

Name MARCELLA E. KITTEL  
 By \_\_\_\_\_  
 Address Box 467  
Waldport, OR 97394

Date filed March 6, 1973  
 Priority March 6, 1973  
 Action suspended until Cancel

Return to applicant \_\_\_\_\_  
 Date of approval \_\_\_\_\_

#### CONSTRUCTION

Date for beginning JUN 23 1977  
 Date for completion OCT 1 1978  
 Extended to \_\_\_\_\_  
 Date for application of water OCT 1 1979  
 Extended to \_\_\_\_\_

#### PROSECUTION OF WORK

Form "A" filed \_\_\_\_\_  
 Form "B" filed \_\_\_\_\_  
 Form "C" filed Completed

#### FINAL PROOF

Blank mailed April 4, 1979  
 Proof received JUN 14 1979  
 Date certificate issued \_\_\_\_\_

Application No. 50123  
 Permit No. 40412  
 Certificate No. 48170  
 Stream Index, Page No. 18-12F

#### FEES PAID

| Date          | Amount               | Receipt No.  |
|---------------|----------------------|--------------|
| <u>3-6-73</u> | <u>30.00</u>         | <u>32688</u> |
| <u>6-8-79</u> | <u>\$1 Cert. Fee</u> | <u>11528</u> |

#### FEES REFUNDED

| Date | Amount | Check No. |
|------|--------|-----------|
|      |        |           |

#### ASSIGNMENTS

| Date | To Whom | Address | Volume | Page |
|------|---------|---------|--------|------|
|      |         |         |        |      |
|      |         |         |        |      |
|      |         |         |        |      |

#### REMARKS

Final proof summary made - given to me when  
all had ready to use

Form C

**IMPORTANT**—This form is a notice to the State Engineer that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the State Engineer until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated. Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when all of the water has been applied.

Application No. 50123

**NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE**

I, Marcella E. Kittel, the holder of Permit No. \_\_\_\_\_  
to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in  
accordance with the terms of said permit, on the 6<sup>th</sup> day of June, 19 74

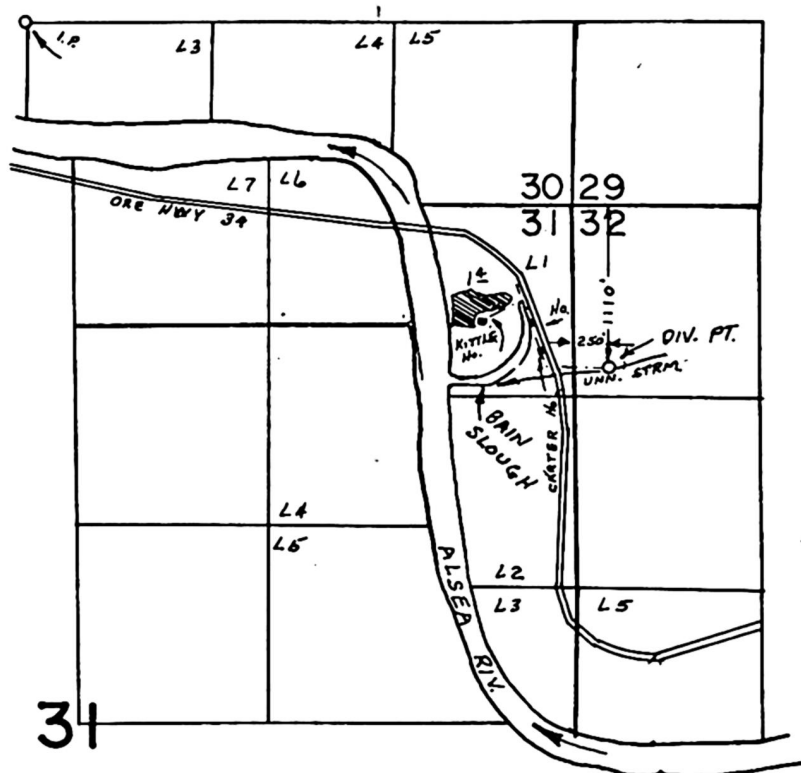
Remarks: \_\_\_\_\_

IN WITNESS WHEREOF I have hereunto set my hand this 6<sup>th</sup> day of June, 19 74

Marcella E. Kittel  
(Signature of Applicant)

Box 417 Waldport, Ore.  
(Address)

T.13S. R.10W. W.M.



**FINAL PROOF SURVEY**  
UNDER

Application No. 50123 Permit No. 40412  
IN NAME OF

MARCELLA E. KITTEL

Surveyed JUN 6 1974, by L H NUNN

STATE OF OREGON  
COUNTY OF LINCOLN

# Proof of Appropriation of Water

RECEIVED  
JUN 8 1979  
WATER RESOURCES DEPT.  
SALEM, OREGON

MARCELLA E. KITTEL

of Box 467, Waldport  
has applied beneficially the waters of  
unnamed stream

, State of Oregon, 97394

a tributary of Alsea River  
domestic use for two families and irrigation of 1.4 acres

for the purpose of

under Permit No. 40442  
terms of said permit, that the priority of the right dates from  
March 6, 1973

and that the use of said waters has been completed under the

that the amount of water for the purposes aforesaid, has been actually beneficially used in the  
amount of  
0.03 cubic foot per second, being 0.01 c.f.s. for domestic use and 0.02 c.f.s.  
for irrigation

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 32, T. 13 S., R. 10 W., W. M.,  
1110 feet South and 250 feet East from the NW Corner, Section 32

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one-eighth of one cubic foot per second  
per acre or its equivalent for each acre irrigated and shall be further limited  
to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated  
during the irrigation season of each year,

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

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

Domestic & 1.4 acres Lot 1 (NE $\frac{1}{4}$  NE $\frac{1}{4}$ )  
Section 31  
T. 13 S., R. 10 W., W. M.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 25<sup>th</sup> day of May  
1979

*Marcella E. Kittel*

Kittel - SHKW

5-18-79

TO FILE

Marcello E. Kittel was in office today and wanted to determine which two families were to be included on her certificate.

