

Name Ben Fredenberg
By _____
Address Butte Falls, Ore.
Date filed _____
Action suspended until _____

Returned to applicant _____
Date completed _____
Date of approval _____

CONSTRUCTION

Date for beginning _____
Date for completion _____
Extended to _____
Date for application of water _____
Extended to _____

PROSECUTION OF WORK

Form "A" filed _____
Form "B" filed _____
Form "C" filed _____

FINAL PROOF

Blank mailed _____
Proof received _____
Date certificate issued _____
Receipt for recording fee No. _____

Application No. 7602
Permit No. 4844
Certificate No. 4908*

Stream Index, Page No. ?
Application Record, Book No. _____

* See PC 86-16 (Part) Vol 42 P 248

Partial
~~Cancelled - sp. or Rec. Vol. 42 P. 248-254~~
Vol 5
Pg. 4908

FEES PAID

Date	Amount	Receipt No.
_____	_____	_____
Total	_____	_____

FEES REFUNDED

Date	Amount	Check No.
_____	_____	_____

ASSIGNMENTS

Date	To whom	Address	Volume	Page
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

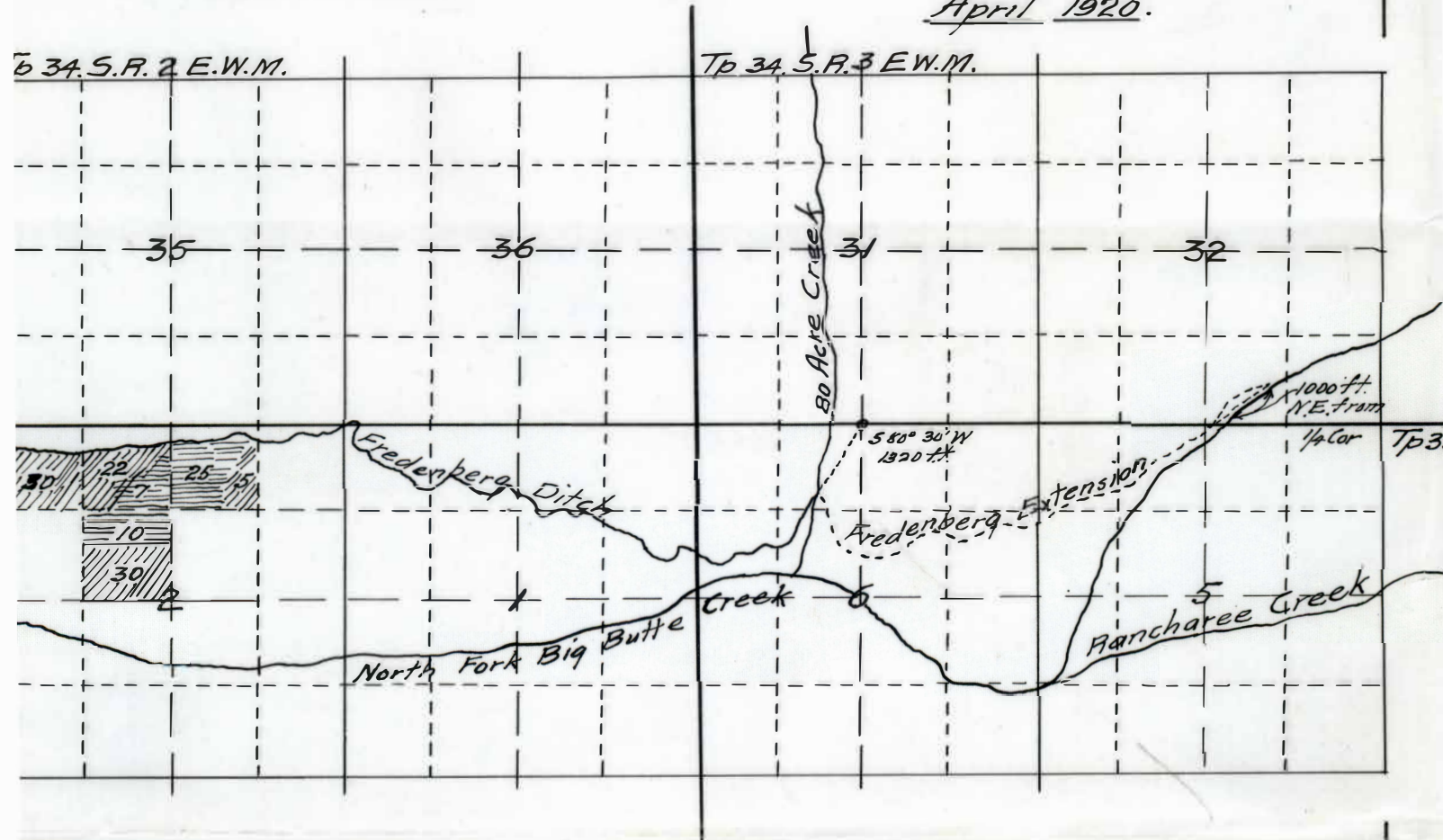
REMARKS

Need RR per order 8/26/2021

MAP

Accompanying application of BEN FREDENBURG of Butte Falls, Jackson County, Oregon. for Permit to the waters of North Fork Big Butte Creek tributary to Rogue River. Jackson County, Oregon. for purpose of Irrigation, being application for new acreage and supplemental supply under previous Permit No 2937 out of 80 acre Creek

April 1920.



Lands under Permit No 2937
for supplemental supply

New lands under this Application

Application No. 7602
Permit No. 4844

Map made from plat of the Fredenberg lands furnished by Ben Fredenberg, the same correctly showing lands to be irrigated to-gether with Streams and ditches in immediate vicinity Compiled by.

Fred. N. Cummings. C.E.

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF CANCELLATION OF	)	PC 86-16
A WATER RIGHT IN THE NAME OF BEN	)	STATEMENT, FINDINGS OF FACT,
FREDENBURG TO APPROPRIATE WATERS	)	CONCLUSIONS OF LAW, OPINION
OF NORTH FORK BIG BUTTE CREEK	)	AND FINAL ORDER

STATEMENT

This proceeding was initiated by the Water Resources Director under the provisions of ORS 540.610 to 540.650 for the proposed cancellation of certain water rights, based on information furnished to the Director that the rights in question had been forfeited by failure to make beneficial use of the water under the provisions of the water right for a period of five or more successive years of nonuse.

