

Name EUGENE L. KIRKHAM

By

Address 5755 Gebhard Road

General Point, OR 97501

Date filed May 25, 1972

Priority May 25, 1972

Action suspended until OK cert

Return to applicant

Date of approval July 27, 1973

CONSTRUCTION

Date for beginning July 27, 1974

Date for completion October 1, 1975

Extended to

Date for application of water

Extended to

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed January 22, 1973

Form "C" filed _____

FINAL PROOFBlank mailed 00130 1986

Proof received

Date certificate issued APR 27 1989

Application No. R- 49285

Permit No. R 5993

Certificate No. 60873

Stream Index, Page No.15-78E10

see file 49286

See copy of
1976 decree w/in

ASSIGNMENTS

Date _____

To Whom

Address

| Volume

Page

REMARKS

6.0 af from 2 reservoirs and the storage of water from an unnamed stream in Kirkham Reservoir #1 and South Spring in Kirkham Reservoir #2 to be appropriated under application No. 49286, permit No. 36937 for irrigation and supplemental irrigation.

NOV 10 1975 CARD FOR R

Form 130 sent NOV 26 1986

2nd reminder sent 5-13-87

W.R.I.S.
Assembled 3.21.85 by Q
Entered _____ by _____
Verified _____ by _____

5/26/72 - #1 - Spillway ok (See R-21319)

#2 - Spillway ok

Gary

6/30/72 - Spillways ok

Gary

See Files
R-29319
29320

Form A

NOTICE OF BEGINNING OF CONSTRUCTION

Application No. R49285

I, EUGENE L. KIRKHAM

and mapping
the holder of Permit No. R5993

to appropriate the public waters of the state of Oregon, began the actual construction of the works described

thereon on the 31st day of July, 1972

Remarks: 80% complete on both reservoirs, using

tractors and loaders and pumps

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 24th day of September, 1973

Eugene L. Kirkham

(Signature of Applicant)

5755 Gehhard Rd. Central Point

(Address)

OREGON 97501

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SEP 26 1973

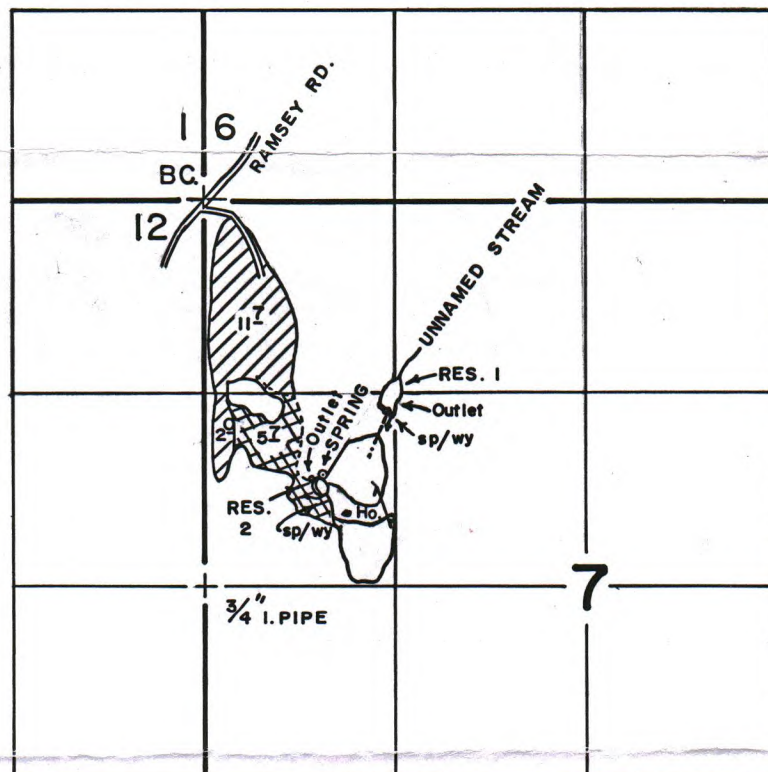
STATE ENGINEER
SALEM, OREGON

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T. 35 S., R. 2 W., W.M.

MAY 18 1987

WATER RESOURCES DEPT.
SALEM, OREGON



Spring Loc.: 750' N. & 820' E. from W. 1/4 Cor. Sec. 7.

▨ PRIMARY

▩ SUPP'L

FINAL PROOF SURVEY UNDER

R-49285

R-5993

Application No. 49286. Permit No. 36937.....

IN NAME OF

EUGENE L. KIRKHAM.....

Surveyed JULY 22, 1982, by B.S. JAMES.....

Scale : 4" = 1 Mile

279-271L

bsi

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MAY 18 1987

STATE OF OREGON

COUNTY OF

JACKSON

WATER RESOURCES DEPT.,
SALEM, OREGON

Proof of Appropriation of Water

EUGENE L. KIRKHAM

of 5755 Gebhard Road, Central Point, State of OR 97501, has

constructed a reservoir to store the waters of
South Spring tributary Sams Creek in Reservoir No. 2, appropriated under
Permit 36937

for the purposes of
irrigation and supplemental irrigation
under Reservoir Permit No. R-5993, and that the storage of said waters has been
completed within the terms of said Permit; that the priority of the right dates from

May 25, 1972

that the amount of water entitled to be stored each year under such right, for the purposes afore-
said, shall not exceed 0.5 acre-foot

The reservoir is located in

SW 1/4 NW 1/4
Section 7
Township 35 South, Range 2 West, WM

* Typed on proof by Permittee

The water above referred is only such water as may be in excess of the spring water
belonging to the property under attached circuit court decree of November 8, 1976.

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 15th day of May, 1987.

Eugene L. Kirkham

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DEC 1 1986

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WATER RESOURCES DEPT.
SALEM, OREGON

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

EUGENE KIRKHAM and EMILY KIRKHAM,	)	
	)	
Plaintiffs,	)	No. 76-1014-E-2
	)	
vs.	)	DECREE
	)	
CASPAR MEYER, KATHARINA MEYER	)	
and DAVID HENDRIX,	)	
	)	
Defendants.	)	
	)	

This matter came on before the Court for trial, without jury, upon plaintiff's complaint and the counterclaims of defendants Meyer requesting declaratory and injunctive relief, concerning the rights of the parties in the waters from three springs on plaintiffs' property, described as Springs Nos. 1, 2 and 3, located as alleged in the complaint, and in the waters therefrom impounded in the existing reservoirs on plaintiffs' property adjacent to Springs Nos. 1 and 2; and

The Parties having called witnesses, offered exhibits and made argument in support of their contentions; the matter having been taken under advisement to enable the respective parties to file written briefs therein; and the briefs having been filed and the Court being fully advised in the premises; and

It appearing to the Court that all parties having an interest in the question raised by the pleadings have been properly made

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parties, served with process, and are before the Court and have filed pleadings herein, and the Court has jurisdiction of the parties to the proceeding and a justiciable controversy exists among them; and the Court having heretofore made its findings and opinion herein, it is

ORDERED, ADJUDGED AND DECREED:

(1) That the waters from Springs Nos. 1, 2 and 3 located on the real property described in plaintiffs' complaint on file herein are private waters appurtenant to plaintiffs' said property and not subject to appropriation;

(2) That the defendants Meyer have no right by prior appropriation or otherwise to the flow of water from Springs Nos. 1, 2 and 3 located on the real property described in plaintiffs' complaint herein;

(3) That the plaintiffs shall comply with the provisions of ORS 537.300 et. seq. in the construction of reservoirs on their real property and in the use of waters impounded thereby;

(4) That the Watermaster of Water District 13 of the State of Oregon be, and he hereby is, ordered to comply with the determination herein;

(5) That the Court finds in favor of plaintiffs and against defendants Meyer on said defendants' counterclaim herein and

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WATER RESOURCES DEPT.
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awards no money damages to either party; and

(6) That plaintiffs have judgment against defendants Meyer and defendant David Hendrix, Watermaster of Water District 13 of the State of Oregon, for their costs and disbursements herein to be taxed.

Dated at Medford, Oregon, this 8 day of ^{November}~~October~~, 1976.


MITCHELL KARAMAN, CIRCUIT JUDGE

cc: Mr. E. R. Bashaw
Frohnmayr & Deatherage
Mr. Justin M. Smith

Handwritten notes and stamps in the bottom right corner, including a date stamp "NOV 11 1976" and a signature.

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WATER RESOURCES DEPT.
SALEM, OREGON

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

EUGENE KIRKHAM and
EMILY KIRKHAM,

Plaintiffs,

vs.

CASPAR MEYER, KATHARINA
MEYER and DAVID HENDRIX,

Defendants.

No. 76-1014-E-2

COMPLAINT

Suit in Equity

For cause of suit against defendants, plaintiffs allege:

I.

Plaintiffs own the following described real property in
Jackson County, Oregon:

The Northwest quarter of Section Seven (7)
Township 35 South, Range 2 West of the
Willamette Meridian.

