
	10	2778
1/15/62	\$1 Cert. Fee	32367

Date filed April 7, 1947
 Priority April 7, 1947
 Action suspended until OK Cont

See Application No. R-22412

FEES REFUNDED		
Date	Amount	Check No.

Returned to applicant
 Date of approval July 3, 1947

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
6-24-50	Thomas N. Hanson ASSIGNED	General Delivery, Shady Cove, Ore	3	682
5-31-61	HAROLD BIDDLE	P.O. BOX 236 SHADY COVE, ORE	4	348

CONSTRUCTION

Date for beginning July 3, 1948
 Date for completion October 1, 1949
 Extended to 10-1-57 10-1-52 10/1/53
10-1-55
 Date for application of water October 1, 1950
 Extended to 10-1-57 10-1-52 10/1/53
10-1-55

REMARKS

1.00 cfs from East Br. of Long Branch and East Fork of East Branch and reservoir to be constructed under App. No. R-22412, Permit No. R-879, being 0.51 cfs from East Branch of Long Branch and 0.49 cfs from East Fork of East Branch.

PROSECUTION OF WORK

Form "A" filed December 22, 1947
 Form "B" filed January 9, 1951
 Form "C" filed

FINAL PROOF

Blank mailed AUGUST 31 1961
 Proof received
 Date certificate issued JANUARY 31 1962

OCT 4 1948 CARD FOR B
 OCT 6 1950 CARD FOR C
 JAN 2 1951 FORM 100 REG.
 OCT 2 1951 CARD FOR B-C
 JAN 9 1952 FORM 100 REG.
 OCT 13 1952 CARD FOR B-C
 OCT 9 1953 CARD FOR B-C
 JAN 18 1954 FORM 100 REG.
 OCT 3 1955 CARD FOR B-C

PARTIALLY CANCELLED PC 96-3, Sp. On V 51, p. 899

W.R.I.S.
 Assembled 9.3.85 by [Signature]
 Entered _____ by _____
 Verified _____ by _____

NOTICE OF BEGINNING OF CONSTRUCTION

OK

I, Ralph J Lane, the holder of Permit No. 17705 to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 1st day of Dec, 1947.

Remarks: both dams constructed on a 100 ft ditch finished
The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this 16 day of Dec, 1947
Ralph J Lane (Signature of Applicant) P.O. Box 268 Shady Cove (Address)

Fill out, detach, and mail to the State Engineer, Salem, Oregon, when construction work is begun.

STATE PRINTING DEPT.

NOTICE OF COMPLETION OF CONSTRUCTION

I, Ralph J Lane, the holder of Permit No. 17705 to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the 20 day of September, 1950.

Remarks: _____
If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 6 day of January, 1951
Ralph J Lane (Signature of Applicant) P.O. Box 268, Shady Cove, Ore (Address)

Fill out, detach, and mail to the State Engineer, Salem, Oregon, when construction work is completed.

Permit 17705
Bidder
L 76934
Error Range 1W
or 2W?
app 5 22413

GARDEN 50x80
GENSEN 60x75

ORDER AND CERTIFICATE CHECK LIST

S-22413
File

RECORD MARKING (Support Staff)

File Folder () ## ~~22413~~

Permit () ## _____

Certificate () ## 76934

Trans App Register ()
Trans Name Index ()

Sp. OR ()
Decree () Vol _____ Page _____ Vol _____ Page _____

COPIES MADE

Order () Certificate () Master

~~File () ()~~ Data Center () () ~~Watermaster () ()~~ Applicant () ()

ISWR Liason () () _____ Water Use Reporting () () _____

CWRE () () _____ I.District () () _____

~~Other () ()~~ FILE PC 96-3 Other () () _____

SEND copy of application map to watermaster _____

LETTER TO:

Applicant () CWRE () _____

I.D. () _____ Other () _____

EMAIL PROCESSOR

NWR () NCR () SWR () SCR () ER ()

ENCLOSURES

Special Order () Vol _____ Page _____
() Vol _____ Page _____

Certificate () 80969
() _____
() _____

DATE SIGNED: 10-4-05

FILE SET-UP

File Number	Set - Up Date	For Whom
_____	_____	_____
_____	_____	_____
_____	_____	_____

SEND TO:

Fiscal Section () Other () _____

NOTES: Send original cert to WPA for delivery

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HAROLD BIDDLE
P.O. BOX 236
SHADY GROVE, OR 97539

confirms the right to use the water of EAST BRANCH OF LONG BRANCH and EAST FORK OF EAST BRANCH and RESERVOIR CONSTRUCTED UNDER APPLICATION R-22412, PERMIT R-879, for IRRIGATION of 4.77 ACRES.

The right was perfected under PERMIT 17705. The date of priority is APRIL 7, 1947. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purpose and shall not exceed 0.06 CUBIC FOOT PER SECOND (CFS); BEING 0.02 CFS FROM EAST BRANCH OF LONG BRANCH and 0.04 CFS FROM EAST FORK OF EAST BRANCH AND RESERVOIR, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located in the SW¹/₄ NW¹/₄, NW¹/₄ SW¹/₄, and SW¹/₄ SW¹/₄, SECTION 7, TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall further be limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season from April 2 to October 31 of each year from direct flow and storage from the reservoir constructed under Permit R-879, 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, and to which such right is appurtenant, is as follows:

East Branch of Long Branch	East Fork of East Branch	
	1.80 ACRES	NW ¹ / ₄ SW ¹ / ₄
0.80 ACRES	1.37 ACRES	SW ¹ / ₄ SW ¹ / ₄
	SECTION 7	
	TOWNSHIP 34 SOUTH, RANGE 1 WEST, W. M.	
0.80 ACRES		SE ¹ / ₄ SE ¹ / ₄
	SECTION 12	
	TOWNSHIP 34 SOUTH, RANGE 2 WEST, W. M.	

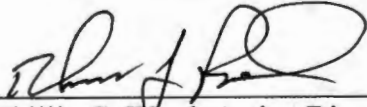
This certificate is issued to correct a scrivener's error contained in the certificate recorded at page 76934, State Record of Water Right Certificates. Certificate 76934 incorrectly described the place of use. This certificate supersedes Certificate 76934.

This certificate describes that portion of the water right confirmed by Certificate 29364, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director on PC 96-3, entered on July 31, 1997, and recorded at Special Order Volume 51, Pages 899 - 904, canceling a portion of said water right.

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

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued: OCTOBER 4, 2004.



For Phillip C. Ward, Acting Director
Water Resources Department

STATE OF OREGON
COUNTY OF JACKSON
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HAROLD BIDDLE
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	SECTION 7	
	TOWNSHIP 34 SOUTH, RANGE 1 WEST, W. M.	
0.80 ACRES		SE $\frac{1}{4}$ SE $\frac{1}{4}$
	SECTION 12	
	TOWNSHIP 34 SOUTH, RANGE 2 WEST, W. M.	

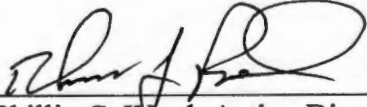
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The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued: OCTOBER 4, 2004.



For Phillip C. Ward, Acting Director
Water Resources Department

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

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HAROLD BIDDLE
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	1.37 ACRES	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	SECTION 7	
0.80 ACRES		SE $\frac{1}{4}$ SE $\frac{1}{4}$
	SECTION 12	
TOWNSHIP 34 SOUTH, RANGE 1 WEST, W. M.		

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The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director, affixed MAY 30 2001


for Paul R. Cleary, Director

80969

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED PARTIAL) PC 96-3
CANCELLATION OF WATER RIGHT CERTIFICATE)
29364 IN THE NAME OF HAROLD BIDDLE FOR) FINAL ORDER
USE OF WATER FROM EAST BRANCH OF LONG)
BRANCH AND EAST FORK OF EAST BRANCH AND)
RESERVOIR, JACKSON COUNTY)

HISTORY OF PROCEEDINGS

This proceeding was initiated by the Water Resources Department under the provisions of ORS 540.610 to 540.650 for the proposed partial cancellation of a portion of Certificate 29364. The action was based on information furnished to the Director in affidavits filed by Charles Henry and Ralph Gysin alleging that the right in question had been forfeited by failure to make beneficial use of water under the provisions of the water right for a period of five or more successive years of nonuse, from 1988 through 1995.

The water right in question was issued to Harold Biddle and recorded at Volume 21, page 29364, State Record of Water Right Certificates. The entirety of Certificate 29364 is for irrigation of 0.8 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, 1.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7 and 4.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 34 South, Range 1 West, WM.

Only that portion of the right for irrigation of 2.7 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7 was alleged to have been forfeited for nonuse for a period of five or more consecutive years, between April, 1988 through 1995. This portion of this right had previously been found to have not been exercised for 4 years, 1988 through 1991, in case number PC 91-2. The portion of the right for irrigation of 0.8 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, 1.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 and the remaining 2.1 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 were not in question in this proceeding.

Notice of Proposed Cancellation in this matter was sent to Michael and Lisa Smiley, the owners of record, on April 1, 1996. Protest against the proposed cancellation was submitted by Kip Lombard, attorney at law, on behalf of the Smileys on May 24, 1996. Protestants asserted as grounds for the protest that water was used from the proper source, but not from the authorized points of diversion from 1992, 1993, and 1995, and that they were ready, willing and able to use the water, but that water was not always available, in part because of drought and in part because proponent Henry refused to release water from the reservoir when requested, and to which they are legally entitled, to satisfy the right.

Pursuant to the Notice of Hearing served on the protestant and proponents of cancellation on June 19, 1996, the matter was set for hearing on August 1, 1996. A Statement of Parties Rights was attached to the Hearing Notice. At the joint request of the parties, the hearing was postponed and reset for January 7, 1997. The hearing was held by telephone before Weisha Mize, Administrative Law Judge. The hearing was conducted pursuant to the provisions of the Oregon Administrative Procedures Act, ORS 183.310 *et seq*, and the procedural rules found at

OAR 690-01-005 and OAR Ch. 690 Div. 2. Applicable substantive laws are in ORS 540.610 *et seq.*, OAR Chapter 690 Division 17, and relevant case law.

Proponents of cancellation Chuck Henry and Ralph Gysin appeared at the hearing and were represented by Robert Bluth, attorney at law. Vicki Henry was called as a rebuttal witness. Protestants Michael and Lisa Smiley were represented by Kip Lombard, attorney at law. Protestants offered Toni Kimple, Watermaster Bruce Sund and Assistant Watermaster Larry Menteer as witnesses.

Exceptions were timely filed to the Proposed Order by the Smileys on February 18, 1997. Pursuant to OAR 690-02-170, the matter was referred to the Director for a final decision. Having reviewed the record, the exceptions and argument on the exceptions, this Final Order is now issued.

DETERMINATION ON EXCEPTIONS

The parties stipulated that there had been four years of nonuse, from 1988 through 1991. Had no use occurred in 1992, that would have been the fifth consecutive year of nonuse. The ALJ found that limited use had been made in 1992 for irrigation of a 50' x 50' garden plot and of fruit trees, and that use had been made on a slightly expanding basis from 1992 through 1996. However, much of the use had been made from an unauthorized source. Even if water had been available in greater quantity and for a longer period of time in 1992 from the authorized source, the protestant was not ready or able to apply it to the entire 2.7 acres. The ALJ found that all but 0.07 acre, the amount of ground irrigated in 1992, had been forfeited for nonuse, and proposed to cancel the forfeited portion of the right.

Protestants excepted to Findings and Conclusions 7 and 9 and Ultimate Finding #1 of the proposed order. The thrust of protestants' argument was that they are being penalized for the drought conditions in 1992. The protestants say they irrigated as much as they could with the water that was available in 1992, but there was not enough water to irrigate the entire 2.7 acres to which the right is appurtenant. The protestants further assert that contrary to the findings, they were ready; willing and able to irrigate the entire 2.7 acres, but drought conditions prevented it.

The diagram entered into evidence as protestants' exhibit 103 is not to scale, thus the level of accuracy in the actual extent of ditching shown is unknown. Assuming for the purpose of this order that the extent of the ditching shown is accurate, the ditching in 1992 went only to the middle of the property. The protestant testified that he ditched approximately to the middle of the field, and did not go beyond that to the east half of the 2.7 acres. The ditching was not extended beyond that in subsequent years. The ground is lowest at the middle of the property running north and south, and rises to east and west. While the protestant speculated that if water had been abundant in 1992, it would have covered the entire 2.7 acres, the ALJ concluded that even if water had been run in this ditch out to the middle of the field, it would not have made it up hill to the east unless the ditch went beyond middle of the field.

In reviewing the hearing record, I find that the ALJ mis-heard Mr. Smiley at one point, and contrary to the third sentence in Finding 9, Mr. Smiley in fact stated that had water been abundant in 1992, it would have flowed out over the entire field. Nevertheless, it is my conclusion that protestant was not ready or able to apply water to the entire 2.7 acres in 1992, regardless of availability. Moreover, the statement that the ditches were successfully used in 1996 to cover the entire 2.7 acres is outside the period of concern and is in conflict with Mr. Smiley's testimony that in 1996, the system was changed from gravity flow to pump and sprinkler.

The fact that the property is fenced and that Ms. Smiley's parents wanted the Smileys to raise cattle is not evidence that the water right was exercised or even that it could have been used to irrigate the 2.7 acres to which this right is appurtenant.

I also appreciate that the protestants expressly requested that Mr. Henry release stored water late in the 1995 irrigation season – unfortunately, as the watermaster testified, by waiting to request release of the stored water long after the authorized source had ceased flowing and the creek bed dried up, the protestants would and could not have received the quantity of stored water to which they were entitled. It would have sunk into the ground before it reached them at their unauthorized point of diversion. More importantly, the protestants were unprepared to take water from the authorized point of diversion. As Mr. Smiley testified, no attempts to divert water from the authorized point were made, and his property could not be irrigated efficiently from his authorized point of diversion without piping, which had not been installed or used by his predecessor or himself.

The Smileys claim that they are being penalized for the drought. It is undisputed that the East Fork, the authorized source for this 2.7 acres, dries up every year, and that it always dries up earlier than the East Branch, the unauthorized source from which the protestants were diverting water. This lack of water availability cannot solely be blamed on drought, since it is an annually-occurring event.

However, it does not appear from the record that the protestants would have been able to apply water to their entire 2.7 acre parcel even if water had been plentiful, which it was in 1993 and 1995, given the topography of their property, the less-than-complete coverage offered by the ditching system, and the use of pump and pipe/hose rather than pump and sprinkler until 1996. I concur with the determination that the protestants did not demonstrate that they were ready, willing and able to make full beneficial use of the water, had it been available at their authorized point of diversion.

FINDINGS AND CONCLUSIONS

1. All facts set forth in the HISTORY OF PROCEEDINGS are incorporated as Findings.
2. The lands in question, lands of proponent Henry, the East Fork East Branch, East Branch, and other pertinent features are shown on Figure 1, infra, which is a copy of the final proof map associated with Certificate 29364.

