

Application No. 43042
Permit No. 31861
Certificate No. 46890

Name BARCLAY MEADOWS WATER IMPROVEMENT CORP.

By c/o O. D. Stephenson Box 782

Address Waldport, OR 97394
P.O. Box 216 760

Jefferson, Oregon 97352

P.O. Box 281

Waldport, Oregon

Date filed November 15, 1966

Priority November 15, 1966

Action suspended until OK Cert

Returned to applicant

Date of approval April 11, 1967

CONSTRUCTION

Date for beginning April 11, 1968

Date for completion October 1, 1968

Extended to

Date for application of water October 1, 1969

Extended to

PROSECUTION OF WORK

Form "A" filed Oct. 26, 1967

Form "B" filed Oct 16, 1968

Form "C" filed

FINAL PROOF

Blank mailed AUG 25 1978

Proof received

Date certificate issued NOV 17 1978

Stream Index, Page No. 18-12D

FEES PAID

Date	Amount	Receipt No.
<u>11-15-66</u>	<u>20.00</u>	<u>1584</u>
<u>9-19-78</u>	<u>\$ Cert. Fee</u>	<u>6198</u>

FEES REFUNDED

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

ASSIGNMENTS

Date	To Whom	Address	Volume	Page

REMARKS

0.06 cfs from an unnamed stream (Alsea River) for domestic use of thirty families
including the irrigation of not to exceed one-half acre lawn and garden

OCT 10 1968 CARD FOR B

Form A

Application No. 43042

ION

holder of Permit No. 31861

construction of the works described

of men employed, the amount of work completed

his Date Oct 26th '67
work in good faith.

day of Oct, 1967.

(Address)

action work is begun.

I, Barclay Meadows
to appropriate the public water
therein on the 15 day

Remarks:

Water is pipe
up to the date of this statement, and any at

IN WITNESS WHEREOF

O.D. Stephenson
(Signature of Applicant)

Fill out, detach and mail to

SP*12928-119

9/18/78
Dear Sirs;

Please note address

Change -

Mail to
Barclay Meadows
Coop.P.O. Box 782
Waldport, Oreg.

RECEIVED

SEP 19 1978

WATER RESOURCES DEPT.
SALEM, OREGON

Form B

Application No. 43042

ACTION

the holder of Permit No. 31861

to appropriate the public waters of the state of Oregon, completed the construction of the works described
therein on the July day of 1968

Remarks:

If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you

should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 16 day of Oct, 1968

O.D. Stephenson
(Signature of Applicant)Rt 1 Box 260 Jefferson Oregon
(Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is completed.

3M-8-64

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. 43042

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

O.D. Stephenson, the holder of Permit No. 31861

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 2 day of July, 1969

Remarks:

30 houses & trailers, Campers are
using water -

IN WITNESS WHEREOF, I have hereunto set my hand this 2 day of July, 1969

O.D. Stephenson
(Signature of Applicant)PO Box 281 Waldport Oregon
(Address)RECEIVED
JUL 1969
STATE ENGINEER
SALEM, OREGON

RECEIVED
OCT 2 1967
STATE ENGINEER
SALEM, OREGON

Form A

NOTICE OF BEGINNING OF CONSTRUCTION

Application No. 43042

I, Barclay Meadows Cooperative, O.D. Stephenson trustee, the holder of Permit No. 31861, to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 15 day of July, 1967.

Remarks:

The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.
Water is piped to 26 houses on this Date Oct 26th 67

IN WITNESS WHEREOF, I have hereunto set my hand this 26 day of Oct, 1967.

O.D. Stephenson
(Signature of Applicant)

RECEIVED
OCT 26 1967
STATE ENGINEER
SALEM, OREGON

(Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is begun.

SP-12928-119

Form B

NOTICE OF COMPLETION OF CONSTRUCTION

Application No. 43042

I, Barclay Water Improvement Water Coop, the holder of Permit No. 31861, to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the July day of 1968.

Remarks:

If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you should so state in order that our records may not be unnecessarily encumbered.

RECEIVED
OCT 16 1968
STATE ENGINEER
SALEM, OREGON

IN WITNESS WHEREOF, I have hereunto set my hand this 16 day of Oct, 1968

O.D. Stephenson
(Signature of Applicant)

Rt 1 Box 260 Jefferson Oregon
(Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is completed.

3M-8-64

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. 43042

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

O.D. Stephenson, the holder of Permit No. 31861, 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 2 day of July, 1969.

Remarks:

30 houses & trailers, Campers are using water -

IN WITNESS WHEREOF, I have hereunto set my hand this 2 day of July, 1969.