The water right proposed to be canceled represents a portion of the right described by the certificate issued to Ben Fredenburg and recorded at Volume 5, page 4908, State Record of Water Right Certificates.

The water right in question is for the appropriation of not to exceed 1.09 cubic feet per second of water from the North Fork of Big Butte Creek under a priority date of October 30, 1920, for irrigation of a certain 5.0 acres in Lot 2 (NW 1/4 NE 1/4), 22.0 acres in Lot 3 (NE 1/4 NW 1/4), 30.0 acres in Lot 4 (NW 1/4 NW 1/4, and 30.0 acres in the SE 1/4 NW 1/4 of Section 2, Township 35 South, Range 2 East, WM.

The balance of the water right described by said certificate, being for the appropriation of not to exceed 0.52 cubic feet per second of water from the North Fork of Big Butte Creek for supplemental irrigation of a certain 25.0 acres in Lot. 2, 7.0 acres in Lot 3 and 10.0 acres in the SE 1/4 NW 1/4 of said Section 2 is not in question in this proceeding.

Written notice of the proposed cancellation was served on the owners of record and/or occupants of certain real property in Section 2, Township 35 South, Range 2 East, WM. Jackson County, Oregon. Notice was served on December 12, 1986, by certified mail to:

William L. More and
Rosalie E. More
PO Box 231
Butte Falls, OR 97522

Robert S. Lozano and
Judy H. Lozano
PO Box 231
Butte Falls, OR 97522

On February 9, 1987, a protest in the names of William L. and Rosalie More and Robert S. and Judy H. Lozano was filed with the Department by Ben Lombard, attorney at law.

No other protest against the proposed cancellation was submitted within the statutory 60 day period from service of the notice of initiation of this proceeding, or subsequent thereto.

Pursuant to the Amended Notice of Hearing served on the attorneys for protestants and proponents of cancellation, the matter was brought to hearing in Medford, Oregon on May 27, 1987 before James W. Carver, Jr., an employee of the Water Resources Department authorized to preside on behalf of the Director as a finder of fact. The notice set out the pertinent information regarding the right proposed to be cancelled in the manner set out in paragraphs 2, 3, and 4 of the STATEMENT, above.

Proponents of cancellation Donald Baker, Russ Baldwin, Curt Thomson and B.F.C. Edmondson appeared at the hearing and were represented by Mark S. Wolfe, Attorney at Law. Protestants William More and Robert Lozano appeared at the hearing and were represented by Ben Lombard, Jr., Attorney at Law.

The Director's Statement, Findings of Fact, Conclusions of Law, Opinion and Proposed Order document was served on the parties' attorneys of record on December 24, 1987.

On February 5, 1988, protestants Lozano and More, acting through their attorney, Ben Lombard, Jr., filed objections to the Proposed Order and incorporated therein a request for additions to the Findings of Fact and Conclusions of Law.

At a regularly scheduled meeting in Eugene, Oregon, on June 24, 1988, the Water Resources Commission, with commissioners Blosser, Cramer Howland and Malarkey present and voting, considered the filing by the protestants, together with the parties' written and oral arguments thereon, and voted to adopt the Proposed Order document without change for the Commission's final order. Therefore, the Water Resources Commission now issues the following:

FINDINGS

1. All facts set forth in the STATEMENT are hereby incorporated as findings of the Commission.

2. Protestants hold certificated water rights for irrigation of 139 acres. 87 acres are covered under the right which is the subject of this proceeding. Of these 139 acres, approximately 87-100 are covered by fairly heavy timber and moderate natural underbrush. The timbered area covers all of Lot 4, approximately two-thirds of Lot 3, and some of the westerly and southerly portions of the SE 1/4 NW 1/4. Most of the timbered area terrain, particularly in Lots 4 and 3, is composed of rather steep slopes folding into narrow draws, and is not of a type as to be even marginally benefitted by irrigation. Cattle are run on the timbered lands at different times of the year on a seasonal rotation basis.

3. Hay is grown in the irrigated pasture or meadow area and is used for cattle fodder. Irrigation of these lands is done by gravity ditch and flood irrigation method. Pasture lands are located in the easterly one-third of Lot 3, the westerly two-thirds of Lot 2, and in the SE 1/4 NW 1/4.

4. All lands in question are owned by the Lozanos, who purchased the lands from the Mores in 1983. The Mores bought the property from Mrs. Naoma Fredenburg in 1971.

5. The record is clear from the testimony of both proponents and protestants that Lot 4 and the westerly two-thirds of Lot 3 have not been benefically irrigated for a period of five successive years.