3. The portion of the water right appurtenant to the 2.7 acre parcel of protestants' property had not been exercised in 1988, 1989, 1990 and 1991.
4. The East Fork of the East Branch joins the East Branch of Long Branch in the NW¼ SW¼ of Section 7, north of the lands in question. The waters of these two streams are commingled by the time the water reaches the diversion point on the NW corner of the lands in question.
5. The East Branch of Long Branch has generally ceased to flow by the latter part of June. In wetter years, the stream may continue to flow into August, as it did in 1995 and 1996. The East Fork dries up between two and six weeks prior to the East Branch.
6. The years 1988, 1991, 1993 and 1995 were "good" water years with near or above-average precipitation and flows. 1989, 1990, 1992 and 1994 were "bad" water years, with below-average flows which dried up earlier in the irrigation season than in the "good" years.
7. Protestants planted a 50' x 50' garden (constituting approximately 0.06 acre) in mid-April of 1992. Protestants irrigated this garden plot and seven fruit trees (comprising at most 0.01 acre in area) by pump and pipe from the East Branch on four or five occasions until the stream dried up in mid-May. The garden area expanded in size each year, and the garden and fruit trees were watered from the East Branch each year, with the exception of 1994, as long as water was available in the East Branch.
8. After the flow in the East Branch ceased in 1992, Protestants inquired of Mr. Henry about release of their allocated portion of stored water from the reservoir located on proponent Henry's property. The inquiry was not a request for release or delivery of stored water. In 1992, less than the full amount of water had been stored and the water level was below the level of the release valve, thus no attempt to release water was made. However, because the stream bed in the East Fork was dry at the time the request was made, even if stored water had been available to release at the authorized rate, it is highly unlikely that water would have made it to either the middle or the southern point of diversion.
9. Even had there been water available from the East Fork, protestants were not ready or able, in 1992, to apply that water to any of their property beyond the seven fruit trees and the 50' x 50' garden plot they established. To get water from the middle point of diversion, protestant Michael Smiley testified, would require installation of a pipeline. It did not appear from the testimony or exhibits that the existing pipe on the East Branch had been extended to any lands east of the garden in 1992.

ULTIMATE CONCLUSIONS

1. With the preceding four years of nonuse, 1992 was the fifth year of nonuse on all but a 50' x 50' (0.06 acres) and seven fruit trees, at most 0.01 acre, of the 2.7 acres in question. Since 1992, that 0.07 acre has continued to be irrigated and the right appurtenant to that 0.07 acre parcel has not been forfeited for nonuse.

2. Of the 2.7 acres at issue, 2.63 acres have not been irrigated, and the appurtenant portion of Certificate 29364 has not been exercised, for five successive years, from 1988 through 1992.

ORDER

It is ORDERED that the portion of Certificate 29364 for irrigation on 2.63 acres in Tax Lot 202, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 34 South, Range 1 West, WM., and that portion of the right evidenced by said Certificate, be and the same is hereby canceled.

~~It is FURTHER ORDERED that a new certificate be issued confirming the remainder of the right not canceled in this proceeding.~~


Martha O. Pagel, 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 date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

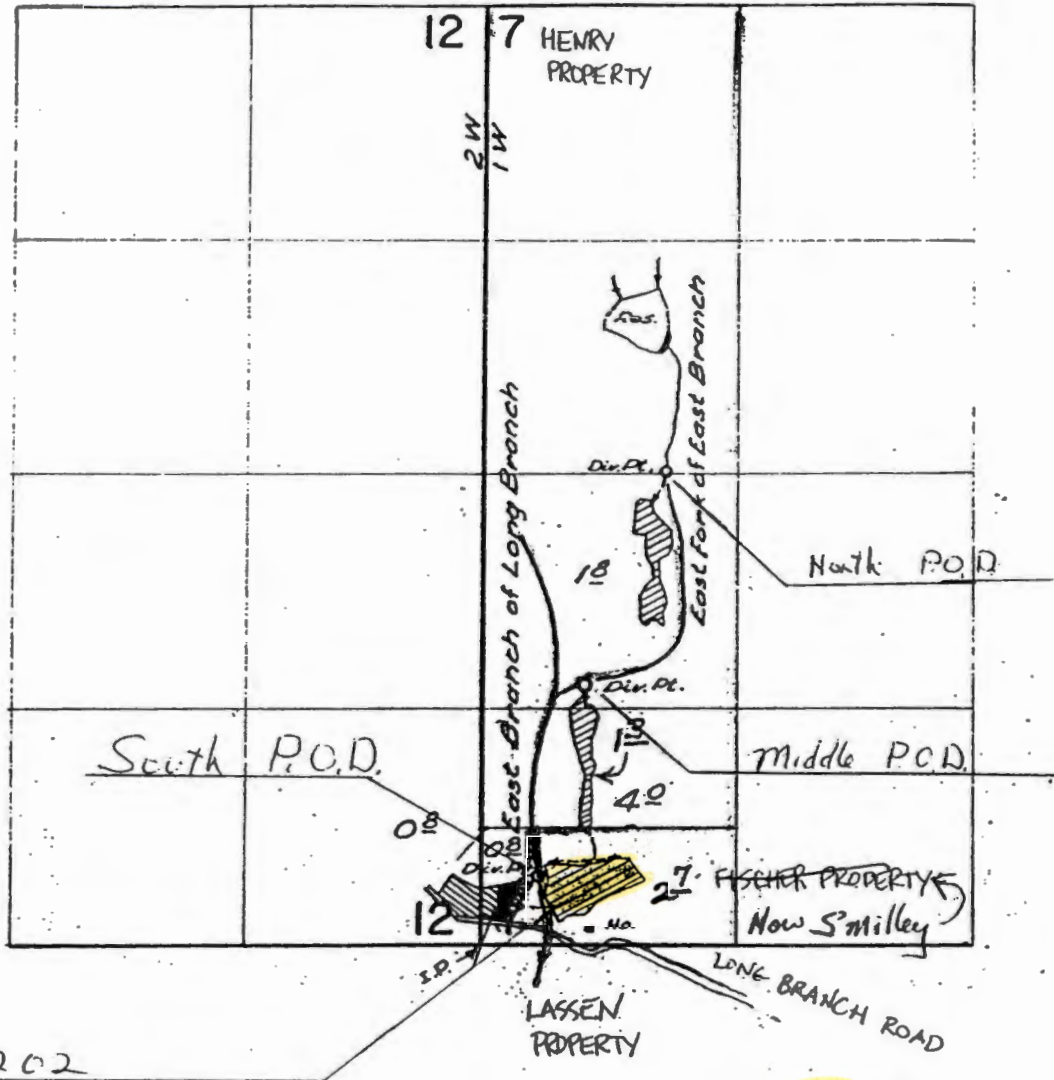
Certificate of Service

I certify that on *August 1*, 1997, I placed in the U.S. Mail, first-class postage prepaid, copies of this Final Order addressed as follows:

Ben Lombard, Jr.
2796 Long Branch Road
Eagle Point OR 97524-9751

Robert Bluth
Frohnmayr, Deatherage et al
2592 E. Barnett Rd.
Medford OR 97504

T.34 S.R.1 & 2 W.W.M.



Tex Lot 202

2.63 CANCELED PC 96

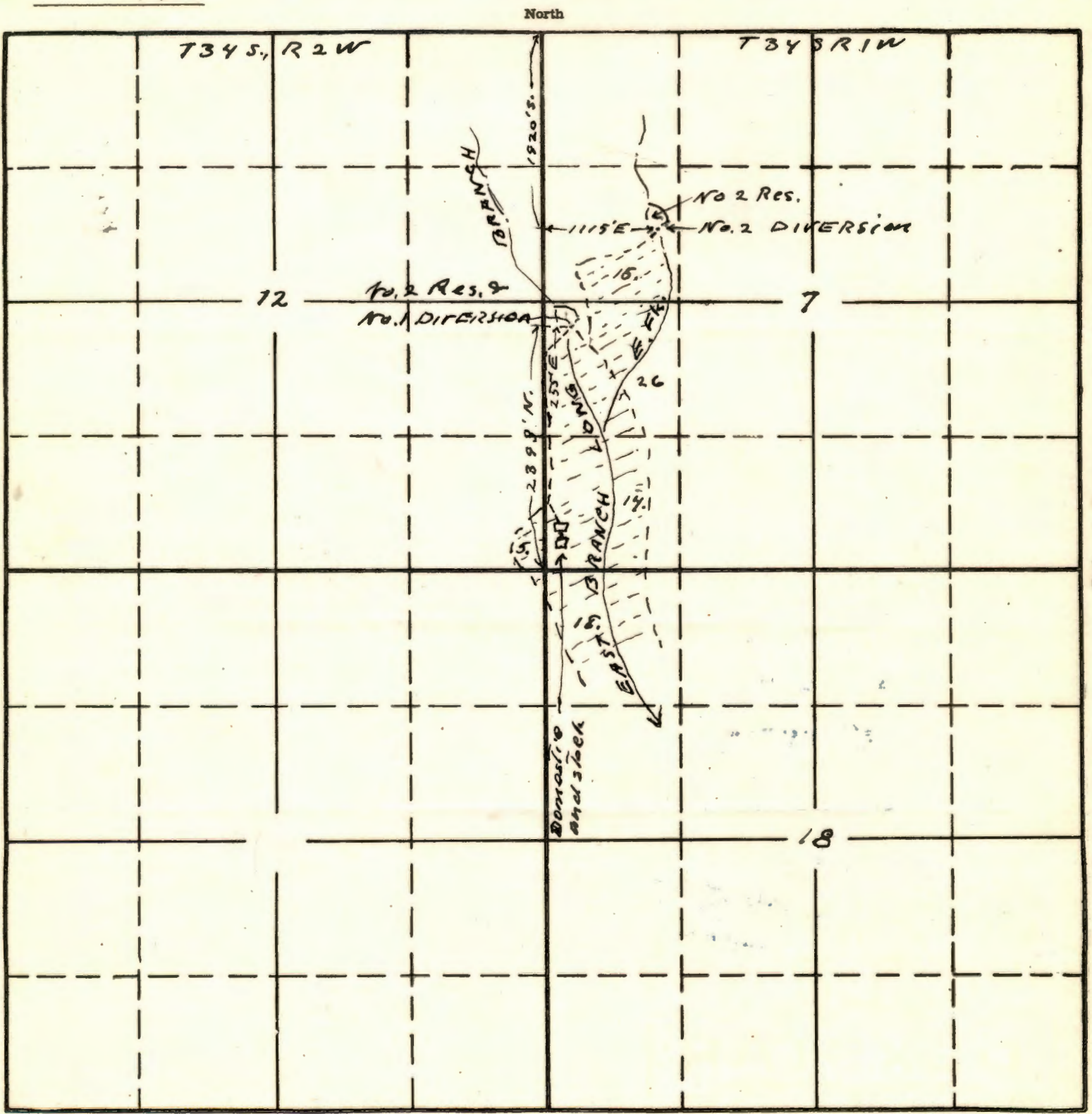
FINAL PROOF SURVEY UNDER

Application No. 22413 Permit No. 17705
P-22412 R-879
IN NAME OF

Surveyed 14 APRIL 1960, by M. G. [Signature]

7
12
18

TOWNSHIP 34 S., RANGE 1 W. 2 W., W. M.



Map to accompany application of
Ralph S Lane for use of storage water
for irrigation, domestic and stock purposes

22413 15-78F
APPLICATION No. R-22412
22413
PERMIT No. R.879
17705

This office 7/1/47 *[Signature]*

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED PARTIAL) PC 96-3
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BRANCH AND EAST FORK OF EAST BRANCH AND)
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HISTORY OF PROCEEDINGS

This proceeding was initiated by the Water Resources Department under the provisions of ORS 540.610 to 540.650 for the proposed partial cancellation of a portion of Certificate 29364. The action was based on information furnished to the Director in affidavits filed by Charles Henry and Ralph Gysin alleging that the right in question had been forfeited by failure to make beneficial use of water under the provisions of the water right for a period of five or more successive years of nonuse, from 1988 through 1995.

The water right in question was issued to Harold Biddle and recorded at Volume 21, page 29364, State Record of Water Right Certificates. The entirety of Certificate 29364 is for irrigation of 0.8 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, 1.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7 and 4.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 34 South, Range 1 West, WM.

Only that portion of the right for irrigation of 2.7 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7 was alleged to have been forfeited for nonuse for a period of five or more consecutive years, between April, 1988 through 1995. This portion of this right had previously been found to have not been exercised for 4 years, 1988 through 1991, in case number PC 91-2. The portion of the right for irrigation of 0.8 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, 1.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 and the remaining 2.1 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 were not in question in this proceeding.

Notice of Proposed Cancellation in this matter was sent to Michael and Lisa Smiley, the owners of record, on April 1, 1996. Protest against the proposed cancellation was submitted by Kip Lombard, attorney at law, on behalf of the Smileys on May 24, 1996. Protestants asserted as grounds for the protest that water was used from the proper source, but not from the authorized points of diversion from 1992, 1993, and 1995, and that they were ready, willing and able to use the water, but that water was not always available, in part because of drought and in part because proponent Henry refused to release water from the reservoir when requested, and to which they are legally entitled, to satisfy the right.

Pursuant to the Notice of Hearing served on the protestant and proponents of cancellation on June 19, 1996, the matter was set for hearing on August 1, 1996. A Statement of Parties Rights was attached to the Hearing Notice. At the joint request of the parties, the hearing was postponed and reset for January 7, 1997. The hearing was held by telephone before Weisha Mize, Administrative Law Judge. The hearing was conducted pursuant to the provisions of the Oregon Administrative Procedures Act, ORS 183.310 *et seq*, and the procedural rules found at

OAR 690-01-005 and OAR Ch. 690 Div. 2. Applicable substantive laws are in ORS 540.610 *et seq.*, OAR Chapter 690 Division 17, and relevant case law.

Proponents of cancellation Chuck Henry and Ralph Gysin appeared at the hearing and were represented by Robert Bluth, attorney at law. Vicki Henry was called as a rebuttal witness. Protestants Michael and Lisa Smiley were represented by Kip Lombard, attorney at law. Protestants offered Toni Kimple, Watermaster Bruce Sund and Assistant Watermaster Larry Menteer as witnesses.

Exceptions were timely filed to the Proposed Order by the Smileys on February 18, 1997. Pursuant to OAR 690-02-170, the matter was referred to the Director for a final decision. Having reviewed the record, the exceptions and argument on the exceptions, this Final Order is now issued,

DETERMINATION ON EXCEPTIONS

The parties stipulated that there had been four years of nonuse, from 1988 through 1991. Had no use occurred in 1992, that would have been the fifth consecutive year of nonuse. The ALJ found that limited use had been made in 1992 for irrigation of a 50' x 50' garden plot and of fruit trees, and that use had been made on a slightly expanding basis from 1992 through 1996. However, much of the use had been made from an unauthorized source. Even if water had been available in greater quantity and for a longer period of time in 1992 from the authorized source, the protestant was not ready or able to apply it to the entire 2.7 acres. The ALJ found that all but 0.07 acre, the amount of ground irrigated in 1992, had been forfeited for nonuse, and proposed to cancel the forfeited portion of the right.

Protestants excepted to Findings and Conclusions 7 and 9 and Ultimate Finding #1 of the proposed order. The thrust of protestants' argument was that they are being penalized for the drought conditions in 1992. The protestants say they irrigated as much as they could with the water that was available in 1992, but there was not enough water to irrigate the entire 2.7 acres to which the right is appurtenant. The protestants further assert that contrary to the findings, they were ready; willing and able to irrigate the entire 2.7 acres, but drought conditions prevented it.

The diagram entered into evidence as protestants' exhibit 103 is not to scale, thus the level of accuracy in the actual extent of ditching shown is unknown. Assuming for the purpose of this order that the extent of the ditching shown is accurate, the ditching in 1992 went only to the middle of the property. The protestant testified that he ditched approximately to the middle of the field, and did not go beyond that to the east half of the 2.7 acres. The ditching was not extended beyond that in subsequent years. The ground is lowest at the middle of the property running north and south, and rises to east and west. While the protestant speculated that if water had been abundant in 1992, it would have covered the entire 2.7 acres, the ALJ concluded that even if water had been run in this ditch out to the middle of the field, it would not have made it up hill to the east unless the ditch went beyond middle of the field.

