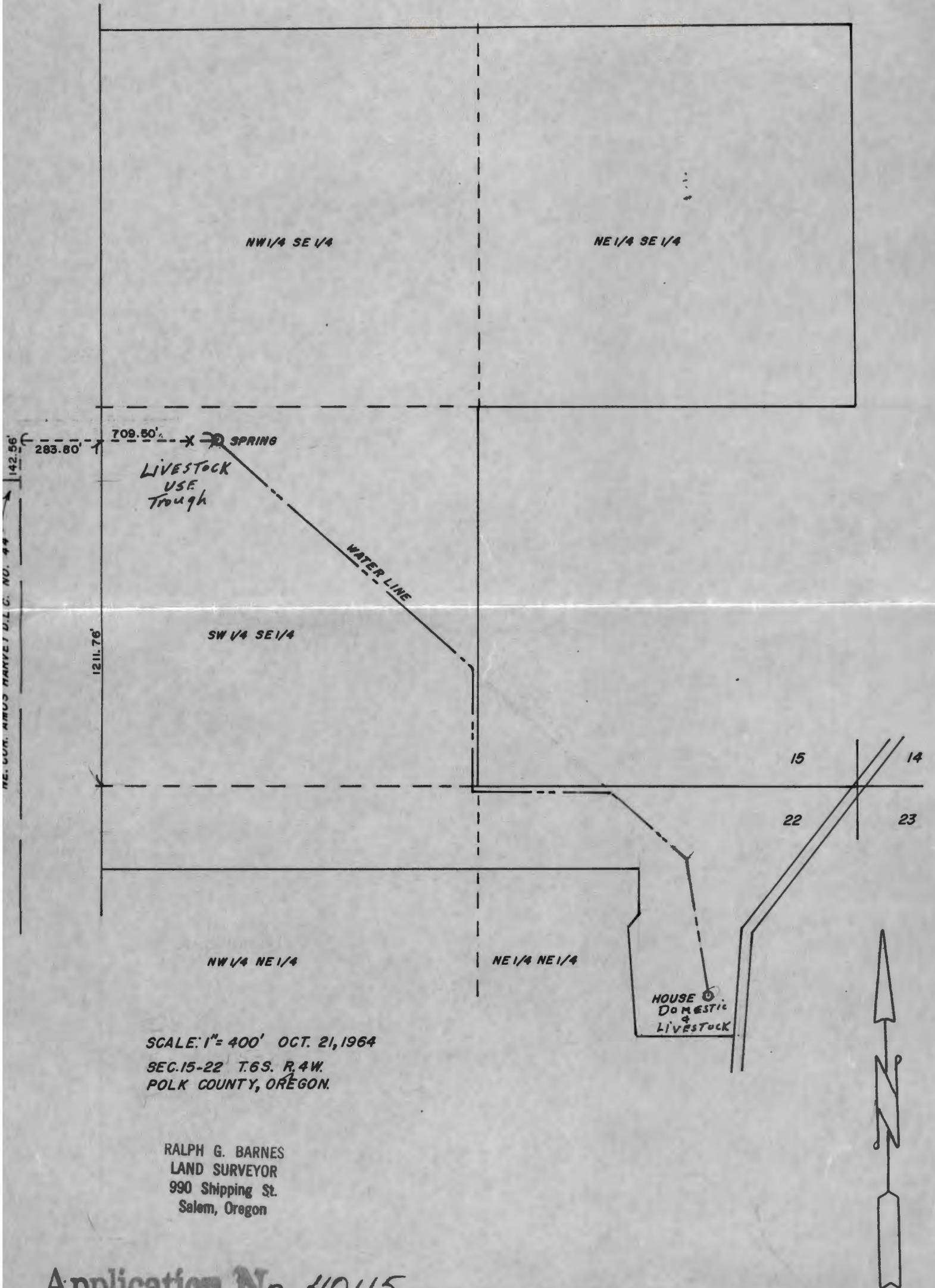


NO. 64-10-305
WATER RIGHTS MAP
FOR TED STOLK

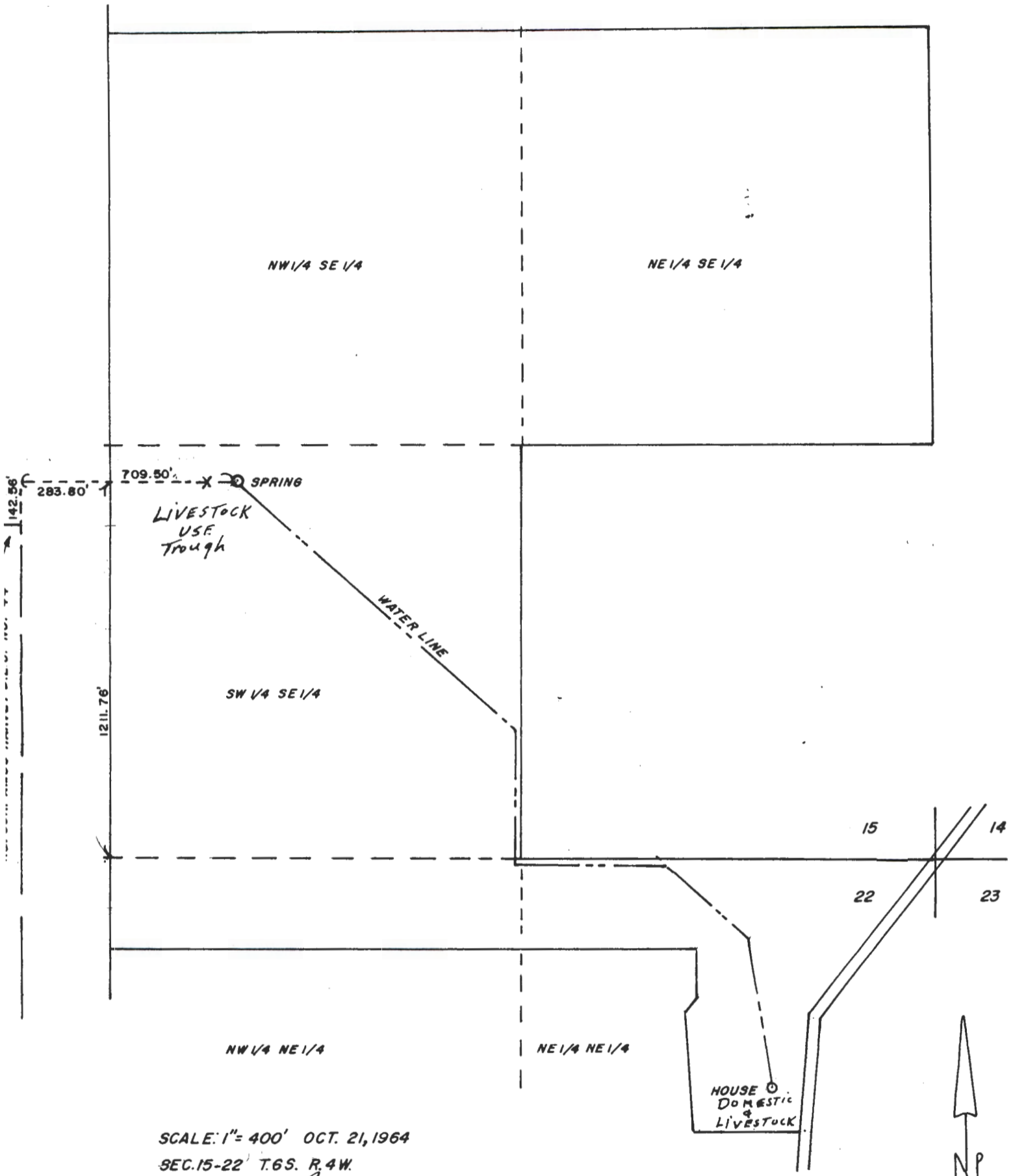


SCALE: 1" = 400' OCT. 21, 1964
SEC. 15-22 T. 6S. R. 4W.
POLK COUNTY, OREGON.

RALPH G. BARNES
LAND SURVEYOR