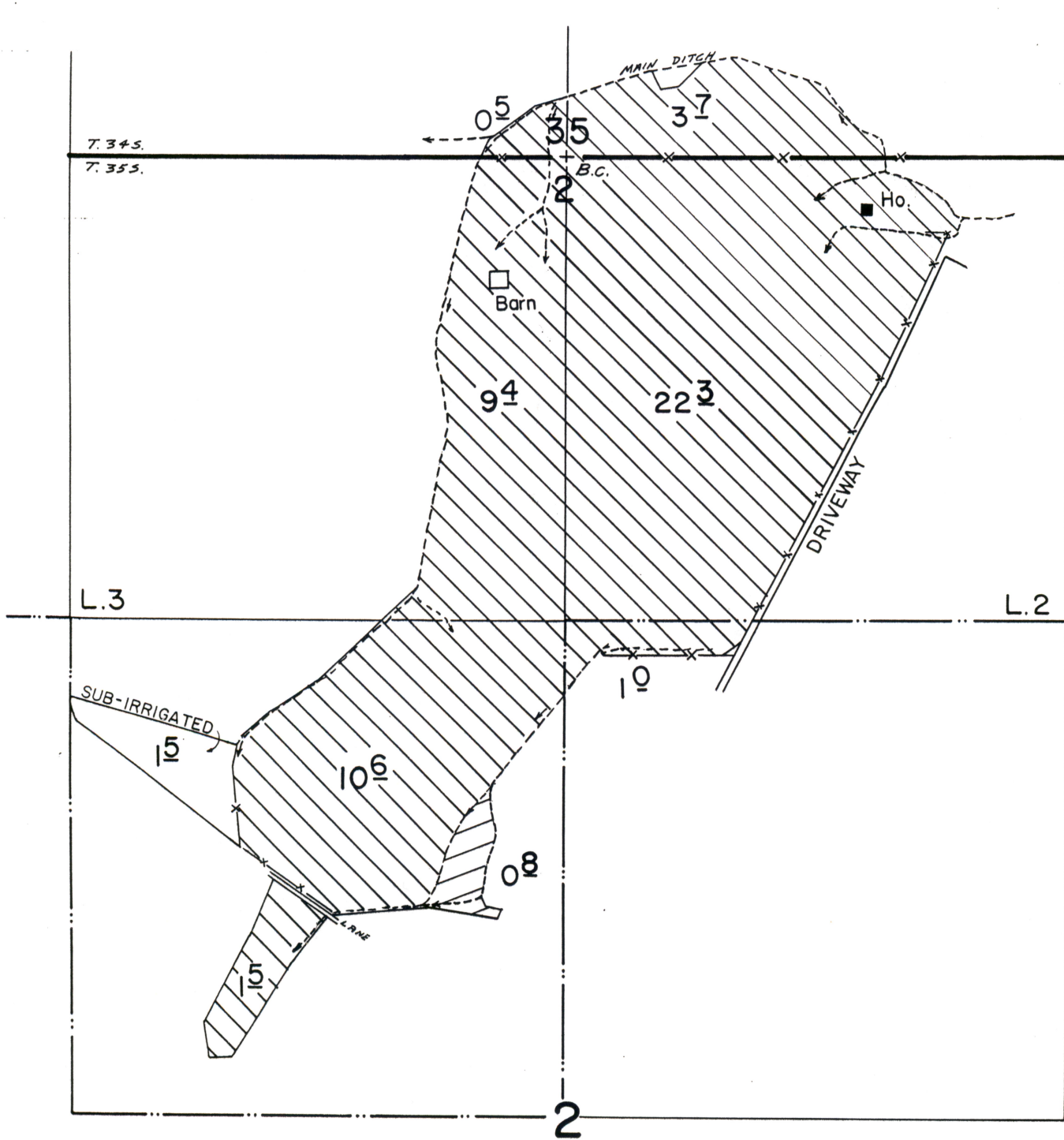
6. It was agreed between the parties that, following the hearing, a Water Resources Department survey crew would survey the extent of the irrigated lands to determine the outer limits of what lands showed evidence of beneficial irrigation. The record was to be left open until the parties had an opportunity to comment on the survey.

The survey was completed July 6 and served on the attorneys for the parties October 20. The parties were asked to submit their comments by the end of November. Comments were received from Mark Wolfe, attorney for the proponents, on November 3, 1987. No comments to the survey or response to those comments submitted by proponents were received from the protestants.

The survey of lands showing evidence of beneficial irrigation prepared by the Water Resouces Department survey crew is included in this Order as Figure 1. Lands shown to have been benefically irrigated have been outlined in yellow. Lands show as sub-irrigated have been outlined in blue. Lands showing no evidence of beneficial irrigation are those outside the yellow line.

T. 34 & 35 S., R. 2 E., W.M.

49.8 ac



☐ Marginal Land

Permit No. 4844 & 2937

IN NAME OF

FREDENBERG RANCH (ROBERT LOZANO)

Surveyed JUNE 24, 1987, by B.S. JAMES

Regarding the 1.5 acres in the SE 1/4 NW 1/4 shown as sub-irrigated, there was no evidence of controlled irrigation on this parcel. As to the remaining lands outside the yellow outline, there have been no rights established as claimed by the certificate at issue and therefore no rights to be lost or maintained. Proponents have met their burden to show that the above-described lands have not been beneficially irrigated under the provisions of the water right in question for a period of five or more successive years.

Proponents have failed to meet their burden of proof as regards those lands shown within the yellow outline on Figure 1.

CONCLUSION OF LAW

Oregon Revised Statutes 540.610 provides that "beneficial use shall be the basis, the measure, and the limit of all rights to the use of water." If, for whatever reason, a perfected right is not used for five successive years, the right is forfeited. Here, only a portion of the lands to which the irrigation water right in question is appurtenant were irrigated without a lapse in use. Thus, only a portion of the water was put to beneficial use.

The courts have definitively found ORS 540.610 to be a forfeiture statute. An intent to abandon is not required, nor need it be proven, to work a forfeiture and cancellation of all or part of a perfected water right. All that must be shown is that there has been non-use over five successive years. Rencken v. Young, 300 OR 352 (1985). Here, the evidence of forfeiture presented by proponent was contradicted by protestants only as to the extent of acreage irrigated. Protestants themselves gave testimony that supports a finding of partial forfeiture of their water right.

Irrigation use of water established on 30.0 acres in Lot 4 (NW 1/4 NW 1/4), 22.0 acres in Lot 3 (NE 1/4 NW 1/4), 5.0 acres in Lot 2 (NW 1/4 NE 1/4) and 30.0 acres in the SE 1/4 NW 1/4 of Section 2, Township 35 South, Range 2 East, WM, Jackson County, Oregon as described by Certificate 4908 has been forfeited by nonuse for a period of five or more consecutive years during the period 1936-1986 in the amount of 81.7 acres. Specifically, rights forfeited are as follows:

- All rights for irrigation of 30 acres in Lot 4;
- All rights for 5 acres in Lot 2;
- Rights to 19.6 acres out of a total of 22 acres of Lot 3;
- Rights to 27.1 acres out of a total of 30 acres in the SE 1/4 NW 1/4.

The remaining 5.3 acres of irrigation use established in said Certificate have not been forfeited by nonuse within this same period of time.

OPINION

The proponents in a cancellation proceeding have the burden to show by reliable, substantive and probative evidence that the right sought to be canceled has been lost by five successive years of nonuse.

Proponents testified that they were familiar with the lands in question over varying periods of years and that at no time in their collective memories between 1936 and 1986 had they observed water being applied to any of Protestants' lands outside of the established pasture lands in Lot 2, Lot 3 and the SE 1/4 NW 1/4.

