

Yours truly,
James D. Hanley
James D. Hanley

Thank you for your assistance on this work.

I am submitting the mylar drawing of the Pre 1909 vested water right claim map in the name of claimant Alex Finke. There are no pumps on the subject property; the systems are entirely gravity operated, using sprinklers and some open flow from the various diversions described on the map. Relative elevations are shown at the diversion points and I have attempted to show the limits of irrigated areas from each these.

Dear Mr. Knauer:

File #SWR-152

Attention: Don Knauer, Adjudication Specialist

Water Resources Department
Commerce Building
158 12th Street NE
Salem, Oregon 97310

Consulting Engineers and Surveyors
JAMES D. HANLEY P.E., P.L.S.
OREGON WATER RIGHTS EXAMINER
U.S. MINERAL SURVEYOR
THOMAS J. HANLEY P.E., P.L.S.
RECEIVED
June 13, 1994
WATER RESOURCES DEPARTMENT
SALEM, OREGON

P.O. Box 701, 2043 Main St. BAKER CITY, OREGON 97814 (503) 523-3803

HANLEY ENGINEERING



Consulting Engineers and Surveyors
JAMES D. HANLEY P.E., P.L.S.
OREGON WATER RIGHTS EXAMINER
U.S. MINERAL SURVEYOR
THOMAS J. HANLEY P.E., P.L.S.

Water Resources Department
3850 Portland Road N.E.
Salem, Oregon 97310
Attention: Don Knauer, Adjudication Specialist

File #SWR-152

Dear Mr. Knauer:

Enclosed is a print of preliminary map prepared for correcting and replacing the one previously furnished with the Alex Finke application for Pre-1909 Water Rights Claim.
This map is a result of field survey, Connor Creek USGS quadrangle map, aerial photo prints furnished by Mr. Finke, and Baker County tax map.

The brass cap monument marking the Southwest corner of Section 8 was found and used as basis of traverse along the existing road, from which the various points of diversion were tied. Sectional configuration shown on the quadrangle map is adopted for this subject map. No other corner monuments were searched for. Elevations are computed from EDM distances and vertical angle measurements. Remains of old ditches are found along both sides of Hibbard Creek, except where road construction and/or field cultivation has obliterated some traces. It appears that more land was previously irrigated than now applied for under this application.
Divisions are constructed from steel drums set in the creek, except for No. 4, which is a wooden 4 ft x 8 ft structure, and for No. 7, which is a ditch.
Pipe lines are buried mains, except from No. 2 exposed on the ground surface. The following main lines consist of the following: No. 1 - 8 in galvanized pipe; No. 2 - 4 in galv.; No. 3 - 4 in PVC; No. 4 - entirely buried, foreman said 4 in PVC; No. 5 - 4 in PVC; No. 6 - 2 in PVC; No. 7 - ditch, top width 10 feet, bottom width, 3 feet, depth 1 foot, side slopes about 3.5:1. Risers are 3 inch, all but No. 6 which is 2 inch. Sprinkler heads are 3/16 and 1/64 inch diameter Rainbird for the 3 inch lines. Please advise me on the elements that should be included or addressed in site report or on the map.

Sincerely,
James D. Hanley
James D. Hanley

HANLEY ENGINEERING
P.O. Box 701, 2043 Main St. BAKER CITY, OREGON 97814 (503) 523-3803

February 1, 1994

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FEB - 8 1994
WATER RESOURCES DIVISION
SALEM, OREGON

Max Thibault
12/18/92

We purchased the ranch in April 1976 and at that time all fields shown on the attached map were fully irrigated. The fields were in already mature alfalfa and or grass for hay production and pasture. The contoured fields, ditches, fences and pipelines are physical evidence that irrigation was practiced long before we became owners.

State of Oregon
Water Resources Department

EVIDENCE OF WATER USE

BAKER COUNTY, OREGON

WATER RIGHTS ON HIBBARD CREEK

WATER RESOURCES DEPARTMENT
SALEM, OREGON

DEC 18 1992

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The lanes were the owners of the W $\frac{1}{2}$ of NW $\frac{1}{4}$, and the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 17 in the same township and range, and by the decree they were entitled to 30 inches of water from

The Evans were the owners of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Sec. 7, and the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 8 in the same township and range, and by the decree it was indicated that they were entitled to 12 inches of water from Hibbard Creek.

By the terms of this decree the Bastain were the owners of the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 20, and the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Sec. 21, and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 20, T. 12 S., R. 45, and a right to 40 miner's inches under 6-inch pressure, being 34 inches from Hibbard Creek and 6 inches of water in what is known as the Timber tract being the NE $\frac{1}{4}$ of Section 20 which apparently is fed from a spring.

There is also an old Baker County Circuit Court case entitled *Mina Bastain, et al. Plaintiffs vs. George and Minnie Lang, George and Emma Evans, and Chris Vinabury*, Defendants.

In searching our local water master records, we only find one filing regarding Hibbard Creek, and that was a 1916 right in the name of Mina Bastain.

We are attempting to try to ascertain what the water rights are on Hibbard Creek which lies in T. 12 S., R. 45 E., W.M. in Baker County, Oregon.

Dear Mr. Stanley:

Re: Water rights on Hibbard Creek,
Baker County, Oregon.

Mr. Lewis A. Stanley,
State Engineer,
State Capitol,
Salem, Oregon.

WATER RESOURCES DEPT.
SALEM, OREGON

DEC 18 1992

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May 10, 1961

Copy
LAKE RIVER

Mr. Lewis A. Stanley
Salem, Oregon

May 10, 1961
Page 2

Hibbard Creek; but all of these rights were subject to a 10 inch right to another ranch which lay below the Plaintiff's ranch (Bastain ranch) which the court said had a prior right to 10 inches of water, but did not name the property involved or the owners of the property.

At the present time J. E. Tucker is the owner of all the lands that were involved in the legal proceedings between the various parties with the exception of the NW 1/4 of the NE 1/4 of Sec. 20.

Ben Dunleavy owns the land located in Sections 21 and 28, which are on Hibbard Creek, and claims a prior right to 10 inches of water.

At the time that Mr. Tucker purchased his property he received conflicting information regarding the water rights in that in one instance he was advised that the Dunleavy rights for the 10 inches were prior to his rights throughout the entire year, and in another instance he was advised that the Dunleavy prior right to 10 inches of water only extended until July 1st of each year.

Mr. Tucker is interested in determining just what his water rights are, and also just what Mr. Dunleavy's rights are, so that any matters concerning water rights may be amicably taken care of between them.

Any information that your office may have concerning the water rights on Hibbard Creek will be most appreciated.

Very truly yours,

JACKSON & JOHNSON

H. B. Johnson

HRJ:RL

STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
SALEM
MAY 11, 1961

REFER TO
FILE NO.

Jackson & Johnson
Attorneys at Law
1927 Court Street
P.O. Box 851
Baker, Oregon

Attention: Mr. H. B. Johnson

Dear Sir:

The relative rights to the use of the waters of Hibbard
Creek have not been determined.

The only right of record that I can find on Hibbard Creek
is in the name of Mina Bastian for the use of water from Hibbard
Creek and from a spring, with a priority date of Apr. 24, 1916, for
the irrigation of 35 acres of land, being 10 acres in the NE 1/4 SW 1/4 and
25 acres in the NW 1/4 SE 1/4, Sec. 28, T. 12 S., R. 15 E.