990 Shipping St.
Salem, Oregon

Application No. 40115
Permit No. 29908

NO. 64-10-305
WATER RIGHTS MAP
FOR TED STOLK



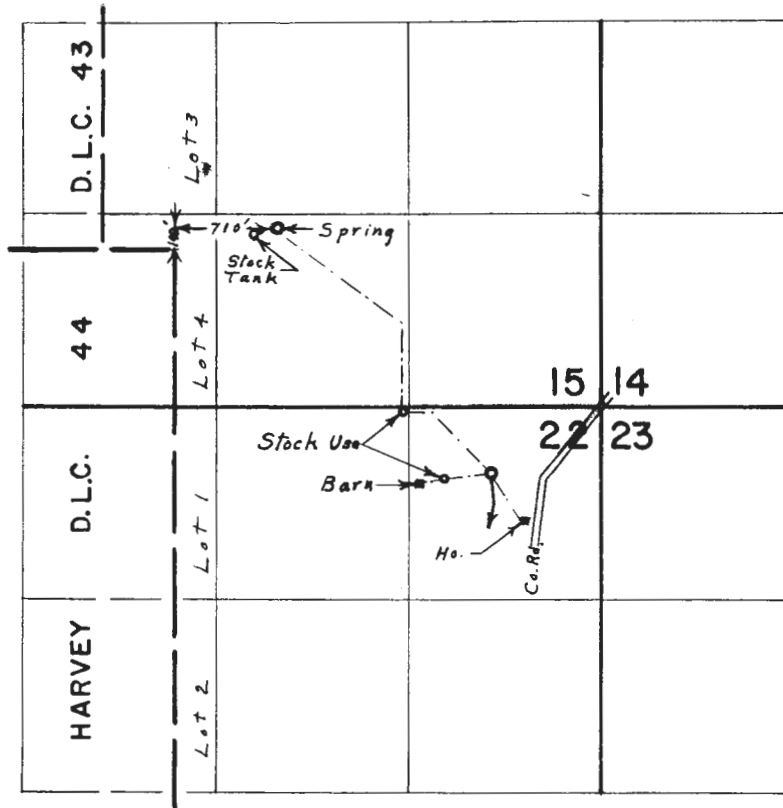
SCALE: 1" = 400' OCT. 21, 1964
SEC. 15-22 T. 6S. R. 4W.
POLK COUNTY, OREGON.