Protestant Lozano testified that he had not cleaned the ditches in Lots 3 and 4 and was not claiming any use in Lot 4 or the westerly two-thirds of Lot 3. He indicated that no lands outside the established open meadow area had been seeded.

Neither protestant More nor witness for the protestants Ms. Fredenburg offered testimony to contradict the claimed non-irrigation of Lot 4 or the westerly two-thirds of Lot 3. Testimony as to irrigation of the triangle-shaped parcel on the eastern half of Lot 2 was not supported by the findings of the survey.

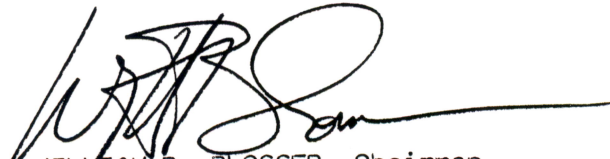
Protestants have met their burden on that portion of the right illustrated in the Water Resources Department survey as discussed above.

FINAL ORDER

NOW, THEREFORE, it is ORDERED that the portion of the right evidenced by Certificate No. 4908 for irrigation use within 30.0 acres of Lot 4 in the NW 1/4 NW 1/4, 22.0 acres of Lot 3 in the NE 1/4 NW 1/4, 5.0 acres of Lot 2 in the NW 1/4 NE 1/4 and 30 acres in the SE 1/4 NW 1/4 of Section 2, Township 35 South, Range 2 East, Willamette Meridian, be and the same is hereby canceled in the amount of 81.7 acres pursuant to ORS 540.610 and 540.640.

It is FURTHER ORDERED that said Certificate be canceled and that a new Certificate be issued to describe the balance of the water right described by Certificate 4908 not canceled by this proceeding.

DATED THIS ~~5th~~ day of July, 1988.

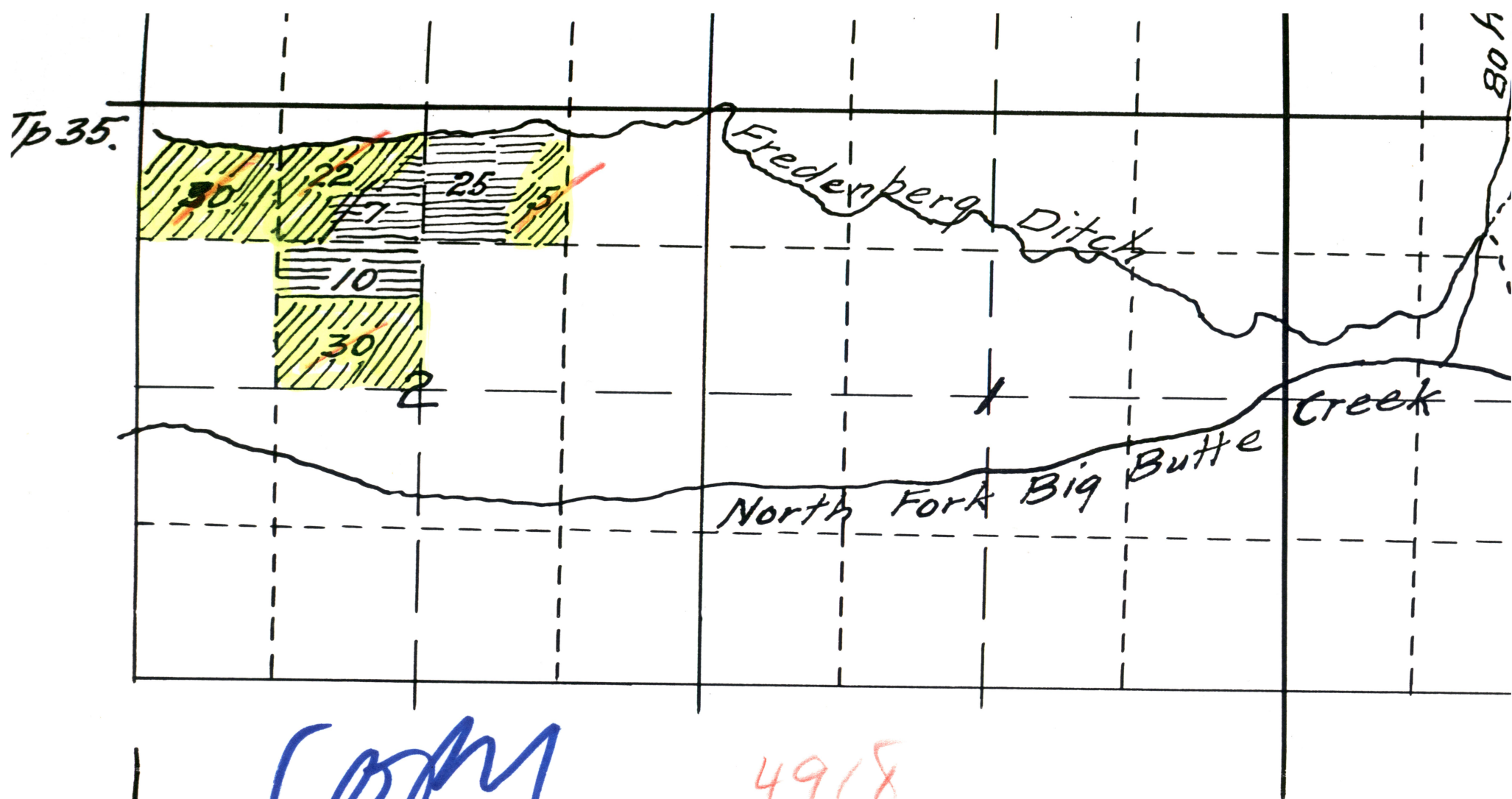


WILLIAM R. BLOSSER, Chairman
Water Resources Commission

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 service (date of mailing) of this order. Judicial review is pursuant to the provisions of ORS 536.075 and 183.482.