(hereinafter called "plaintiffs' property"). Defendant David
Hendrix is the Watermaster of Water District 13 of the State of
Oregon. Defendants Meyer own property situated in the Northeast
quarter of Section Twelve (12), Township 35 South, Range 3 West of
the Willamette Meridian, Jackson County, Oregon, (hereinafter
called "defendants' property") which property adjoins plaintiffs'
lands generally as portrayed in attached Exhibit "A".

II.

Since time immemorial plaintiffs' property has included
several springs, and three of them have been, and are, situated
substantially as portrayed in attached Exhibit "A" and are
located approximately as follows:

Spring No.

Location

1

1320 feet North and 1275 feet East
from the West quarter corner of
Section 7.

Complaint - 1

E. R. BASHAW

LAWYER

313 SOUTH IVY STREET
POST OFFICE BOX 1262
MEDFORD, OREGON 97501
TELEPHONE 770-2821

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1986

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SALEM OREGON

Spring No.

Location

2

725 feet North and 770 feet East from the West quarter corner of Section 7.

3

Approximately 460 feet North and 1300 feet East of the West quarter corner of said section.

The water from each of said springs, in their natural state, at all times diffused and seeped into the ground before leaving plaintiffs' property, and there was no natural water-course with clearly-defined banks or channel on the surface of the ground leading from any of said springs to any boundary of plaintiffs' property or to any other natural water-course providing a continuous surface water-course from any of said springs to any boundary of plaintiff's property.

III.

A water-course arising in another part of plaintiff's property, as portrayed in attached Exhibit "A", has since time immemorial flowed generally Southwest on plaintiffs' property onto defendants' property, and defendants Meyer, or their predecessors in title, have claimed by appropriation a right to a defined portion of the flow in said water-course in order to provide water to a reservoir situated on defendants' property. The said water-course has never been joined by any natural surface water-course from any of the springs described in Paragraph II.

IV.

Plaintiffs by pipes and ditches have caused the waters of Springs No. 1, No. 2 and No. 3 to be piped to, and gathered and impounded in the location of, Spring No. 2, and have caused ditches, pipes and other facilities to be constructed and installed to conduct said spring waters thence to various parts of plaintiffs' property.

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SALEM, OREGON

E. R. BASHAW
LAWYER
313 SOUTH IVY STREET
POST OFFICE BOX 1262
MEDFORD, OREGON 97501
TELEPHONE 779-DB21

property. The combined flow from all springs at the location of Spring No. 2 is such that the water may be conducted by ditches and pipes installed by plaintiffs to various parts of plaintiffs' property for use thereon, or may be released in such a way as to diffuse and seep into plaintiffs' property.

V.

Defendants Meyer claim the right to limit plaintiffs in the direction in which, or portion of plaintiffs' property to which, plaintiffs may conduct the said spring waters plaintiffs have thus gathered, and said defendants assert that plaintiffs have an obligation to cause or permit the said spring waters, or some portion thereof, to flow or be cast in such direction that it will feed the stream from which defendants claim a water right as described in Paragraph III. Defendant Hendrix contends that all or some part of the waters from plaintiffs' springs as gathered at Spring No. 2, must be released in a direction to feed the stream described in Paragraph III, and claims the right to designate some part of the waters from the said springs as public waters subject to such limitation and to require the same to be discharged in that direction. Defendant Hendrix threatens to assert the right to thus regulate the waters by physically cutting, severing or otherwise altering plaintiffs' facilities, and by posting notices, and unless enjoined, will do so.

VI.

Plaintiffs assert that the waters from the said springs are not public waters but are private waters appurtenant to plaintiffs' land, and are not subject to regulation by defendant Hendrix in the manner above alleged, and not subject to any right

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SALEM, OREGON

on the part of the defendants Meyer to require that the same or any part thereof be conducted or released in any such nature or direction as to maintain any particular flow in the water-course described in Paragraph III.

VII.

The said springs and the rights and the waters thereof are private property rights and unless protected from the defendants' claims, may be damaged, depreciated, injured and reduced by numerous incursions or by prescription or estoppel, and plaintiffs have no plain, speedy or adequate remedy at law.

WHEREFORE, plaintiffs respectfully pray for a decree:

1. Declaring the rights and duties of the parties.
2. Declaring that the waters arising from Springs No. 1, No. 2 and No. 3 are private waters belonging to plaintiffs as a part of their property from use thereon, free from any claim on the part of defendants Meyer to cause them to be cast in any particular direction, or from any claim on the part of defendant Hendrix to alter or regulate the same to the same end as public waters of the State of Oregon.
3. Enjoining defendants Meyer from claiming any right to require the waters from the said springs to be cast in any particular direction, and enjoining both defendants from taking any action, physical or otherwise, which interferes with or adversely affects plaintiffs' rights to use or enjoy the waters of said springs as private waters appurtenant to plaintiffs' land.
4. Quieting plaintiffs' title to plaintiffs' land, the said springs thereon and the waters thereof against any adverse claims on the part of the defendants Meyer.

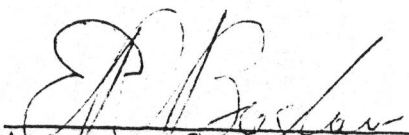
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WATER RESOURCES DEPT.
SALEM, OREGON

5. Awarding damages for any wrongful or unauthorized invasion of plaintiffs' rights in their property, including the springs, the waters therefrom or the facilities containing the same during pendency of this suit.

6. For such other and further relief as may appear equitable.


Attorney for Plaintiffs

E. R. BASHAW
LAWYER
313 SOUTH IVY STREET
POST OFFICE BOX 1262
MEDFORD, OREGON 97501
TELEPHONE 779-0821

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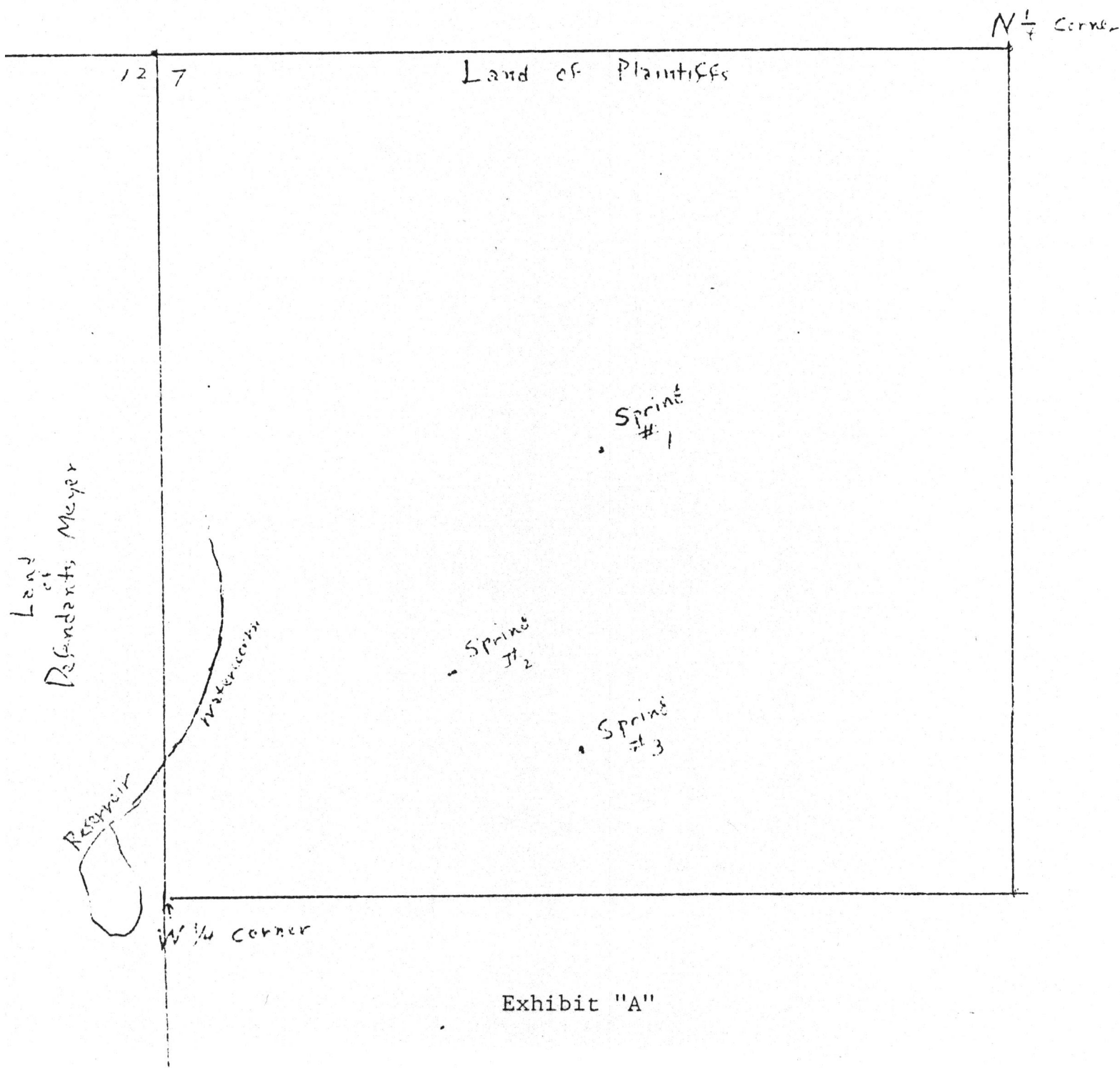


Exhibit "A"

County of Jackson ()

I, Eugene Kirkham
depose and say that I am ~~not~~ one of the plaintiffs

and that the foregoing complaint

being first duly sworn,
in the above entitled cause;
is true, as I verily believe.