Very truly yours,

LEWIS A. STANLEY
State Engineer

BY *Chester A. Cummings*
Chester A. Cummings, Assistant

CAC:wmp

Hecker

Third: - That the above named defendants George Evans and Minnie

exclusive possession of the same and of the whole thereof.

of sec. 17, T. 12 S. R. 45 E. W. 1/2, and are in the sole, actual and
County, Oregon, to wit: - The W 1/2 of the NW 1/4 and the NW 1/4 of the SW 1/4

owners of the following described realty situate in said Baker

Second: - That the defendants George Lane and Minnie Lane are the

possession of the same and of the whole thereof.

12, S. R. 45 E. W. 1/2, and are in the sole, actual and exclusive pos-

21, and also of the NW 1/4 of the NW 1/4 of said section 20, all in T. 12,

wit: - The E 1/2 of the NW 1/4 of sec. 20, and the E 1/2 of the NW 1/4 of sec.

the following described realty situate in Baker County, Oregon, to

the heirs at law of William Bastian, deceased, and are owners of

tion, Lizzie Bastian, Mattida Bastian, and Minnie Bastian, are

First: - That the above named defendants, Minna Bastian, Carl Bas-

FINDINGS OF FACTS.

makes the

and being at this time fully advised in the premises, now

fore been entered herein, and the court having examined the evi-

for the lanes, and the default of said Vincelour having hereto-

ton appearing for the Evanses and Judge M. D. Clifford appearing

hereto, Mr. J. L. hand appearing for the plaintiffs, Mr. E. M. Sar-

fore heard the arguments of the respective counsel for the parties

on for final determination thereof, and the court having hereto-

Now at this time this August 21, 1909, this cause coming

Defendants.

Evans and Emma Evans and Chris Vin-

George Lane and Minnie Lane, George

Plaintiffs,

Minnie Bastian and Minnie Bastian,

Minna Bastian, Carl Bastian, Lizzie Bastian,

FOR BAKER COUNTY.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

WATER RESOURCES DEPT
SALEM, OREGON
DEC 18 1992

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copy

Deputy

County Clerk

BY: *John G. Brown*

Attest

Day of *Sept*, A. D. 190*9*

WITNESS my hand and the seal of said Court, this

I, the undersigned County Clerk of the County of Baker, State of Oregon, and Clerk of the Circuit Court of said County and State, do hereby certify the foregoing to be a true copy of the judgment entered in the above entitled *Tom Smith* and recorded in Journal No. *X* of said Court, at page *376* and of the whole thereof as said entry of judgment now appears of record in my custody. And I further certify that the foregoing papers, hereto annexed, constitute the Judgment Roll of said cause.

State of Oregon,
County of Baker,
ss.

Defendants

George L. James, et al.

Plaintiffs

Mineral National Bank

FOR THE COUNTY OF BAKER.

In the Circuit Court of the State of Oregon,

Evans are the owners of that certain realty situate in Baker
 County, Oregon, described as follows, to-wit: The S¹/₂ of the S¹/₂
 of Sec. 7, and the W¹/₂ of the S¹/₂ of Sec. 8, T¹/₂ S. R. 45 N. W. 11.
 and are in the sole, actual and exclusive possession of the same.
 and of the whole thereof several premises are found in Deeds 3, 10, and
 Fourth: That what is known as Hibbard creek is a natural stream
 of perennial flow through the said above described premises, and
 that all the said realty of the said parties is appurtenant to the
 said stream, and subservient to the construction of the said
 Fifth: That all of said realty is in the dry belt and requires
 irrigation for agricultural purposes, and that the amount of water
 so required is one inch to the acre measured under six-inch pres-
 sure for the cultivated areas thereof, inasmuch as the said stream
 Sixth: That the plaintiffs have about 40 acres of the original
 homestead entry in cultivation, and reduced the same to that con-
 dition with reasonable diligence and settlement, thereon. That they
 they also have about 100 acres under cultivation upon the timber on
 culture tract, which latter is the NW¹/₄ of the NE¹/₄ of Sec. 13-45-11
 above described in Finding No. 1. A small amount of the
 Seventh: That the defendants the Evanses have about 12 or 15 acres
 in cultivation upon their said above described premises.
 Eighth: That the lanes of defendants have about 35 acres under
 cultivation on their said above described premises, and that said
 Ninth: That the Batters settled upon their homestead tract in the
 year 1882, and began the construction of one of their ditches, (the
 one on the south side of the creek) in the said year, and began
 the completion thereof in February, 1883, and also the construction
 of another ditch upon the north side of said stream at that time
 and completed the same without delay, and put the said ditches to
 a beneficial use immediately, viz, to the irrigation of their said
 Tenth: That Frank Staley, who is the first predecessor in inter-
 est of the lanes of defendants settled upon his lands, described
 in Finding No. 3, in the year 1864, and on March 10th of that year.

Eleven: That Fred Becking, the first predecessor in interest of the Evanses, settled upon the premises of said defendants in the year 1887.

Twelve: That previous to the times of the said respective settlements upon the said several premises as found in Nos. 9, 10, and 11, supra, the said lands had never been irrigated or occupied.

Thirteen: That the said Slaley began the construction of his ditch in the year 1884, after he had constructed his cabin on the said premises, and subsequent to the construction of the Bastian ditches.

Fourteen: That the ditches upon the Evans place were not constructed prior to the year 1887, and probably in the years 1886-9.

Fifteen: That the appropriation appurtenant to the said Bastian premises is to the extent of forty inches which should include the flow of the spring upon the timber-culture tract: That is to say said appropriation consists of 24 inches out of the natural channel of Hibbard creek and the right to use the waters of the spring upon her timber culture claim also in such manner as to her seems proper, and the flow of said spring is six inches, thus making her complete appropriation of ^{forty} (40) inches for use upon the said Bastian premises.

Sixteen: That the appropriation made by said Slaley was and is of the amount of 30 inches, measured as aforesaid, and that said appropriation is appurtenant to the premises of defendants Lane.

Seventeen: That the appropriation for the Evans place is to the extent of twelve inches, measured as aforesaid, and is appurtenant to their said premises.

Eighteen: That until recently the defendants have released to plaintiffs their said appropriation when the use thereof was and has been demanded, but that during the past two years they have refused to do so and have not done so. That the Evanses would have complied with the demand of plaintiffs for such use had the lanes been of a mind to permit the waters so released by the Evanses to flow past their premises to plaintiffs lands.

Based upon the pleadings, the evidence and the foregoing findings of fact the court now makes the following as its

CONCLUSIONS OF LAW.

First:- That the plaintiffs are the prior appropriators of the waters of Hibbard Creek, in Baker County, Oregon, to the extent of ~~thirty~~ ^{thirty} inches thereof, measured under six-inch pressure, and entitled to the use thereof as against defendants and each and all thereof when the same is needed for the irrigation of their said premises, to wit:- Their homestead entry,- the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of sec. 20, and the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of sec. 21, tp. 12 S. R. 45, E.W.M. and that their use of the said waters must be confined to the said premises as against defendants and each and all thereof, when water is scarce in said Hibbard creek. That their use of the ^{any} said appropriation or part thereof upon their timber culture tract ^{or} at times when water is scarce and insufficient in quantity to supply the appropriations of the defendants also herein, which are prior to any appropriation for use by plaintiffs upon their said timber tract, shall be conclusive evidence that plaintiffs do not require the use of any portion of their said 30-inch appropriation upon any of their said premises,- their 200-acre ranch, for a period of ten days thereafter, and in case plaintiffs do so, ^{divert} ~~xxx~~ it ^{should} ~~skxxx~~ defendants have the use of the waters of said stream thereafter during such period of ten days.