I advised her that we intended to go with the two homes to the north & irrigation. She would not sign the proof, however.

Perhaps after she talks with her husband & ~~parents~~ a Horney, proof & fee will be mailed.

Tom S

6-6-79

Mrs Kittel called and wanted to know wording on her permit 40442. No evidence that written word sent to her re deleting one house when permit issued. Tom S  
She was advised of intent by telephone, however.

Beach, N. Dale  
May 11, 1979

Water Resources Dept. :-

I called your office May 4 in  
regard to permit # 40442 - file # 50123  
as there was a change made at your  
office and I wanted to come to your  
office but my mother passed  
away and I won't be back for  
another 10 days so would like an  
extension of time to June 15<sup>th</sup> so I  
will be able to come to Salem.

Very truly yours  
Marcella Kittel  
Box 467  
Waldport, Ore  
97394

**RECEIVED**  
MAY 17 1979  
WATER RESOURCES DEPT.  
SALEM, OREGON

August 13, 1976

Marcella E. Kittel  
Box 467  
Waldport, OR 97394

50123

40442 with map.

378-3066

August 13, 1976

File No. 50123

Marcella E. Kittel  
Box 467  
Waldport, OR 97394

Dear Mrs. Kittel:

Permits will be issued for use of water from Alsea River and its tributaries with the understanding that water may not be available during the dry periods of the irrigation season. The available water may be needed to satisfy existing rights or meet the minimum flow standards established.

Sincerely,

Vestal R. Garner  
Water Rights Engineer

VRG:ls

378-3066

50123

May 20, 1976

Mrs. Marcella Kittel  
Box 467  
Waldport, Oregon 97394

Dear Mrs. Kittel:

I have written several times and have called you regarding the conflict between your application No. 50123 for a permit to appropriate water from a stream for domestic use for three families, and Lucille Carter's permit No. 36792.

Two permits cannot exist for the same use from the same source so we are preparing the permit approving your application to describe the use of water for domestic purposes for two families and the irrigation of 2.0 acres. Use of water is being made so no purpose is served by delaying longer here.

Sincerely,

Trevor Jones

TJ:whh

378-3066

50142  
50123

March 12, 1976

H. W. Carter  
Attorney at Law  
P. O. Box 2166  
Salem, Oregon 97308

Dear Mr. Carter:

I've not been making any progress in the manner I've been using to resolve the conflict between permit No. 36792 of Lucille Carter and application No. 50123 filed by Marcella Kittel.

We had a final proof survey made and I am today having a map prepared for use of water under Mrs. Carter's permit, 36792. I'll be out of the office early next week but on Wednesday or Thursday I will mail you the proof of appropriation of water for examination by and signature of Lucille Carter so the certificate of water right can be issued.

It has taken three months to get new certificate forms from the printer, needed because of the Department change, or I would have done this earlier.

Sincerely,

Trevor Jones, Administrator  
Water Rights Division

TJ:whh

50123  
50142

October 24, 1975

Mrs. Marcella Kittel  
Box 467  
Waldport, Oregon 97394

Dear Mrs. Kittel:

I had previously written and called you regarding your application for a permit to appropriate water and the application assigned to Mrs. Lucille Carter. I understand that Mrs. Carter has discussed this with you since my last letter and telephone call.

If you will give us a letter authorizing the deduction of the Carter house from your application we will immediately prepare the permit for your appropriation of water for the two houses. We have made an inspection and survey of your use and Mrs. Carter's use so could follow up with issuance of the permit with the necessary action preparatory to issuance of the final certificates.

There cannot be two rights for the use of water from the same source, or identical use. Modification of your application will enable us to issue a permit covering the uses of water you are making so that you may establish a legal right for this.

Sincerely,

Trevor Jones  
Assistant

TJ:whh

cc: Herbert Carter, Attorney at Law

50123

50142

October 24, 1975

Mr. H. W. Carter  
Attorney at Law  
P. O. Box 2166  
Salem, Oregon 97308

Dear Mr. Carter:

It is my fault that you have had to remind me regarding the applications of Mrs. Lucille Carter and Marcella Kittel. I really slipped up on this because I thought the enclosed letter had been mailed to Mrs. Kittel earlier.

Sincerely,

Trevor Jones  
Assistant

TJ:whh

XXXXXXXXXX  
XXXXXXX

50123  
50142

James E. Sexson  
Director

August 8, 1975

Mrs. Lucille Carter  
7596 Lakeside Drive N.E.  
Salem, Oregon 97301

Dear Mrs. Carter:

Application No. 50123 filed March 6, 1973, by Marcella Kittel describes the appropriation of water from an unnamed stream for domestic use for three families and irrigation of 2.0 acres. The map submitted with the application locates one house and the irrigation on the Kittel property, one house on the property described in the deed submitted by Thomas Boran and one house on a property between the two.

Application No. 50142 was filed by Thomas Boran on March 12, 1973, approved by permit No. 36792 after assignment to you. The map and legal description submitted by Mr. Boran clearly shows the proposed use to be identical with that described in Mrs. Kittel's application so far as it pertained to your property.

The final proof survey and inspection report confirms the above information.

Mrs. Kittel can amend her application to obtain a permit for domestic use for two families and you can perfect the right under your permit for domestic use for one family.