Eugene L Kirkham

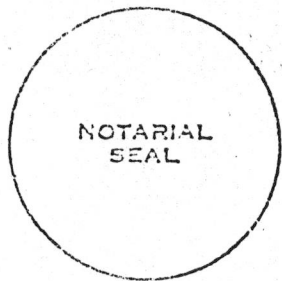
Subscribed and sworn to before me this 28th

day of April, 1976

Deanna J. Morrison

Notary Public for Oregon

My Commission expires 10/20/78



STATE OF OREGON,

County of _____ } ss.

I, _____ one of the attorneys for _____
do hereby certify that I have prepared the foregoing copy of _____ and have carefully
compared the same with the original thereof; and that it is a correct transcript therefrom and of the whole thereof.

_____, Oregon, dated the _____ day of _____, 19____

Attorney for _____

STATE OF OREGON,

County of _____ } ss.

Due service of the within _____ is hereby accepted in
_____ County, _____ this _____ day
of _____, 19____, by receiving a copy thereof, duly certified to as such
by _____, of Attorneys for _____

Attorney for _____

I hereby certify that I served the foregoing _____ on
_____, attorney for _____, on the
_____ day of _____, 19____, by mailing to him a true and correct copy thereof,
certified by me as such. I further certify that said copy was placed in a sealed envelope addressed to the said attorney at
_____ which
is his regular office address, or his address as last given by him on a document which he has filed in the above entitled
cause and served on me; said sealed envelope was then deposited in the United States post office at
_____, Oregon, on the day last mentioned, with the postage thereon fully paid.

Attorney for _____

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

EUGENE KIRKHAM and
EMILY KIRKHAM,

Plaintiffs,

vs.

CASPAR MEYER, KATHARINA
MEYER and DAVID HENDRIX,

Defendants.

No. 76-1014-E-2

ANSWER

CLERK
JACKSON COUNTY, OREGON
MAY 13 2 37 PM '76

Comes now the defendant, David Hendrix, by and through his attorney, Raymond B. White, Deputy District Attorney for Jackson County, Oregon, and for answer to plaintiffs' complaint on file herein, admits and denies as follows:

I

Admits paragraphs I and V.

II

Denies every other matter, fact, and thing set forth therein.

WHEREFORE, defendant David Hendrix, having fully answered plaintiffs' complaint on file herein, prays that the same be dismissed and that plaintiff take nothing thereby and that neither party be awarded costs that have been incurred.

Dated at Medford, Oregon this 11th day of May, 1976.

Raymond B. White
Deputy District Attorney
Attorneys for Defendant

Answer

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WATER RESOURCES DEPT.
SALEM, OREGON

State of Oregon)
County of Jackson) ss.

I, David Hendrix, being first duly sworn on oath
depose and say that I am defendant in the above-entitled
complaint; and that the foregoing answer
is true as I verily believe.

Subscribed and sworn to before me this day of May, 1976.

My Comm. Expires: 5-30-76

Gledy Woodrill
Notary Public for Oregon

State of Oregon)
County of Jackson) ss.

I, , of attorneys for
do hereby certify that I have this day carefully compared the fore-
going copy of with the original; that it is
a correct transcript therefrom and of the whole thereof.

Dated the day of , 197 .

State of Oregon)
County of Jackson) ss.

I, Raymond B. White being first duly sworn on oath
depose and say that I am the attorney herein for the defendant;
that I served the within Answer upon
E. R. Bashaw attorney for the plaintiffs by
depositing a copy thereof, certified to by me to be a
true and correct transcript of the original and of the whole there-
of, in the United States mail at Medford, Oregon, on the day
of May, 1976. I further depose and say that said copy
was enclosed in a securely sealed envelope with postage thereon
fully prepaid and plainly addressed to said attorney at his office
in Medford, Oregon, and that there is daily communica-
tion by mail within Medford.

Raymond B. White
Raymond B. White

My Comm. Expires: 5-8-79

Fern E. Berry
Notary Public for Oregon

State of Oregon)
County of Jackson) ss.

Due and legal service of the within is hereby
accepted in Jackson County, Oregon, this day of ,
197 , by receiving a copy thereof, duly certified to as such by
one of the attorneys for .

Attorney for



WATER RESOURCES DEPT.
SALEM, OREGON

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Defendants.

ANSWER AND COUNTERCLAIM

I

Page 1 - Answer and Counterclaim

ATTORNEYS AT LAW
P. O. BOX 1726
MEDFORD, OREGON 97501

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WATER RESOURCES DEPT.
SALEM, OREGON

1

I

2

On or about March 10, 1961, a certain water right was
3 granted to defendants by the State Engineer and recorded
4 in volume 20, page 28320 and page 28321 of the State Record of
5 Water Rights Certificates for storage and flow of waters from
6 the property of the plaintiffs, a copy of which is attached
7 hereto marked Exhibit A and by this reference made a part hereof
8 as though fully set forth herein.

9

II

10

The appropriated waters described in said water right
11 includes those flowing from springs 1 and 2 and the general
12 area of spring 2 as described in plaintiffs' complaint.

13

COUNTERCLAIM

14

For counterclaim against the plaintiffs, defendants Meyer
15 allege as follows:

16

I

17

Plaintiffs own the following described real property
18 situated in Jackson county, Oregon:

19

"Northwest quarter of section 7, township 35
20 south, range 2 west of the Willamette Meridian."

21

II

22

Defendants own property situated in:

23

"The northeast quarter, section 12, township 35
24 south, range 3 west of the Willamette Meridian,
Jackson county, Oregon"

25

adjoining plaintiffs' properties.

26

27 Page 2 - Answer and Counterclaim

28

29

FROHNMEYER & DEATHERAGE
ATTORNEYS AT LAW
P.O. Box 1726 - 39 S. Central Ave.
Medford, Oregon 97501

FROHNMEYER & DEATHERAGE
ATTORNEYS AT LAW
P.O. Box 1726
MEDFORD, OREGON 97501

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WATER RESOURCES DEPT.
SALEM, OREGON

III

2 Defendants reallege paragraphs I and II of plaintiffs'
3 affirmative defense.

IV

5 Plaintiffs have installed certain pipes and ditches and
6 have threatened to divert the waters arising upon plaintiffs'
7 property from springs 1 and 2 from the flow in accordance with
8 the water rights granted to plaintiffs.

V

10 Defendants' rights under said water right to the springs
11 and waters arising upon plaintiffs' property may be reduced
12 and damaged and plaintiffs have no plain, speedy or adequate
13 remedy at law.

VI

15 Defendants have continuously and annually appropriated
16 the waters to which they are entitled under said water rights.

VII

18 Plaintiffs' diversion of water from springs 1 and 2 has
19 since 1972 damaged defendants by depriving them of water for
20 irrigation.

21 WHEREFORE, defendants pray for a decree:

22 1. Declaring the waters arising from springs 1 and 2
23 upon plaintiffs' property are subject to the water right held
24 by defendants.

25 2. Enjoining plaintiffs from interfering with or with-
26 drawing any waters from the flow coming from springs 1 and 2

27 Page 3 - Answer and Counterclaim
28
29

FROHNMAIER & DEATHERAGE
P.O. Box 1726 - 39 S. Central Ave.
Medford, Oregon 97501

JOHNMAIER & DEATHERAGE
ATTORNEYS AT LAW
P.O. BOX 1726
MEDFORD, OREGON 97501

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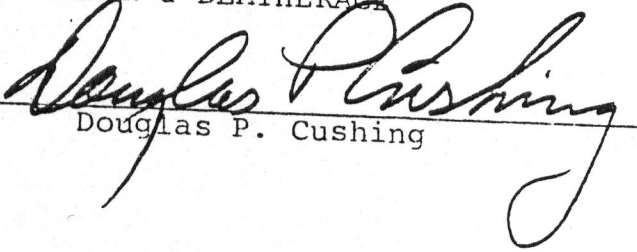
1 upon plaintiffs' property or from in any manner diverting
2 said flow from the defendants' properties, unless and until
3 defendants have obtained such water as they are permitted
4 by defendants' water right.