Second:- That as the defendants the Lanes compelled the commencement of this suit plaintiffs should have judgment against them and each of them for their costs and disbursements herein.

Third:- That a decree should be entered in accordance with these conclusions, allowing plaintiffs priority as to 40 inches of said stream, the Evanses 12 inches thereof, and the Lanes 30 inches also, the two latter appropriations to be subject to that allowed the plaintiffs as above set forth, with judgment also against the Lanes for plaintiffs' costs and disbursements herein.

William Smith Judge

Deputy:

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR BAKER COUNTY.

Minna Bastian, Carl Bastian,
Lizzie Bastian, Mary Bastian,
Matilda Bastian and Minne Bastian, Plaintiffs,

-vs-

George Lane and Minnie Lane,
George Evans and Emma Evans,
and Chris Vincelburg, Defendants.-

Now at this time, this August 21, 1909, this cause coming on for the giving and making of the decree herein, and the court being at this time fully advised in the premises

It is considered, ordered and adjudged that plaintiffs are the prior appropriators of the water of Hibbard Creek, in Baker County, Oregon, to the extent of forty inches of the flow thereof, measured under six-inch pressure, and are entitled to have the said quantity flow down to the heads of their ditches without let or hindrance of defendants or any thereof at any and all times when the use thereof shall be necessary for the irrigation of their premises, to wit: the East one-half of the Northeast quarter of section twenty (20), and the South one-half of the Northwest quarter of of section twenty one (21), all in township twelve south, range 45 East of Wilamette Meridian, in Baker County, Oregon, and that such use of said waters is appurtenant to the said premises and the whole thereof. That such use of said waters is not appurtenant to the timber culture of plaintiffs, to wit: The Northwest quarter of the Northeast quarter of said section twenty (20), and that the right of the defendants George Lane and Minnie Lane to the use of said waters of said stream to the extent of thirty inches under said pressure upon their premises, to wit: the West one-half of the Northwest quarter and the North half of the Southwest quarter of section seventeen (17), township 13 South, Range

45 East of Willamette Meridian, and of the defendants George and Emma Evans to the use of twelve (12) inches thereof as aforesaid for irrigation purposes upon their premises, to wit: South half of the Southeast quarter of section seven, and the West half of the Southwest^{*} quarter of section eight, township twelve south, range 45 East of Willamette Meridian, are superior in right and prior in time to any right of plaintiffs to divert or use any waters from said stream to and upon their said timber culture, &

It is also considered, ordered and adjudged that the defendants and each and all thereof should be and they are hereby jointly and severally restrained and enjoined from diverting or using any of the said waters of said stream at any and all times when the same shall be required by plaintiffs upon their said premises for said purposes to the extent of plaintiffs' said appropriation and ten additional inches of said waters as set forth in our twentieth finding of fact herein, and from doing any act or acts whereby the said prior appropriation of plaintiffs shall be in anywise diminished or destroyed, or said additional ten inches be prevented from flowing past the said premises of said defendants.

It is also considered, ordered and adjudged that plaintiffs should be and they are hereby restrained and enjoined jointly and severally from irrigating the said timber culture, or diverting any water thereto, at any time when the said appropriations of defendants are not supplied to them by the natural flow of said stream, and that in case ~~the~~ plaintiffs should so divert any water to or upon the said timber tract when water is scarce such diversion shall be conclusive evidence that further use of plaintiffs' said appropriation or any part thereof upon any of their said ^{entire} premises shall not be necessary for a period of ten days thereafter, and the said appropriation of plaintiffs and the whole thereof shall be available to defendants during said period of ten days.

It is further considered, ordered and adjudged that this order and decree shall apply to not only the waters flowing in the nat-

atural channel of the said Hibbard Creek but also...
supply, whether said sources be springs within or without the said
ntaural channel thereof, or other tributaries.

It is also decreed that the plaintiffs have and take judgment
against the defendants George Lane and Minnie Lane for their costs
and disbursements in this suit, but that they take no judgment
against either George or Emma Evans for such costs or disbursements.

William Smith

Judge.

*

Erroneously described in the answer of these
defendants as the Southeast Quarter.

Circuit Court of the State of
THE COUNTY OF BRADLEY

William Smith

Plaintiff

Defendants

100

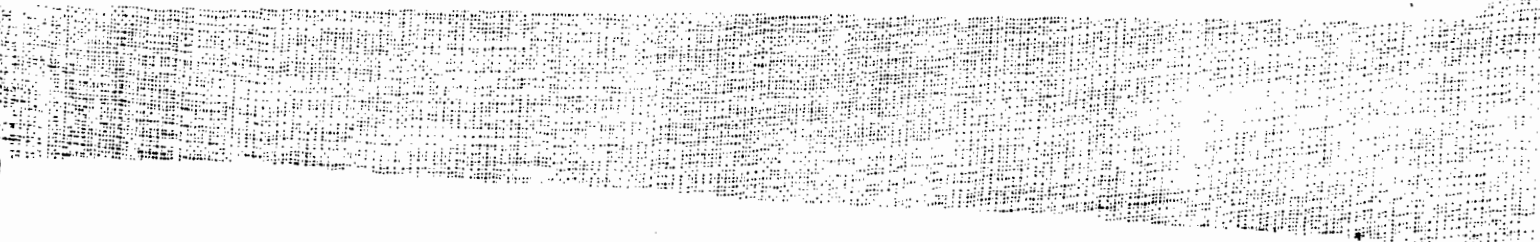
William Smith

100-15-100

Smith

...the County of Bradley, State of Missouri...
...the following...
...the...
...the...
...the...

William Smith
...



Copy

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

JAMES EDELMAN, Plaintiff,
vs.
WILLIAM BASTIAN AND MINNIE BASTIAN, Defendants.

RECEIVED (STIPULATION)
DEC 18 1992
WATER RESOURCES DEPT.
SALEM, OREGON

It is hereby stipulated and agreed by and between the plaintiff and the defendants herein, that the appeal heretofore taken in this cause to the Supreme Court of the State of Oregon, shall be dismissed and that the defendants shall pay all costs incurred on appeal and that the plaintiff shall tax no costs on appeal against the defendant.

It is further stipulated and agreed that the decree heretofore entered in this cause shall be set aside and that the judgment for costs and damages heretofore taken in this cause in favor of the plaintiff and against the defendants shall be satisfied, set aside and discharged, and that the records shall show such satisfaction and settlement of such judgment in full.

It is further stipulated and agreed that a decree shall be entered herein at the next regular term of this Court, in place of said original decree and for the final settlement of this cause as follows:

That the plaintiff is the prior appropriator of ten inches of the natural flow of the waters of Hibbard Creek and that the plaintiff is the owner thereof as against these defendants, and that the plaintiff shall be entitled to the use of said ten inches of water, or so much thereof as may be necessary for the irrigation of all tillible bottom lands upon plaintiff's premises lying above the upper spring on plaintiff's said premises, whenever the same shall be required thereon for irrigating purposes, up to the 1st day of August of each and every year, and that the plaintiff shall not be entitled to, as against the defendants, to the use of said ten inches of water or any part thereof for the purpose of irrigating any portion of his said land except the said bottom

land above described and that only when necessary, which is hereby estimated to consist of about six acres.