In reviewing the hearing record, I find that the ALJ mis-heard Mr. Smiley at one point, and contrary to the third sentence in Finding 9, Mr. Smiley in fact stated that had water been abundant in 1992, it would have flowed out over the entire field. Nevertheless, it is my conclusion that protestant was not ready or able to apply water to the entire 2.7 acres in 1992, regardless of availability. Moreover, the statement that the ditches were successfully used in 1996 to cover the entire 2.7 acres is outside the period of concern and is in conflict with Mr. Smiley's testimony that in 1996, the system was changed from gravity flow to pump and sprinkler.

The fact that the property is fenced and that Ms. Smiley's parents wanted the Smileys to raise cattle is not evidence that the water right was exercised or even that it could have been used to irrigate the 2.7 acres to which this right is appurtenant.

I also appreciate that the protestants expressly requested that Mr. Henry release stored water late in the 1995 irrigation season -- unfortunately, as the watermaster testified, by waiting to request release of the stored water long after the authorized source had ceased flowing and the creek bed dried up, the protestants would and could not have received the quantity of stored water to which they were entitled. It would have sunk into the ground before it reached them at their unauthorized point of diversion. More importantly, the protestants were unprepared to take water from the authorized point of diversion. As Mr. Smiley testified, no attempts to divert water from the authorized point were made, and his property could not be irrigated efficiently from his authorized point of diversion without piping, which had not been installed or used by his predecessor or himself.

The Smileys claim that they are being penalized for the drought. It is undisputed that the East Fork, the authorized source for this 2.7 acres, dries up every year, and that it always dries up earlier than the East Branch, the unauthorized source from which the protestants were diverting water. This lack of water availability cannot solely be blamed on drought, since it is an annually-occurring event.

However, it does not appear from the record that the protestants would have been able to apply water to their entire 2.7 acre parcel even if water had been plentiful, which it was in 1993 and 1995, given the topography of their property, the less-than-complete coverage offered by the ditching system, and the use of pump and pipe/hose rather than pump and sprinkler until 1996. I concur with the determination that the protestants did not demonstrate that they were ready, willing and able to make full beneficial use of the water, had it been available at their authorized point of diversion.

FINDINGS AND CONCLUSIONS

1. All facts set forth in the HISTORY OF PROCEEDINGS are incorporated as Findings.
2. The lands in question, lands of proponent Henry, the East Fork East Branch, East Branch, and other pertinent features are shown on Figure 1, infra, which is a copy of the final proof map associated with Certificate 29364.

3. The portion of the water right appurtenant to the 2.7 acre parcel of protestants' property had not been exercised in 1988, 1989, 1990 and 1991.
4. The East Fork of the East Branch joins the East Branch of Long Branch in the NW¼ SW¼ of Section 7, north of the lands in question. The waters of these two streams are commingled by the time the water reaches the diversion point on the NW corner of the lands in question.
5. The East Branch of Long Branch has generally ceased to flow by the latter part of June. In wetter years, the stream may continue to flow into August, as it did in 1995 and 1996. The East Fork dries up between two and six weeks prior to the East Branch.
6. The years 1988, 1991, 1993 and 1995 were "good" water years with near or above-average precipitation and flows. 1989, 1990, 1992 and 1994 were "bad" water years, with below-average flows which dried up earlier in the irrigation season than in the "good" years.
7. Protestants planted a 50' x 50' garden (constituting approximately 0.06 acre) in mid-April of 1992. Protestants irrigated this garden plot and seven fruit trees (comprising at most 0.01 acre in area) by pump and pipe from the East Branch on four or five occasions until the stream dried up in mid-May. The garden area expanded in size each year, and the garden and fruit trees were watered from the East Branch each year, with the exception of 1994, as long as water was available in the East Branch.
8. After the flow in the East Branch ceased in 1992, Protestants inquired of Mr. Henry about release of their allocated portion of stored water from the reservoir located on proponent Henry's property. The inquiry was not a request for release or delivery of stored water. In 1992, less than the full amount of water had been stored and the water level was below the level of the release valve, thus no attempt to release water was made. However, because the stream bed in the East Fork was dry at the time the request was made, even if stored water had been available to release at the authorized rate, it is highly unlikely that water would have made it to either the middle or the southern point of diversion.
9. Even had there been water available from the East Fork, protestants were not ready or able, in 1992, to apply that water to any of their property beyond the seven fruit trees and the 50' x 50' garden plot they established. To get water from the middle point of diversion, protestant Michael Smiley testified, would require installation of a pipeline. It did not appear from the testimony or exhibits that the existing pipe on the East Branch had been extended to any lands east of the garden in 1992.

ULTIMATE CONCLUSIONS

1. With the preceding four years of nonuse, 1992 was the fifth year of nonuse on all but a 50' x 50' (0.06 acres) and seven fruit trees, at most 0.01 acre, of the 2.7 acres in question. Since 1992, that 0.07 acre has continued to be irrigated and the right appurtenant to that 0.07 acre parcel has not been forfeited for nonuse.

2. Of the 2.7 acres at issue, 2.63 acres have not been irrigated, and the appurtenant portion of Certificate 29364 has not been exercised, for five successive years, from 1988 through 1992.

ORDER

It is ORDERED that the portion of Certificate 29364 for irrigation on 2.63 acres in Tax Lot 202, located in the SW¼ SW¼ of Section 7, Township 34 South, Range 1 West, WM., and that portion of the right evidenced by said Certificate, be and the same is hereby canceled.

~~It is FURTHER ORDERED that a new certificate be issued confirming the remainder of the right not canceled in this proceeding.~~


Martha O. Pagel, 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 date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

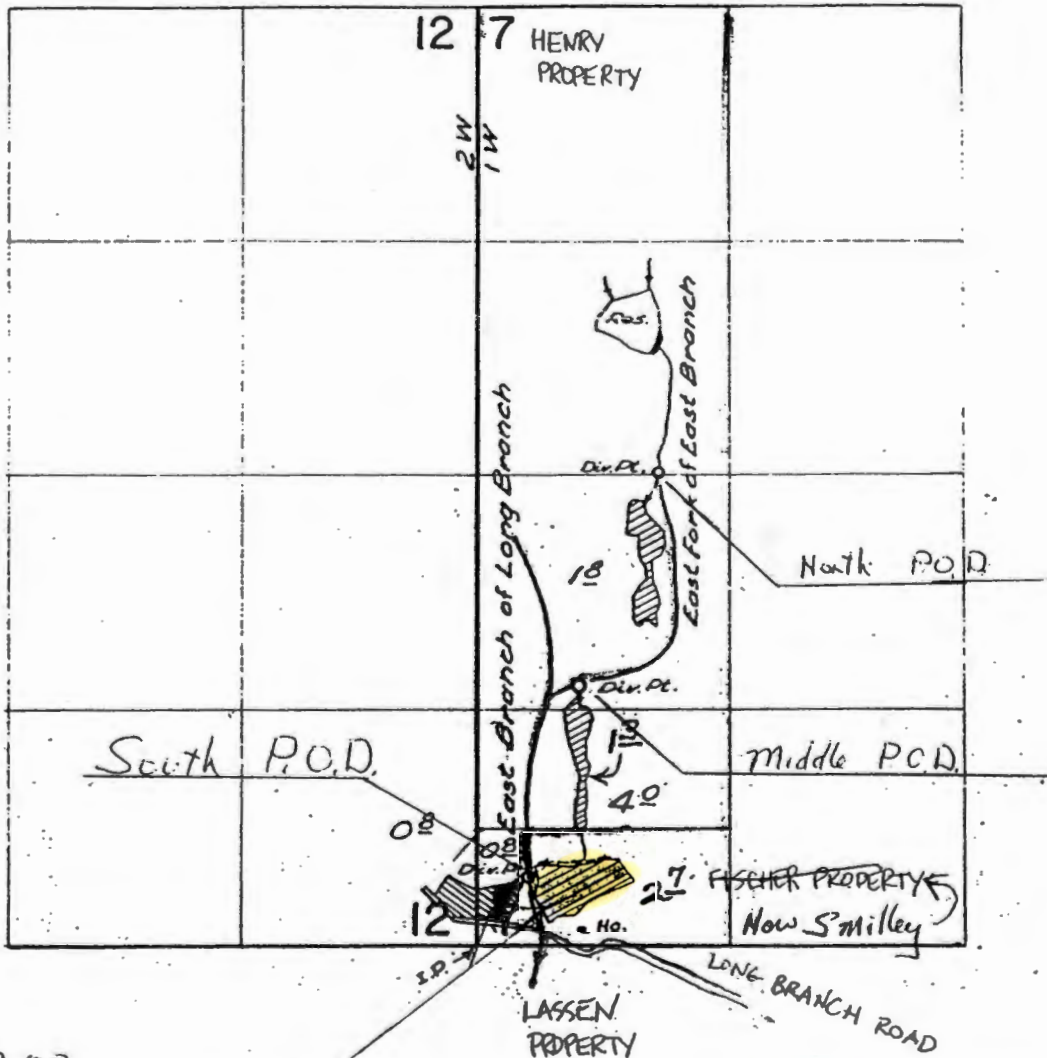
Certificate of Service

I certify that on *August 1*, 1997, I placed in the U.S. Mail, first-class postage prepaid, copies of this Final Order addressed as follows:

Ben Lombard, Jr.
2796 Long Branch Road
Eagle Point OR 97524-9751

Robert Bluth
Frohnmayr, Deatherage et al
2592 E. Barnett Rd.
Medford OR 97504

T.34 S.R. 1 & 2 W.W.M.



Tax lot 202

2.63 CANCELED R 96

FINAL PROOF SURVEY
UNDER

Application No. 22413 Permit No. 17705
R-22412 R 879
IN NAME OF

Surveyed 14 APRIL 1960, by M. Bishop

STATE OF OREGON
COUNTY OF JACKSON
CERTIFICATE OF WATER RIGHT

This Is to Certify, That **HAROLD BIDDLE**

91539

of P. O. Box 236, Shady Cove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of East Branch of Long Branch and East Fork of East Branch and reservoir constructed under Application R-22412, Permit R-879 a tributary of _____ for the purpose of **irrigation**

under Permit No. **17705** of the State Engineer, 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 **April 7, 1947**

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 **0.09 cubic foot per second being 0.02 cubic foot per second from East Branch & 0.07 cubic foot per second from East Fork and Reservoir**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T. 34 S., R. 1 W., W. M.**

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, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed **4 $\frac{1}{2}$ acre feet** per acre for each acre irrigated during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit R-879,

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:

East Branch of Long Branch

East Fork

0.8 acres

1.8 acres
4.0 acres

NW $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 7
T. 34 S., R. 1 W., W.M.
SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 12
T. 34 S., R. 2 W., W.M.

0.8 acre

1.6

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 State Engineer, affixed

this date. **JANUARY 31 1962**

LEWIS A. STANLEY
State Engineer

BART

DIST. 13

APP. 22413

841 774 6883

0216

29364

RETURNED
76934

Vol 51 Ag 879

CHECKED OUT TO GREG NELSON

11-08-2001 6



Monday

JUNE
29

DILBERT[®]
BY SCOTT ADAMS

FOR 2001
 DATE Wed 5-16 TIME 1111 A.M.
P.M.
 FROM Sue Waldron
 FIRM 22413
 PHONE 541 - 774 - 6880
 FAX AREA CODE NUMBER EXTENSION
 MOBILE AREA CODE NUMBER TIME TO CALL

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
WAITING TO SEE YOU	<input type="checkbox"/>	HOLDING LINE	<input type="checkbox"/>

MESSAGE JACKSON CNTY
cert p. 29364 VV
INFO
Appealed

SIGNED _____  FORM 4007 MADE IN U.S.A.

MESSAGE

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HAROLD BIDDLE
P.O. BOX 236
SHADY GROVE, OR 97539

confirms the right to use the water of EAST BRANCH OF LONG BRANCH and EAST FORK OF EAST BRANCH and RESERVOIR CONSTRUCTED UNDER APPLICATION R-22412, PERMIT R-879, for IRRIGATION of 4.77 ACRES.

The right was perfected under PERMIT 17705. The date of priority is APRIL 7, 1947. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purpose and shall not exceed 0.06 CUBIC FOOT PER SECOND (CFS); BEING 0.02 CFS FROM EAST BRANCH OF LONG BRANCH and 0.04 CFS FROM EAST FORK OF EAST BRANCH AND RESERVOIR, or its equivalent in case of rotation, measured at the point of diversion from the source.

The points of diversion are located in the SW¼ NW¼, NW¼ SW¼, and SW¼ SW¼, SECTION 7, TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall further be limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season from April 2 to October 31 of each year from direct flow and storage from the reservoir constructed under Permit R-879, 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, and to which such right is appurtenant, is as follows:

East Branch of Long Branch	East Fork of East Branch	
0.80 ACRES	1.80 ACRES	NW¼ SW¼
	1.37 ACRES	SW¼ SW¼
	SECTION 7	
0.80 ACRES		SE¼ SE¼
	SECTION 12	
	TOWNSHIP 34 SOUTH, RANGE 1 WEST, W. M.	

This certificate describes that portion of the water right confirmed by Certificate 29364, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director on PC 96-3, entered on July 31, 1997, and recorded at Special Order Volume 51, Pages 899 - 904, canceling a portion of said water right.

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

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director, affixed MAY 30 2001 .



Paul R. Cleary, Director

From: sharyl.kammerzell@doj.state.or.us
Date: Mon, 21 May 2001 12:45:35 PDT
To: <Greg.L.NELSON@wrd.state.or.us>
Reply-To: <sharyl.kammerzell@doj.state.or.us>
Subject: re: An Appealed Final Order
X-Incognito-SN: 611
X-Incognito-Version: 5.1.0.78

Greg-
Below is the whole entry/opinion for Smiley. As you can see, it was affirmed without an opinion (AWOPed), which means that the result is the same as the final order -- presumably we "won" in the hearing, I would want to confirm that, if you have not already. Let me know if you have any further questions.
Do you want me to print out the page below from our on-line reporters and send it over?
Sharyl

155 Or.App. 486

(The decision of the Court is referenced in the Pacific Reporter in a table captioned "Oregon Court of Appeals.")

Court of Appeals of Oregon.

Michael Smiley, Lisa Smiley
v.
Water Resources Department
NO. CA A99407
July 29, 1998

AFFIRMED WITHOUT OPINION.

9-30-04 Shannan —
yes = we won, so final
order of WRO stands
Greg Nelson

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED PARTIAL) PC 96-3
CANCELLATION OF WATER RIGHT CERTIFICATE)
29364 IN THE NAME OF HAROLD BIDDLE FOR) FINAL ORDER
USE OF WATER FROM EAST BRANCH OF LONG)
BRANCH AND EAST FORK OF EAST BRANCH AND)
RESERVOIR, JACKSON COUNTY)

HISTORY OF PROCEEDINGS

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I also appreciate that the protestants expressly requested that Mr. Henry release stored water late in the 1995 irrigation season -- unfortunately, as the watermaster testified, by waiting to request release of the stored water long after the authorized source had ceased flowing and the creek bed dried up, the protestants would and could not have received the quantity of stored water to which they were entitled. It would have sunk into the ground before it reached them at their unauthorized point of diversion. More importantly, the protestants were unprepared to take water from the authorized point of diversion. As Mr. Smiley testified, no attempts to divert water from the authorized point were made, and his property could not be irrigated efficiently from his authorized point of diversion without piping, which had not been installed or used by his predecessor or himself.

The Smileys claim that they are being penalized for the drought. It is undisputed that the East Fork, the authorized source for this 2.7 acres, dries up every year, and that it always dries up earlier than the East Branch, the unauthorized source from which the protestants were diverting water. This lack of water availability cannot solely be blamed on drought, since it is an annually-occurring event.