RALPH G. BARNES
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990 Shipping St.
Salem, Oregon

Application No. 40115
Permit No. 29908



T. 6 S., R. 4 W., W. M.



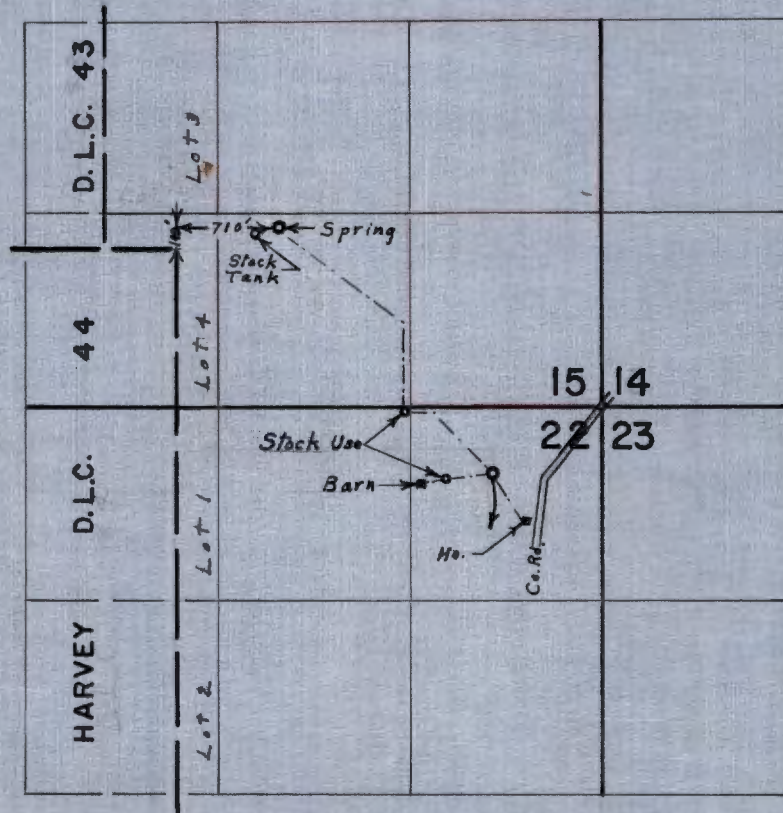
FINAL PROOF SURVEY UNDER

Application No. 40115 Permit No. 29908
IN NAME OF

TED F. STOLK

Surveyed April 27, 1972, by L. E. Gould

T. 6 S., R. 4 W., W.M.



FINAL PROOF SURVEY
UNDER

Application No. 40115 Permit No. 29908
IN NAME OF

TED F. STOLK

Surveyed April 27, 1972, by L. E. Gould

KNOW ALL MEN BY THESE PRESENTS, That I, FRED STOLK, a single man,

grantor

in consideration of Seven Thousand, Two Hundred Twenty-five and No/100 -Dollars
to me paid by TED F. STOLK and VEDAN E. STOLK, husband and wife,

grantees, have bargained and sold and by these presents do
grant, bargain, sell and convey unto said grantees their heirs and assigns, all the following bounded
and described real property, situated in the County of Polk and State of Oregon, to-wit:

The North half of the Southeast Quarter, and the Southwest Quarter of the Southeast Quarter of Section 15, in Township 6 South, Range 4 West of the Willamette Meridian, containing 120 acres, more or less, save and except any portion thereof lying within the boundaries of public roads, and save and except that certain water right and right-of-way described in that certain deed recorded at page 397 of volume 97, Record of Deeds for Polk County, Oregon.