It is further stipulated and agreed that the said decree shall provide that the defendants are the owners of and entitled to the use of all of the natural flow of the waters of said Hibbard Creek, when required for irrigating purposes upon their said lands mentioned in their answer herein, except the said ten inches of water and shall be entitled to the use of said ten inches of water whenever the same is not required by the plaintiff for irrigating that portion of his land above described upto the 1st day of August of each and ever year, and that during the remainder of each year, after said 1st day of August, then that the defendants shall be entitled to the use of all the natural flow of Hibbard Creek, including said ten inches for irrigating purposes upon their said premises, and that the defendants shall pay all costs of the lower court, not now paid in this suit and that the plaintiff shall not tax any costs in this suit as against the defendant and shall not recover any costs by him already paid.

And that such decree shall further provide that a perpetual injunction shall issue herein, restraining the plaintiff and the defendants from interfering in any way with the rights of the opposite party to the use of the water as hereinbefore provided.

Done and dated at Baker City, Oregon, this 16th day of March, 1894.

JAMES MITCHELL
W. W. WILSON, Plaintiff

MERRICK BASTIAN
WILHELM BASTIAN Defendants

W. F. HUTCHER,
Attorneys for Plaintiff,

J. L. RAND,
Attorneys for Defendants.

1001 - 76

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DEC 18 1992

(HAYKNIFE CORPORATION-PURCHASE J. E. TUCKER DEPT.
PROPERTY-ANALYSIS OF HIBBARD CREEK WATER SALEM, OREGON
RIGHTS, March 22-27, 1974

Hibbard Creek, a tributary of the Snake River, in Baker County, Oregon, is a small stream which according to the Baker County Assessment Maps and a sketch which I had secured some years ago from the State Engineer's Office, and was traced from the USGS quad sheets, rises in Section 1, T 12 S, R 44 E., W.M., and Section 6, T 12 S, R 45 E., W.M. and then flows in the southeasterly direction through Sections 6, 7, 8, 17, 20, 21, 28 and 27 where it empties into the Snake River. The stream is somewhat unique in that although it was settled in quite early days, it has never been adjudicated under the Oregon Water Code, although nearly all the water rights along the stream are based upon appropriations made long before the 1909 Water Code (ORS Chapters 537 to 540) became effective. Determinations with respect to priority of water rights, and areas irrigated, must accordingly be made in the same manner that they used to be before the Oregon Water Rights Act was enacted, and are based in large part upon Court decisions and such recitals as can be found, or inferences made, from early documents in the chain of title to the lands involved. The determination of the rights involved here depend primarily upon the effect of two decisions of the Circuit Court for Baker County. These are, first, James Edelman, plaintiff, vs. William Bastian and Minnie Bastian, defendants, filed July 8, 1889, and Minna Bastian, et al., plaintiffs, vs. George Lane and Minnie Lane, George Evans and Emma Evans, and Chris Vincelburg, defendants, filed May 15, 1908.

Edelman vs. Bastian. The original Circuit Court file in this case has been lost. According to the index of the judgment rolls it was supposed to be filed in No. 52 of the old wall pouches and I actually secured from the Supreme Court Records a machine copy of the original pouch showing that the number was correct. I ultimately secured from the Supreme Court file copies of the original pleadings and of the original decree entered in the Circuit Court and copies of the Stipulation for settlement entered into by the parties and their attorneys on March 16, 1894. The copy of this stipulation is attached to the present memo. It was obviously intended to settle all matters in controversy between the parties, the only difficulty being that the stipulation contemplated "that a decree shall be entered herein at the next regular term of this Court (the Circuit Court) in place of said original decree and for the final settlement of this cause as follows: * * *" Then follows a detailed recital of the settlement provisions. I have never been able to find, or secure a copy of this supplemental or substituted decree. I was unable to find it when I first checked the records about 1934, was still unable to find it when I became involved in the consideration of these water rights again about 1945, and in 1962. I have still been unable to locate it after putting in about 4 hours of searching the old records with the assistance of Dennis Fuller, the County Clerk, on March 22 and 25th. The search was made more difficult by the fact that not only the original file was missing but volume 2 of the Register of Actions which would contain a list of the filings and their dates also cannot be located. There is no index to the volumes

of the Circuit Court Journal themselves that far back, so that without a filing date the search becomes like looking for a needle in a haystack. In any case, while the further decree cannot be located, it may be pointed out that the stipulation itself constitutes a complete and binding agreement signed not only by the attorneys but by the parties themselves, and apparently acquiesced in and acted upon by all concerned for a great many years. It has also received official recognition by the Court on at least two occasions. In the later case of Bastian vs. Lane, et al., all parties, including the Bastian family who joined as plaintiffs recognized the right of Edelman's grantees to the 10 inches of water awarded by the stipulation. See paragraph VII, pages 3 and 4, Complaint, and the prayer, page 5, and page 3 Answer of Defendants, Lane. The findings of fact and conclusion of law in Bastian vs. Lane, et al. expressly recite (finding 20th) "that it appearing from the evidence that a ranch below that of the plaintiffs (Bastians) has a prior right to the use of the waters of the said stream to the extent of 10 inches thereof, there must be in the stream at the heads of plaintiffs' ditches an additional 10 inches of the said water in order to have available to plaintiffs water with which to comply with the former decree of this Court in respect thereto, otherwise this decree to be given and made herein would lessen plaintiffs priority over defendants to that extent." The decree on page 2 again refers to the requirement that in addition to water being required to the extent of plaintiffs' appropriation to "a ten additional inches of said waters as set forth in our 20th finding of fact herein," and defendants are enjoined from "doing any act or acts whereby

the said prior appropriation of plaintiffs shall be in any wise diminished or destroyed, or said additional 10 inches be prevented from flowing past the said premises of said defendants."

Finally, my search has disclosed that on June 7, 1935, a copy of the stipulation was expressly incorporated in Volume 46 at page 458 of the Circuit Court Journal with the approval and at the direction of the Honorable C. H. McColloch, then Circuit Judge, who signed the Journal entry. The declarations of the Tuckers set out at page 7 of the contract of sale confirm that the provisions of the stipulation have been recognized and adhered to as between the Tuckers and Edelman's successors in interest, the Dunleavys right down to the present. We therefore express the definite opinion that the provisions of the stipulation are effective, and binding upon the successors in interest of both the original parties.