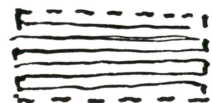
2586E

Volume 42, page 254



COPM

4918



Lands under Permit N° 2937
for supplemental supply



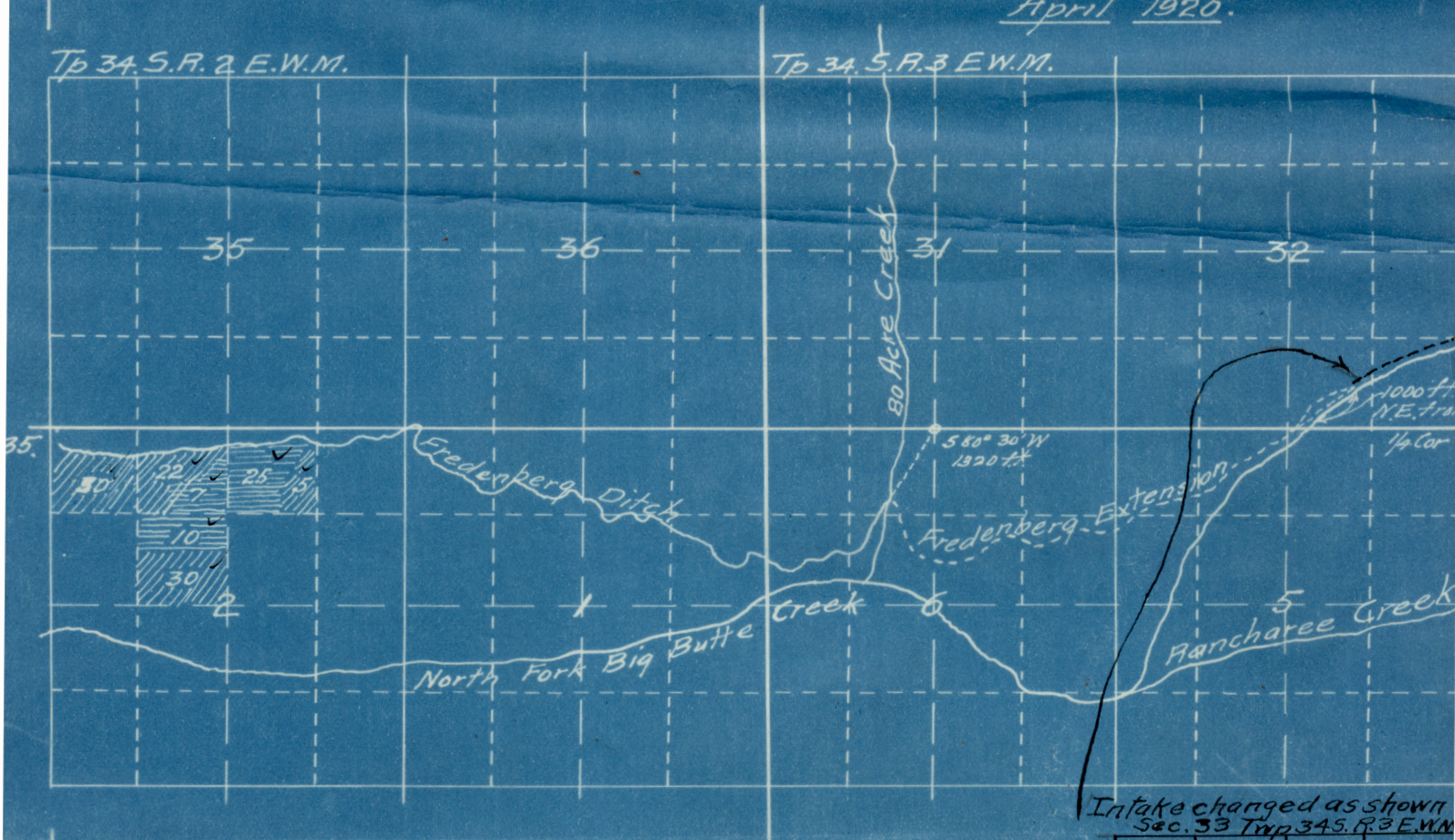
New lands under this Application.

~~Application~~

MAP

Accompanying application of BEN FREDENBURG of Butte Falls, Jackson County, Oregon. for Permit to the waters of North Fork Big Butte Creek tributary to Rogue River, Jackson County, Oregon. for purpose of Irrigation, being application for new acreage and supplemental supply under previous Permit No 2937 out of 80 acre Creek

April 1920.

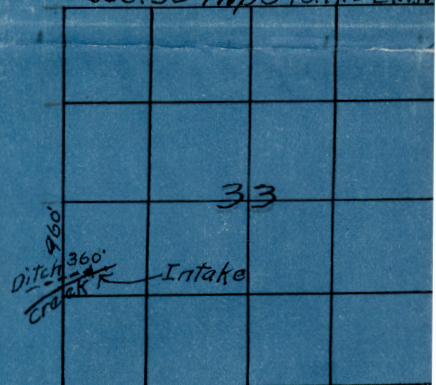


 Lands under Permit No 2937 for supplemental supply

 New lands under this Application

Application No. 7602
Permit No. 4844

Intake changed as shown Sec. 33 Twp 34 S. R. 3 E. W. M.



Map made from plat of the Fredenberg lands furnished by Ben Fredenberg, the same correctly showing lands to be irrigated together with streams and ditches in immediate vicinity Compiled by.

Fred. N. Cummings. C.E.

Proof of Appropriation of Water

(In accordance with the provisions of Chapter 216, Laws of Oregon for 1909, and the regulations of the State Water Board thereunder.)

From North Fork Big Butte Creek Tributary of Rogue River

1. Name Ben Fredenburg,

2. Postoffice address Butte Falls, Oregon

3. For what purpose is water used? Irrigation and supplemental supply (1.61 sec.ft.)

4. Did you begin the actual construction of the Ben Fredenburg Ditch,
(or other distributing works described in said permit), on or before Nov. 25, 1921 ?

Fall 1921 commenced

5. Give the date of completion of such construction work Fall 1922 Spring

6. When was all the water completely applied to the proposed use? Spring 1922 Aug.

7. 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. In the blank column on the right, headed "No. acres actually irrigated," fill in the number of acres you have irrigated in each of the tracts described.