5 3. Awarding defendants damages for their losses incurred
6 by plaintiffs' diversion of waters.

7 4. For defendants' costs and disbursements and such
8 other and further relief as may be just and equitable.

9 FROHNMAYER & DEATHERAGE

10 BY


Douglas P. Cushing

11
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FROHNMAYER & DEATHERAGE
ATTORNEYS AT LAW
P.O. Box 1726 - 39 S. Central Ave.
Medford, Oregon 97501

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DEC 1 1986
WATER RESOURCES DEPT.
SALEM, OREGON

VERIFICATION

STATE OF OREGON, County of Jackson

ss.

I, CASPAR MEYER
one of the defendants
answer and counterclaim

being first duly sworn, say that I am
and that the foregoing
is true as I verily believe.

C. Meyer

Subscribed and sworn to before me this 14th day of May, 1976

NOTARIAL
SEAL

Douglas P. Cushing
Notary Public for Oregon.
My Commission expires 10-12-78

CERTIFICATE — TRUE COPY — WELL FOUNDED IN LAW

I hereby certify that the foregoing copy of is a correct copy of
the original. That the said in my opinion is well founded in law.
Dated, 19.....

Of Attorneys for
ACCEPTANCE OF SERVICE

Due service of the within is hereby accepted in
County, State of, on, 19....., by receiving a duly certified copy thereof.

Of Attorneys for
CERTIFICATES OF SERVICE

PERSONAL

I certify that on, 19....., I served the within
on
attorney of record for the by personally delivering to him a correct copy thereof.

Of Attorneys for

AT OFFICE

I certify that on, 19....., I served the within
on
attorney of record for the during his absence from his office by leaving a correct copy thereof with
his clerk therein, or with a person having charge thereof, at, Oregon.

Of Attorneys for

MAILING

I hereby certify that I served the foregoing Answer and Counterclaim
on E. S. Bashaw, attorney for the plaintiffs, and on Raymond White, Deputy D.A,
attorney(s) for Defendant Hendrix on May 14, 1976, by mailing to said attorney(s)
a correct copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed to said attorney(s) at his or their
regular office address, to-wit: P. O. Box 1262, Medford, Oregon 97501 and Jackson County
Courthouse, Medford, Oregon 97501 and deposited in the post office at Medford, Oregon,
on said day. Between the said post office and the address to which said copy was mailed, there is a regular communication by U. S. Mail.
Dated May 14, 1976.

Douglas P. Cushing
Of Attorneys for Defendants Meyer

FROHNMYER & DEATHERAGE
ATTORNEYS AT LAW
39 S. CENTRAL AVENUE
P. O. BOX 1726
MEDFORD, OREGON 97501
TELEPHONE (503) 773-8425

BACKING SHEET

NOTE: See ORS 16.790(2). If the copy of the document named in
the above certificate of mailing was mailed to an address other than the
attorney's "regular office address," delete, by lining out, the words
"regular office address, to-wit:", and state the address to which the
document was mailed and the reason therefor.

STATE OF OREGON

COUNTY OF

JACKSON

CERTIFICATE OF WATER RIGHT

This is to certify, That EUGENE L. KIRKHAM

of 5755 Gebhard Road, Central Point, State of OR 97501, has made
 proof to the satisfaction of the Water Resources Director, of a right to store the waters of
 South Spring tributary Sams Creek in Reservoir No. 2, appropriated under
 Permit 36937

for the purposes of
 irrigation and supplemental irrigation

under Reservoir Permit No. R-5993, and that said right to store said waters has been perfected in
 accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from

May 25, 1972

that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not
 exceed 0.5 acre-foot

The reservoir is located in

SW 1/4 NW 1/4
 Section 7
 Township 35 South, Range 2 West, WM

WITNESS the signature of the Water Resources Director, affixed
 this date.

.....
 Water Resources Director

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

7164D/TS
 R-49285

STATE OF OREGON

COUNTY OF

JACKSON

CERTIFICATE OF WATER RIGHT

This is to certify, That EUGENE L. KIRKHAM

of 5755 Gebhard Road, Central Point, State of OR 97501, has made

proof to the satisfaction of the Water Resources Director, of a right to store the waters of South Spring tributary Sams Creek in Reservoir No. 2, appropriated under Permit 36937

for the purposes of
irrigation and supplemental irrigation

under Reservoir Permit No. R-5993, and that said right to store said waters has been perfected in

accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from

May 25, 1972

that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not

exceed 0.5 acre-foot

The reservoir is located in

SW 1/4 NW 1/4
Section 7
Township 35 South, Range 2 West, WM

WITNESS the signature of the Water Resources Director, affixed
this date.

.....
Water Resources Director

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

7164D/TS
R-49285

June 1, 1987

Eugene L. Kirkham
5755 Gebhard Road
Central Point, OR 97501

Dear Mr. Kirkham:

REFERENCE: Files R-49285 and 49286

The circuit court decree of 1976 did not specify a quantity of water in the judgement, only that springs 1, 2, and 3 were to be considered private waters appurtenant to your property. Our final proof survey of July 22, 1982 was conducted only to determine the development and beneficial use made within the terms of your Permits R-5993 and 36937. Since we made no determination whether or not the water was in excess of the decreed allowance we do not feel the additional sentence you added to the proofs is appropriate to be included on the certificates to be signed by the Director. The proofs will remain a part of the file so your claim will be a matter of record.

We will hold up issuing these certificates for 30 days. If you have a serious objection to that statement not being on the certificates you need to justify your position within that time.

Sincerely,

Bruce A. Estes, Supervisor
Survey/Certificate Section

BAE:cle

May 15, 1987

Water Resources Department
Attention Thomas E. Shook
3850 Portland Road, N.E.
Salem, OR 97310

RECEIVED

MAY 18 1987

WATER RESOURCES DEPT.
SALEM, OREGON

Dear Mr. Shook -

Reference: Files R-49285 and R-49286

Enclosed for filing are the completed
proofs of appropriation of water forms
in connection with Permits R-5993
and 36937 with attachments mailed to
us on October 30, 1986.

Sincerely,
Eugene L. Kirkham

Enclosures - 5

May 13, 1987

Eugene L. Kirkham
5755 Gebhard Road
Central Point, OR 97501

Dear Mr. Kirkham:

REFERENCE: Files R-49285 and R-49286

We have not received the completed proof of appropriation of water forms in connection with Permits R-5993 and 36937, which were mailed to you on October 30, 1986. Unless the signed proofs are received, the law requires the cancellation of your permits.

In the event you no longer own the property and have no further interest in the permits, you could assign it to the new owner. We will furnish the necessary form upon request.

Sincerely,

Thomas E. Shook
Senior Water Rights Examiner

TES:cle
2014A

Abstract of Permit No. R-5993

Application No. R-49285

Certificate No.

Name

Eugene L. Kirkham 8 664-1900

Address

5755 Gebhard Road
Central Point, Oregon 97501

Source of water supply

Unnamed stream & South Spring, trib. of Sams Creek in reservoir No. 2

Use

Storage in 2 reservoirs to be appropriated under Appl. No. 49286, Permit No. 36937, for irrigation & supplemental irrigation

Point of diversion

DAM LOCATED: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T. 35 S., R. 2 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 $\frac{1}{4}$
										RESERVOIR LOCATED								
35S	2W	7			SW $\frac{1}{4}$ NW $\frac{1}{4}$				X									
"	"	"			SW $\frac{1}{4}$ NW $\frac{1}{4}$													

Priority date

May 25, 1972

Amount of water

0.5
6.0 a.f., being 3.0 a.f. in each reservoir

Time limit to begin construction

July 27, 1974

Time limit to complete construction

10-1-75 extended to

extended to

Time limit to completely apply water

extended to

extended to

Remarks:

7164D

INFO: NAME: EUGENE L. KIRKHAM

ADDRESS: 5755 GEBHARD RD., CENTRAL POINT.

TALKED TO: EUGENE.