Under this stipulation, the portion of the lower Dunleavy Ranch (Tax Lot 2000 12 45) which comprised the original Edelman Homestead, NE 1/4 SW 1/4, W 1/2 SE 1/4, and the SE 1/4 SE 1/4 of Section 21 carries a prior right earlier than that of the Bastians, to 10 inches of the natural flow of the waters of Hibbard Creek "or so much thereof as may be necessary for the irrigation of all tillable bottom lands upon the Edelman premises lying ~~above the upper~~ spring thereon, whenever the same shall be required thereon for irrigation purposes, up to the first day of August of each year, but the stipulation expressly recites that Edelman shall not be entitled to as against the Bastians, the use of said 10 inches of water or any part thereof for the purpose of irrigating any portion of his (Edelman's) said land except the said bottom land above

→ described and that only when necessary, which is hereby estimated to consist of about 6 acres." The stipulation goes on to recite that the Bastians are the owners of and entitled to the use of all of the natural flow of the waters of Hibbard Creek when required for irrigation purposes upon their lands (the original Bastian Homestead and the Timber Culture 40) except the said 10 inches of water and are entitled to the use of such 10 inches whenever the same is not required by the plaintiff Edelman for irrigating the portion of his land above mentioned up to the first of August and are entitled to the entire flow during the remainder of each year after August 1st. In the Edelman case, the Bastians' answer asserts the ownership and the right to use the water upon not only the Bastian Homestead (the E 1/2 NE 1/4 of Section 20, and the S 1/2 NW 1/4 of Section 21), but also a 40 acre parcel (SW 1/4 SE 1/4 of Section 17) which is recited as having been acquired under the Timber Culture laws of the U.S., based upon an alleged entry in 1888, but which they did not in fact then own, and which remained unpatented until it was acquired by Carl Bastian as part of his 320 acre Homestead entry under patent dated June 29, 1920 and recorded in Book 91, page 153, Deed Records, Baker County. It appears that there must have been some adjustment in the Bastian timber culture filings because in the later case of Bastian, et al., vs. Lane, et al. the parcel there identified as the Timber Culture 40 is described as the NW 1/4 NE 1/4 of Section 20.

Bastian, et al., vs. George Lane, et al. The plaintiffs in this suit were Minna, Carl, Lizzie, Matilda and Minnie Bastian who are identified as being the heirs at law of William Bastian, deceased, and the defendants were George and Minnie

Lane who owned the W 1/2 NW 1/4, and the N 1/2 SW 1/4 of Section 17, and George and Emma Evans, who owned the S 1/2 SE 1/4 of Section 7, and the W 1/2 SW 1/4 of Section 8. The remaining defendant was Chris Vincelburg who defaulted the proceeding. This is of some significance because Vincelburg was the owner by patent dated April 18, 1895, recorded in Book P, page 166 Deed Records of Baker County, of the N 1/2 NE 1/4, and the SE 1/4 NE 1/4 of Section 7, and the SW 1/4 NW 1/4 of Section 8, which are part of the upper tract (Tax Lot 600) containing 320 acres now belonging to the Dunleavys. Tucker now owns all of the land then held by the Evans, the Lanes, and the Bastians which was involved in this suit. Copies of the findings of fact and conclusions of law and decree as rendered in this case are attached hereto.

The following is a tabulation of the priority dates, and amounts of the water rights established by the Court's determination, together with a description of the lands to which they were appurtenant.

<u>Name of Party</u>	<u>Priority Dates</u>	<u>Amount in Miner's Inches</u>	<u>Land Description</u>
Bastian Homestead	1882-1883	40 inches	Approximately 40 acres in E 1/2 NE 1/4, Section 20, and S 1/2 NW 1/4, Section 2
Bastian Timber Culture	After 1889	10 inches (6 inches from spring) See note below.	10 acres in NW 1/4 NE 1/4, Section 20
Lane's (Sisley)	1884	30 inches	W 1/2 NW 1/4 and N 1/2 SW 1/4 of Section 17 (35 acres under cultivation)
Evans (Reckling)	1887-89	12 inches	12-15 acres in S 1/2 SE 1/4 of Section 7, and W 1/2 SW 1/4 of Section 8 - 160 acres. (Note error in description in original complaint corrected in findings in decree).

Note - Re duty of water and source of appropriation.

The duty of water is fixed (paragraph 5th Findings) at 1 inch to the acre for the cultivated areas. The source of all appropriations is from Hibbard Creek except in case of the Bastians. With regard to them, the findings (15th) recite that their appropriation of 40 inches includes the flow of a spring upon the timber culture tract. The flow of the spring is 6 inches so that the appropriation consists of 34 inches of the natural channel of Hibbard Creek and "the right to use the waters of the spring upon her timber culture claim also in such manner as to her seems proper." The Lane and Evans' rights are prior to the Bastian rights to stream flow upon the timber culture tract, but not so far as the spring is concerned. Fixing the duty of water at 1 inch to the acre (which is the amount generally allowed in other areas), carries some implications with respect to the Edelman prior right under the stipulation. It will be recalled that Edelman's stipulated use of the 10 inches is limited to "or so much thereof as may be necessary for the irrigation of all tillable bottom lands upon plaintiff's premises lying above the upper spring" and the stipulation goes on to recite that Edelman shall not be entitled as against the Bastians to the use of "said 10 inches of water or any part thereof for the purpose of irrigating any portion of his land except for the bottom land above described and that only when necessary, which is hereby estimated to consist of about 6 acres." If the estimated acreage is correct, and the duty of water, 1 inch to the acre, is followed, then Edelman and his successors in interest might be limited to 6 inches. However, in view of the fact that the full 10 inches has been permitted to run down apparently without objection each year up to August 1st, it

would seem undesirable to disturb this arrangement, unless the Dunleavys themselves took the initiative in attempting to repudiate it. This circumstance might then be a bargaining point to use in discussions with them.

Status of Water Rights on Original Timber Culture 40.

The status of water rights with respect to this tract is quite puzzling. Although as previously indicated it was not ultimately patented until 1920, when it was included as part of the Carl Bastian homestead, this would not necessarily have prevented it being earlier claimed by the Bastians through some other theory and water being used upon it while so claimed. It is clearly and definitely described and included in the asserted Bastian holdings in their answer filed in the Edelman case. The allegations are to the effect "that thereafter in May, 1888, the defendants (Bastians) applied for and did enter at said land office the SW 1/4 SE 1/4 of Section 17 * * * under the first section of the act approved (Timber Culture)." The answer goes on to allege the payment of the filing fee and continues "that defendants (Bastians) have had said lands in their possession ever since said date; that said lands border upon said Hibbard Creek, mentioned in plaintiff's complaint and the channel of said creek extends through said lands * * *." These allegations are entirely correct as the map discloses that Hibbard Creek does flow through this 40 acre parcel in a southeasterly direction. It is noted that while the patent to the Bastian homestead was issued to William Bastian, during his lifetime, on August 24, 1891 (recorded Book P, page 49, Deed Records) the preemption patent to the second timber culture tract referred to in Bastian vs. Lane, et al. (the NW 1/4 NE 1/4 of Section 20) was not issued until nearly 4 years later on June 29, 1895, following

10 acres, or thereabouts.

From the foregoing analysis, it appears that a maximum of 110 acres of land within the Tucker property can claim the benefit of early priority water rights, and that reasonable claim can be made to a maximum of 102 inches of early priority water from Hibbard Creek stream flow. The only right with clear earlier priority is the Edelman right for a maximum of 10 acres appurtenant to the approximately 6 acres of bottom land lying above the upper spring on the original Edelman Homestead up to August 1st of each year.

Possible Early Rights on Upper Dunleavy Lands - Tax Lot 600, 320 Acres in Sections 5, 6, 7 and 8.