Mrs. Kittel will have an earlier priority so if there is not sufficient water to satisfy both rights the right of Mrs. Kittel will be satisfied first.

Ownership of a pipeline or diversion works shared is not affected regardless of who the record holders of permits sharing a pipeline are. Ownership of a pipeline is a property right and is not conveyed by a permit to appropriate water.

The right to use of water is restricted to that described in the right. The record holder of a permit cannot enlarge or add to his use without obtaining an additional permit. The same holds true for all other uses sharing a pipeline.

You could, if you wish, cancel your permit and use of water in your house be included in a permit approving Mrs. Kittel's application as it was submitted. In this case all three users will have the same priority date.

Very truly yours,

Trevor Jones  
Assistant

TJ:whh

M. R. Kittel

Pioneer Telephone Coop  
Tidewater

528-3480

50123  
50142

June 13, 1975

Ms. Marcella E. Kittel  
Box 467  
Waldport, Oregon 97394

Dear Ms. Kittel:

On April 18, 1975, I wrote you regarding your application for a permit to appropriate water from an unnamed stream for domestic use for three houses. I have not had a reply and perhaps I did not include sufficient detail.

Your application was filed March 6, 1973, and on March 12, 1973, Thomas Boran filed an application which was assigned later to Lucille Carter. Mrs. Carter's permit covers one of the houses described in your application. If you will give us a letter authorizing us to delete reference to the Carter house we can issue the permit for use in your house, for irrigation and for use in the second house. Our field engineer's report indicates that the three houses are served by the same system but this is not a barrier to the issuance of two permits.

We have a letter from H. W. Carter, Attorney at Law, representing Lucille Carter stating that she concurs with the request to remove reference to her house from your application so she can perfect the right under her permit, recognizing that your permit when issued will bear an earlier priority date than hers.

Very truly yours,

Trevor Jones  
Assistant

TJ:whh

cc: Herbert W. Carter, Attorney at Law

Robert W. Straub  
XXXXXXXXXX

50123  
50142

April 18, 1975

Ms. Marcella E. Kittel  
Box 467  
Waldport, Oregon 97394

Dear Ms. Kittel:

Your application No. 50123 was filed for a permit to appropriate water from an unnamed stream for domestic use of three families. One of the proposed houses is that described in permit No. 36792 issued to Lucille Carter. The application was filed by Thomas Boran and assigned to Mrs. Carter. According to the report of our field engineer the three houses use a common pipeline and use of water has been completed, including irrigation of 1.4 acre of your property.

Two permits cannot be obtained for the same use and no purpose is served by this. If you will give us a letter authorizing a change in your application to two houses instead of three we will proceed with issuance of the permit. Your application was filed before Mr. Boran filed, and the priority date difference was explained to Mrs. Carter's attorney. We have a letter from H. W. Carter, attorney at law, representing Lucille Carter, stating that she concurs with the request to delete her house from your application so she can perfect a right under her permit No. 36792.

Very truly yours,

Trevor Jones  
Assistant

TJ:whh  
cc: Herbert W. Carter, Attorney at Law

HERBERT W. CARTER

ATTORNEY AT LAW

P. O. BOX 2166

1386 STATE STREET

SALEM, OREGON 97308

RECEIVED

MAY 27 1975

STATE ENGINEER  
SALEM, OREGON

May 23, 1975

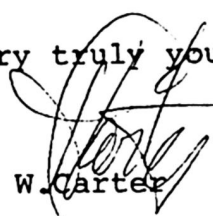
Mr. Trevor Jones, Assistant  
State Engineer  
Water Resources Department  
1178 Chemeketa Street, NE  
Salem, Oregon 97310

Re: File Nos. 50123 and 50142  
Carter - Kittel

Dear Mr. Jones:

Please refer to your letter of April 18, 1975  
and advise me regarding the above matter.

Very truly yours,

  
H. W. Carter

HWC/jf

HERBERT W. CARTER

ATTORNEY AT LAW

P. O. BOX 2166

1386 STATE STREET

SALEM, OREGON 97308

RECEIVED

APR 16 1975

STATE ENGINEER

SALEM, OREGON

April 15, 1975

Mr. Trevor Jones, Assistant  
State Engineer  
Water Resources Department  
1178 Chemeketa Street, NE  
Salem, Oregon 97310

Re: File Nos. 50123 and 50142

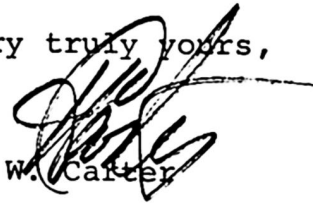
Dear Mr. Jones:

My records indicate I talked to you by phone on March 25 and at which time you estimated approximately ten days would be needed to complete the above water right applications.

If there is any reason for a substantial delay, I would appreciate being informed so that I may advise my clients. Otherwise I will anticipate confirmation in writing of the amended application being approved at your earliest convenience.

Thanking you for your continued assistance, I remain

Very truly yours,

  
H. W. Carter

HWC/jf

HERBERT W. CARTER

ATTORNEY AT LAW

P. O. BOX 2166

1386 STATE STREET

SALEM, OREGON 97308

**RECEIVED**  
MAR 3 1975  
STATE ENGINEER  
SALEM, OREGON

February 28, 1975

Mr. Trevor Jones, Assistant  
State Engineer  
Water Resources Department  
1178 Chemeketa Street, NE  
Salem, Oregon 97310

Re: File Nos. 50123  
50142

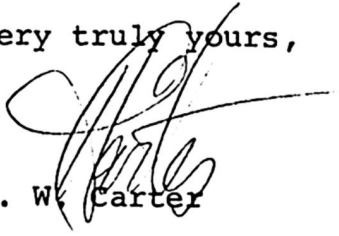
Dear Mr. Jones:

Thank you very much for your letter of February 17, a copy of which has been submitted to Mr. and Mrs. Howard Carter for their consideration. By phone call this date, Mrs. Carter has authorized me to state that they will be happy to adopt your suggestion contained in the letter relative to your Department requesting Mrs. Kittel to amend their application in order that the Carters may secure a priority date making the Carters permit junior to the permit issued to the Kittels.