SOURCES: UNNAMED STREAM FOR RESERVOIR #1

UNNAMED SPRING FOR RESERVOIR #2

RESERVOIRS & DAMS: APPARENT WEAKNESS:

	#1	#2
STRUCTURAL DETAIL:	EARTH FILL	EARTH FILL
DAM: HEIGHT:	10'	10'
LENGTH:	120'	80'
MIN. CREST WIDTH:	8"	8'
UPSTREAM SLOPE:	1:2	1:2
DOWNSTREAM SLOPE:	1:2	1:2
OUTLET: LOCATION: HORIZONTAL:	MIDDLE OF DAM	LEFT SIDE
VERTICAL:		BOTTOM OF DAM
SIZE:	6"	6"
TYPE:	CAST IRON PIPE	CAST IRON
CONTROL WORKS: TYPE:	VERT. SLIDE GATE	30° SLIDE GATE
LOCATION:	MIDDLE OF DAM	LEFT SIDE OF DAM
SPILLWAY: LOCATION:	RIGHT SIDE	RIGHT SIDE
CONSTRUCTION MATERIAL:	EARTH	EARTH
BASE WIDTH:	1'	1'
SIDE SLOPES:	1:2	1:2
DEPTH:	2	2'
CHANNEL SLOPES:	4':50'	4':25'
RESERVOIR: SURFACE ACRES:	0.46 S.A.	0.11 S.A.
MAXIMUM DEPTH:	11'-14'	12'
FACTOR:	0.4	0.4
ACRE FEET:	2.0 A.F.	0.5 A.F.
ADDITIONAL INFO:		

No proof No. 1, because it was not enlarged See f. l. R29319

TIE: MONUMENTS: W 1/4 COR SEC. 7

SURVEYED ON: PHOTO: 279-2716

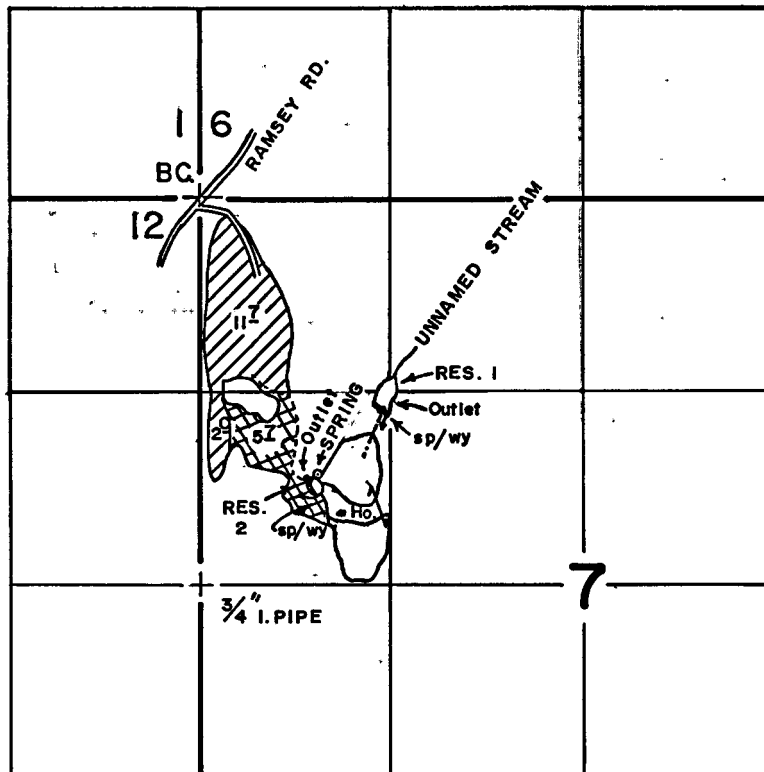
B. Suzie James

ENGINEERING TECH. I
FIELD ENGINEER

DATE: JULY 27, 1962

NOTE:

T. 35 S., R. 2 W., W.M.



Spring Loc.: 750' N. & 820' E. from W. 1/4 Cor. Sec. 7.

▨ PRIMARY

▩ SUPP'L

FINAL PROOF SURVEY
UNDER

R-49285

R-5993

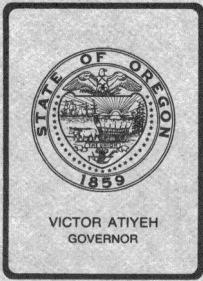
Application No. 49286 Permit No. 36937

IN NAME OF

EUGENE L. KIRKHAM

Surveyed JULY 22, 1982, by B.S. JAMES

Scale : 4" = 1 Mile



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-8508

December 10, 1986

E. R. Bashaw
P.O. Box 4533
Medford, OR 97501

REFERENCE: Files R-49285 and 49286

Thank you for your letter dated November 26, 1986, regarding permits in the name of Eugene L. Kirkham.

Eugene L. Kirkham submitted applications for permits in May of 1972 and based on information in his request, Permits R-5993 and 36937 were issued. He stated Reservoir number 1 was to be filled by an unnamed stream. We did find a dam on a drainageway called an unnamed stream. The information gathered during our on-site interview with Mr. Kirkham was compiled and mailed to him, in our proofs, for his consideration. We are merely following through with the intent of the permits and showing what we understood from him was his project as completed in 1976.

There is no reason to note "private water" on the proof. It has been judged that the spring waters do not leave the property so these permits serve no purpose; however, if the flow from the sources should increase such that water would flow off their land, a record of the amount of water beneficially used within the terms of the permit would be important.

In response to questions 2 and 4, Mr. Kirkham's applications did not show he intended to use water from spring 2 and reservoir 2 on lands east of the ridge, so the permit cannot be enlarged to include these lands. On the otherhand, if water from springs 2 and reservoir 2 are not used on the 11.7 acres within the NW 1/4 NW 1/4, this should be deleted from the proof. There is no reason to issue a certificate confirming a use that will now longer be exercised. Also, the permit cannot be changed to show this area irrigated from reservoir 1 because that source was to be a supplemental supply not primary.

Certificate 28327 (Permit R-1652) evidences the right to the storage of water from an unnamed stream. Certificate 28326 (Permit 23089) confirms the use of water from Kirkham Reservoir. Under present water law, sources described in certificates cannot be changed. The same statement is true for Certificate 28324 (Permit 21762) except one of the two springs listed is probably the "North" spring. The project requested by the record holder was verified by an on-site survey and later approved by Eugene Kirkham, so the sources were correct at time of issuance of the certificates in 1961.

COPY

E. R. Bashaw
December 10, 1986
page 2

Further action will be withheld on the files for a reasonable length of time.

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TES:wp
7831D

E. R. BASHAW
LAWYER
POST OFFICE BOX 4533
MEDFORD, OREGON 97501
TELEPHONE 776-7092
November 26, 1986

O.S.B.# 490110

RECEIVED

DEC 1 1986

WATER RESOURCES DEPT.
SALEM, OREGON

Mr. Bruce A. Estes
Certificate Section
Water Resources Department
3850 Portland Road NE
Salem, Oregon 97310

Ref: Files R-49285, 49286

Dear Sir:

Mr. and Mrs. Kirkham, owners of the NW $\frac{1}{4}$ of SEction 7, Township 35 South, Range 2 West, have received proofs of appropriation forms for permits no. 36937 and R-5993 (copies attached), and have asked me to assist them. This is because of some special circumstances arising in this case, and because of my connection with the matter ten years ago. Your office by way of accomodation has prepared the forms but the circumstances I mentioned my not have come to your attention.

One of the proofs relates to the appropriation of water for storage in "Reservoir 2" from "South Srping" pursuant to permits granted on applications filed in 1973. The other proof relates to the appropriation of water from "Reservoir 2" and from the "South Spring" for irrigation of 7.7 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 11.7 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Between the time the permits were issued (1973) and the present, some litigation occurred. Attached is a copy of a decree entered in 1976, and as background to the decree, a copy of the complaint, answers and counterclaims delineating the issues resolved by the decree. The first question arises from the fact that the court held that the waters from the South Spring constitute "private waters appurtenant to...(Kirkhams') property and not subject to appropriation."

The first question is whether the permit to appropriate from South Spring and from Reservoir 2 relates only to such waters, if any, as may be generated in excess of what was found to be "private"; and, if so, whether Kirkhams should note this in the proofs.

The second question arises from the actual areas of application on the Kirkham 160. The waters of the South Spring, and from Reservoir 2, furnish irrigation to 7.5 of the acres west of the ridge in SW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown, by ditching it westerly through the ridge. However, water from that source is also used on the east side of the ridge, not shown in the proof map, to take care of additional acreage east south and northeasterly of the source. However, the waters from Reservoir 2 and from South Spring do not supply water do not supply water to the 11.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ (as shown) for the 11.7 acres.

RECEIVED

DEC 1 1986

WATER RESOURCES DEPT.
SALEM, OREGON

Water for those 11.7 acres has always been supplied from "North Spring" and "Reservoir 1" by siphoning it westerly over the ridge. Should the proofs be adjusted to show this?

Since the proofs, therefore, involve a area actually served by Reservoir 1 and North Spring, then similar issues are now involved in that vested water right. (See certificates issued for R-1652, 21762 and 23089) and should be resolved.

The fact is that there is no "unnamed stream" feeding Reservoir No. 1; that reservoir is fed by "North Spring." The court decree in the 1976 case found that North Spring also constitutes "private waters appurtenant to ... (Kirkhams)" property and not subject to appropriation."

Therefore, the third and fourth questions to be resolved are:

Should the water rights certificates reflecting appropriations from Reservoir 1 and North Spring show that the rights to appropriate are subject to the private rights in the North Spring?

Should the areas of application for the water rights certificates relating to Reservoir 1 be amended to show that the water is applied to 11.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ as well as the areas shown in the certificates?