This land lies along the upper reaches of Hibbard Creek to the north of the Tucker property. Two homestead entries are involved, the earliest was by Chris Vincelburg covering the E 1/2 NE 1/4, and NW 1/4 NE 1/4 of Section 7, and SW 1/4 NW 1/4 of Section 8, 160 acres. It was patented April 18, 1895, patent recorded Book P, page 166, Deed Records. Chris Vincelburg was called and testified as a witness in Edelman vs. Bastian. His testimony is quoted in part in appellant's brief filed in the Supreme Court. He testified (page 36) in response to an inquiry if he was acquainted with Hibbard Creek and if so how long he had known it:

"I am acquainted with it and have known it for three years."

This was in 1890, so that his earliest acquaintance would not be prior to 1887. This is well after all the Tucker rights except for the Evans' rights covering land immediately below him. It is significant to bear in mind however that he was named as a party to Bastian vs. Lane and defaulted that proceeding, and so is bound as a party to the record by the determinations made there,

and conceded by his failure to appear that all rights involved in that suit were superior to his. It may also be noted that the Bastian Homestead patent, based upon an entry made in 1882 was patented in August, 1891, or after the lapse of approximately 9 years, so that if Chris Vincelburg "proved up" on his homestead in about the same time his entry would not have been before 1886 at the earliest. This again puts him behind everyone but the Evans.

The William Vincelburg patent covering the SW 1/4 SW 1/4 of Section 5, the E 1/2 SE 1/4 of Section 6, and the NW 1/4 NW 1/4 of Section 8, was not issued until May 6, 1924. In the absence of very unusual circumstances, this would have to be based upon a selection and entry long after the priority dates of all the Tucker rights, except possibly the Carl E. Bastian filing and patent involving the first timber culture 40 (the SW 1/4 SE 1/4, Section 17) assuming that this tract is not in fact entitled to maintain the earlier priority recognized for it in Edelman vs. Bastian. Even in that case, it is to be noted that the Carl Bastian patent antedates the William Vincelburg patent by four years, it having been issued in 1920 while the William Vincelburg was issued in 1924. While I have not attempted to make any detailed study of the statutory provisions and regulations in effect at the times involved, it is my recollection that in general a homestead claimant must after making his selection and entry (43 USCA Section 161) then reside upon the land and make the required amounts of cultivation and improvements for a period of three years and must then make final proof within two years thereafter (Section 164). While there are various provisions for time extensions in hardship cases and optional leaves of absence extending the occupation up to five years

(Section 231), in general one would expect the making of final proof and issuance of patent to occur within a relatively few years after the initial occupation, as in the case of the Bastians and other homestead claimants involved here. It would be most unusual indeed for a patent to be issued based upon a possession initiated more than 35 years before, as would have to be the case before the occupation by William Vincelburg could effect the priorities involved here.

Filings Under Water Code. Subsequent to the enactment of the Oregon Water Code in 1909, water rights are initiated by the filing of applications and the issuance of permits by the State Engineer or his predecessor, the State Water Board. The only application to appropriate water in this manner, as shown by the records in the State Engineer's office in Salem, or which I could find here, is a right evidenced by certificate issued November 16, 1921, and recorded in Book 1, page 212, Water Right Records of Baker County. The appropriation carries a priority date of April 24, 1916; is from Hibbard Creek and a spring; is for .44 cubic feet per second and covers 10 acres in the NE 1/4 SW 1/4 and 25 acres in the NW 1/4 SE 1/4 of Section 28. This is part of the southerly tract (Tax Lot 2000) owned by the Dunleavys. The priority date is of course too late to affect any of the Tucker rights, again except possibly the original timber culture 40 which later became part of the Carl Bastian Homestead.

Possible Outstanding Baker Ranch Water Rights.

Tax Lot 2100 belonging to Gertrude Baker covers areas in the northerly and westerly portions of fractional Section 27 and the S 1/2 of Section 22. These parcels were part of the former Baker Ranch which was highly cultivated and improved,

but now largely inundated by the water of Brownlee Reservoir. The remaining areas now above water contain, according to the Assessor's figures, 128.56 acres. There appears to be little doubt that originally, and before the dam was built, these lands carried early water rights perhaps prior to any others along the Creek. The W 1/2 NW 1/4 and the NW 1/4 SW 1/4 of Section 27, 120 acres is covered by preemption patent issued to William H. Speak and dated March 10, 1891. It appears of record in Book Q, page 250, Deed Records. This is a few months prior to the patent to the William Bastian Homestead which was dated August 24, 1891, although the dates, when they are that close, do not necessarily determine who made the first appropriations. The Speak's Homestead which covered lots 1, 2 and 3 of Section 27, and the E 1/2 SW 1/4 of Section 22, is dated August 1, 1883 and recorded Book L, page 638, Deed Records. An early Deed from Mary H. Speaks dated September 24, 1901 and covering, among other properties, most if not all of the areas in Sections 22 and 27 with which we are concerned recites a consideration of \$25,000.00 and expressly includes "all water rights, ditches, reservoirs or dams on or belonging to the said lands." It is my belief however, and Allan confirms this, that substantially all the former irrigated areas in this locality are now under water and that the remaining parcels show no signs of ever having been cultivated. Allan states that the nearest cultivated lands are those to the north in the area around Fox Creek, and that those are irrigated from that stream and springs in the vicinity. He states that there are no indications of any ditches ever carrying water from Hibbard Creek up to the Fox Creek area.

Discussion of Assessment Records.

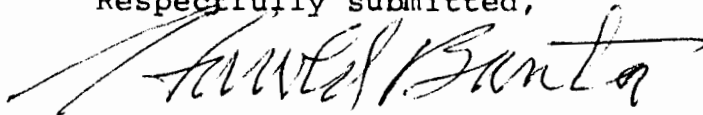
The assessment records show the Tucker Land Tax Lot 900 as containing 37.5 acres of Class V-H land, 83 acres of Class IV-H, plus 1 acre homesite, for a total of 121.5 acres improved to some extent. The remaining area is Class VII grazing land. Tax Lot 2000 the southerly Dunleavy property is shown as containing 35 acres Class IV-H, 31 acres Class IV-HD, 11 acres Class V-HD, plus 1 acre homesite for a total of 78 acres improved, and the balance Class VII grazing. The northerly Dunleavy tract, Tax Lot 600, shows no cultivated land with the entire 320 acres listed as Class VII grazing. The Gertrude Baker property, Tax Lot 2100, shows the entire 128.56 acres as Class VII grazing. These classifications on Tax Lot 600 the northerly Dunleavy tract and Tax Lot 2100, Baker, confirm the conclusions previously expressed that there are apparently no early water rights being asserted in connection with the Vincelburg entries, and that all irrigable land in the Baker Ranch is now under water.

Concluding Statement.

I have spent considerable time on this record search and analysis and have set forth the basis for my conclusions in great detail because of the fact that since this stream has not been adjudicated, proof of the extent and priority of the water rights must be found in materials such as I have examined and assembled. Since the transactions occurred so many years ago, it is no longer possible to establish the facts by the personal testimony of eyewitnesses. Recourse must accordingly be made to the records as I have done, and this will become increasingly difficult as time passes. As a matter of fact I, myself, am only able to do as well as I have because of my

own long familiarity with the ground and the previous partial examinations that I have made from time to time commencing about 1935. It is anticipated that anyone else starting cold, and without the benefit of this previous experience would have much difficulty in duplicating my work. It is accordingly believed quite important to retain this memorandum as a permanent record for use in resolving future water right problems if and when they arise.