If any additional documents need be executed by the Carters in connection with this proposal, please advise me and I will secure the necessary signatures.

Thanking you for your continued assistance in this matter,  
I remain

Very truly yours,

  
H. W. Carter

HWC/jf

cc: Mr. and Mrs. Howard Carter

50123  
50142

February 17, 1975

Mr. H. W. Carter  
Attorney at Law  
P. O. Box 2166  
Salem, Oregon 97308

Dear Mr. Carter:

Application No. 50142 filed by Thomas A. Boran and later assigned to Lucille Carter did describe the source of water as being a spring, but there is no indication in the file that whether the source should be referred to as a spring or stream was brought up. The diversion was made very nearly at the point indicated in the application and the application filed by Marcella Kittel, as well as the one filed by Mr. Boran, indicate the use was made prior to filing the application.

The letter from this office to Mrs. Carter dated January 14, 1975, is within the ordinary policy of this office, but I think it can be disregarded in this particular case.

We could write to Marcella Kittel requesting that her application be amended to provide for the use for only two houses and then proceed with permit No. 36792 for Lucille Carter. If we do this the two other houses will use water under a permit with a priority date of March 6, 1973, and Lucille Carter will have a March 12, 1973 priority date which makes her permit junior to the permit to be issued to Ms. Kittel. If the three houses are included in the Marcella Kittel application they will enjoy equal priority dates.

I will withhold action on these files for a reasonable time so you may let us know what course of action your client would like to take.

Very truly yours,

Trevor Jones  
Assistant

TJ:whh

RECEIVED

JAN 24 1975

STATE ENGINEER  
SALEM, OREGON

HERBERT W. CARTER

ATTORNEY AT LAW

P. O. BOX 3166

1386 STATE STREET

SALEM, OREGON 97308

January 23, 1975

State Engineer  
Water Resources Department  
1178 Chemeketa Street, NE  
Salem, Oregon 97310

ATTN: Mr. Chris L. Wheeler

Gentlemen:

Pursuant to my phone conversations with Mr. Vestal R. Garner and Chris L. Wheeler on Tuesday, January 21, this is to advise you this office represents Mrs. Lucille Carter and her husband in connection with their application for permit to appropriate public waters as reflected in your file Nos. 50142 and 50123.

It is my understanding you have suggested the possibility that the Carter property may be removed from permit application 50123 and renew or refile the application of Mr. and Mrs. Carter for the use of domestic water for their premises from the unnamed spring referred to in the application of Tomas A. Boran subsequently assigned to Mr. and Mrs. Carter.

I have authority from my clients to acknowledge their willingness to proceed on this basis and to execute any and all proper documents consistent therewith.

In the meantime, as we discussed, Mr. and Mrs. Carter are withholding their signature on the authorization to cancel application No. 50142, Permit No. 36792.

Awaiting your further advice, I remain

Very truly yours,

H. W. Carter

HWC/jf  
cc: Lucille Carter

January 14, 1975

50122  
~~52042~~  
50123

Mrs. Lucille Carter  
7596 Lakeside Dr. NE  
Salem, OR 97305

Dear Mrs. Carter:

On June 7, 1974, a representative of this office inspected the diversion point and place of use of water as described by permit numbered 36792. This permit, formerly in the name of Thomas A. Boran, was assigned to you June 4, 1973, and describes the appropriation of 0.005 cubic foot per second of water from an unnamed spring for domestic use for one family.

Our engineer reports that the source is actually an unnamed stream and the water is diverted from the stream and not from a spring. If the source as specified by a permit is to be a spring, the water must be physically diverted wherever water naturally emits from land surface. Since your diversion is not at the spring, your permit cannot be considered valid.

In viewing our records, we find that application numbered 50123 submitted by Marcella E. Kittel requests a permit for the appropriation of water from the unnamed stream for domestic use of three families. Her application includes the house you currently own and it appears that this permit would be issued if our records could be cleared of permit numbered 36792, which is in conflict.

At the time that our engineer inspected your property, he also inspected the appropriation of water as described by the Kittel application and it appears that the appropriation would be in accordance with the application and if continued under the terms of a permit when issued, could receive a certificate of water right.

Since your permit numbered 36792 cannot be considered valid and serves no purpose since a new application describes your actual

Mrs. Lucille Carter  
January 14, 1975  
Page 2

use of water, we would appreciate your authorization to cancel this permit, thereby clearing it from our records. Your authorization to cancel would also avoid the necessity for further notices or correspondence in regard to this permit. Enclosed is a form for your use in authorizing the cancelation of this permit. The form should be dated, signed, and returned to this office.

Very truly yours,

VESTAL R. GARNER  
Assistant

VRG:tml  
Enclosure



STATE  
ENGINEER

RECEIVED  
APR 25 1973  
STATE ENGINEER  
SALEM, OREGON

WATER RESOURCES DEPARTMENT

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

TOM McCALL  
GOVERNOR

CHRIS L. WHEELER  
State Engineer

File No. 50123

April 16, 1973

Marcella E. Kittel  
Box 467  
Waldport, OR 97394

Dear Mrs. Kittel:

This will acknowledge your application for a permit to appropriate 0.04 cubic foot of water per second from an unnamed stream being 0.02 cubic foot of water per second for domestic use for three families and 0.02 cubic foot of water per second for the irrigation of 2.0 acres. Also acknowledged are a reproducible map, a legal description, and the fees of \$30.00 for which our receipt numbered 32688 was handed to you. Your application has been filed and numbered 50123.