ALSO: Beginning at the Northeast corner of Section 22 in Township 6 South, Range 4 West of the Willamette Meridian in Polk County, Oregon, said point being in the center of a county road; thence South $38^{\circ} 15'$ West along the center of said road 615.12 feet; thence South $3^{\circ} 05'$ West along the center of said road 363.77 feet; thence West 353.29 feet; thence North $4^{\circ} 16'$ West 379.24 feet; thence North $38^{\circ} 07'$ East 69.00 feet; thence North 154.25 feet; thence West 1897.20 feet to the West line of a tract of land conveyed to Fred Stolk and Lois Stolk, husband and wife, by deed recorded at page 191 of volume 133, Deed Records of Polk County, Oregon; thence North along the centerline of said section 289.00 feet, more or less to the North line of said section; thence East 2640 feet, more or less, to the place of beginning, and containing 22.50 acres, more or less, save and except any portion thereof lying within the boundaries of public roads.

RESERVING, however, unto the grantor, his heirs and assigns, the right to maintain, repair and replace the water pipeline from the spring on the lands of the grantor to his home, where said pipeline crosses the tract of 22.50 acres hereinabove conveyed to the grantees, it being understood that said pipeline enters said 22.50 acre tract between the iron pipes set at the call hereinabove referred to as beginning North $38^{\circ} 07'$ East 69.00 feet, and the iron pipe at the call hereinabove described as running North 154.25 feet, and extends in a generally southerly direction therefrom until its reentry into the lands of the grantor westerly of said 22.50 acre tract of land.

RESERVING ALSO unto the grantor a right-of-way for road purposes and for constructing and maintaining a power line which said right-of-way shall be 20 feet in width lying 10 feet on either side of a centerline described as follows: beginning at a point in the center of a county road 615.12 feet South $38^{\circ} 15'$ West from the Northeast corner of Section 22 in Township 6 South, Range 4 West of the Willamette Meridian in Polk County, Oregon, and running thence West to the boundary separating the lands of the grantees herein from the lands of the grantor.

Application No. 40115
Permit No. 29908

RECEIVED
MAY 10 1973

STATE OF OREGON

COUNTY OF POLK

STATE ENGINEER
SALEM, OREGON

Proof of Appropriation of Water

TED F. STOLK

of Route 1, Box 667, Salem, State of Oregon 97304
has applied beneficially the waters of a spring

a tributary of Ash Swale (South Yamhill River) for the purpose of domestic use of one family and stock

under Permit No. 29908 of the State Engineer, and that the use of said waters has been completed under the terms of said permit; that the priority of the right dates from July 28, 1964

that the amount of water for the purposes aforesaid, has been actually beneficially used in the amount of 0.01 cubic foot per second, being 0.005 cubic foot per second for domestic and 0.005 cubic foot per second for stock

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 SE¹/₄, Section 15, T. 6 S., R. 4 W., W. M. Spring located: 140 feet North and 710 feet East from NE Corner, Harvey DLC 44.

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 ----- of one cubic foot per second per acre,

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

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

stock SW¹/₄ SE¹/₄
Section 15

stock and domestic NE¹/₄ NE¹/₄
Section 22
T. 6 S., R. 4 W., W. M.

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 10 day of May

1973

Ted F. Stolk

April 20, 1973

Ted F. Stolk
Route 1, Box 667
Salem, OR 97304

File No. 40115

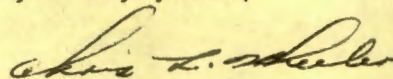
Dear Sir:

Enclosed is the final proof in connection with the incomplete water right represented by your permit number 29908.

The data contained in the proof, which is based on an inspection and survey of your project made by a representative of this department, defines the extent to which your water right has been completed within the terms of your permit. The proof should be dated and signed by you and returned to this office.

Upon receipt of the proof, properly executed and accompanied by the statutory recording fee of \$1.50, a certificate of water right will be issued confirming the right thereunder and, after being recorded in the county records, will be forwarded to you.

Very truly yours,



CHRIS L. WHEELER
State Engineer

Form 117

Enclosure
gkd

42784
40115
B-165

August 14, 1969

Hayter, Shetterly, Noble & Weiser
Attorneys and Counselors at Law
Polk County State Bank Building
Dallas, Oregon 97338

ATTENTION Kenneth E. Shetterly

Gentlemen:

The certificate of water right recorded at page 11177, State Record of Water Right Certificates was issued to Bethel School District No. 17 in evidence of a right to appropriate not to exceed 0.05 cubic foot per second of the waters of a spring for school use. 15605 is the file number not the certificate number. The date of priority of the right is October 30, 1934.

On September 8, 1966, Bethel College Board filed an application for approval of a change in use of water from school supply to the use of a community center. The place of use remains the same but the application states that the building is no longer used as a school. After we have made the customary final proof survey, a new certificate will be issued to the Bethel College Board confirming the change. I am not sure what quantity of water will be listed, but I do not think 0.05 cubic foot per second can be beneficially used for the purposes described.

Permit No. 29908 was issued to Ted Stolk and has a priority date of July 28, 1964.