Respectfully submitted,

A handwritten signature in cursive script that reads "Harold Banta". The signature is written in dark ink and is positioned above the typed name.

Harold Banta
Banta, Silven, Young & Marlette
1950 Third Street
P. O. Box 965
Baker, Oregon 97814

SURFACE WATER REGISTRATION CHECKLIST

(received after July 18, 1990)

CHECK BASIN MAP DEK NAME POWERS LVE # 9 UNADJUDICATED AREA ? YES
 (SNARE)
 RECEIPT # 95250 S W R NUMBER 152
 CHECK ENCLOSURES DEK PRELIMINARY DATA BASE ENTRY DWP
 ACKNOWLEDGEMENT LETTER DEK ENTER ON STREAM INDEX _____
Corner with 51 + Hamlet Basin 110
 CHECK QUADRANGLE MAP DEK CHECK GLO PLATS _____
 WATERMASTER CHECKLIST _____ PUBLIC NOTICE PUBLICATION DEK

FORM REVIEW

- _____ blanks filled in
- _____ signed
- _____ date received stamped

MAP REVIEW

- #1 ✓ source and trib
- #2 ✓ diversion point location
- #3 ✓ conveyances (pipes, ditch, etc.)
- #4 ✓ place of use - 1/4 1/4
- #5 ✓ scale
- #6 ✓ township, range, section
- #7 ✓ north arrow
- #8 ✓ CWRE stamp
- #9 _____ disclaimer
- #10 _____ date survey was performed
- #11 AND P.O.B. of survey
- #12 _____ dimensions and capacity of diversion system
- #13 ✓ "beneficial use" type title
- #14 _____ "permanent-quality" paper
- #15 1/10 ACRES

WATER RIGHT RECORD CHECK _____ FIELD INSPECTION _____

FINAL FILE REVIEW _____ FINAL DATA BASE ENTRY _____

ENTER ON PLAT CARDS _____

June 15, 1994

JAMES D HANLEY
PO BOX 701
BAKER CITY OR 97814

RE: SWR-152

Dear Mr Hanley,

This will acknowledge the receipt of map to support the pre-1909 vested water right claim in the name of ALEX FINKE you returned with corrections and completions. I have added the map to the file. Thank you for your attention to this matter. If you have any questions, please give me a call.

Sincerely,



Don Knauer
Adjudication Specialist

J:\W\SC\1\SWR-0152.003



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Hanley-169

STATE OF OREGON
WATER RESOURCES DEPARTMENT
INTEROFFICE MEMO

May 11, 1994

TO: WATER RIGHT EXAMINERS

FROM: DON KNAUER

SUBJECT: PRE-1909 VESTED WATER RIGHT CLAIM MAPS

Alright you guys, this is a test, DO YOU KNOW WHAT TIME IT IS? The answer is, it's time to get the maps, reports, answers, mylars and all that kind of stuff back to the Water Resources Department. There's talk around the office of putting together a "map-patrol" with a tough leader to travel around and retrieve the required documents.

You may remember, I reviewed maps for compliance with Oregon Revised Statutes and Oregon Administrative Rules submitted to support pre-1909 vested water right claims. For the past few months and up to a year ago I have returned maps, requested mylars, asked for clarification, and asked for reports. Some of these files are getting stale.

It is very important that you give me something, preferably the map, mylar, report, etc. but at minimum you must give me a submittal date. The review of the files cannot be completed without the map, report, etc. It is a deterrent to the claimant, your client, for this issue to go unresolved.

If you need copies of anything in the files, just let me know. I have hand written below the file numbers of those I returned to you. The toll free number is 1-800-624-3199.

j:\wp51\swr\claimant\cwrememo.94

SWR-155 VALLEN
- 156 VALLEN
- 152 FINKE

6-13-94 JAMES HANLEY CALLS-

WILL SEND MYLAR &
EXPLANATION IN THE NEXT
DAY OR TWO.

Deis

February 14, 1994

WATER
RESOURCES
DEPARTMENT

JAMES D HANLEY
PO BOX 701
BAKER CITY OR 97814

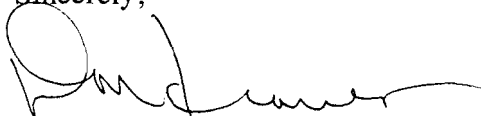
RE: SWR-152

Dear Mr Hanley,

This will acknowledge the receipt of the preliminary map to support the pre-1909 vested water right claim in the name of Alex Finke. Considering the information in your letter and on the map, the other information I need has to do with the pump sizes. You can describe to me in a letter the manner in which the pump or pumps are used at the diversion points and the size or sizes of the pumps. This information along with the mylar of the map is necessary.

Thank you for your attention to this matter. If you have any questions, please give me a call. The toll free number is 1-800-624-3199.

Sincerely,



Don Knauer
Adjudication Specialist

J:\W\S\C\1\SWR-0152.002



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

SWR - 152, 155, 156

~~AUGUST 24, 1993~~

SEPT 29, 1993

JIM HANLEY, CWRE

CALLED TO SAY HE

HOPES TO GET THE

MAPS TO ME SOMETIME

AROUND THE FIRST END

PART OF OCTOBER

WEEK

MEMORANDUM TO THE FILE

*Oregon Water Resources Department
Adjudication Section*

TO: FILE #'S 152, 155, 156

FROM: Dwight French *DF*

DATE: August 12, 1993

RE: MAP SUBMITTAL SCHEDULE

MR JAMES HANLEY CALLED THIS MORNING WITH SOME GENERAL QUESTIONS ABOUT MAPPING STANDARDS FOR PRE-1909 CLAIMS.

HE SAID WE COULD EXPECT AT LEAST A DRAFT MAP ON THESE THREE FILES BY SEPTEMBER 28, 1993.

June 28, 1993

JAMES D. HANLEY
PO BOX 701
BAKER CITY OR 97814

RE: File# **SWR-152**

DEAR JAMES D. HANLEY,

The Water Resources Department (WRD) received a little over 500 surface water registration statements in December, 1992. All of the files have been set up and receipts for the fees have been sent. The next step is to insure the maps received in support of the claims are acceptable based on Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).

I am returning the map you prepared for Alex Finke. You will find the item which requires completion or correction shown below. I have the description followed by the ORS or OAR site and paraphrased statute or rule.

✓ diversion point location	ORS 539.240 (2) (d) (A) "...in reference to an established corner of the US public lands survey or recorded subdivision..."
✓ conveyance	ORS 539.120 "...the location of and each ditch, canal, pipeline or other means of conveying the water..."
✓ place of use (1/4 1/4)	ORS 539.240 (2) (d) (B) "The location of place of use by quarter-quarter section..."
✓ diversion point size	OAR 690-28-025-(4)-(c) "The dimensions and capacity of any existing diversion systems."
✓ paper	OAR 690-14-170-1 "...in ink on permanent-quality linen or 0.003-inch mylar..."



1/10 acre

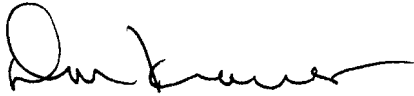
OAR 690-28-025-(4)-(d) "The number of acres irrigated in each quarter quarter shall be shown to the nearest tenth of an acre."