Township	Range	Section	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			For supplemental supply		
35 S	2 E	2	NW $\frac{1}{4}$ NE $\frac{1}{4}$	25	25
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	7	7
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	10	10
			New acreage:		
35 S	2 E	2	NW $\frac{1}{4}$ NW $\frac{1}{4}$	30	30
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	22	22
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	30	30
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	5	5
					129

8. During what months is water beneficially used? *April to September*
9. State the character of the soil and kind of crops raised *Red soil loam
below, Alfalfa, corn and Garden.*
10. Does the accompanying blue print of the map filed with your permit show correctly the location of diverting works and area of land where water is used? *Yes*
11. If not, state wherein such map is in error *No Error See sketch of intake*
12. If the dimensions of your ditch or dam do not correspond to those described in your permit, state what changes have been made, giving dimensions of ditch (or other distributing works) *Dimensions the same*
13. If water is used for power, mining, domestic, municipal, storage, manufacturing, or any other purpose than irrigation, give the extent and method of such use

STATE OF OREGON,

County of *Jackson*

} ss.

I, *Ben Fredenburg*, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof; and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this *26th* day of *Sept*, 191*3*.

Subscribed and sworn to before me this *26th* day of *Sept*, 191*3*.

of Bent Falls, Oregon, being first duly sworn, depose and say that we are well acquainted with the facts and conditions set forth in the foregoing statement relative to proof of appropriation of water under Permit No. 4844; that we and each of us have been over and upon each tract described in said proof, and from such personal inspection have knowledge that all necessary ditches, dams and other diversion and distributing works have been constructed, and water used as stated therein; that we have carefully read such proof of appropriation, and that each and every statement contained therein is true to the best of our knowledge and belief.

✓ W B Hilbreth
✓ C W Jackson

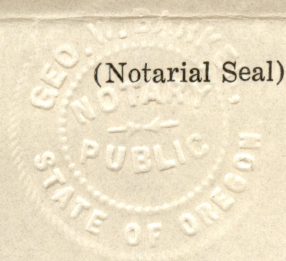
Subscribed and sworn to before me this 26th day of Sept, 1913.

G W Barker
Notary Public for Oregon.

My commission expires

NOTARY PUBLIC FOR OREGON

commission expires February 22, 1924



PROOF OF APPROPRIATION

Permit No. 4844

Rec. #123 fee paid

Priority date - October 30, 1920

~~Approved:~~ _____



Wm. Freese

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Ben Fredenburg, the holder of Application No. 7602, being
Permit No. 4844, issued by the State Engineer of the State of Oregon
(Reservoir or Enlargement) for the appropriation of 1.63 second-feet of the waters of North Fork of Big Butte Creek
in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer,
completely applied the water to a beneficial use, on the 28th day of July, 1922,
being the time limitation as fixed in said permit or extended by the State Water Board for the complete
application of water to a beneficial use.

Remarks:

If all of the water granted in the permit had not been fully applied to beneficial use, you should so state, so that delinquent appropriators may

have notice.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of July, 1922.

Butte Falls Oregon
(Present Address)

Ben Fredenburg
(Signature of Applicant)

Fill out, detach, and mail to the Secretary, State Water Board, Salem, Oregon.

Form A

NOTICE OF BEGINNING OF CONSTRUCTION

I, Ben Fredenburg, the holder of Application No. 7602, being
Permit No. 4844, issued by the State Engineer of the State of Oregon
(Reservoir or Enlargement) for the appropriation of 1.63 second-feet of the waters of North Fork of Big Butte Creek
in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer,
began the actual construction of the works described therein on the 2nd day of January, 1921,
being within the time limitation as fixed in said permit for the beginning of construction work.

Work on right-of-way etc. began Oct. 1, 1920. but
The appropriator should state the manner of beginning construction work, number of men and teams employed, the amount of work completed up to the date of this
digging ditch commenced on about date. Two men,
statement, and any additional information which may tend to show the beginning of work in good faith.

no teams, were employed. Two miles, 610 feet of ditch completed
to date.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of April, 1921.

Butte Falls Oregon
(Present Address)

Ben Fredenburg
(Signature of Applicant)

Fill out, detach, and mail to the Secretary, State Water Board, Salem, Oregon.

Form B

NOTICE OF COMPLETION OF CONSTRUCTION

I, Ben Fredenburg, the holder of Application No. 7602, being
Permit No. 4844, issued by the State Engineer of the State of Oregon
(Reservoir or Enlargement) for the appropriation of 1.63 second-feet of the waters of North Fork of Big Butte Creek
in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer,
have completed the construction of the works described therein the 18th day of May, 1921,
being within the time limitation as fixed in said permit or extended by the State Water Board for the
completion of construction work.

Remarks:

If the works have a less capacity than as described in the permit, or you have definitely abandoned your plan of irrigating any of the lands described

in your permit, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 31 day of May, 1922.

Butte Falls Oregon
(Present Address)

Ben Fredenburg
(Signature of Applicant)

Fill out, detach, and mail to the Secretary, State Water Board, Salem, Oregon. Form D should be used in reporting progress of work if more than one year has
been allowed for completion.

FRED N. CUMMINGS, WATER MASTER

OFFICE OF
WATER MASTER
DISTRICT NO. 15 STATE OF OREGON

MEDFORD, OREGON

1923.

Phen Luper
Mr. ~~Perry~~ A. Sappax,
State Engineer,
Salem, Oregon.

OFFICE OF STATE ENGINEER
RECEIVED
SEP 28 1923
SALEM, OREGON.

Dear Sir:

I have this date²⁷~~Aug~~¹⁴ 19~~23~~²³...., examined the lands and water right of *Ben Frederberg*....., of *Butte Falls*....., Jackson County, Oregon, under Application No *7602*...., Permit No *4844*.... to the waters of *North Fork Big Butte Creek*.... for Final Proof and find the same correct as to use of water, description of lands, number of acres irrigated as noted by me on inclosed Final Proof Papers.

Respectfully yours,

Fred N. Cummings
Water Master, Dist. #15.

FNC/EA

February 26, 1921

Mr. Ben Fredenburg,
Butte Falls, Jackson Co.,
Oregon.

Dear Sir:-

Replying to your letter of February 24th with reference to your water rights under Application No. 7602, the statute provides that the priority of the right is the date the application is received in this office, and regardless of the fact that you may have given the application to someone else to file for you, there appears no way by which the date of priority may be changed. However, should Mr. Brophy execute an agreement with you waiving the priority of his right in favor of your filing, that is a matter that may be adjusted between yourselves.