Permit No. 31986 was issued to Julius Marx, Jr. describing the appropriation of not to exceed 0.01 cubic foot per second for domestic use of one family including the irrigation of not to exceed one-half acre lawn and garden. The priority date of this permit is September 9, 1966.

I have had some verbal reports of disagreement regarding use of water from the spring, but primarily these reports involved property rights over which we have no jurisdiction.

August 14, 1969

If the waters of the spring are subject to appropriation within the intent of the water law, I agree with your position that a water right cannot be established by grant from a private individual.

If there is not sufficient water to satisfy all rights, the distribution of water is on a priority basis, but there is nothing our watermaster can do if two or more users are connected to the same line.

Very truly yours,

Trevor Jones
Assistant

TJ:hls

HAYTER, SHETTERLY, NOBLE & WEISER

Attorneys and Counselors at Law

Polk County State Bank Building

DALLAS, OREGON 97338

August 11, 1969

TELEPHONE 623-2375

Area Code 503

PHILIP HAYTER

KENNETH E. SHETTERLY

JEROME L. NOBLE

MARVIN J. WEISER

RECEIVED
AUG 13 1969

STATE ENGINEER
SALEM, OREGON

Mr. Chris L. Wheeler
State Engineer
516 Public Service Building
Salem, Oregon 97310

Dear Sir:

I am addressing this letter to you on behalf of my client, Ted F. Stolk who resides at Route 1, Box 667, Salem, Oregon. It seems that a dispute has arisen with respect to the person or persons entitled to the appropriation of water from a certain spring which arises on premises owned by my client.

From what my client has told me and from what I have learned on an examination of records in the Office of the County Clerk of Polk County, Oregon, it appears that by instrument dated November 5, 1934, and recorded November 17, 1934, at Page 397 of Volume 97, Deed Records of Polk County, Oregon, one Martha M. Littlefield, a widow, gave a water and right of way deed to School District No. 17 of Polk County, Oregon. The deed undertakes to convey "the right to take water from that certain spring situated 2.16 chains North and 10.75 chains East from the Northeast corner of the Amos Harvey Donation Land Claim in Section 15, Township 6 South, Range 4 West in Polk County, Oregon * * *." The deed also granted the right to lay and maintain a pipe from the spring across the lands of the grantor and the right to construct and maintain a suitable and convenient reservoir or intake at the spring for the purpose of impounding and conveying the water thereof.

As I indicated initially, it appears that my client has succeeded to the interest of Martha M. Littlefield in and to the premises whereon the spring is located and Bethel Institute has succeeded to the interest of School District No. 17 as indicated by an instrument dated December 29, 1965, and recorded February 9, 1966, at Page 355 of Volume 199, Deed Records of Polk County, Oregon.

I understand that School District No. 17 did follow up on the grant received from Martha M. Littlefield by constructing certain collection facilities at the site of the spring and by installing a transmission pipe line from the collection facility to the school building which was formerly operated by the School District. I further understand that the School District obtained

Mr. Chris L. Wheeler

-2-

August 11, 1969

Certificate of Water Right No. 15605 from the State of Oregon. I do not know the date this certificate was issued but I further understand that it antedates any other certificate or permit which may have been issued by your office with respect to the waters of the spring hereinabove referred to.

On or about October 28, 1964, my client made application for a water permit in connection with the waters of this spring. The application bears No. 40115. Subsequently, he was issued Permit No. 29908 and he was authorized to proceed with the construction of facilities through which he could undertake the appropriation of waters from the spring. I am also advised that one Julius Marx, who owns property adjoining my client's property, has filed an application with you for a similar permit to take water from the above-mentioned spring. His application bears No. 42784. While I do not have the date of the application, I am assuming from the number thereon that his application came after the application of my client.

The problem which has arisen seems to resolve itself primarily around the question of who is to receive the water from the above-mentioned spring which is not used by Bethel Institute. At least at this point, it seems to be conceded that Bethel Institute has the first right to the waters from the spring. Apparently, Bethel Institute, however, makes only a casual use of such waters and as a result there is an excess of water which is the subject of appropriation by some other party.

At the present time, and for some time in the immediate past, these excess waters have been collected by Julius Marx in a diversionary facility situated upon premises owned by him. The diversionary works collects the excess from some type of a pipe arrangement running from the transmission line of Bethel Institute. I am informed that Mr. Marx bases his right to take these excess waters on some form of agreement which was entered into at sometime in the past between him and the Board of Trustees of the Bethel Institute or the Directors of School District No. 17.

It is the position of my client that the right to appropriate waters in such a situation as this can be obtained only from the State of Oregon and that a grant of waters by a private individual or the grant of a right to use water in such a situation as this by a private party is always subject to the issuance of a permit therefor from your office to the party who first files therefor and who follows up with an actual appropriation of the waters. Since Mr. Stolk appears to have filed an application for the use of these waters which is prior in time to the application filed by Mr. Marx, it would appear that all else being equal, my client has a better right to the water than does Mr. Marx.