I am enclosing a copy of the checklist and claim to beneficial use report information used by the adjudication section. You may find it useful in preparing the required map and information. Many Certified Water Right Examiners have seen these and are using them.

You must return the map before the claim can be processed. If you cannot have the map to the WRD within 60 days, please inform me as to when it can be expected. Please mark all correspondence with the file number.

As always, if you have any questions, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Knauer", written in a cursive style.

Don Knauer
Adjudication Specialist

Enclosures

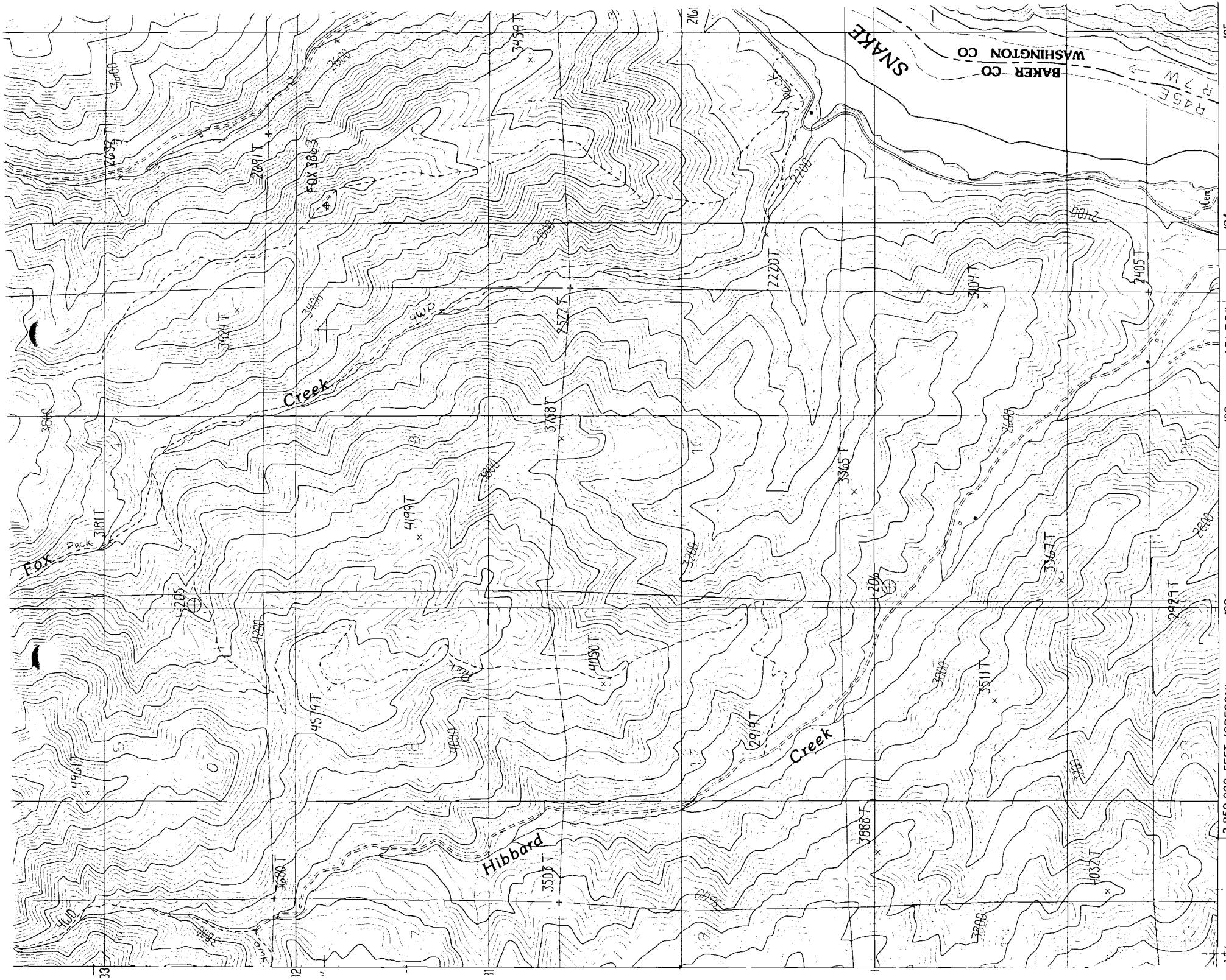
Jerry S. ...

...

...

C. ...

5/17/93



15' 2 850 000 FEET (OREGON) 482 483 484 485 12' 30" 1

PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY
 CONTROL BY ... USGS, NOS/NOAA
 COMPILED FROM ARMY ...

SCALE 1:

January 20, 1993

ALEX FINKE
PO BOX 23562
PORTLAND OR 97281

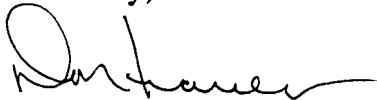
Dear MR FINKE,

This will acknowledge that your Surface Water Registration Statement in the name of ALEX FINKE has been received by our office. The fees in the amount of \$849.00 have been received and our receipt #95250 was written. Your registration statement has been numbered SWR-152.

Our office will review your form and map in the near future. If necessary we will schedule a meeting with you that will include a site inspection. If there are problems with your form we are usually able to take care of them during our visit. We will be able to answer any questions you might have about the adjudication process at that time.

Please feel free to contact this office if you have any questions.

Sincerely,



Don Knauer
Adjudication Specialist

Enclosure

C:\WP51\SWR\CLAIMANT\SWR-0152.001



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

STATE OF OREGON
WATER RESOURCES DEPARTMENT
 3850 PORTLAND ROAD NE
 SALEM, OR 97310
 378-8455/378-8130 (FAX)

RECEIPT # **95250**

RECEIVED FROM: Day Break Ranch
 BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: # 24-22 OTHER: (IDENTIFY)

TOTAL REC'D \$ 849.00

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$ <u>849.00</u>
831.087	PUBLICATIONS/MAPS	\$
830.650	PARKING FEES Name/month	\$
_____	OTHER: (IDENTIFY)	\$

02-00-0 FEDERAL FUNDS

_____	OTHER: (IDENTIFY)	\$
-------	-------------------	----

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:			
840.001	COPY FEES	\$	
850.200	RESEARCH FEES	\$	
880.109	MISC REVENUE: (IDENTIFY)	\$	
520.000	OTHER (P-6): (IDENTIFY)	\$	
WATER RIGHTS:			
842.001	SURFACE WATER	\$	842.002
842.003	GROUND WATER	\$	842.004
842.005	TRANSFER	\$	842.006
WELL CONSTRUCTION			
842.022	WELL DRILL CONSTRUCTOR	\$	842.023
842.016	WELL DRILL OPERATOR	\$	842.019
	LANDOWNER'S PERMIT	\$	842.024

06-00-0 WELL CONST START FEE

842.013	WELL CONST START FEE	\$	CARD #
	MONITORING WELLS	\$	CARD #

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
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07-00-0 HYDRO ACTIVITY

842.011	POWER LICENSE FEE(FW/WRD)	LIC NUMBER	\$
842.115	HYDRO LICENSE FEE(FW/WRD)		\$
_____	HYDRO APPLICATION		\$

RECEIPT # **95250** DATED: 12/18/92 BY: C. Engel