However, it does not appear from the record that the protestants would have been able to apply water to their entire 2.7 acre parcel even if water had been plentiful, which it was in 1993 and 1995, given the topography of their property, the less-than-complete coverage offered by the ditching system, and the use of pump and pipe/hose rather than pump and sprinkler until 1996. I concur with the determination that the protestants did not demonstrate that they were ready, willing and able to make full beneficial use of the water, had it been available at their authorized point of diversion.

FINDINGS AND CONCLUSIONS

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7. Protestants planted a 50' x 50' garden (constituting approximately 0.06 acre) in mid-April of 1992. Protestants irrigated this garden plot and seven fruit trees (comprising at most 0.01 acre in area) by pump and pipe from the East Branch on four or five occasions until the stream dried up in mid-May. The garden area expanded in size each year, and the garden and fruit trees were watered from the East Branch each year, with the exception of 1994, as long as water was available in the East Branch.
8. After the flow in the East Branch ceased in 1992, Protestants inquired of Mr. Henry about release of their allocated portion of stored water from the reservoir located on proponent Henry's property. The inquiry was not a request for release or delivery of stored water. In 1992, less than the full amount of water had been stored and the water level was below the level of the release valve, thus no attempt to release water was made. However, because the stream bed in the East Fork was dry at the time the request was made, even if stored water had been available to release at the authorized rate, it is highly unlikely that water would have made it to either the middle or the southern point of diversion.
9. Even had there been water available from the East Fork, protestants were not ready or able, in 1992, to apply that water to any of their property beyond the seven fruit trees and the 50' x 50' garden plot they established. To get water from the middle point of diversion, protestant Michael Smiley testified, would require installation of a pipeline. It did not appear from the testimony or exhibits that the existing pipe on the East Branch had been extended to any lands east of the garden in 1992.

ULTIMATE CONCLUSIONS

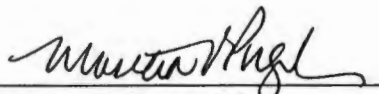
1. With the preceding four years of nonuse, 1992 was the fifth year of nonuse on all but a 50' x 50' (0.06 acres) and seven fruit trees, at most 0.01 acre, of the 2.7 acres in question. Since 1992, that 0.07 acre has continued to be irrigated and the right appurtenant to that 0.07 acre parcel has not been forfeited for nonuse.

2. Of the 2.7 acres at issue, 2.63 acres have not been irrigated, and the appurtenant portion of Certificate 29364 has not been exercised, for five successive years, from 1988 through 1992.

ORDER

It is ORDERED that the portion of Certificate 29364 for irrigation on 2.63 acres in Tax Lot 202, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 34 South, Range 1 West, WM., and that portion of the right evidenced by said Certificate, be and the same is hereby canceled.

~~It is FURTHER ORDERED that a new certificate be issued confirming the remainder of the right not canceled in this proceeding.~~



Martha O. Pagel, 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 date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

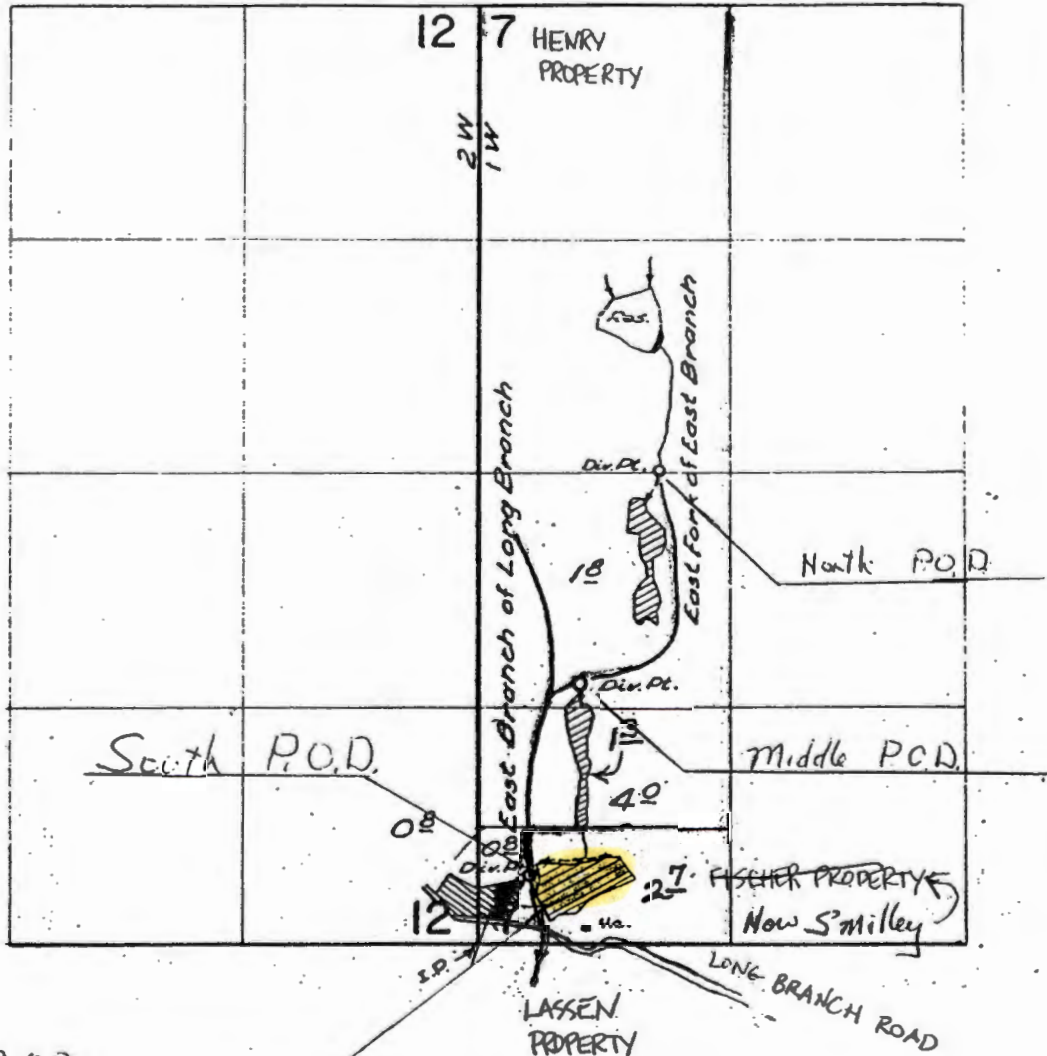
Certificate of Service

I certify that on *August 1*, 1997, I placed in the U.S. Mail, first-class postage prepaid, copies of this Final Order addressed as follows:

Ben Lombard, Jr.
2796 Long Branch Road
Eagle Point OR 97524-9751

Robert Bluth
Frohnmayr, Deatherage et al
2592 E. Barnett Rd.
Medford OR 97504

T.34 S.R.1 & 2 W.W.M.



Tax Lot 202

2.63 CANCELED PC 96-3

FINAL PROOF SURVEY
UNDER

Application No. 22413 Permit No. 17705
P-22412 R-879
IN NAME OF

Surveyed 14 APRIL 1960, by [Signature]

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **HAROLD BIDDLE**

91539

of P. O. Box 236, Shady Cove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of East Branch of Long Branch and East Fork of East Branch and reservoir constructed under Application R-22412, Permit R-879 a tributary of _____ for the purpose of **irrigation**

under Permit No. **17705** of the State Engineer, 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 **April 7, 1947**

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 **0.09 cubic foot per second being 0.02 cubic foot per second from East Branch & 0.07 cubic foot per second from East Fork and Reservoir**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **SW¹/₄ NW¹/₄, NW¹/₄ SW¹/₄, SW¹/₄ SW¹/₄, Section 7, T. 34 S., R. 1 W., W. M.**

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, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed **4¹/₂ acre feet** per acre for each acre irrigated during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit R-879,

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:

East Branch of Long Branch

East Fork

0.8 acres

1.8 acres
4.0 acres

0.8 acre *0.14*

NW¹/₄ SW¹/₄
SW¹/₄ SW¹/₄
Section 7
T. 34 S., R. 1 W., W.M.
SE¹/₄ SE¹/₄
Section 12
T. 34 S., R. 2 W., W.M.

1.6

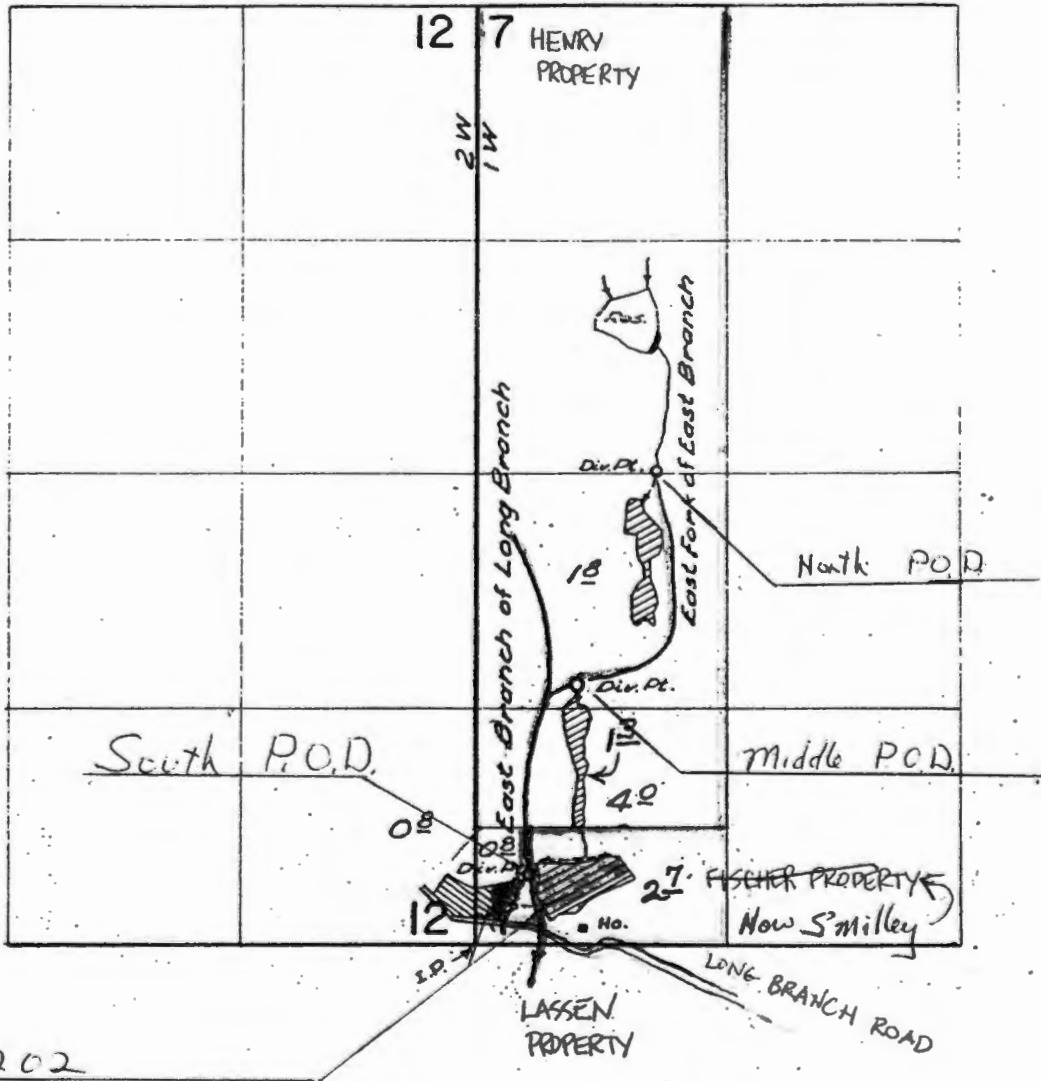
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. **JANUARY 31 1962**

.....
LEWIS A. STANLEY
State Engineer

T.34 S.R.1 & 2 W.W.M.



FINAL PROOF SURVEY UNDER

Application No. 22413 Permit No. 17705
P-22412 R.879
IN NAME OF

Surveyed 14 APRIL 1960, by me B. J. [Signature]

MEMORANDUM

To: Weisha Mize

Date: October 6, 1997

From: Steve Brown

Reference: PC 96-3, File 22413, Certificate 29364

A copy of the final order recorded in Volume 51, Pages 899 through 904, was sent to me to consider issuance of a remaining right certificate. At this time, it is my understanding there has been an appeal of the order. If this is the status of the case, please advise me of disposition of the appeal and I will review the file at that time for consideration of a remaining right certificate. This is of course if the special order is not over ruled. No action will be taken on the file until such time as the case is resolved.

Thanks.

Steve B.

STATE OF OREGON
COUNTY OF JACKSON
CERTIFICATE OF WATER RIGHT

This Is to Certify, That HAROLD BIDDLE

91539

of P. O. Box 236, Shady Cove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of East Branch of Long Branch and East Fork of East Branch and reservoir constructed under Application B-22412, Permit B-879 a tributary of _____ for the purpose of **irrigation**

under Permit No. 17705 of the State Engineer, 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 **April 7, 1947**

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 **0.09 cubic foot per second being 0.02 cubic foot per second from East Branch & 0.07 cubic foot per second from East Fork and Reservoir**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T. 34 S., R. 1 W., W. M.**

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, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed **4 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit B-879,**

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:

<u>East Branch of Long Branch</u>	<u>East Fork</u>	
0.8 acres	1.8 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 T. 34 S., R. 1 W., W.M.
0.8 acre	4.0 acres	
		SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12 T. 34 S., R. 2 W., W.M.

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 State Engineer, affixed

this date. JANUARY 31 1962

LEWIS A. STANLEY
 State Engineer

100



OWRD copy
for files

Water Resources

Department

SALEM, OREGON 97310

RECEIVED

FEB 19 1991

WATER RESOURCES DEPT.
SALEM, OREGON
PHONE

02-15-91

Kris Fisher
2796 Long Branch Road
Prospect, Oregon

file # 22413
R-879

Dear Madam:

Reference is made to the complaint received at this office on January 28 regarding the illegal use of water on the Chuck Henry property, upstream on East Branch of Long Branch.

An investigation was made by my assistant last week and a follow up investigation was performed yesterday, February 14. Yesterday's inspection confirmed the existence of the illegal pond as you had reported. Discussions with the landowner, Chuck Henry, led to his commitment to obtain the required water use permits for the structure.

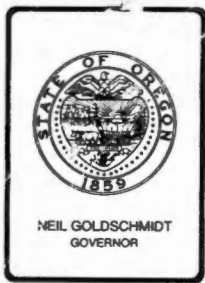
While at the site, Mr. Henry removed a pipe which had diverted water from East Fork of East Branch into the reservoir. Flow from the pipe was estimated at about 2 gallons per minute. Mr. Henry also committed himself to channeling water from a smaller perennial stream back to an old roadbed which passes through your property. Flow from this source was also estimated at about 2 gallons per minute. As you can see from the above estimates, both of these streams were virtually dry.

Your property and that of Mr. Henry share an equal priority date for the use of water according to the terms of the 1947 Biddle water right.

I would like to take this opportunity to appraise you of a basic tenant of water law regarding the validity of a water right. Oregon water law states that a right is valid providing that it has not undergone a five successive year period of non-use.

Should a right or a portion of a right not be exercised for that period of time, that right or portion of the right is forfeit and becomes lost to the property.

Mr. Henry mentioned that he had not observed your lands being irrigated in the 12 years that he has owned the property. I would be obliged if you could relate to me the extent to which you have used water in accordance with the terms of permit 17705 (copy attached).