Kirkhams realize that the decrees of the court may not have found their way into the records of the watermaster or into the records of the department. A copy of this letter is sent to the state watermaster for this county with a view to discussing the problem with him. The 1976 litigation produced results which need now to be reconciled with the administrative proceedings which were pending. So if this matter could be put on hold for a short period necessary to see what we can work out, it would be appreciated.

Very truly yours,


E. R. Bashaw

Encl
cc. Kirkhams; Sund

CASE SUMMARIES

RECEIVED
DEC 1 1986
WATER RESOURCES DEPT.
SALEM, OREGON

Henrici v. Paulson, 134 Or 222. Defendant owned property with a spring. Plaintiff, owner of adjoining property, received a permit from the state to appropriate the water from the spring. It had been held (128 Or 514) that the defendant owned the land on which the spring is located. It held that the water of the spring cannot be appropriated by the plaintiff and that no certificate can give him that right. It is a private not public water. It is unconstitutional to try to take private waters under the Water Code.

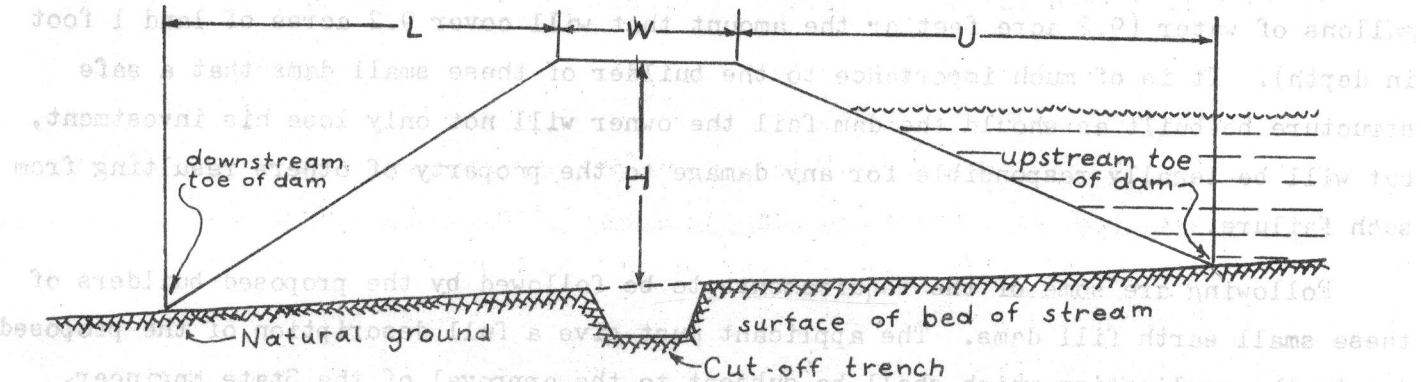
Klamath Development Company v. Lewis, 136 Or 445 (1931). Spring rose on plaintiff's property and by reason of seepage and evaporation would not flow in any channel to adjacent property. Held not subject to appropriation. Any permit issued by the State Engineer to defendant "Insofar as (it) refers to said spring or the waters thereof, it is void."

Skinner v. Silver, 158 Or 81 (1938). Springs were on plaintiff's land. Plaintiff's predecessor had applied to appropriate the water from the springs and the seepage "tributary to Emmigrant Creek." Defendant's predecessor had filed for and received a water right to appropriate the water from the springs. They conveyed the land to the plaintiff's predecessor before the water right certificate was issued. Plaintiff's predecessor conveyed the certificate to defendant. Held that the spring waters were part of the land and passed with fee simple. The water right certificate passes nothing. The only reason for filing on springs is to give the owner a right of appropriation over and above his property right to the extent that an increase in flow causes the waters to flow in a regular water course to other lands. Not public waters but private waters. Not an appurtenant but part of the land. This is a complex fact situation.

Bull v. Siegrist, 169 Or 180 (1942). The plaintiff alleged that the springs to which he had a right are fed by end creek through a known and defined underground channel and the defendant's diversions of the waters from end creek up-stream interfered. There had been an adjudication of the water rights in end creek and plaintiff had not been included. The phrase is "known Channel" for underground waters. The source of the spring need not be stated in the certificate and is not fixed by recital in the permit. The evidence was not sufficient to establish an underground known channel.

Beissel v. Wood, 182 Or 66 (1947). The common owner of the two adjoining parcels sold off to plaintiff's predecessor and granted an express right to use the spring on the remaining land which then passed to the defendant. The spring did not become a source of any water course but seeped into the ground. The case defines spring as "A place where water issues naturally from the surface of the earth." Defendant claimed that a prior adjudication of the water rights of the Santiam tributaries omitted the plaintiff. It was held that the water of the stream was private water and not subject to appropriation by any person except the owner and thus not subject to adjudication.

Before a permit is issued approving an application proposing the construction of a dam less than 10 feet high and storing less than 3,000,000 gallons of water, the information following the sketch below must be filed with the State Engineer and must conform with the dimensions and description of the dam given in the application. The height is measured from the lowest point of the ground surface or from the lowest point in the stream bed to the top of the dam on the center line of the dam. The data required is that of the maximum section or at the point where the dam is to be highest above the natural ground surface or stream bed.



All dimensions given below must conform to minimum requirements shown on other side.

EARTH DAM:

Amount of water impounded 3.0 acre feet (new)(5.0 acre / acre feet. feet total)

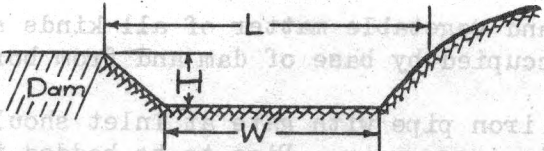
Top width of dam indicated on sketch by letter "W" 8 feet.

Height of dam measured from top of dam to ground surface or bed of stream on center line of dam or a point $\frac{1}{2}$ the top width of the dam, indicated on sketch by letter "H" is 10 feet.

The horizontal distance from upstream top of dam to upstream toe indicated on sketch by letter "U" is 29 feet.

The horizontal distance from downstream top of dam to downstream toe indicated on sketch by letter "L" is 21 feet.

SPILLWAY:



Approximate drainage area of creek above dam 5 acres.

Bottom width of spillway, indicated on sketch by letter "W" is 5 feet.

Top width of spillway, indicated on sketch by letter "L" is 8 feet.

Distance between top of dam and bottom of spillway at the upper end, indicated on sketch by letter "H" is 2 1/2 feet. (Must be at least 2 1/2 feet)

OUTLET:

Size and type of outlet pipe through base of dam which will allow free passage of the natural flow of the stream 6" steel with gate valve.

All dams will be inspected by the State Engineer or his assistant before certificate of water right is issued.

The applicant herewith agrees to build the dam in accordance with the above dimensions and the requirements given on other side.

RECEIVED
JUN 27 1972
STATE ENGINEER
SALEM, OREGON

Eugene I Kirkham
Signature of Applicant

ADDITIONAL INFORMATION TO BE SUBMITTED WITH APPLICATIONS PROPOSING CONSTRUCTION
OF DAMS LESS THAN 10 FEET IN HEIGHT OR IMPOUNDING LESS THAN 3,000,000 GALLONS

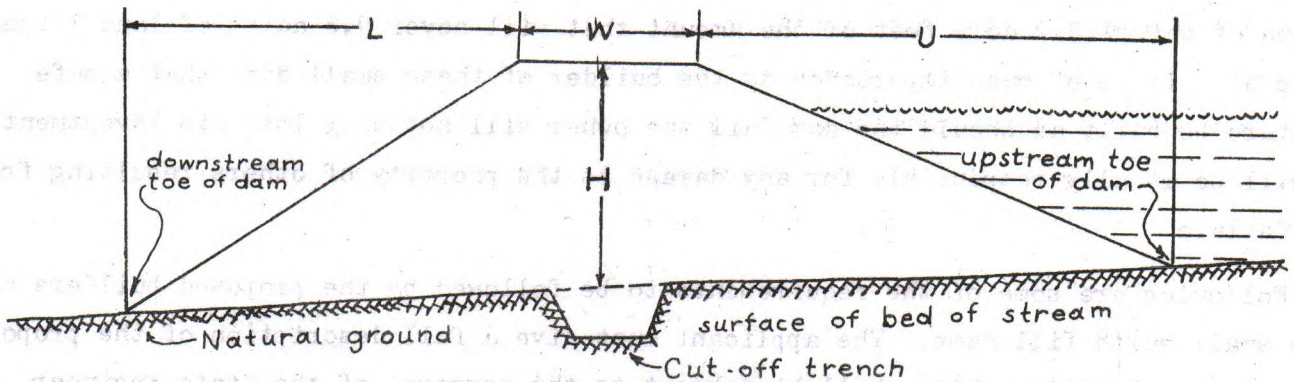
Under Oregon laws the builder is not required to submit plans and specifications, prepared by a registered professional engineer, for approval of the State Engineer for the construction of dams less than 10 feet in height and storing less than 3,000,000 gallons of water (9.2 acre feet or the amount that will cover 9.2 acres of land 1 foot in depth). It is of much importance to the builder of these small dams that a safe structure be built as should the dam fail the owner will not only lose his investment, but will be legally responsible for any damage to the property of others resulting from such failure.