Mr. Chris L. Wheeler

-3-

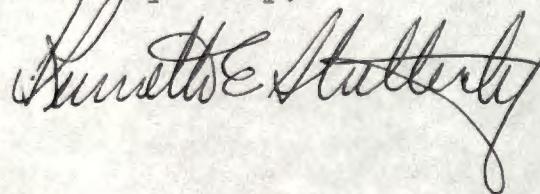
August 11, 1969

From what my client tells me, there appears to be some misunderstanding with respect to a right of entry upon my client's property by persons interested in the waters of this spring. In order to clarify this situation as far as your office is concerned, my client wishes it to be known that he does object to any trespasses upon his property by persons interested in the waters of this spring unless such trespass is based upon a right acquired by the trespassing party under the above-mentioned deed from Martha M. Littlefield.

My client has been and will hereafter continue to perfect his rights under the permit granted to him which is hereinabove referred to. He will and does object to the issuance of any permit or certificate to any person who has made application therefor subsequent in time to his application.

I respectfully request that this matter be given your careful consideration and that the issuance of any permits or certificates for the use of water arising from the above-mentioned spring be issued subject to the prior right of the successor in interest to School District No. 17 and my client.

Yours very truly,



KES/mjb

cc:

Mr. Ted F. Stolk
Route 1, Box 667
Salem, Oregon



STATE OF OREGON
STATE ENGINEER
516 PUBLIC SERVICE BUILDING
SALEM 10

REFER TO
FILE NO. 40115

September 29, 1967

Ted F. Stolk
Route 1, Box 667
Salem, Oregon 97304

Gentlemen:

This will acknowledge receipt of your notice to the effect that complete application of water has been made under permit No. 29908.

Pursuant to your report and in line with the general practice of this office, a survey will be made at a later date.

After this survey, proof may be made and certificate issued covering the actual use of water as found by the engineer. In case of irrigation, any lands described in the permit that have not been irrigated will be automatically eliminated from the water right.

In the meantime, the permit which you hold will be valid evidence of the water right in question so long as you continue to use the water.

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 128

hls

September 22, 1966

Mr. Ted P. Stolk
Route 1, Box 667
Salem, Oregon

Dear Mr. Stolk:

This will acknowledge your application for an extension of the time limit in which to complete construction under the terms of your permit No. 29908 and your fees in the amount of \$2 for which our receipt No. 850 was handed to you.

The application indicates reasonable diligence has been exercised toward completion of the proposed project; therefore, the time limit for completion of construction is being extended to October 1, 1967.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Trevor Jones, Assistant

TJ:py

Application for Extension of Time

To the State Engineer of Oregon:

I, TED F. STOLK, of RT. 1, Box 667 - SALEM state of OREGON, am the owner and holder of Permit No. 29908, 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, 1966, and complete application of water is required to be made on or before OCT. 1, 1967.

I have heretofore done the following work described under said permit during the past year:

Clear an area to lay a pipe line to bring water to location of stock tank as shown on map at house location.

and did the following work prior to last year:

Bull-dozed an area for location of stock tank. Dug out spring and installed a 1 1/2" pipe to carry water to stock tank. This furnished water for 16 head of cattle. On Dec. 13-1965 received permission from school Board to attach a pipe to their over-flow pipe, costing \$125.00, and I estimate the cost of completion to be \$500.00.

I have heretofore used water under said permit to the following extent: PROVIDES

WATER FOR 20 HEAD OF CATTLE

I am unable to { complete construction work } within the required time, for the following reasons, to wit: See attached sheet

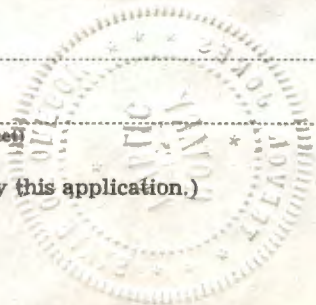
(If additional space is required, attach separate sheet)

(A fee of \$2.00 for each permit involved must accompany this application.)

(OVER)

\$2.00 FEE PAID

Rec. No. 850
Sept. 22, 1966



B
10-1-67

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 Oct 1, 1967
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

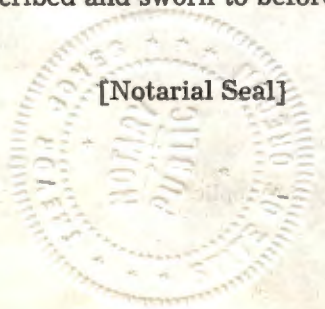
STATE OF Oregon }
County of Marion } ss.