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

RECEIVED

FEB 19 1991

WATER RESOURCES DEPT
SALEM, OREGON
PHONE

02-15-91

Kris Fisher
2796 Long Branch Road
Prospect, Oregon

file # 22413
R-879

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Should a right or a portion of a right not be exercised for that period of time, that right or portion of the right is forfeit and becomes lost to the property.

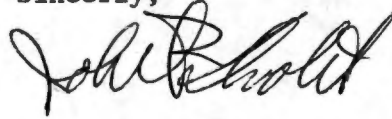
Mr. Henry mentioned that he had not observed your lands being irrigated in the 12 years that he has owned the property. I would be obliged if you could relate to me the extent to which you have used water in accordance with the terms of permit 17705 (copy attached).

page two
Kris Fisher

02-15-91

Your water right, incidently, is only for the use of water for irrigation. It is not for domestic use.

Sincerly,



John P. Drolet
Watermaster, Dist. XIII

JPD/dt

CF: Kelly Wik
OWRD file 22413

atch:abstract/final proof map

2
1.8
4.8
0.8

7.4

X 29

Abstract of Permit No. 17705

Application No. 22413

Certificate No. 29364

Name **Harold Biddle**
Address **P. O. Box 236
Shady Cove, Oregon**

Source of water supply **East Branch of Long Branch and East Fork of East Branch and res. const. under Appl. R-22412, Per. R-879**
Use **Irrigation**

Point of diversion **North Point: 30' S. and 1000' E. from the W $\frac{1}{2}$ cor. Sec. 7,
Middle Point: 1460' N. & 560' E., South Point: 380' N. and
290' E., both from the SW cor. Section 7, being within N. point
Number of acres **SW $\frac{1}{4}$ NW $\frac{1}{4}$; Middle Point, NW $\frac{1}{4}$ SW $\frac{1}{4}$; South Point SW $\frac{1}{4}$ SW $\frac{1}{4}$; all in Section 7,
T. 34 S., R. 1 W., W.M. in the county of Jackson.**
DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE**

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
34S	1W	7										*	0					
												1.8	0.8					
													*					
													4.0					
34S	2W	12																0.8
			* East Branch of Long Branch															
			* East Fork															

Priority date **April 7, 1947**

Amount of water **0.09 c.f.s., measured at the point of diversion, being
.02 c.f.s. from E. branch & 0.7 c.f.s. from East Fork and Reservoir**
Time limit to begin construction **July 3, 1948**

Time limit to complete construction **10/1/49** extended to **extended to**

Time limit to completely apply water **10/1/50** extended to **extended to**

Remarks: **This appropriation shall be limited to 1/80th of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit R-879, and shall conform to such reasonable roation system as may be ordered by the proper state officer.**

Basin 15 Vol. /

X 29
Abstract of Permit No. R-879

Application No. R-22412

Certificate No. 29363

Name Harold Biddle
P. O. Box 236
Address Shady Cove, Oregon

Source of water supply East Fork of East Branch of Long Branch, trib. of Rogue River, appropriated under Appl. 22413, Per. 17705

Use Store water for irrigation

Point of diversion DAM LOCATED: 710' N. and 1000' E. from the W $\frac{1}{2}$ corner Section 7, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, T. 34 S., R. 1 W., W.M., in the county of Jackson.

Number of acres

DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
34S	1W	7																

Priority date April 7, 1947

Amount of water 5.0 acre feet

Time limit to begin construction July 3, 1948

Time limit to complete construction 10/1/49 extended to extended to

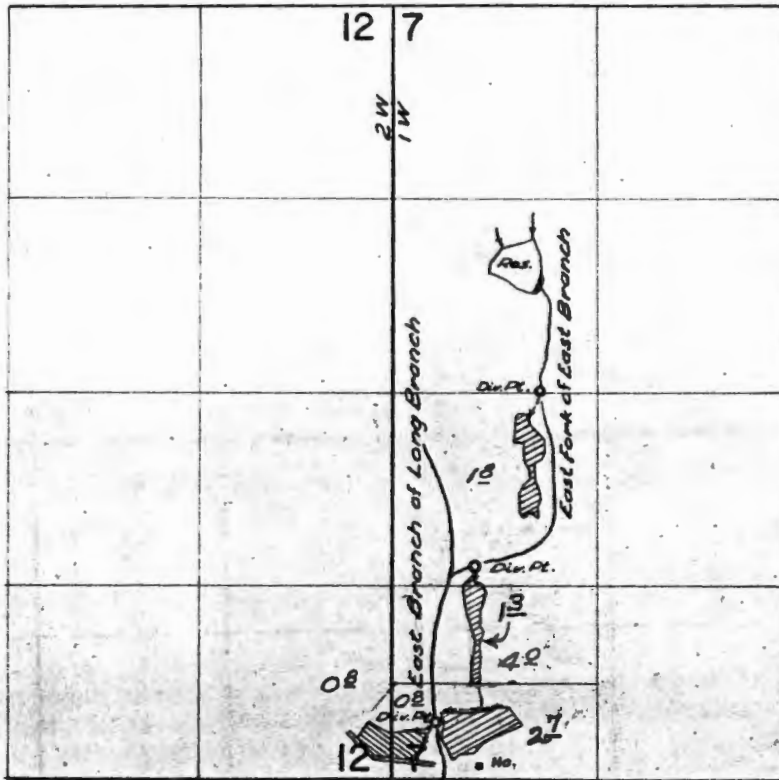
Time limit to completely apply water 10/1/50 extended to extended to

Remarks:

nj

Basin 15 Vol. 1

T.34 S.R.1 & 2 W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 22413 Permit No. 17705
P-22412 R-879
IN NAME OF

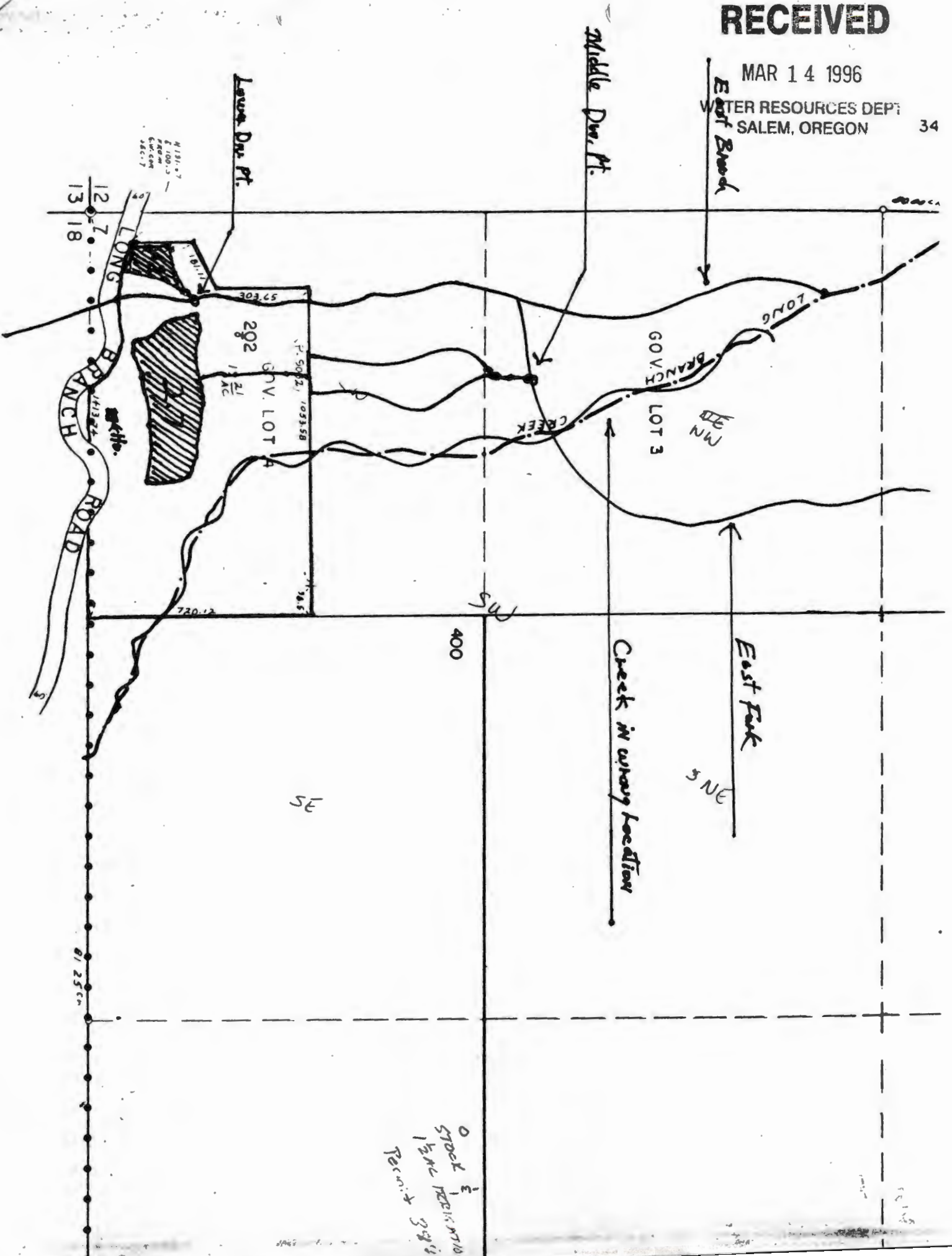
Surveyed 14 APRIL 1960, by McBish

RECEIVED

MAR 14 1996

WATER RESOURCES DEPT
SALEM, OREGON

34



RECEIVED

JAN 15 1962

STATE ENGINEER
SALEM, OREGON

STATE OF OREGON
COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That HAROLD BIDDLE

of P. O. Box 236, Shady Cove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of East Branch of Long Branch and East Fork of East Branch and reservoir constructed under Application B-22412, Permit B-879 a tributary of irrigation for the purpose of irrigation

under Permit No. 17705 of the State Engineer, 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 April 7, 1947

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 0.09 cubic foot per second being 0.02 cubic foot per second from East Branch & 0.07 cubic foot per second from East Fork and Reservoir

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, T. 34 S., R. 1 W., W.M.

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, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit B-879,

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:

<u>East Branch of Long Branch</u>	<u>East Fork</u>	
0.8 acres	1.8 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$
	4.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
0.8 acre		Section 7
		T. 34 S., R. 1 W., W.M.
		SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 12
		T. 34 S., R. 2 W., W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

THIS IS A DRAFT OF WATER RIGHT CERTIFICATE

See other side for instructions and final proof to be executed by permittee.

STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
SALEM

251 FINANCE BUILDING
170 12TH STREET S. E.

REFER TO
FILE NO. 22413

Harold Biddle
P. O. Box 236, S
Shady Cove, Oregon

Dear Mr. Biddle:

On the reverse side of this paper is a copy of a draft of water right certificate to confirm the right under Permit No. 17705. You are requested to examine this draft and if you find it correctly describes the appropriation of water made, execute the following final proof. A fee of \$1.00 is required for recording your certificate of water right in the office of the County Clerk. The fee of \$1.00, together with this signed draft, must be returned to the State Engineer.

Very truly yours,

LEWIS A. STANLEY
State Engineer

FINAL PROOF

I have read the draft of water right certificate shown on the reverse side of this paper and as final proof of appropriation of water I hereby certify that the water has been used as described in said draft.

6-11-62
.....
(Date)

Harold Biddle
.....
(Signature)



STATE OF OREGON

INTEROFFICE MEMO

RECEIVED

APR 18 1991

WATER RESOURCES DEPT.
SALEM, OREGON

TO: Weisha Mize
Hearings Officer

DATE: 04-17-91

FROM: John P. Drolet *10/1*
Watermaster, District XIII

Permit # 17705

SUBJECT: Proposed Cancellation--Biddle Right

This office has been contacted by Mr. Chuck Henry regarding the possible forfeiture of a right in the Shady Cove area of Jackson County. Mr. Henry is an adjoining landowner to the property with the right in question.

Mr. Phil Lassen, another adjoining landowner, has submitted a similar affidavit.

Both affidavits are attached.

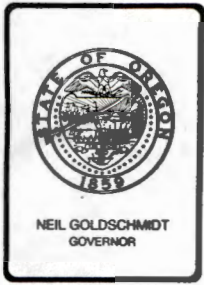
Please note that the certificate number on the attached affidavits are in fact the permit number.

Also attached, are copies of the assessors map for that area and copies of the current deed record for the tax lot in question.

Should you have any questions, please get in touch with me or most able research technician, Sandra M. Bandy.

CF: Jackie Warner

Appl. # 22413
Permit # 17705
Cert. # 29364



Water Resources Department

WATERMASTER DISTRICT 13

JACKSON COUNTY COURTHOUSE, MEDFORD, OREGON 97501 PHONE 776-7056

RECEIVED
MAR - 7 1991
WATER RESOURCES DEPT
SALEM, OREGON

03-04-91

Charles B. Henry
P.O. Box 512
Shady Cove, Ore. 97539

file # 22413 (P #17705)
R22412 (P # R879)

Dear Mr. Henry:

This office is in receipt of your March 1 dated letter regarding the possible water right forfeiture due to non-use on property adjacent to your property on Long Branch. The Department would be interested in pursuing this matter providing that you and your neighbor, Mr. Lassen, could provide additional information.

Please find attached an example of the type of affidavit we would need. Also, should the owner of TL #202 elect not to voluntarily cancel their right, then our department would heavily rely on your testimony during a cancellation hearing held by the Department.

We shall withhold action pending our receipt of your affidavit and that of Mr. Lassen.

Please get in touch if you have questions.

Sincerely,

John P. Drolet
Watermaster, District XIII

JPD/dt

CF: Jackie Warner

Charles B. Henry
P.O. Box 512
Shady Cove, Oregon 97539

March 1, 1991

John P. Drolet
Watermaster, Dist. 13
Jackson County Courthouse
Medford, Oregon 97501

Z Z 413 } A #
R - 879 }
17705 } P #
R 879 }

Mr. Drolet:

I, Charles B. Henry, have lived in the Shady Cove and Upper Rogue area from the period of 1946 to the present. I have spent most of my free time exploring the area.

I fished the lake, we knew as Biddles Lake, from the mid-50's to the present, 2 or 3 times a year. I went to school with Carol Biddle, the daughter of Harold Biddle, the man who filed and received the reservoir permit #R-879 and irrigation rights as described in permit #17705.

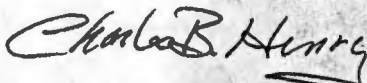
As you can see, I am intensely familiar with the property described as 31-1W, Sec. 7, gov. lots #1,2,3 and 4, tax lots #200 and #202.

My wife and I started negotiating for tax lot #200 in 1983, eventually purchasing in 1986. From April 1985 to present, I have seen no beneficial use of water for tax lot #202. If you check the ditches on tax lot #202, you will find them washed out or filled with debris, from years of non-use. The Final Proof Survey dated the 14th of April, 1960, shows 2.7 acres in tax lot #202 irrigated by a lateral ditch, near the base of the hill. If my statement is contested by the current or previous owners, of tax lot #202, please visually inspect the above mentioned ditch, to substantiate my claims.

I checked with my neighbor, Phil Lassen (who has lived next to the property, in question, longer than I have) and he also stated that he had not observed any irrigation of tax lot #202.

Thank you for your informative visit on 2-14-1991. I'm proceeding with my plans on the reservoir application.