In view of the fact that water becomes appurtenant to the land upon which it is used, filings are quite frequently made on water for the irrigation of land not owned by the appropriator.

I am very sorry that there is nothing I can do in this matter to change the priority of your water right.

Very respectfully

Percy A. Cupper,

State Engineer.

RJS-LA

Butte Falls, Oregon
Feb. 24, 1921.

Percy A. Cupper
(State Engineer)
Salem, Oregon.

OFFICE OF STATE ENGINEER
RECEIVED
FEB 26 1921
SALEM, OREGON.

Dear Sir:-

I am enclosing a letter from Fred N. Cummings, which I suppose, he considered an excuse for not sending in my filings for the water of North Fork, last April 10.

Five months and twelve days after I filed my water right, Ben. Brophy filed a water right on the same water.

Mr Cummings had held up my filing during this time, saying it could not be avoided, and he sent Mr. Brophy's filing in at once. He makes no excuse whatever for sending in Mr. Brophy's filing before mine.

I am entitled to the prior right to this water by law, and I feel that I have been unjustly treated, and I sincerely hope that you will see the matter as I do and see that I get my rights.

many acres of land in this country and
there are only between twenty and twenty-five
acres of that under cultivation and I see
by my county paper that he has filed on
water for two hundred and forty acres. It
seems as if Mr. Brophy has organized a
company, and he is the company, and has
filed a water right on other peoples land
without any authority whatever, and even
land of which he does not know the owner.

If Mr. Brophy or any other man can do a
thing like that in order to beat a man
out of his just rights, I am certainly very
much mistaken. Hoping to hear from
you soon as to what action you will
take on the matter, I remain,

Respectfully yours
Ben. F. Deenbury.

Medford, Ore.

Feb 1921.

Mr Ben Fredenberg,
Butte Falls, Ore.

Dear Sir;

I herewith return letter from State Engineer, to you.

You will remember that there was a delay in sending your application in from this Office which was un-avoidable, and all applications date from the time they are received at the State Office.

I regret very much that it was nit put in before the other, however I think that the priority can be arranged with Mr Brophy, I will see him and see what can be done, Mr Brophys water will be below yours, and will make considerable more from your irrigation.

Very respectfully.

Fred W. Cummings

Feb. 4, 1921

February 5, 1921

Mr. Ben Fredenburg,
Butte Falls,
Oregon.

Dear Sir:-

Replying to your letter of February 4th, our records show that we received your Application No. 7602 on October 30th, 1920, transmitted by letter from Mr. Cummings, which was dated October 28th.

Our records show that Mr. Ben Brophy filed Application No. 7486 on August 21, 1920, which would make his application prior in time.

Trusting this will give you the desired information, I remain

Very respectfully

Percy A. Cupper,

State Engineer.

RJS-1A

7602-4844

7486-4872 Ben Brophy Aug 21-1920

same mail, Oregon.
Feb. 4, 1921.

Percy A. Cupper.
(State Engineer)
Salem, Oregon.
Dear Sir:-

OFFICE OF STATE ENGINEER
RECEIVED
FEB 5 1921
SALEM, OREGON.

I am in receipt of a letter of yours from Mr. Ben. Brophy, saying that his filing to the water of North Fork is prior to mine. I filed on this water April, 10, 1920, in Mr. Cummings' office and paid him the fees for filing and have the receipt for the amount.

Mr. Brophy filed August 21, 1920. and I do not understand how his right can be prior to mine. I would like you to look the matter up and let me know at once.

Yours truly
Ben. Fredenberg.

~~7602-4844~~ ~~2937~~ May

7602-4844 Ben Fredenberg Recd Oct 30-1920 — L — 28-1920

7486-4872 Ben Brophy Aug 21-1920 —

December 8, 1920

Mr. Ben Fredenburg,
Butte Falls, Jackson Co.,
Oregon.

Dear Sir:-

Enclosed please find Application No. 7602, being Permit No. 4844,
together with blue print. This application has been approved and recorded in
this office.

State Engineer.

OFFICE OF STATE ENGINEER
RECEIVED
DEC 8 1920
Salem, Ore.

Medford, Ore.

Dec 3rd 1920.

Mr Percy A. Cupper,

State Eng.

Salem, Ore.

December 7th, 1920.

Dear Sir:

Mr. Fred N. Cummings,
Water Master,
Medford, Oregon.

to your letter of Nov 30th in regard to
the Fredenberg Application.

Dear Sir:

Replying to your letter of December 3rd,
in regard to application No. 7602 in the name of Ben
Fredenberg, we have approved the application, call-
ing attention to the prior rights of the Eagle Point
Irrigation District.

I have no knowledge where the Eagle Point Ditch will
take out, they have two sites selected one is at the Junction of the
North and South Forks, and one is approximately 2 miles above the
Falls.

Very respectfully,

Percy A. Cupper,
State Engineer.

RS:R

In conversation with Mr Thomas relative to above, just
had he assumes that the Permit would be granted subject as all others
to the prior rights.

In this particular case I am of the opinion that the
granting of the Permit would not materially affect the District plans
for the reason of the comparatively small amount of water, also the
point of return, and if the upper intake is finally selected, this
Permit would not affect them.

Very respectfully,

Fred N. Cummings

Water Master District No 15.

Medford, Ore.

Dec 3rd 1920.

RECEIVED
DEC 5 1920
SALEM, OREGON
ENGINEER

Mr Percy A. Cupper,
State Eng,

7602

Salem, Ore.

Dear Sir;

In answer to your letter of Nov 30th in regard to the Fredenberg Application.

The location of lands is such that all return waters from the irrigation will return to the North Fork of Big Butte about $\frac{1}{2}$ mile above its junction with Big Butte.

I have no knowledge where the Eagle Point Ditch will take out, they have two sites selected one is at the Junction of the North and South Forks, and one is approximately 2 miles above the Falls.

In conversation with Mr Thomas relative to above, just had he assumes that the Permit would be granted subject to all others to the prior rights.

In this particular case I am of the opinion that the granting of the Permit would not materially affect the District plans for the reason of the comparatively small amount of water, also the point of return, and if the upper intake is finally selected, this Permit would not affect them.