I, _____, 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 22 day of September, 1966

Ted F. Stork

Subscribed and sworn to before me this 22 day of September, 1966



[Notarial Seal]

Trevor Jones
Notary Public for Oregon

My commission expires Aug 6 1968

D. STOLK
Box 667
Salem, Oregon

I AM UNABLE TO COMPLETE CONSTRUCTION WORK AND MAKE COMPLETE APPLICATION OF WATER WITHIN THE REQUIRED TIME, FOR THE FOLLOWING REASONS, TO WIT:

A question of the water from this spring is of a big issue in this application for extension. The Bethel School has a water-right on this spring. Most of the water is piped away from the spring but not used by the Bethel School. It is used by another party who does not have a water-right on this spring.

I intend to determine the legal aspects of this question before spending any more money on the complete construction and application of this water.

I have asked for and obtained from the Bethel School Board permission to attach a pipe to their over-flow pipe. As stated above most of the water is being carried away from this spring and there is not an over-flow existing during the summer months.

Ted F. Stolk
Box 667
Salem, Oregon



STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
516 PUBLIC SERVICE BUILDING
SALEM 10

REFER TO
FILE NO. 40115

January 6, 1966

Mr. Ted F. Stolk
Route 1, Box 667
Salem, Oregon

Dear Sir:

This will acknowledge the notice of beginning of construction under the terms of permit No. 29908.

Our records show the time limit for completion of construction of the works and/or the purchase and installation of all the facilities required for the authorized beneficial use of water will expire on October 1, 1966.

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 118

nsm

40115

January 26, 1965

Ted F. Stolk
Route 1, Box 667
Salem, Oregon

Dear Sir:

40115, permit No. 29908 with blue print.

40115

November 4, 1964

Mr. Ted F. Stolk
Route 1, Box 667
Salem, Oregon

Dear Sir:

This will acknowledge receipt of returned application numbered 40115, the accompanying map, and legal description.

Your application has been re-examined and now appears to have been completed in satisfactory form to be considered for approval by issuance of a permit with the next group.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Walter N. Perry, Assistant

kjc

September 2, 1964

Ted F. Stolk
Route 1, Box 667
Salem, Oregon

Dear Mr. Stolk:

This will acknowledge your letter submitting an application for a permit to appropriate 0.01 cubic foot of water per second from a spring for domestic use and livestock watering, a spring description, legal description in the remark section of the application and fees in the sum of \$20.00 for which our receipt numbered 2117 was handed to you.

Your application has been examined and filed under file number 40115. Before it may be considered for approval by issuance of a permit it must be completed as follows:

Item Two: The quantity of water to be appropriated for each use described in Item Three must be specified.

Item Four: The spring must be located by simple, coordinate distances or by distance and bearing in reference to an established, identified Government Survey Corner.

Item Six: The means by which the water will be diverted must be described.

Items Twelve to Fourteen: These items must be complete as the information is required by statute.

Map: A map must be submitted to accompany your application showing the tie from a Government Survey Corner to the spring and the location of the place of domestic use and the place of livestock use. You should also indicate in Item Ten B of the application the number of families to be supplied with domestic water. The map should be prepared on a good grade of tracing paper to a scale of not less than four inches equal to one mile.

Ted F. Stolk

-2-

September 2, 1964

Spring Description: The submitted spring description is returned for completion of Item Five.

Your application is returned for completion being endorsed so that in order to retain it's date of priority it must be returned to this office on or before November 2, 1964.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Walter N. Perry, Assistant

WNP:scl

Enclosures: Two

July 27, 1964

State Engineer
Salem, Oregon

Dear Sir:

I am enclosing this letter to explain I realize my application does not have a map enclosed.

I will furnish a map and any other necessary data as soon as possible.

Sincerely,

Ted F. Stoltz

Box 1, Box 667

Salem, Oregon

Info: Mrs. Ted Stolk.

Upper Spring: Located on West slope. Has a concrete, 4' x 4' x 4' collection box. Has also a concrete 3' x 3' x 4' settling tank. Settling tank is approx. 40' W. from Spring.

Pipe: 40' 1 1/2" Plastic (Spr. to Settling Tank)
Approx. 3000' 1" ~~Galv. Iron~~ Plastic (Settling tank to ^{Lower} Stolk Spr.)

330' 1" Plastic (Stolk Spring to ^{Lower} Stolk Ho.)

Fall: 5' from Spring to Settling Tank
100' " Settling Tank to Stolk Spring

Pump: Located on top 6' x 6' x 6' concrete box at ^{Lower} Stolk Spring

1/3 H.P. M.W. 1 ph., 3450 R.P.M.
Dir. Dr. M.W. Turbine Disch. 1".