If you will now submit the legal descriptions of the other two houses included on the water system, your application will be complete for approval.

Further action will be held on your application for a reasonable length of time pending your reply.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TeS:bjs

*I feel really bad you had to take your time to remind me and I am most appreciative you did as it had escaped my memory.*

*Enclose find the two descriptions necessary = description of*

*Marcella E. Kittel*

50123

April 27, 1973

Marcella E. Kittel  
Box 467  
Waldport, OR 97394

Dear Ms. Kittel:

We have recently received copies of legal descriptions for the property upon which the water will be used.

Your application numbered 50123 is now in satisfactory form for approval by the issuance of a permit.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TLS:bjs

50123

April 16, 1973

Marcella E. Kittel  
Box 467  
Waldport, OR 97394

Dear Mrs. Kittel:

This will acknowledge your application for a permit to appropriate 0.04 cubic foot of water per second from an unnamed stream being 0.02 cubic foot of water per second for domestic use for three families and 0.02 cubic foot of water per second for the irrigation of 2.0 acres. Also acknowledged are a reproducible map, a legal description, and the fees of \$30.00 for which our receipt numbered 32688 was handed to you. Your application has been filed and numbered 50123.

If you will now submit the legal descriptions of the other two houses included on the water system, your application will be complete for approval.

Further action will be held on your application for a reasonable length of time pending your reply.

Very truly yours,

THOMAS L. SHOOK  
Assistant

TLS:bjs

SCHEDULE A

Amount \$ 35,000.00

Date February 3, 1955  
INSURED

At 8:00 A.M.

-----MARTIN R. KITTEL AND MARCELLA KITTEL-----

The fee simple title to said land is, at the date hereof, vested in

-----FRANK W. BITTNER-----

The land referred to in this policy is described as:

Beginning at the southeast corner of Lot 1, Section 31 T. 13 S. R. 10 W. W.M.; thence west along the south line of said Lot 1, 176.5 feet to the westerly right of way line of the Alsea Highway; thence west 365 feet to the east bank of Bains Slough and also the southwest corner of the Tulare tract, the true point of beginning; thence west 281.3 feet to the east bank of the Alsea River; thence north 48° 31' west 86.4 feet; thence north 2° 23' west 654.5 feet; thence south 89° 15' east 467 feet to the westerly boundary of the Alsea Highway; thence southerly along the westerly boundary of the Alsea Highway 125 feet to the northeasterly corner of the Shaw tract as recorded in Book 97, page 508, Deed Records; thence south 57° west 68 feet to the northwest corner of the Shaw tract; thence southerly along the west line of the Shaw tract to the southwesternly corner of the Shaw tract; thence continuing along the east boundary of Bains Slough and the westerly boundary of the Tulare tract in a southwesternly direction as recorded in Book 160, page 16, Deed Records, to the southwest corner of the Tulare tract and the true point of beginning, all in Section 31 T 13 S. R. 10 W. W.M.-----

**RECEIVED**  
APR - 21973  
STATE ENGINEER  
SALEM, OREGON

SHAW

KNOW ALL MEN BY THESE PRESENTS, That ALYURA H. SHAW, wife of JOHN H. SHAW,

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by MARTIN REINHART KITTEL and MARCELLA ELIZABETH KITTEL, husband and wife

does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Lincoln and State of Oregon, described as follows, to-wit:

*S. Shaw tract*

All of the Grantors lands in Lincoln County, Oregon, adjacent to the lands of the Grantee, said lands of Grantor having been described in Deed recorded at Book 86, page 624, Deed Records of Lincoln County, Oregon, as follows:

Beginning at a point that is 404.1 feet west and 581.7 feet north of the southeast corner of Lot 1 in Section 31, running thence south 21 deg. 30' east along the west side of the State Highway 230 feet, thence south 80 deg. 00' west 44 feet to the east bank of Bain Slough, thence following the east bank of said Slough in a northwesterly direction to a point that is South 57 deg. 00' west of the place of beginning, thence north 57 deg. 00' east 68 feet to the place of beginning, situated in Section 31, T 13 S, R 10 W. W. M., in Lincoln County, State of Oregon; Said lands also being described in Deed recorded at Book 97, page 508, Deed Records of Lincoln County, Oregon as follows:

Beginning at a point that is South 21 deg. 30' east 230 feet along the highway, from a point that is 404.1 feet west and 581.7 feet north of the southeast corner of Lot 1, Section 31, running thence south 21 deg. 30' east along said Highway 42, thence south 80 deg. 00' west 44 feet, more or less, to the east bank of Bain Slough, thence following the east bank of said Slough in a northwesterly direction to a point that is south 80 deg. 00' east 44 feet, more or less, to the place of beginning, situated in Lot 1, in Section 31, T. 13 S, R 10 W, W.M., in Lincoln County, Oregon.

Grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ None. However, the actual consideration consists of or includes other property or value given or promised which is ~~XXXXXX~~ consideration (indicate which). ~~001 Consideration for Grantor and her husband.~~

In construing this deed and where the context so requires, the singular includes the plural.

WITNESS grantor's hand this 12th day of May, 1971.

Application No. 50123

Permit No.

STATE OF OREGON, County of Lincoln, Alyura H. Shaw, May 12, 1971.  
Personally appeared the above named

and acknowledged the foregoing instrument to be her voluntary act and deed.