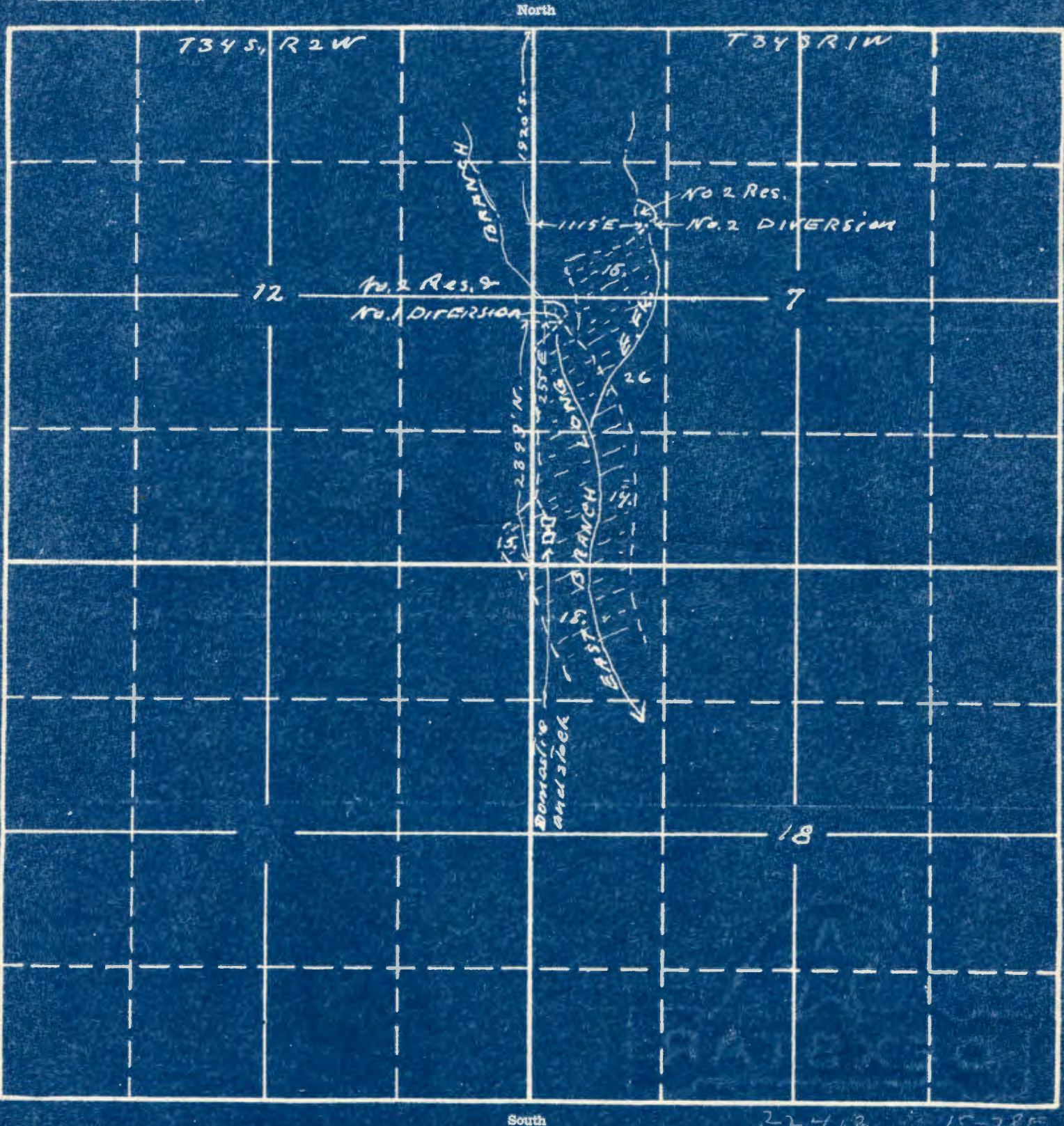
Sincerely,


Charles B. Henry

CBH/vah

7
12
18

TOWNSHIP 34 S., RANGE 1 W. 2 W., W. M.



Map to accompany application of Ralph S Lane for use of storage water for irrigation, domestic and stock purposes

22413 15-785
APPLICATION No. R-22412
22413
PERMIT No. R-879
17705

This office 7/1/47 *[Signature]*

Harold Biddle
P. O. Box 234
Shady Cove

Letters for Boston
& Hess -



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8407

or

1-800-452-7813

(message line)

November 5, 1981

Mike Malepsy
Trails End Real Estate
PO Box 1004
Shady Cove, OR 97539

Dear Mr. Malepsy:

REFERENCE: Files 22413 and 22412

Enclosed are copies of Water Right Certificates 29363 and 29364 which you requested. Also enclosed is a copy of the final proof map and Water Resources Department Receipt 28142 for the \$3 in copying fees which you submitted.

While in most cases the rights will be valid as described by the certificates, you are cautioned that the rights or any part thereof may be forfeited by five successive years of nonuse. Our records will not show that a right has been lost until a cancellation proceeding has been initiated.

Sincerely,

W.A. CARR
Water Rights Examiner
Water Rights Division

WAC:wpc
enclosures
0449A
7738A

COPY

Land • Ranches • Homes
River Front Properties

MIKE MALEPSY - Broker
P.O. BOX 1004
SHADY COVE, OREGON 97539



Located on the Upper Rogue
by the Shady Cove Bridge

PHONE (503) 878-3250
RES. (503) 878-2300

RECEIVED

OCT 30 1981

WATER RESOURCES DEPT
SALEM, OREGON

Dear Sir:

Please furnish me with Certificates
29363 & 29364 for property here in
enclosed on map. see attached map.

This information is required to be
furnished to purchaser for sale of said property.
Are there any other water rights or concerns for
this property? If so may I have copies of
them also.

Sincerely
Mike Malepsy

R-22412
22413

12

7

200

100

GOV. LOT 1

PLAT 34127
34127

300

GOV. LOT 2

9-2

34 2 W 12

T 34 S R 2 W W.M.
T 34 S R 1 W W.M.

LOT 1

GOV. LOT 3

BRANCH

CREEK

400

GOV. LOT 4

COUNTY

12 7
13 18

January 9, 1962

David C. Hendrix
Watermaster, District 13
County Courthouse
Medford, Oregon

Dear Mr. Hendrix:

On behalf of Harold Biddle, you submitted an assignment of Permits numbered R-879 and 17705, which we acknowledged June 16, 1961. On August 31, 1961 we sent him copies of the drafts of the proposed certificates for signature which were not returned, and on October 2, 1961 we mailed a reminder letter. On November 2, I sent a certified letter stating that the permits would be cancelled unless the proofs were submitted within 60 days from the date of this letter. This was returned by the Post Office marked "Unclaimed."

Would you please check the county records for ownership? If Mr. Biddle still owns property, we will cancel the permits. If this property has changed hands, I probably will write to the new owner.

You will probably recall making an inspection of this to determine whether or not water was used for domestic and stock purposes after Myron Bish made the final proof survey. I am enclosing a print of the final proof survey map for location.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:jh
Enc.

516 Public Service Building
November 2, 1961

Harold Biddle
P. O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

According to the terms of your Permit No. R-879 which is for the appropriation of 5.0 acre feet per second from East Fork of the East Branch of Long Branch for irrigation and Permit No. 17705 which is for the appropriation of 0.09 cubic foot per second of water from East Branch of Long Branch and East Fork of East Branch and reservoir for irrigation, complete use of water was to have been made on or before October 1, 1955.

On August 31, 1961 the draft copies of the proposed certificates in connection with Permit Nos. R-879 and 17705 were mailed to you together with the instructions to sign the certificates under "Final Proof" and return them to this office together with the statutory fee of \$1 each.

On October 2, 1961 a reminder letter calling this to your attention was mailed. To date, we have not received either the drafts or any correspondence regarding them.

ORS 537.260 provides: "Whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or refuses within three months thereafter to submit to the State Engineer proof of completion of the appropriation as required by ORS 537.230 and 537.250, the State Engineer may, after 60 days' notice by registered mail, order the cancellation of the permit.---"

In accordance with the provisions of ORS 537.260, you are hereby notified that unless we receive the signed drafts of the certificates and the recording fees within 60 days from the date of this letter, your permits will be cancelled without further notice.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

October 2, 1961

Harold Biddle
P.O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

On August 31, 1961, we mailed you copies of drafts of the certificates in connection with the incomplete water rights represented by permits numbered R-879 and 17705 together with the instructions that the statement at the bottom of each page under "Final Proof" be signed and the copies returned to this office accompanied by the certificate recording fees in the amount of \$2.

To date these forms have not been received nor has any correspondence regarding reasons for not returning them been received. This is to notify you that unless we receive the signed final proof forms and the certificate recording fees or a request for additional time within thirty days from the date of this letter, we will be required to take steps toward the cancellation of these permits.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:jh

June 16, 1961

Mr. David C. Hendrix
Watermaster District No. 15
Courthouse
Medford, Oregon

Dear Mr. Hendrix:

The assignment of permits Nos. R-879 and 17705 from Thomas N. Hanson to Harold Biddle has been recorded in the records of this office and is enclosed, together with our receipt No. 29866 covering the statutory fee you submitted in the amount of \$1.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

eh

enclosures

May 26, 1961

Mr. Harold Biddle
P. O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

On February 16 and on March 23, 1961, I wrote you regarding the advisability of obtaining an assignment of permits numbered 17705 and R-879 from Thomas N. Hanson to you if you desire to retain the right. This has not yet been submitted, so we are preparing the proof forms and will mail them to Mr. Hanson for signature. Failure on his part to return them will result in the loss of the right.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:kr

30

March 23, 1961

Mr. Harold Biddle
P. O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

On February 16, 1961 we wrote you regarding the necessity of obtaining an assignment of permits numbered R-879 and 17705 if you wished to retain the water rights described. To date the assignments have not been submitted nor any correspondence regarding them. If you wish to retain the rights and are not able to locate Mr. Thomas N. Hanson you should so notify us.

If further information is required you could contact Mr. David C. Hendrix, Water Master, Dist. No. 15, at the Court House in Medford.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:kr

50

February 16, 1961

Mr. Harold Biddle
P. O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

Permit Number R-879 describes the construction of two reservoirs and storage of water from East Branch of Long Branch and Permit Number 17705 describes the appropriation of water from East Branch of Long Branch for irrigation. These permits are in the name of Thomas N. Hanson.

We understand that Mr. Hanson deeded the property to Troy and Ann Haynie and Mr. Haynie deeded the property to you. If this is true and Mr. Hanson has no interest in the property you should obtain an assignment of the permits and submit it to this office for recording, if you wish to retain the rights represented by the permits.

I believe Mr. Hanson's address is 355 Garfield Street, Ashland, Oregon.

A simple assignment form is enclosed for your use. If you are not able to obtain the assignment and desire to retain the rights you should so notify us.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

30
TJ:vuf

Enclosure

STATE OF OREGON
WATER RESOURCES DEPARTMENT

OFFICE OF
WATER DISTRICT NO. 15
MEDFORD, OREGON
January 20, 1961

RECEIVED
JAN 23 1961
STATE ENGINEER
SALEM, OREGON

Mr. Lewis A. Stanley
State Engineer
Salem, Oregon

Attention: Mr. Trevor Jones, Assistant

Dear Mr. Jones:

With reference to your letter of January 18, 1961, File No. 22413, concerning Permit No. 17705, in the name of Thomas N. Hanson with source of appropriation of waters from the East Branch of Long Branch and the East Fork of East Branch and Reservoir.

Please be advised that on January 19, 1961, I made an inspection of this project and found that no water is being diverted or used from either of the two streams in question for domestic and stock water purposes. The domestic and stock water is being diverted from a spring which lies to the West of the East Branch of Long Branch, but on which no permit has been filed.

The records in the County Clerk's Office show that Mr. Hanson deeded the property to which this water right is appurtenant, to Troy and Ann Haynie on December 22, 1955. On January 8, 1957, the Haynies deeded the property to Harold and Mirian R. Biddle. Since Mr. Biddle was not home, I left a note asking him to contact me as soon as possible in order that he might obtain an assignment from Mr. Hanson. Mr. Hanson now resides at 355 Garfield Street, Ashland, Oregon. When and if this assignment is completed, it will be forwarded to your office.

Very truly yours,

David C. Hendrix

David C. Hendrix
Water Master, District No. 15

DCH:pg

January 18, 1961

David C. Hendrix
Watermaster
District 15
Medford, Oregon

Dear Mr. Hendrix:

Myron Bish made the final proof survey in connection with permit 17705 in the name of Thomas N. Hanson. This permit describes the appropriation of waters of East Branch of Long Branch and East Fork of East Branch and reservoir for irrigation, domestic and stock use in Section 7, Township 34 South, Range 1 West. He overlooked getting any information as to stock and domestic use under this permit but apparently he has the irrigated area and reservoir data. Would you please check this for use of water for domestic and stock so we may complete the final proof. I have enclosed a copy of Bish's map.

The owner apparently is now Harold Biddle, P. O. Box 236, Shady Cove, Oregon, but no assignment of permit number 17705 or permit number R-879 have been submitted. If you contact Mr. Biddle would you please explain the assignment requirement to him.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:vaf

Enclosure 60

January 22, 1957

Mr. Thomas N. Hanson
General Delivery
Shady Cove, Oregon

Dear Mr. Hanson:

According to the terms of your Permit No. 17705, which is for the appropriation of 1.00 second-feet of water from ~~E. Br.~~ ^{E. Br. of Long Branch} of E. Branch & Res. complete application of water was to have been made on or before October 1, 1955. It appears from our records that you have failed to submit the notice of complete application, although a notice, calling this matter to your attention, was mailed to you on October 3, 1955.

ORS 537.260 provides: "Whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or refuses within three months thereafter to submit to the State Engineer proof of completion of the appropriation as required by ORS 537.230 and 537.250, the State Engineer may, after 60 days' notice by registered mail, order the cancelation of the permit.***"

If you have complied with the terms of this permit, you should promptly submit the notice of complete application of water, after which we will take up with you the matter of final proof. If, however, you have abandoned your plan of development, we would appreciate your authority to cancel the permit, so that the permit may be canceled without the necessity for following the legal procedure.

Complete application of water under an irrigation permit means the irrigation of ALL of the land described in the permit, which it is intended to irrigate.

In accordance with the provisions of ORS 537.260, you are hereby notified that unless proof of beneficial use is received within 60 days from the date of this letter, your permit will be canceled without further notice.

Very truly yours,

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer

January 20, 1956

Mr. Thomas Hanson
Shady Cove, Oregon

Dear Mr. Hanson:

In response to your letter please be advised that Permit No. R-879 which was assigned to you from Ralph J. Lane granted the right to the construction of Lane and Shepherd Reservoirs and storage therein of 8.4 acre feet from Number 1 and 8.81 acre feet from Number 2 from East Branch of Long Branch. Permit No. 17705 granted the right to appropriate not to exceed 1.0 second foot from East Branch of Long Branch and East Fork of East Branch and reservoir for irrigation of 78 acres of land within Sections 7, 12 and 18, Township 34 South, Ranges 1 and 2 West.

The right was limited to 0.51 second foot from East Branch of Long Branch and 0.49 second foot from East Fork of East Branch and the two reservoirs.

I am enclosing a print of the map filed with the applications. It is not necessary that you have copies of the permits; however, they can be prepared and mailed to you upon receipt of your request and fees in the amount of \$2.

If you have completed the project as set out or completed it insofar as you believe practical, then you should fill out the enclosed Forms B and C and return them to this office so that the matter of final proof may be given consideration.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Chris L. Wheeler, Assistant

CLW:eh

enc. 3

RECEIVED
OCT 14 1955
STATE ENGINEER
SALEM, OREGON

Shady Cove, Oregon
October 9, 1955

State of Oregon
Office of the State Engineer
Lewis A. Stanley, State Engineer
Salem, Oregon

Dear Sir:

I am writing in regard to Permits # 17705 and R-879. We just received cards from you relative to these permits stating that the work was to be completed by October 1, 1955, and that you desired completion blanks sent to you. However, if the work was not completed but had been prosecuted with reasonable diligence an extension of time could be secured.