Pipe: 330' 1" Plastic (Pump to Stolk House)

Lift: Suction 2' Disch. 0'

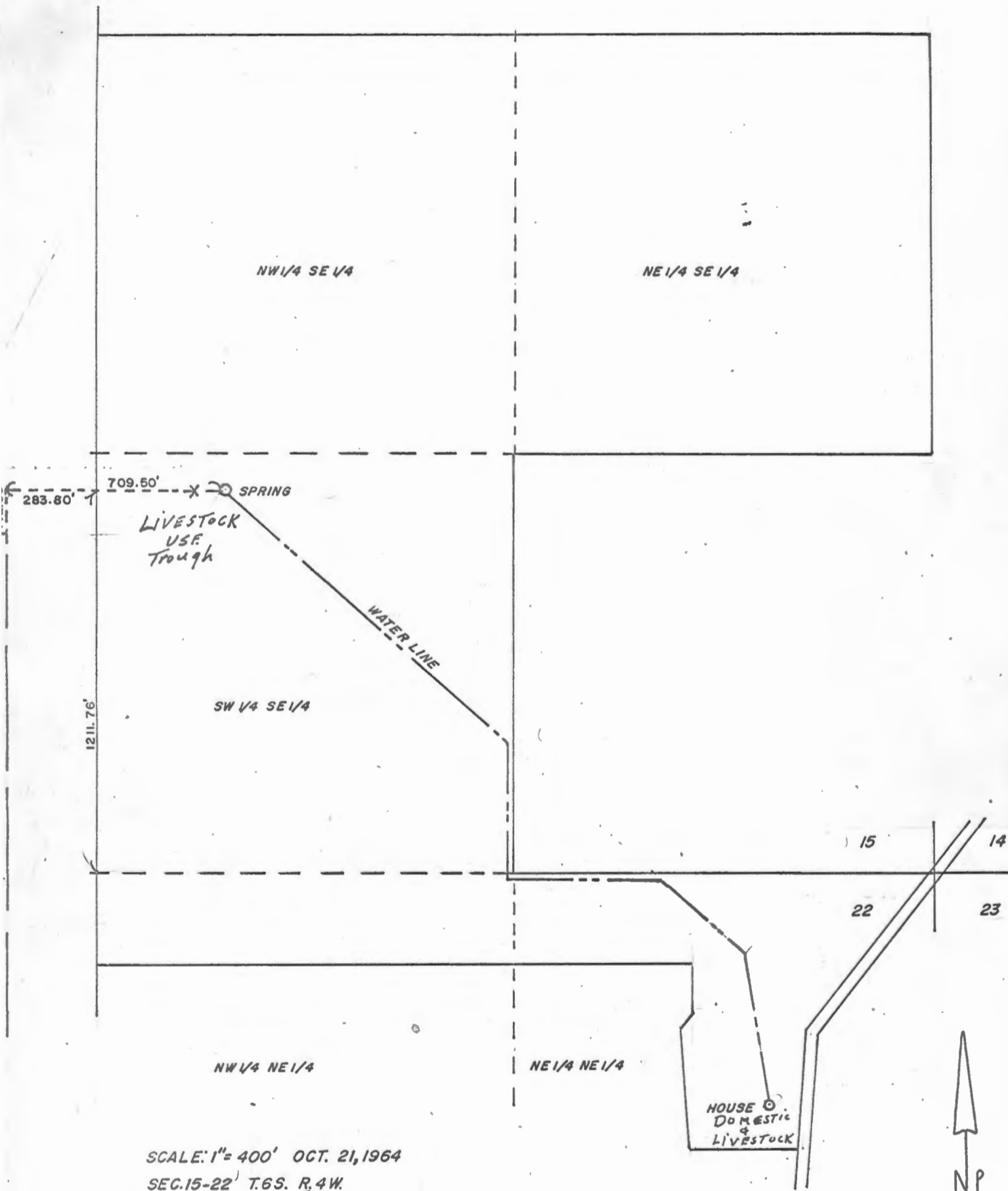
Tie: Upper Spr. Tied To N.E. Cor. Marx Prop. ^(Fence Cor.)
Ho., Barn, 2 Stock Troughs, & Lower Spring
Tied to N.E. Cor. Sec. 22 (P. I. & Co. Rd & Fence)

Use: Domestic (Emergency) use of one family & stock water for 60 head cattle.

Domestic use from Upper Spring ~~and~~ made only when Lower Stolk Spr. is low.

April 27, 1972, R. E. Gould
Field Engineer.

NO. 64-10-305
WATER RIGHTS MAP
FOR TED STOLK



SCALE: 1" = 400' OCT. 21, 1964
SEC. 15-22 T. 6S. R. 4W.
POLK COUNTY, OREGON.

RALPH G. BARNES
LAND SURVEYOR
990 Shipping St.
Salem, Oregon

Application No. 40115
Permit No. 29908