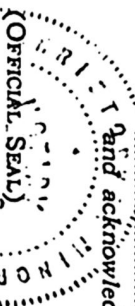
Before me:

Notary Public for Oregon

My commission expires

3/25/73

NOTE—The sentence between the symbols @, if not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.



## WARRANTY DEED

Alyura H. Shaw

TO

Martin Reinhart Kittel,  
et ux

AFTER RECORDING RETURN TO

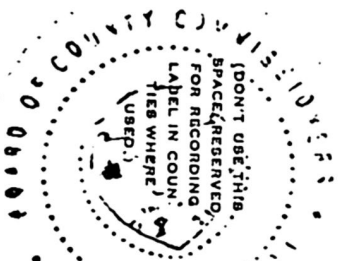
STATE OF OREGON,

County of Lincoln } ss.

I certify that the within instrument was received for record on the 26th day of August, 1971, at 9:50 o'clock A.M., and recorded in book 27 on page 1653.

Record of Deeds of said County.

Witness my hand and seal of County affixed.



Alyura H. Shaw  
County Clerk

Title.

By William Nicholas Deputy

C 43494 MICROFILM

No.

M. R. Kittel

Box 467

Hillsport, Ev. 97394

Gd Cash to 0.

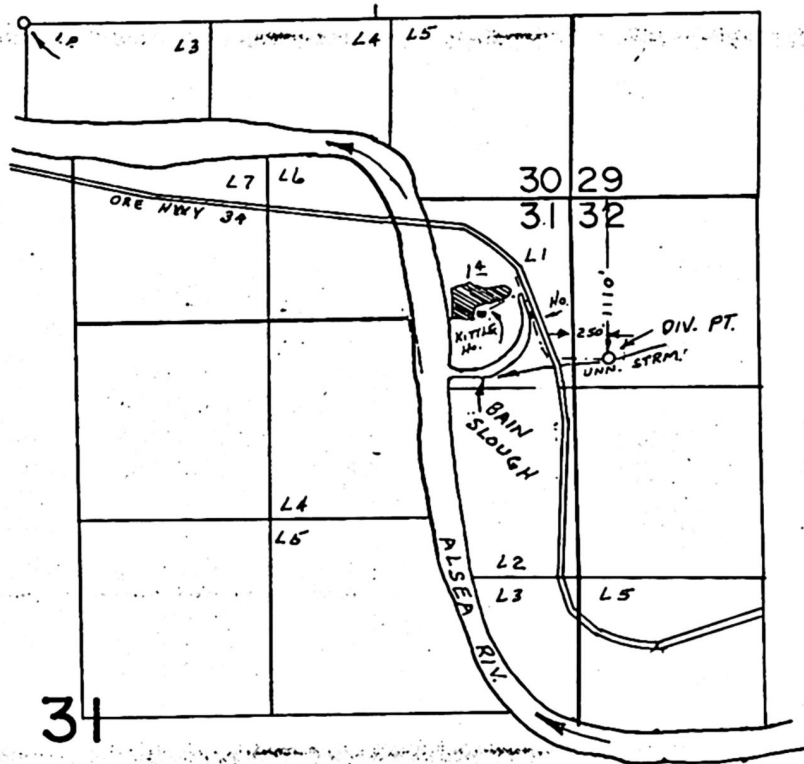
140-116

FRANK TO LANE TRACT

Beginning at the S.E. corner of Lot 1 in Sec. 31 S, R. 10, W of the W m in Lincoln Co., Oregon thence West along the South line of said Lot, a distance of 176.5 ft. To the Westely right of way ~~of~~ line of the Clear River, which point is the true point of beginning of the tract herein described; thence West along the South line of said lot, a distance of 365 ft. to the East bank of Bain Slough; thence Northely along said slough to the most Northely corner of the Shurt tract described in deed recorded in Book 97 pages 508 and Records of Lincoln County Oregon, thence South 80° E east along said Shurt tract Northely ~~to~~ line a distance of 44 ft more or less to the Westely right of way line of aforementioned 'Bogburny'; thence Northely along said slough line, a distance of 368 ft more or less to the true point of beginning, excepting waste, Swamp and excepting also any portion below the meander line of the Clear River. 27<sup>th</sup> Aug - 1953

Application No. 50123  
Permit No.

T.13S. R.10W. W.M.