Now, Mr. Stanley, I have never seen the original permits and I do not know just exactly all the requirements before the project can be considered completed. The persons from whom I purchased the ranch had originally applied for the permit, and when I bought the ranch the permits were transferred to me. Shortly after purchasing the ranch we had a severe fire and all our belonging and business papers were burned. I have been into Medford and talked to the Water Master and other persons in his office. They have all been very kind and helpful. However, I would appreciate it very much if you could send me a copy of each of the permits so that I may definitely know just exactly what the project entails. I sincerely believe that each project is practically completed as we have worked extensively on each of them. For the present, however, would you please grant me an extension of time on both of them until such time as I receive a copy of the permit from you and can determine what is necessary for completion.

Sincerely yours,

Thomas Hanson

R-22412
& 22413

February 4, 1954

• Thomas N. Hanson
P. O. Box 31
Shady Cove, Oregon

Dear Mr. Hanson:

This acknowledges receipt of your application for an extension of time for the completion of construction and complete application of water under Permit No. R-379 & 17705 in the name of **Thomas N. Hanson.**

The application indicates that reasonable diligence has been shown in the prosecution of work under this project, and the time limits are being extended to October 1, 19 **55.**

Yours very truly,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

Form #122

Enclosed is our Receipt No. 938 covering fees submitted.

RECEIVED
FEB 1 1954
STATE ENGINEER
SALEM, OREGON

Application No. 22413

Permit No. 17705

Application for Extension of Time

To the State Engineer of Oregon:

I, THOMAS N. HANSON, of P.O. Box 31 SHADY COVE, state of OREGON, am the owner and holder of Permit No. 17705, to appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or before October 1st, 1953, and complete application of water is required to be made on or before October 1st, 1953.

I have heretofore done the following work described under said permit: I have cleared approximately 20 acres this year (1953), making a total of approximately 40 acres altogether that is cleared. I have constructed 3/4 mile of main ditch. I had 3 men working most of last summer.

costing \$1500.00, and I estimate the cost of completion to be \$2500.00.

I have heretofore used water under said permit to the following extent: I have now irrigated 12 to 14 acres, and have about 20 acres more that can be irrigated.

I am unable to {complete construction work / make complete application of water} within the required time, for the following reasons, to wit: because of insufficient time

(Strike out phrase not applicable)

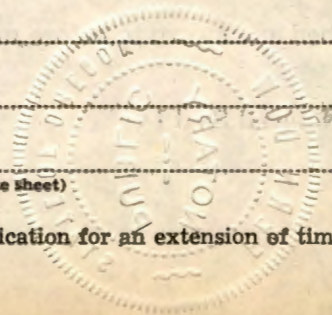
reasons, to wit: because of insufficient time

(If additional space is required, attach separate sheet)

(The fee provided by law in the amount of \$2.00 for filing an application for an extension of time should accompany the application for extension.)

(OVER)

Extend to 55 (com. d. r.)



Application for Extension of Time

To the State Engineer of Oregon

I have heretofore done the following work under and pursuant to permit No. _____ of the State Engineer of Oregon, to-wit: _____

WHEREFORE, I ask that the State Engineer extend the time for the

{ completion of construction work } under said permit to OCTOBER 1, 1955
{ complete application of water }
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon
County of Jackson } ss.

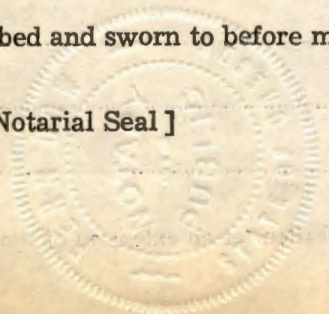
I, Thomas N. Hanson, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of January, 19 54

Thomas N. Hanson

Subscribed and sworn to before me this 4th day of January, 19 54

[Notarial Seal]



John Dow

Notary Public for Oregon

MY COMMISSION EXPIRES OCT. 7, 1957
My commission expires

January 18, 1954

• Mr. Thomas N. Hanson
• General Delivery
• Shady Cove, Oregon

• Dear Mr. Hanson:

According to the terms of your Permit No. 17705, which is for the appropriation of 1.00 second-feet of water from East Br. of Long Branch E. Fork East Br. and Reservoir, complete application of water was to have been made on or before October 1, 1953. It appears from our records that you have failed to submit the notice of complete application, although a postal card, calling this matter to your attention, was mailed to you on October 9, 1953.

ORS 537.260 provides: "Whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or refuses within three months thereafter to submit to the State Engineer proof of completion of the appropriation as required by ORS 537.230 and 537.250, the State Engineer may, after 60 days' notice by registered mail, order the cancellation of the permit.
* * * *"

If you have complied with the terms of this permit, you should promptly submit the notice of complete application of water after which we will take up with you the matter of final proof. If, however, you have abandoned your plan of development, we would appreciate your authority to cancel the permit, so that the permit may be cancelled without the necessity for following the legal procedure. In case you have not completed your appropriation, although you still wish to do so, you may submit an application for an extension of time. Such an extension may be granted if it appears that proper diligence has been shown.

Complete application of water under an irrigation permit means the irrigation of ALL of the land described in the permit, which it is intended to irrigate.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

November 17, 1952

Mr. Thomas N. Hanson
General Delivery
Shady Cove, Oregon

Dear Mr. Hanson:

This acknowledges receipt of your application for an extension of time for the completion of construction and complete application of water under Permit No. 17705, in the name of Thomas N. Hanson.

The application indicates that reasonable diligence has been shown in the prosecution of work under this project, and the time limits are being extended to October 1, 19 53.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

RECEIVED
NOV 13 1952

Application No. 22413

STATE ENGINEER
SALEM, OREGON

Permit No. 17705

Application for Extension of Time

To the State Engineer of Oregon:

I, Thomas N. Hanson, of Shady Cove, Oregon, state of Oregon, am the owner and holder of Permit No. 17705, to appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or before October 1, 1952, and complete application of water is required to be made on or before October 1, 1952.

I have heretofore done the following work described under said permit: I have dug contour ditches. I have did repair work on dams, as one of the dam's spillway had washed out and I had to replace it.

costing \$ 1500.00, and I estimate the cost of completion to be \$ 3500.00.

I have heretofore used water under said permit to the following extent: I have irrigated approximately 17 acres from one reservoir. I have used the water for domestic and stock purposes.

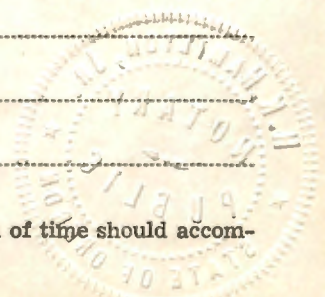
I am unable to {complete construction work / make complete application of water} within the required time, for the following reasons, to wit: My home burned and due to lack of time and finances, I am unable to complete the construction work and make complete application of the water.

(If additional space is required, attach separate sheet)

(The fee provided by law in the amount of \$2.00 for filing an application for an extension of time should accompany the application for extension.)

(OVER)

Extend to 53 (cons, & app)



Application for Extension of Time

WHEREFORE, I ask that the State Engineer extend the time for the

completion of construction work }
 complete application of water } under said permit to October 1, 1953.
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon }
County of Jackson } ss.

I, Thomas N. Hanson, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of November, 1952

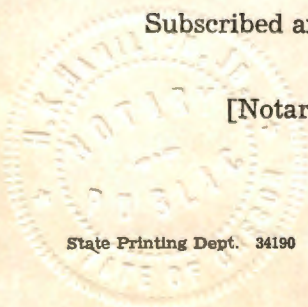
Thomas N. Hanson

Subscribed and sworn to before me this 10th day of November, 1952

W. A. Hamilton
Notary Public for Oregon

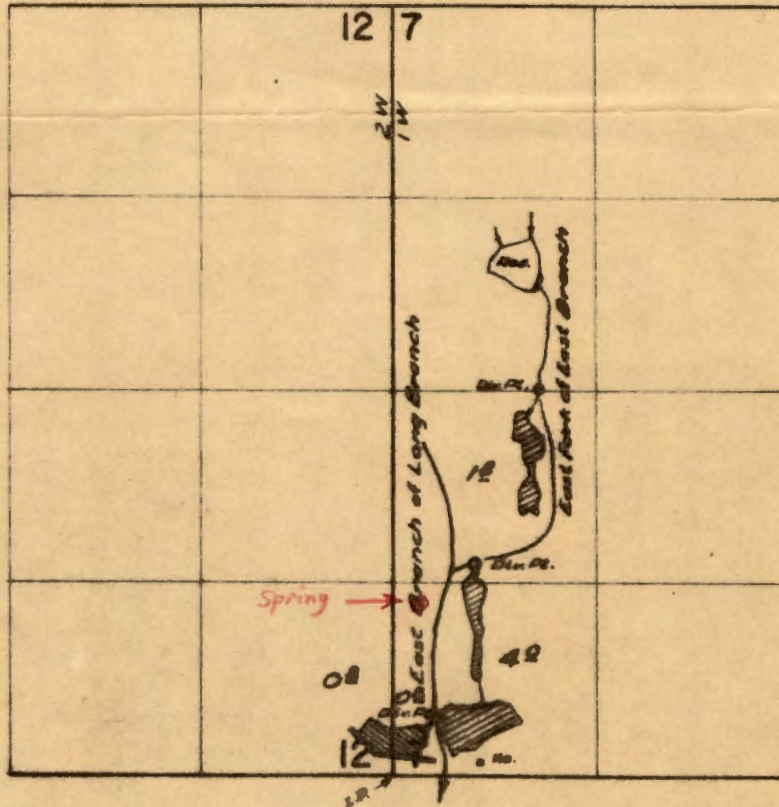
[Notarial Seal]

My commission expires Sept. 29, 1956



T.34 S.R. 1 & 2 W.W.M.

Inspected for Stock +
Domestic use @
3:30pm 1-19-61
D.B.H.



FINAL PROOF SURVEY UNDER

Application No. 22413 Permit No. 17705
R.22412 IN NAME OF R.879

Surveyed 14 APRIL 1960, by W. B. Bish

November 7, 1952

Mr. Thomas N. Hanson
General Delivery
Shady Cove, Oregon

Dear Mr. Hanson:

This will acknowledge receipt of your letter of October 28, 1952, regarding the completion of the project outlined under permit No. R-879, and No. 17705,

If all of the work under permit No. 17705 has been completed and all of the land set out in the permit irrigated, you should file a notice of that fact by filling out and mailing in the enclosed form C.

If all of the land has not been irrigated you may file an application for an Extension of Time in which to complete application of the water using the enclosed form. The application should be executed before a Notary Public and mailed to this office, together with the statutory fees in the amount of \$2.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW:mb

Enc.

22 3
Shady Cove, Oregon
October 28, 1952

State of Oregon
Office of the State Engineer
Salem, Oregon

RECEIVED
NOV 3 1952
STATE ENGINEER
SALEM, OREGON

Dear Sir:

In regard to Permit # 17705 --- the work on the reservoir is fully completed and we plan to use the water for irrigation in the spring. The papers you sent to us to be filled out and returned to you ~~were~~ destroyed in a fire when our house burned down recently. If it is necessary for us to fill out the forms will you mail them to us, and we will fill them in and return them promptly.

Thanking you in advance,

Thomas N. Hanson

R-22412
22413

June 25, 1952

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This will acknowledge receipt of an assignment of the water rights evidenced by Permit No. R-879 and Permit No. 17705 to Thomas M. Hanson by Ralph J. Lane, and currency in the amount of \$1.00, for which our receipt no. 14857 is enclosed.

Pursuant to your request, the assignment has been recorded in the Miscellaneous Records of the State Engineer and is enclosed.

Yours very truly

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW;ls
Encl.

February 13, 1952

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This acknowledges receipt of your application for an extension of time for the completion of construction and complete application of water under Permit No. 17705, in the name of Ralph J. Lane.

The application indicates that reasonable diligence has been shown in the prosecution of work under this project, and the time limits are being extended to October 1, 1952.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

RECEIVED

FEB 8 1952

Application No. 22413

Permit No. 17705

STATE ENGINEER
SALEM, OREGON

Application for Extension of Time

To the State Engineer of Oregon:

I, Ralph J. Lane, of P. O. Box 268
Shady Cove,

state of Oregon, am the owner and holder of Permit No. 17705, to appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or before October 1, 1951, and complete application of water is required to be made on or before October 1, 1951.

I have heretofore done the following work described under said permit: Have installed 920 feet of pipe for the domestic and stock use from the spring and have developed the said spring with a 7000 gallon tank. Have constructed both dams under Permit No. R-879. I have dug approximately 600 feet of ditch lines. Approximately 20 acres are under irrigation at this time. Forty acres are cleared.

costing \$1,500.00, and I estimate the cost of completion to be \$500.00

I have heretofore used water under said permit to the following extent: the domestic and stock use are being put to beneficial use, and approximately 20 acres are now under irrigation.

I am unable to complete construction work
 make complete application of water } within the required time, for the following
(Strike out phrase not applicable)

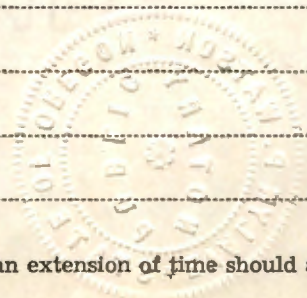
reasons, to wit: Last year I was sick and unable to do any extra work.

(If additional space is required, attach separate sheet)

(The fee provided by law in the amount of \$2.00 for filing an application for an extension of time should accompany the application for extension.)

(OVER)

Extend to 52 (cons. & app.)



WHEREFORE, I ask that the State Engineer extend the time for the

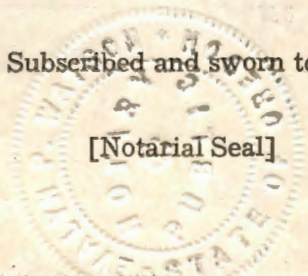
{ completion of construction work }
 { complete application of water } under said permit to October 1, 1952.
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon }
County of Jackson } ss.

I, RALPH J. LANE, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of February, 1952



Subscribed and sworn to before me this 7th day of February, 1952

[Notarial Seal]

Ralph J Lane
Evelyn P. Watson
Notary Public for Oregon

My commission expires Nov. 19 1954

JAN 9 1952

22413

January 7, 1952

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

According to the terms of your Application No. 22413 , Permit No. 17705 , which is for the appropriation of 1.0 second-feet of water from E. Br. Long Branch and E.F. of East Branch and reservoir complete application of water was to have been made on or before October 1, 1951 . It appears from our records that you have failed to submit the notice of complete application, although a postal card, calling this matter to your attention, was mailed to you on October 2, 1951.

Section 116-435, O. C. L. A., provides: "whenever the time within which any appropriation under a permit should have been perfected shall have expired and the owner of such permit shall fail or refuse within the period of three months thereafter to submit to the State Engineer proof of the completion of such appropriation as required by Section 116-426, O. C. L. A., the State Engineer may, after 60 days' notice by registered mail, order the cancellation of such permit, * * *."

If you have complied with the terms of this permit, you should promptly submit the notice of complete application of water after which we will take up with you the matter of final proof. If, however, you have abandoned your plan of development, we would appreciate your authority to cancel the permit, so that the permit may be cancelled without the necessity for following the legal procedure. In case you have not completed your appropriation, although you still wish to do so, you may submit an application for an extension of time. Such an extension may be granted if it appears that proper diligence has been shown.