Very respectfully,

Fred W. Cummings

Water Master District No 15.

DEC 2 1920

NOVEMBER 29, 1920.

Mr. Percy Copper,
State Engineer,
Salem, Oregon.

Dear Mr. Copper:-

In re: Application No. 7892.

It is my opinion that this application will interfere with the proposed Eagle Point Project. November 30th, 1920. There is nothing new in the market so far as I know. We are praying for better.

Mr. Fred N. Cummings,
Water Master,
Medford, Oregon.

Yours truly,

CHT:LAS

Dear Sir:

I am in receipt of a letter from C.M. Thomas, stating that he believed the issuance of permit to Ben Fredenberg, under application No. 7602 would interfere with the proposed Eagle Point Project.

I would be very glad to have your views on the subject.

As to how we may be able to proceed with the proposed Eagle Point Project, I would be glad if you could advise whether or not the project would interfere in any manner with the Eagle Point District.

Very respectfully,

Percy A. Copper,
State Engineer.

RS: R

Percy A. Copper,
State Engineer.

NOVEMBER 29, 1920.

Mr. Percy Cupper,
State Engineer,
Salem, Oregon.

Dear Mr. Cupper:-

In re: Application No.7602.

It is my opinion that this application will interfere with the proposed Eagle Point Project. There is nothing new in the bond market so far as I know. We are praying for better conditions.

CMT:LAW

Yours truly,

bm Thomas.

November 24th, 1920.

Nov. 2, 1920.

Mr. C. M. Thomas,
Medford,
Oregon.

Dear Sir:

Dear Sir:

I am in receipt of an application by Ben Fredenburg of Butte Falls, for the appropriation of 1.61 second feet of water from the North Fork of Big Butte Creek for a supplemental supply for irrigation of 42 acres, and for a new water right for 85 acres in Section 2, Township 35 South, Range 2 East, the point of diversion being within the SW¹SE¹ of Section 32, Township 34 South, Range 3 East.

As we have no map of the proposed Eagle Point Irrigation District Project, I would be glad if you would advise whether or not the issuance of this permit would interfere in any manner with the Eagle Point District.

Percy A. Copper,

Very respectfully,

Percy A. Copper,
State Engineer.

RS:R

7602
Medford, Ore.

Nov 4th 1920.

Mr Percy A. Copper,

State Engineer,

Salem, Ore.

NOV 6 1920
SALEM, OREGON
Nov. 8, 1920.

Dear Sir; Fred N. Cummings,
Medford,
Oregon.

In reply to your return letter with Fredenberg Application
Dear Sir:

I now enclose same corrected to correspond with the Map
which was on page 10 of the application. I am in receipt of your letter of Nov. 4th transmitting blue print and tracings together with application No. 7602 in the name of Ben Fredenberg, which had been returned for completion.

The application will be taken up for approval as soon as the same can be reached and you will be further advised.

Very respectfully,

Percy A. Copper,

State Engineer.

RS:S

Medford, Ore.

Nov 4th 1920.

Mr Percy A. Cupper.

State Engineer,
Salem, Ore.

OFFICE OF STATE ENGINEER

RECEIVED

NOV 6 1920

SALEM, OREGON.

Dear Sir;

In reply to your return letter with Fredenberg Application
I now enclose same corrected to correspond with the Map
which was correct.

Apoligizing for the error

Very respectfully,

Fred W. Cummings

Recd app 7602

1 B.P. Kating

OK,

*87
15
435
87
13.05
8
21.05*

*87 new
42
129*

Medford, Ore.

Oct 30th 1920.

Mr Percy A. Copper,

State Engineer.

November 3rd, 1920.

Mr. Fred M. Cummings,
Water Master,
Medford, Oregon.

Dear Sir:

Dear Sir:

Enclosed please find my official receipt No. 8068 for \$21.05, which amount was transmitted with your letter of October 28th together with application for permit to appropriate water in the name of Ben Fredenberg. I am also in receipt of blueprint and tracing. This application has been numbered 7602 and is returned herewith for answer to question No. 9 and maps.

Under question No. 9 you state you wish to irrigate 129 acres, of which a supplemental supply is required for 22 acres, and a new water right for the balance. According to the map, a supplemental supply is required for 42 acres, and a new water right for 87 acres. I am accordingly returning the application and map in order that they may be made to correspond.

In order to retain its original date of priority, this application completed and accompanied by the required map, should be returned to this office on or before December 3rd, 1920.

Very respectfully,

Very respectfully,

RS:R
Encl.

Percy A. Copper,
State Engineer.

Medford, Ore.

Oct 28th 1920.

7602

Mr Percy A. Cupper,
State Engineer,
Salem, Ore.

Rec'd Oct 30-1920

Dear Sir;

Please find enclosed Application in name of Ben Fredenberg of Butte Falls, Jackson Co. Ore. for Permit to the waters of N. Fork of Big Butte Creek, on new lands under the Application and Supplemental supply to lands now irrigated from 80 acre creek as Shown on the accompanying plat.

Check to amount of fees as follows enclosed.

App	\$3.00	
Supplemental		
to 42 ac	5.00	
Irr to		
87 ac	13.05	Total \$21.05

Please send papers when approved to Mr Fredenberg at above address.

Very respectfully,

Fred W. Greening

2:30 PM

1 B P Tracing

Return for Ans to Ltrs & maps

October 10, 1922.

Mr. Ben Fredenburg,
Butte Falls, Oregon.

Dear Sir:

Blank for proof of appropriation of water under permât
No. 4844, has been mailed to Mr. Fred N. Cummings, Water Master
for your district, who will make an inspection and assist you in
filling out the blank at an early date.

When this blank has been properly filled out, it should
be returned to this office, together with \$1.00 for recording the
certificate of water right.

Yours very truly,

R. W. Potter,
Secretary.

September 29, 1923.

Mr. Ben Fredenberg,
Butte Falls,
Oregon.

Dear Sir:

This will acknowledge receipt of your final proof of appropriation under permit No. 4844, together with check for \$1.00 in payment of recording fee. Official receipt No. 123 covering the above payment is enclosed.

The proof appears to be in proper form, and will be taken up for approval and issuance of certificate within a short time.

Yours very truly,

Rhea Luper,
State Engineer.

R.
Enclosure.