Following are some of the requirements to be followed by the proposed builders of these small earth fill dams. The applicant must give a full description of the proposed dam in the application which shall be subject to the approval of the State Engineer.

1. Width of crest of dam should be not less than 8 feet.
2. Upstream slope not steeper than 3 horizontal to 1 vertical.
3. Downstream slope not steeper than 2 horizontal to 1 vertical.
4. Spillway channel should be constructed around either end of dam but not over top. It should have at least twice the capacity required to carry heavy winter flows or spring runoffs without overtopping the dam and should be lined, if necessary, to prevent erosion of the channel. The depth of the spillway should be sufficient to maintain a minimum distance of 2 feet from the crest of the dam to the water surface in the reservoir during the maximum flood. (This is important as experience has shown that insufficient spillway capacity is the principal cause of failure of small dams). Water passing over spillway should be returned to creek channel at a sufficient distance downstream to prevent erosion of embankment.
5. All brush, stumps, roots and vegetable matter of all kinds should be cleared from area to be occupied by base of dam and from borrow pits.
6. Asphalt dipped corrugated iron pipe with gate at inlet should be installed to permit draining reservoir. Pipe to be bedded in a trench in the natural ground and not on filled ground. Provision must be made to allow the free passage of the natural flow of the stream at any time. Prefabricated concrete pipe is not acceptable unless encased in concrete.
7. Not less than two cut-off collars should be constructed. These collars should be constructed of concrete with a thickness of not less than 6 inches and should extend from the outside of the pipe a distance of not less than 18 inches in all directions. These cut-off collars should be spaced along the conduit at a minimum spacing of 10 feet. Prefabricated asphalt dipped metal cut-off collars are also satisfactory, providing a water-tight joint is obtained between pipe and collar.
8. Material placed in embankment should be free from brush, stumps, roots, and vegetable matter of all kinds.
9. Material should be brought in and placed in embankment from ends of dam and spread in thin layers not over 6 inches thick and compacted by carryalls, rubber tired equipment, or compacting rollers traveling the length of the dam.

#2 Kirkham Reservoir:

Before a permit is issued approving an application proposing the construction of a dam less than 10 feet high and storing less than 3,000,000 gallons of water, the information following the sketch below must be filed with the State Engineer and must conform with the dimensions and description of the dam given in the application. The height is measured from the lowest point of the ground surface or from the lowest point in the stream bed to the top of the dam on the center line of the dam. The data required is that of the maximum section or at the point where the dam is to be highest above the natural ground surface or stream bed.



All dimensions given below must conform to minimum requirements shown on other side.

EARTH DAM:

Amount of water impounded 3.0 acre feet.

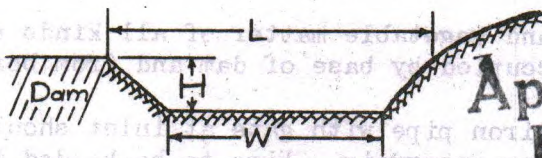
Top width of dam indicated on sketch by letter "W" 8 feet.

Height of dam measured from top of dam to ground surface or bed of stream on center line of dam or a point $\frac{1}{2}$ the top width of the dam, indicated on sketch by letter "H" is 10 feet.

The horizontal distance from upstream top of dam to upstream toe indicated on sketch by letter "U" is 30 feet.

The horizontal distance from downstream top of dam to downstream toe indicated on sketch by letter "L" is 20 feet.

SPILLWAY:



Application No. R-49285, 49286
Permit No.

Approximate drainage area of creek above dam 5 acres.

Bottom width of spillway, indicated on sketch by letter "W" is 6 feet.

Top width of spillway, indicated on sketch by letter "L" is 8 feet.

Distance between top of dam and bottom of spillway at the upper end, indicated on sketch by letter "H" is 2 1/2 feet.
(Must be at least $2\frac{1}{2}$ feet)

OUTLET:

Size and type of outlet pipe through base of dam which will allow free passage of the natural flow of the stream 6" asphalt/pipe.

All dams will be inspected by the State Engineer or his assistant before certificate of water right is issued.

The applicant herewith agrees to build the dam in accordance with the above dimensions and the requirements given on other side.

RECEIVED
MAY 25 1972
STATE ENGINEER
SALEM, OREGON

Eugene L Kirkham
Signature of Applicant

ADDITIONAL INFORMATION TO BE SUBMITTED WITH APPLICATIONS PROPOSING CONSTRUCTION
OF DAMS LESS THAN 10 FEET IN HEIGHT OR IMPOUNDING LESS THAN 3,000,000 GALLONS

Under Oregon laws the builder is not required to submit plans and specifications, prepared by a registered professional engineer, for approval of the State Engineer for the construction of dams less than 10 feet in height and storing less than 3,000,000 gallons of water (9.2 acre feet or the amount that will cover 9.2 acres of land 1 foot in depth). It is of much importance to the builder of these small dams that a safe structure be built as should the dam fail the owner will not only lose his investment, but will be legally responsible for any damage to the property of others resulting from such failure.

Following are some of the requirements to be followed by the proposed builders of these small earth fill dams. The applicant must give a full description of the proposed dam in the application which shall be subject to the approval of the State Engineer.

1. Width of crest of dam should be not less than 8 feet.
2. Upstream slope not steeper than 3 horizontal to 1 vertical.
3. Downstream slope not steeper than 2 horizontal to 1 vertical.
4. Spillway channel should be constructed around either end of dam but not over top. It should have at least twice the capacity required to carry heavy winter flows or spring runoffs without overtopping the dam and should be lined, if necessary, to prevent erosion of the channel. The depth of the spillway should be sufficient to maintain a minimum distance of 2 feet from the crest of the dam to the water surface in the reservoir during the maximum flood. (This is important as experience has shown that insufficient spillway capacity is the principal cause of failure of small dams). Water passing over spillway should be returned to creek channel at a sufficient distance downstream to prevent erosion of embankment.
5. All brush, stumps, roots and vegetable matter of all kinds should be cleared from area to be occupied by base of dam and from borrow pits.
6. Asphalt dipped corrugated iron pipe with gate at inlet should be installed to permit draining reservoir. Pipe to be bedded in a trench in the natural ground and not on filled ground. Provision must be made to allow the free passage of the natural flow of the stream at any time. Prefabricated concrete pipe is not acceptable unless encased in concrete.
7. Not less than two cut-off collars should be constructed. These collars should be constructed of concrete with a thickness of not less than 6 inches and should extend from the outside of the pipe a distance of not less than 18 inches in all directions. These cut-off collars should be spaced along the conduit at a minimum spacing of 10 feet. Prefabricated asphalt dipped metal cut-off collars are also satisfactory, providing a water-tight joint is obtained between pipe and collar.
8. Material placed in embankment should be free from brush, stumps, roots, and vegetable matter of all kinds.
9. Material should be brought in and placed in embankment from ends of dam and spread in thin layers not over 6 inches thick and compacted by carryalls, rubber tired equipment, or compacting rollers traveling the length of the dam.

December 2, 1975

File R-49285
49286

Eugene L. Kirkham
5755 Gebhard Road
Central Point, OR 97501

Dear Mr. Kirkham:

Your files were set up incorrectly and you should not have received the card. I apologize for this oversight.

Our survey crews are in for the season, but hopefully we can make an inspection of your project next summer.

Sincerely,

Thomas E. Shook
Water Rights Engineer

TES:cc

B

STATE OF OREGON
Office of the Water Resources Director
Salem, Oregon 97310

36937 &

According to the terms of Permit No. R-5993, construction work was required to be completed on or before October 1, 1975.

A blank upon which to notify this office of the completion of such work is attached to your permit. If the work has been completed, you should promptly fill out and forward this notice. If the work was not completed but has been prosecuted with reasonable diligence, an application for extension of time may be submitted.

If the work has been abandoned or has not been prosecuted with reasonable diligence, notice to this effect together with authority to cancel the permit would be greatly appreciated.

November 12, 1975

RECEIVED

NOV 13 1975

WATER RESOURCES DEPT.
SALEM, OREGON

State of Oregon
Office of the Water Resources Director
Salem, Oregon 97310

Dear Sir:

In response to the above copy of the card received from your office yesterday, November 11, 1975.

I received the attached copy of acknowledgment from the State Engineer, shortly after January 22, 1975.

I have been waiting for an engineer from his office to make the survey. Water has been applied to all the area specified under the permit.