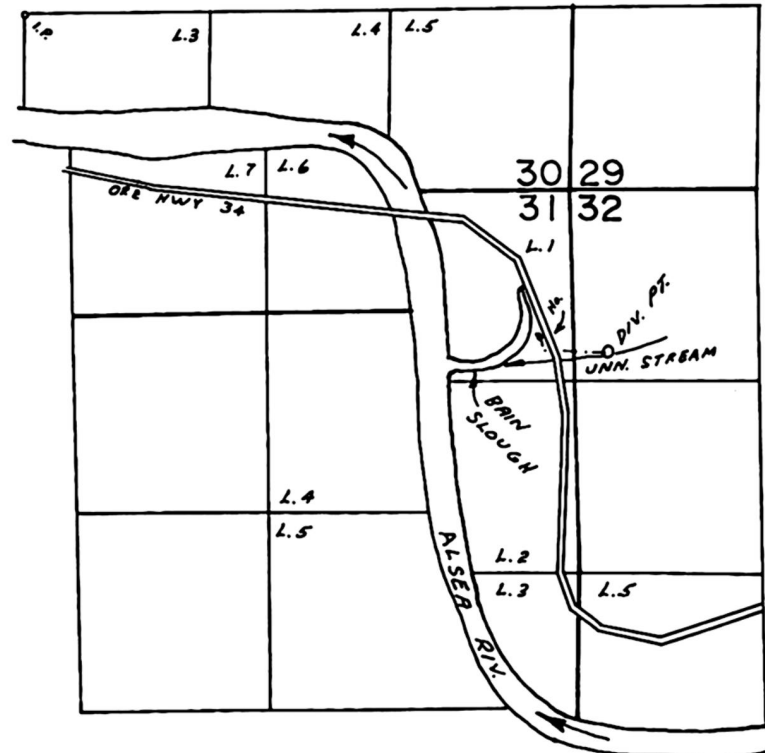
**FINAL PROOF SURVEY**  
UNDER

Application No. 50123 Permit No. 40412  
IN NAME OF

MARCELLA E. KITTEL

Surveyed JUN 6 1974, by L H NUNN

# T.13S. R.10W. W.M.



DIV. PT. LOC. 1110' S. & 250' E. FROM NW COR SEC. 32

## FINAL PROOF SURVEY UNDER

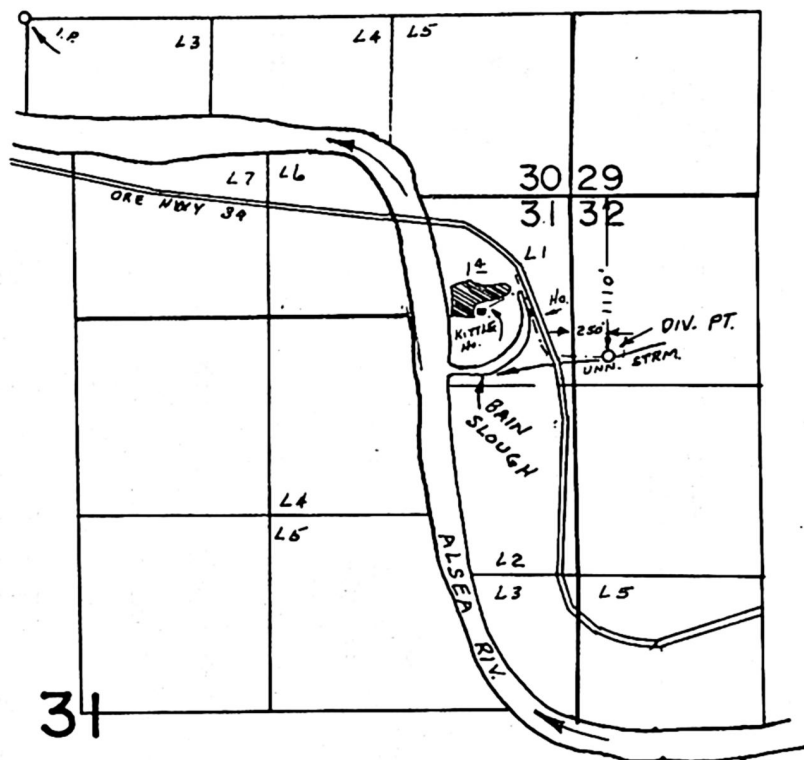
Application No. 50142... Permit No. 36792...  
IN NAME OF

LUCILLE CARTER

Surveyed JUN. 6... 1974, by L.H. NUNN

change to ~~two~~  
families — can go with  
group not as a special

T.13S. R.10W. W.M.



# FINAL PROOF SURVEY

## UNDER

Application No. 50123 Permit No. 40412  
IN NAME OF \_\_\_\_\_

MARCELLA E. KITTEL

Surveyed JUN 6 1974, by L H NUNN

## Abstract of Permit No. 40442 ✓

Application No. 50123 ✓

Certificate No.

Name Marcella E. Kittel ✓

Box 467

Address Waldport, Oregon 97394 ✓

ALSEA RIVER

Source of water supply Unnamed stream, trib., ~~Risley Creek (Rain Slough)~~Use Domestic use for two families, and irrigation of 1 $\frac{1}{2}$  acPoint of diversion 1110 250 NW. COR. SEC. 32  
1077'S & 270'E from NE c., L. 1 sec. 31, being within NW $\frac{1}{2}$ NW $\frac{1}{2}$  sec. 32, T. 13S.  
R. 10W., W.M.; Lincoln CountyNumber of acres ~~2.9~~

## 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 $\frac{1}{4}$ |
| 13 S | 10 W  | 31   | Lot 1<br>(NE $\frac{1}{4}$ NE $\frac{1}{4}$ )<br>DOM |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|      |       |      |                                                      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |

Priority date March 6, 1973 ✓

Amount of water 0.03 c.f.s., being 0.01 c.f.s. for domestic use and 0.02 c.f.s. for irrigation

Time limit to begin construction ~~6-23-77~~Time limit to complete construction ~~10-1-79~~ extended to extended toTime limit to completely apply water ~~10-1-79~~ extended to extended toRemarks: Limitations: 1/80<sup>th</sup> c.f.s., 2 $\frac{1}{2}$  a.f.Inspection  
46-29-6-24  
44N