Complete application of water under an irrigation permit means the irrigation of ALL of the land described in the permit, which it is intended to irrigate.

In accordance with the provisions of Section 116-435, Oregon Compiled Laws Annotated, a part of which is quoted above, you are hereby notified that unless we hear from you within 60 days from the date of this letter, your permit will be cancelled without further notice.

Very truly yours,

Chas. E. Stricklin
CHAS. E. STRICKLIN
State Engineer

R-22412

22413

February 5, 1951

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This acknowledges receipt of your application for an extension of time for the completion of construction and complete application of water under Permit No. 17705 in the name of Ralph J. Lane.

The application indicates that reasonable diligence has been shown in the prosecution of work under this project, and the time limits are being extended to October 1, 1951.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

dlh
Form 122

P. S. Our Receipt No. 11553 in the amount of \$2.00 is enclosed to cover the statutory fees.

Enc: Receipt No. 11553

B 14
C 20

D. Jones

RECEIVED

FEB 1 1951

STATE ENGINEER
SALEM, OREGON

Permit No.

22413

Application for Extension of Time

To the State Engineer of Oregon:

I, Ralph J. Lane, of Shady Cove, P.O. Box 268,
state of Oregon, am the owner and holder of Permit No. 17705, to
appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or
before Oct. 1, 1949, and complete application of water is required to be
made on or before Oct. 1, 1950.

I have heretofore done the following work described under said permit: four hundred feet
of ditch completed.

costing \$ 100.00, and I estimate the cost of completion to be \$ 150.00

I have heretofore used water under said permit to the following extent: Have irrigated
ten acres of land.

I am unable to { complete construction work
make complete application of water } within the required time, for the following
(Strike out phrase not applicable)

reasons, to wit: Construction of the reservoir, under permit No. R-879
has prevented further work on the irrigation of lands.

(If additional space is required, attach separate sheet)

(The fee provided by law in the amount of \$2.00 for filing an application for an extension of time should accom-
pany the application for extension.)

(OVER)

Oct 1 - 1951 - const app.

Application for Extension of Time

WHEREFORE, I ask that the State Engineer extend the time for the

{ completion of construction work } under said permit to October 1st, 1951.
← { complete application of water }
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon }
County of Jackson } ss.

I, Ralph J. Lane, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of January, 1951.

Ralph J. Lane

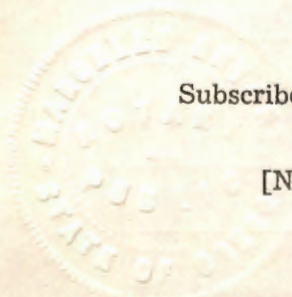
Subscribed and sworn to before me this 31st day of January, 1951.

[Notarial Seal]

Marcello Boyer

Notary Public for Oregon

My commission expires Sept. 14, 1954



R-22412
22413

January 10, 1951

Mr. Ralph J. Lane
P.O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This will acknowledge receipt of a report of completion of construction under your Permit No. 17705.

According to the terms of your permit, all of the land described in the permit which it is intended to irrigate at any time should have been actually irrigated on or before October 1, 1950.

If water was completely applied as above, it should be so reported by filling out and mailing to this office the enclosed Form C.

If water was not completely applied as above, an application for an extension of time should be executed before a notary public on the enclosed form and submitted to this office with the statutory \$2.00 filing fee.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

Ed K. Humphrey, Assistant

EKH:mrh
Enc. - Form C
Extension Form

January 2, 1951

Mr. Ralph J. Lane
P.O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

According to the terms of your Application No. 22413 , Permit No. 17705, which is for the appropriation of 1.00 second-feet of water from East Br. of Long Br. & East Fork of East Br. & reservoir, complete application of water was to have been made on or before October 1, 1950 . It appears from our records that you have failed to submit the notice of complete application, although a post-card, calling this matter to your attention, was mailed to you on October 6, 1950.

Section 116-435, O. C. L. A., provides: "whenever the time within which any appropriation under a permit should have been perfected shall have expired and the owner of such permit shall fail or refuse within the period of three months thereafter to submit to the State Engineer proof of the completion of such appropriation as required by Section 116-426, O. C. L. A., the State Engineer may, after 60 days' notice by registered mail, order the cancellation of such permit, ***."

If you have complied with the terms of this permit, you should promptly submit the notice of complete application of water after which we will take up with you the matter of final proof. If, however, you have abandoned your plan of development, we would appreciate your authority to cancel the permit, so that the permit may be cancelled without the necessity for following the legal procedure. In case you have not completed your appropriation, although you still wish to do so, you may submit an application for an extension of time. Such an extension may be granted if it appears that proper diligence has been shown.

Complete application of water under an irrigation permit means the irrigation of ALL of the land described in the permit, which it is intended to irrigate.

In accordance with the provisions of Section 116-435, Oregon Compiled Laws Annotated, a part of which is quoted above, you are hereby notified that unless we hear from you within 60 days from the date of this letter, your permit will be cancelled without further notice.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

October 27, 1949

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This will acknowledge receipt of reports of beginning of construction and completion of construction under your Permit No. R-879, granting a right to construct a reservoir and store water.

According to the terms of your secondary permit No. 17705, granting a right to appropriate the stored water, construction should have been completed on or before October 1, 1949 and if it was so completed it should be so reported by filling out and mailing to this office the enclosed Form B. If construction preparatory to the use of water as proposed was not completed on or before October 1, 1949, an application for an extension of time executed before a notary public on the enclosed blank should be submitted to the State Engineer with the statutory \$2.00 filing fee.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:RN
ENCL.

December 23, 1947

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This acknowledges receipt of Form A, being notice of the beginning of construction under Permit No. **17705** in the name of **Ralph J. Lane**.

This report has been filed with other matter* pertaining to the water right, and the permit is in good standing until October 1, 1948, when under its terms, construction should be completed.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

22413

July 3, 1947

Dear Mr. Lane:

Herewith you will find Application No. 22413, Permit
No. 17705, together with blueprint.

R-22412
22413

April 29, 1947

Mr. Ralph J. Lane
P. O. Box 268
Shady Cove, Oregon

Dear Mr. Lane:

This will acknowledge receipt of your letter transmitting check in the amount of \$1.20, to cover the balance due in fees in connection with Applications No. R-22412 and No. 22413. Our Receipt No. 2874 is inclosed.

In answer to your question, fees for the two applications are computed as follows:

Application No. R-22412	
Examination	\$ 5.00
Recording	1.00
Blueprint	.10
Application No. 22413	
Examination	5.00
Recording domestic and stock	5.00
Recording 78 acres at 15 cents	<u>11.70</u>
Total	\$27.80

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:RM

your Balance due
W. J. Lane account

Application No. 22413

State Engineers receipt # 2778.

Please send statement
as to what the amount
is for.

Thank you.

L.S.

R-22412
22413

April 14, 1947

Mr. Clinton A. Smith, Watermaster
District No. 15
Medford, Oregon

Dear Mr. Smith:

This will acknowledge receipt of your letter of April 4 with which you enclosed an application for a permit to construct reservoirs and store water and your application for a permit to appropriate water, both in the name of Ralph J. Lane, together with fees in the amount of \$26.60 for which our Receipt No. 2778 is enclosed.

The applications have been filed and given No. R-22412 and No. 22413 respectively. They appear to be in order and will be placed in line for approval and issuance of permits upon receipt of the balance due in fees which, as I compute them, amounts to \$1.20.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:CI
Enc.

STATE OF OREGON
WATER RESOURCES DEPARTMENT

OFFICE OF
WATER DISTRICT NO. 15
MEDFORD, OREGON
April 4, 1947

RECEIVED
APR 7 1947
STATE ENGINEER
SALEM, OREGON

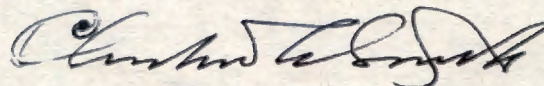
Mr. Charles E. Stricklin
State Engineer
Salem, Oregon

Attention of Mr. Ed K. Humphrey, Assistant

Dear Mr. Humphrey

Enclosed please find applications in the name of Ralph J. Lane of Shady Cove, for the use of waters from East Branch of Long Branch and the East Fork, a tributary of Rogue River for irrigation, domestic and stock purposes together with his personal check in the sum of \$26.60 to cover fees.

Very truly yours



Clinton A. Smith
Water Master, Dist.#15

CAS:djr

Encls.

Permit No. 17705

Application No. 22413

County Jackson

Proof of Appropriation of Water

Harold Biddle

P.O. Box 236

1960-A
April 14, 1960
M.B.

- 1. Name ~~Thomas N. Hanson~~ 2. Address ~~General Delivery, Shady Cove, Oregon~~
- 3. Source of supply ~~East Branch of Long Branch and East. Fk. of E. Branch and reservoir constructed under Appl. No. R-22412, Per. No. R-879, being 0.51 cfs from East Branch of Long Branch and 0.49 cfs from E. Fk. of East Branch~~
- Tributary of ~~Rogue River~~
- 4. Amount of water ~~1.00 cfs~~ 5. Priority date ~~April 7, 1947~~
- 6. Use ~~irrigation, domestic, and stock, being 0.97 cfs for irrigation from both streams and 0.02 cfs for domestic and 0.01 cfs for stock from E. Branch of Long Branch.~~
- 7. Location of point of diversion ~~NW 1/4 SW 1/4 NW 1/4~~ Sec. 7, Twp. 34 S, Range 1 W, W. M.
- 8. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use.

0.07 cfs being 0.02 cfs from East Br + 0.07 cfs from East Fork & Res.
 1.00 cfs
 April 7, 1947
 irrigation, domestic, and stock, being 0.97 cfs for irrigation from both streams and 0.02 cfs for domestic and 0.01 cfs for stock from E. Branch of Long Branch.
 see in below
 *(SEE BELOW)
 NW 1/4 SW 1/4 NW 1/4
 Sec. 7, Twp. 34 S, Range 1 W, W. M.
 (Legal Subdivision)
 SW 1/4 NW 1/4, NW 1/4 SW 1/4, SW 1/4 SW 1/4

Township	Range	Section	Legal Subdivision	No. Acres Actually Irrigated
34 S	1 W	7	SW 1/4 NW 1/4	15
			NW 1/4 SW 1/4	26
			SW 1/4 SW 1/4	14 dom. & Stock
			NW 1/4 NW 1/4	18
34 S	2 W	12	SE 1/4 SE 1/4	5
				78
SURVEY REGARDLESS				
To have been completed by 10-1-55				

* 1/80th and 1/2 a.f. from direct flow during the irrigation season from April 2, to October 31 of each year from direct flow and storage from reservoir constructed under Permit No. R-8799

I have read the above and foregoing proof of appropriation of water; I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this day of

19.....

REPORT OF PERSON MAKING INSPECTION

Description of works: Info - Mr. Biddle

E.F.K. of East Branch is used to carry Res. water and is picked up below by two div. pt. ditches 12" x 0.5' deep -

One div. pt. on East Branch of Long Branch

I, _____, do hereby certify that I have made an inspection of the works described herein and in Permit No. 17705, on the 14 day of April, 1960, and found the foregoing statements and descriptions of works to be accurate. In my opinion the appropriation has been completed to the extent of _____ and I recommend the issuance of water right certificate for this amount.

(Quantity of water in second-feet or acre-feet)

NOTICE TO INSPECTORS

If conditions do not justify the above report by you, please return this form without your signature, with a full report by letter.

Myron Biddle

(Name)

(Title)



STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
SALEM 10

516 Public Service Building
November 2, 1961

R-22412
REFER TO FILE NO. 22413

Harold Biddle
P. O. Box 236
Shady Cove, Oregon

Dear Mr. Biddle:

According to the terms of your Permit No. R-879 which is for the appropriation of 5.0 acre feet per second from East Fork of the East Branch of Long Branch for irrigation and Permit No. 17705 which is for the appropriation of 0.09 cubic foot per second of water from East Branch of Long Branch and East Fork of East Branch and reservoir for irrigation, complete use of water was to have been made on or before October 1, 1955.

On August 31, 1961 the draft copies of the proposed certificates in connection with Permit Nos. R-879 and 17705 were mailed to you together with the instructions to sign the certificates under "Final Proof" and return them to this office together with the statutory fee of \$1 each.

On October 2, 1961 a reminder letter calling this to your attention was mailed. To date, we have not received either the drafts or any correspondence regarding them.

ORS 537.260 provides: "Whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or refuses within three months thereafter to submit to the State Engineer proof of completion of the appropriation as required by ORS 537.230 and 537.250, the State Engineer may, after 60 days' notice by registered mail, order the cancellation of the permit.---"

In accordance with the provisions of ORS 537.260, you are hereby notified that unless we receive the signed drafts of the certificates and the recording fees within 60 days from the date of this letter, your permits will be cancelled without further notice.

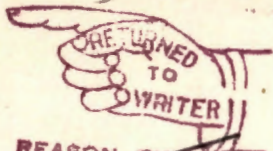
Very truly yours,

LEWIS A. STANLEY
State Engineer

By 
Trevor Jones, Assistant

TJ:jh
CERTIFIED - RETURN RECEIPT
REQUESTED

R-22412
3



REASON CHECKED

Unclaimed Refused

Unknown

Insufficient address

Moved, Left no address *A*

No such cities in state

Do not remain in this envelope

POSTAGE DUE CENTS

**AFTER 10 DAYS, RETURN TO
STATE ENGINEER
SALEM 10, OREGON**



Harold Biddle
P. O. Box 236
Shady Cove, Oregon

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

No. 53819



R-22412 22413

Form 3811
Rev. 1-52

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the number of which appears on the face of this Card.

1

James K. Hanson

(Signature or name of addressee)

2

(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery 1-31, 1957

Post Office Department
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300
(GPO)



Return to

LEWIS A. STANLEY
(NAME OF SENDER)
STATE ENGINEER
SALEM, OREGON

Street and Number, }
or Post Office Box, }

REGISTERED ARTICLE

No. 49964

Post Office

INSURED PARCEL

No. _____

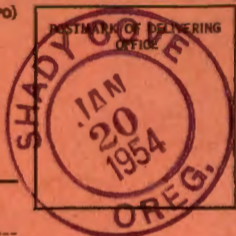
16-12421

State _____

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

(GPO)

POSTMARK OF DELIVERING
OFFICE



Return to

CHAS. E. STRICKLIN

(NAME OF SENDER)

STATE ENGINEER

Street and Number, }
or Post Office Box, }

REGISTERED ARTICLE

SALEM, OREGON

49644

No. -----

INSURED PARCEL

SALEM,

No. -----

OREGON.

22412-13

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 Thomas H. Hanson
(Signature or name of addressee)

2 _____
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery 1-20, 19 54

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1

Ralph J. Lane

(Signature or name of addressee)

2

(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery

1-11

, 194

52

Post Office Department
OFFICIAL BUSINESS

22413
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300
(GPO)

POSTMARK OF DELIVERING
OFFICE



Return to State Engineer
(NAME OF SENDER)

Street and Number, }
or Post Office Box, }

REGISTERED ARTICLE

No. 49652

INSURED PARCEL

No. _____

SALEM,

OREGON.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1

Rueph J. Lane

(Signature or name of addressee)

2

by Cora W. Lane

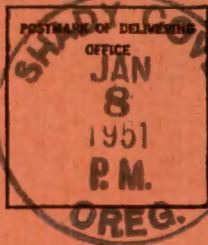
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery

1-2, 194*5*

Post Office Department
OFFICIAL BUSINESS

22413
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300
(GPO)



Return to State Engineer
(NAME OF SENDER)

Street and Number, }
or Post Office Box, }

REGISTERED ARTICLE

49706

INSURED PARCEL

SALEM,

OREGON.