Sincerely,

Eugene L. Kirkham

Eugene L. Kirkham
5755 Gebhard Road
Central Point, Oregon 97501
Phone 664-1900

Enclosure



STATE ENGINEER

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

January 22, 1975

Eugene L. Kirkham
5755 Gebhard Rd.
Central Point, OR 97501

Application No.
R-49285 and
49286

Dear Mr. Kirkham:

RECEIVED

NOV 13 1975

WATER RESOURCES DEPT.
SALEM, OREGON

This will acknowledge receipt of your notice to the effect that complete application of water has been made under permit No. R-5993, and 36937.

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

**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

January 22, 1975

Eugene L. Kirkham
5755 Gebhard Rd.
Central Point, OR 97501

Application No.
R-49285 and
49286

Dear Mr. Kirkham:

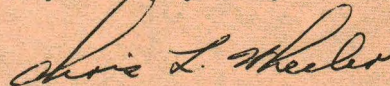
This will acknowledge receipt of your notice to the effect that complete application of water has been made under permit No. R-5993, and 36937.

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

**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

File No.

September 28, 1973

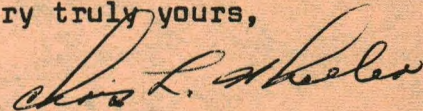
Eugene L. Kirkham
5755 Gebhard Rd.
Central Point, OR 97501

Dear Mr. Kirkham:

This will acknowledge the notice of beginning
of construction under the terms of permit No. R-5993 & 36937

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, 1975

Very truly yours,



CHRIS L. WHEELER
State Engineer

Form 118

September 5, '1973

Euguen Kirkham
5755 Gebhard Rd.
Central Point, OR 97501

R-49285
49286

R-49285, permit No. R-5993 and application
No. 49286, permit No. 36937 with a map print.

August 2, 1972

R-49285
49286

Mr. David Hendrix
Watermaster, District #13
Jackson County Courthouse
Medford, OR 97501

Dear Mr. Hendrix:

This will acknowledge the return of application number R-49285 in the name of Eugene L. Kirkham, along with the map, the application being amended under Item Number 2 to show the source for reservoir number one as an unnamed stream.

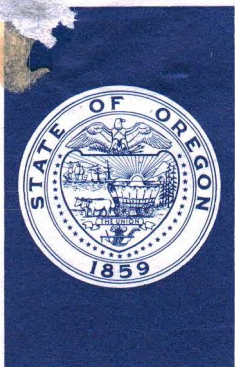
These applications numbered R-49285 and 49286 are now in satisfactory form for approval by the issuance of permits.

Very truly yours,

WAYNE J. OVERCASH
Assistant

dg

cc: Eugene L. Kirkham



**STATE
ENGINEER**

RECEIVED
AUG 1 1972
STATE ENGINEER
SALEM, OREGON

WATER RESOURCES DEPARTMENT

JACKSON COUNTY COURTHOUSE • MEDFORD, OREGON • 97501 • Ph. 773-6211

TOM McCALL
GOVERNOR

July 31, 1972

CHRIS L. WHEELER
State Engineer

FILE NO. R-49285
and 49286

Mr. Chris L. Wheeler
State Engineer
Salem, Oregon

Attention: Mr. Wayne J. Overcash, Assistant

Dear Mr. Overcash:

With reference to your letter of July 28, 1972, concerning the reservoir application in the name of Eugene L. Kirkham.

Please find enclosed Mr. Kirkham's application, which has been amended under Item 2 to show the source for No. 1 Reservoir as an unnamed stream. This data has also been added to his application map.

Very truly yours,

David C. Hendrix

David C. Hendrix
Water Master, District 13

DCH:pg

enclosure

July 28, 1972

R-49285
49286

Mr. Dave Hendrix
Watermaster, District #1
Jackson County Courthouse
Medford, OR 97501

Dear Mr. Hendrix:

This will acknowledge the return of the reservoir application numbered R-49285 you submitted on behalf of Eugene L. Kirkham, along with a small dam data sheet showing the construction features of Kirkham Reservoir Number 1.

Will you please review the source to fill Kirkham Reservoir Number 1. Item Number 2 on the reservoir application indicates that the north spring will fill the reservoir; however, the spring has been deleted from the application map and the original reservoir was filled from an unnamed stream as evidenced by certificate number 28327. If the additional storage is to be supplied from an unnamed spring, it will be necessary to show the location of the spring on the application map. However, if there is sufficient water in the unnamed stream and the spring is located some distance upstream from the dam, Item Number 2 on the reservoir application should be amended by stating the source as the unnamed stream. I apologize for not bringing this to your attention in my previous correspondence.

I am returning the reservoir application, along with the map prepared on tracing paper, for correction and completion. The reservoir application is endorsed so that in order to retain its priority date, it must be received in this office on or before September 26, 1972.

Very truly yours,

WAYNE J. OVERCASH
Assistant

dg

Enclosures

cc: Eugene L. Kirkham



**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

JACKSON COUNTY COURTHOUSE • MEDFORD, OREGON • 97501 • Ph. 773-6211

June 26, 1972

TOM McCALL
GOVERNOR

CHRIS L. WHEELER
State Engineer

RECEIVED
JUN 27 1972
STATE ENGINEER
SALEM, OREGON

FILE NO. R-49285
and 49286

Mr. Chris L. Wheeler
State Engineer
Salem, Oregon

Attention: Mr. Wayne J. Overcash, Assistant

Dear Mr. Overcash:

With reference to your letter of June 20, 1972,
concerning the reservoir application which we had
submitted in behalf of Eugene L. Kirkham.

Please find enclosed a small dam data sheet
showing the construction features of Kirkham Reservoir
No. 1. Also, you might note that on the enclosed
reservoir application under Item 8 that it has been
amended to show the spillway features on No. 1 Reser-
voir.

Very truly yours,

David C. Hendrix

David C. Hendrix
Water Master, Dist. 13

DCH:pg

enclosure

June 20, 1972

R-49285
49286

Mr. David Hendrix
Watermaster, District #13
Jackson County Courthouse
Medford, OR 97501

Dear Mr. Hendrix:

This will acknowledge the application you submitted on behalf of Eugene L. Kirkham for a permit to enlarge Kirkham Reservoir #1 and to store therein an additional 3 acre feet of water and to construct Kirkham Reservoir #2 and to store therein 3 acre feet of water for irrigation and supplemental irrigation. Also acknowledged is the small dam data sheet for Kirkham Reservoir #2 and the fee of \$20 for which our receipt numbered 28505 is enclosed. This application has been filed and numbered R-49285.

Also acknowledged is the secondary application in the name of Eugene L. Kirkham for a permit to appropriate 0.17 cubic foot of water per second from the south spring, 3 acre feet of water from reservoir number 1 and 3 acre feet of water from reservoir number 2, being 0.17 cubic foot of water per second from the south spring and reservoir number 2 for the primary irrigation of 13.7 acres, the use of water from reservoir number 2 for supplemental irrigation of 5.7 acres, and the use of water from reservoir number 1 for the supplemental irrigation of 6.3 acres. Also acknowledged is the map prepared on tracing paper, a legal description, and fees of \$20 for which our receipt numbered 28506 is enclosed. This application has been filed and numbered 49286.

The small dam data sheet which supported Mr. Kirkham's previous permit number R-1652 is not in agreement with the information supplied on the reservoir application numbered R-49285. Therefore, will you please submit an additional small dam data sheet showing the construction features of Kirkham Reservoir #1.

I am returning the reservoir application for completion. The application is endorsed so that in order to retain its priority date, it must be received in this office on or before August 21, 1972.

Very truly yours,

dg
Enclosures
cc: Eugene L. Kirkham

WAYNE J. OVERCASH
Assistant



**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

RECEIVED
MAY 25 1972
STATE ENGINEER
SALEM, OREGON

JACKSON COUNTY COURTHOUSE • MEDFORD, OREGON • 97501 • Ph. 773-6211

May 23, 1972

FILE NO.

TOM McCALL
GOVERNOR

CHRIS L. WHEELER
State Engineer

Mr. Chris L. Wheeler
State Engineer
Salem, Oregon

Attention: Mr. Trevor Jones, Assistant

Dear Mr. Jones:

I am enclosing an application in the name of Eugene L. Kirkham of 5755 Gebhard Road, Central Point, Oregon 97501, for a permit to enlarge Kirkham Reservoir #1 and construct Kirkham Reservoir #2 and store therein 3.0 acre feet additional water in #1 and 3.0 acre feet in #2; also a secondary application in the same name for a permit to appropriate 0.17 c.f.s. of water and 6 acre feet from South Spring, Enlargement of #1 Kirkham Reservoir, and Kirkham Reservoir #2, for irrigation and supplemental irrigation purposes, together with his personal check in the sum of \$40.00 to cover filing fees, the necessary map tracing and legal land description, and small dam data sheet on #2 Reservoir.

Very truly yours,

David C. Hendrix

David C. Hendrix
Water Master, Dist. 13

DCH:pg

enclosures