cgm

Alsea River Thuse

Info: Mr. Kittle

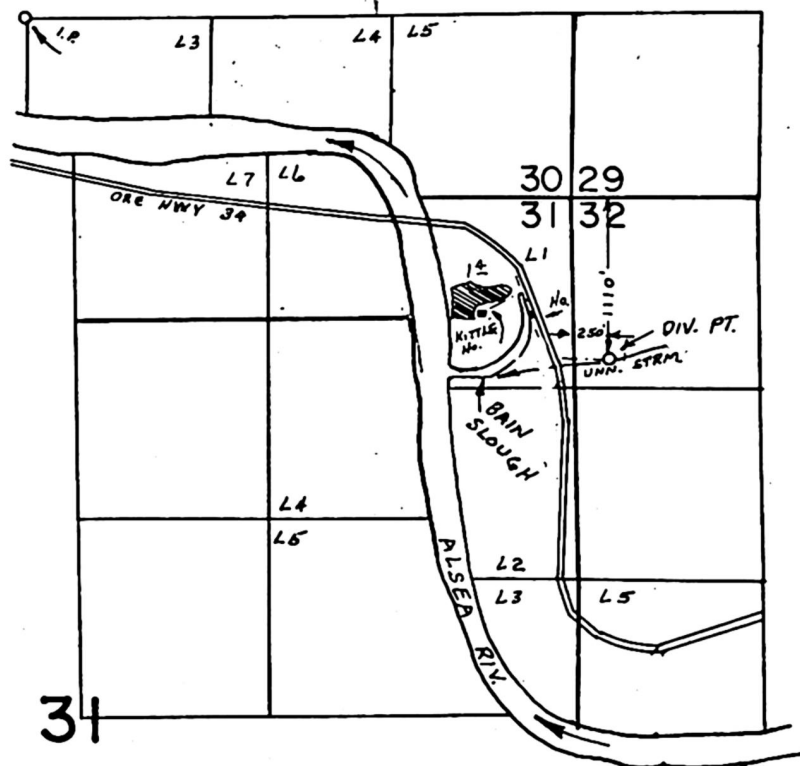
They are still using water in same manner as in 1974.  
They do not irrigate anymore land, and do not have any  
additional equip. Use 1974 <sup>report</sup> ~~report~~ for final proof report

Tie: Inspection

9-29-77

Larry B. Quinn  
Field Engineer

T.13S. R.10W. W.M.



**FINAL PROOF SURVEY**  
UNDER

Application No. 50123 Permit No. 40412  
IN NAME OF

MARCELLA E. KITTEL

Surveyed JUN 6 1974, by L H NUNN

Info: Mr & Mrs. Kittel

Source: unnamed stream

Diversion: Wood flume into barrel w/ small conc dam 8" high to form small pool, then  $1\frac{1}{2}$ " plastic line to steel tank, half round about 6' long & 2' deep

Pipe:  $1\frac{1}{2}$  in line

Press: 71 psi @ Kittel house

Heads: 3-RB-25  $\frac{3}{32} \times \frac{5}{32}$  (max)

Use: Domestic use of 3 families, irrigation of lawn, garden and pasture. We saw 3 cattle & about 10 sheep on pasture. Also stock use

Remarks: Mr & Mrs Kittel said one of the Domestic use house was owned by Boran (App # 55142) who also filed an application on the same water. They said they used a common system and the Boran place was included on their application. This was substantiated by Mrs. Cory Gainer, a former resident of the Boran place.

Mrs. Kittel could not find her permit form, however she did find a letter date Apr. 27, 1973 by Tom Shook saying her application was in satisfactory form for issuance of a permit.

6-6-74  
Larry K. Munn  
Field Engineer

App # 50123.

Permit # Not Issued

Name: Marcella E. Kittle  
Address: P.O. Box 407  
Waldport Oregon 97394

Source: Unnamed Spring, trib Bain Slough, trib Alsea Riv.

Use: Domestic use for two families & Irrigation of 1<sup>1</sup>/<sub>2</sub> Ac.

Pt. of Div. NW 1/4 NW 1/4, Sec 32, T13S, R10W, Wm  
110' S & 300' E from NW 1/4 Sec. 32.

Twp Range Sec  
13S 10W 31

Lot 1 (NE 1/4 NE 1/4)

Dom 1<sup>1</sup>/<sub>2</sub>

Priority Date: \_\_\_\_\_

Amount of Water: 0.01 cfs for Domestic & 0.02 cfs  
for Irrigation

Photo 41041 212-16  
6-6-74 LHN

App # 50123

41 272 16 LHN  
6-6-74  
Name Marcella E. ~~Kitt~~ Kittel  
Box 467  
Waldport, Oreg. 97394

Source: Unnamed Stream

Use: Domestic use of 3 families & irrigation  
of 2 Acres

Pt. of Diversion # check file 50123

Info: Mr & Mrs. Kittel

Source: unnamed stream

Diversions: Wood flume into barrel w/ small conc dam 8" high to form small pool, then  $1\frac{1}{2}$ " plastic line to steel tank, half round about 6' long & 2' deep

Pipe:  $1\frac{1}{2}$  in line

Press: 71 psi @ Kittel house

Heads: 3-RB-25  $\frac{3}{32} \times \frac{5}{32}$  (max)

Use: Domestic use of 3 families, irrigation of lawn, garden and pasture. We saw 3 cattle & about 10 sheep on pasture. Also stock use

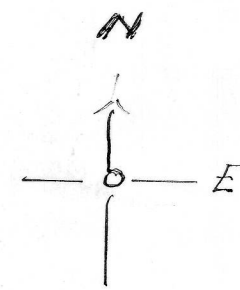
Remarks: Mr & Mrs Kittel said one of the Domestic use house was owned by Boran (App # 58142) who also filed an application on the same water. They said they used a common system and the Boran place was included on their application. This was substantiated by Mrs. Cory Gainer, a former resident of the Boran place.

Mrs. Kittel could not find her permit form, however she did find a letter date Apr. 27, 1973 by Tom Shook saying her application was in satisfactory form for issuance of a permit.

6-6-74  
Joseph B. Funn  
Field Engineer

C. S.  
**MARTIN R. KITTEL**  
SEC. 31, T13S R10W, W.M.  
LINCOLN COUNTY ORE.

SCALE 1" = 100 FT.



**RECEIVED**  
APR - 21 1973  
STATE ENGINEER  
SALEM, OREGON