O.D. Stephenson
(Signature of Applicant)

PO Box 281 Waldport Oregon
(Address)

RECEIVED
JUL 12 1969
STATE ENGINEER
SALEM, OREGON

STATE OF OREGON

COUNTY OF

LINCOLN

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

BARCLAY MEADOWS WATER IMPROVEMENT
CORPORATION
C/O RICHARD C. PETERSON

of 1403 N.W. Buchanan, Corvallis, State of Oregon, 97330, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of an unnamed stream

a tributary of Alsea River for the purpose of domestic use for 29 families including the irrigation of not to exceed $\frac{1}{2}$ acre lawn and garden under Permit No. 31861 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from November 15, 1966 that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.06 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 30, T. 13 S., R. 10 W., W. M., 1370 feet North and 1140 feet West from the SE Corner, Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) Section 30

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to -----of one cubic foot per second per acre,

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

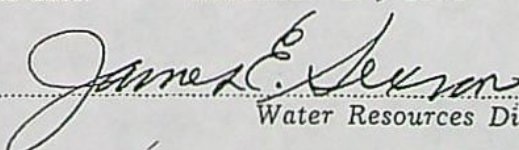
A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 2 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 3 (SE $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$)
Section 30
T. 13 S., R. 10 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. November 17, 1978


Water Resources Director



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

June 7, 1999

Robert C. Riecke, President
Barclay Meadows Water Improvement Association
P.O. Box 782
Waldport, OR 97394

RE: Application 43042, Certificate 46890

Dear Mr. Riecke:

Certificate of water right number 46890 allows the diversion of up to 0.06 cfs for domestic use by 29 families. At the time of the final proof survey, which the Department uses to verify the beneficial use of water developed under the water use permit, we found several lots in the subdivision which were not using water beneficially. The final proof survey identified the legal place of use for the water right. In other words, the lots or residences identified in the final proof maps are the recognized legal place of use under the right. As a result, the certificate issued to Barclay Meadows Water Improvement Corporation authorizes the use of water for 29 families (29 residences).

Although you may have received what appeared to be conflicting information in the past, the use of water for more than 29 residences under this water right is not allowed. The July 30, 1997, letter from Anita McCloud summarized an Assistant Attorney General's preliminary advice about the appurtenancy of the water right and the ability to serve more than 29 residences with the 0.06 cfs diversion rate. Unfortunately, this was a preliminary interpretation of the law. Upon further review, this interpretation proved to be flawed. As it now stands, Oregon Revised Statutes 540.510, Section 3(a)(C) allows water to be applied to beneficial use on lands to which the right is not appurtenant so long as the use of water allowed in the original certificate is not exceeded. In this instance, the certificate explicitly describes the extent and limit of the water right. The certificate identifies as 29 the number of families which may receive water, and limits the use of water to 0.06 cfs for the 29 families or residences.

Although the final proof maps identified the 29 residences beneficially using water under the right, our policy is to provide you flexibility to determine which 29 residences receive water according to the right. However, if you desire to serve more than the 29 residences confirmed by the certificate of water right, I recommend you apply for an additional water use permit to serve the additional residences. Our Water Rights Information Group (WRIG) staff can assist you with the process of applying for additional water rights. WRIG staff can be reached at 1-800-624-3199, extension 499.



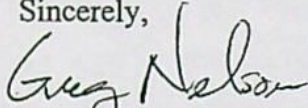
Robert C. Riecke

June 7, 1999

Page 2

If you desire to discuss this further, please feel free to contact Bill Ferber, Watermaster District 16, at extension 375. Or you can contact me at extension 291.

Sincerely,

A handwritten signature in cursive script that reads "Greg Nelson". The signature is written in dark ink and is positioned above the printed name.

Greg Nelson

Assistant Watermaster, District 16

c: Bill Ferber, Watermaster

What importance
of # homes in cert
vs quantity.

29 families
2,066 cfs

Can have
more than
29 homes?

Lolita Haslett.

541-528-7341

563-4807 office

past practice
limited to cert.

the Mattick

541-563-7341

Cent 31861

0.06 cfs.

543042

29 families
in 1966

Still not 29
fams

= 20 gpm per

We need ¹⁻¹⁰⁻⁷⁵ to
know where
29 uses are?

Either Survey
each use or
locate on plat
of subdivision
Use

Gaslin 18, Vol.

Info: Mr & Mrs. Loffler & Mrs. Crandall

Source: unnamed stream, trib Alsea Riv.

DIVERSION: Gravel filter from cr. w/ 14' deep x 30" dia cone, perf casing

Pump: 1 ϕ GE 3AP @ 3450

JULUZZI Model Q3TY3-S/B 2 x 1 $\frac{1}{2}$

lines: 1 $\frac{1}{2}$ PVC line to home w/ 3/4" services

Press: Mr. Loffler said they ran system about 50 psi

Use: According to Mr. & Mrs. Loffler & Mrs. Crandall there are 29 families on system w/ 9 permanent residents and the rest week-ends & vacations.

Tic: photo 41041 272-16

copy 3(6.6) / 127

6-6-74

6-6-72

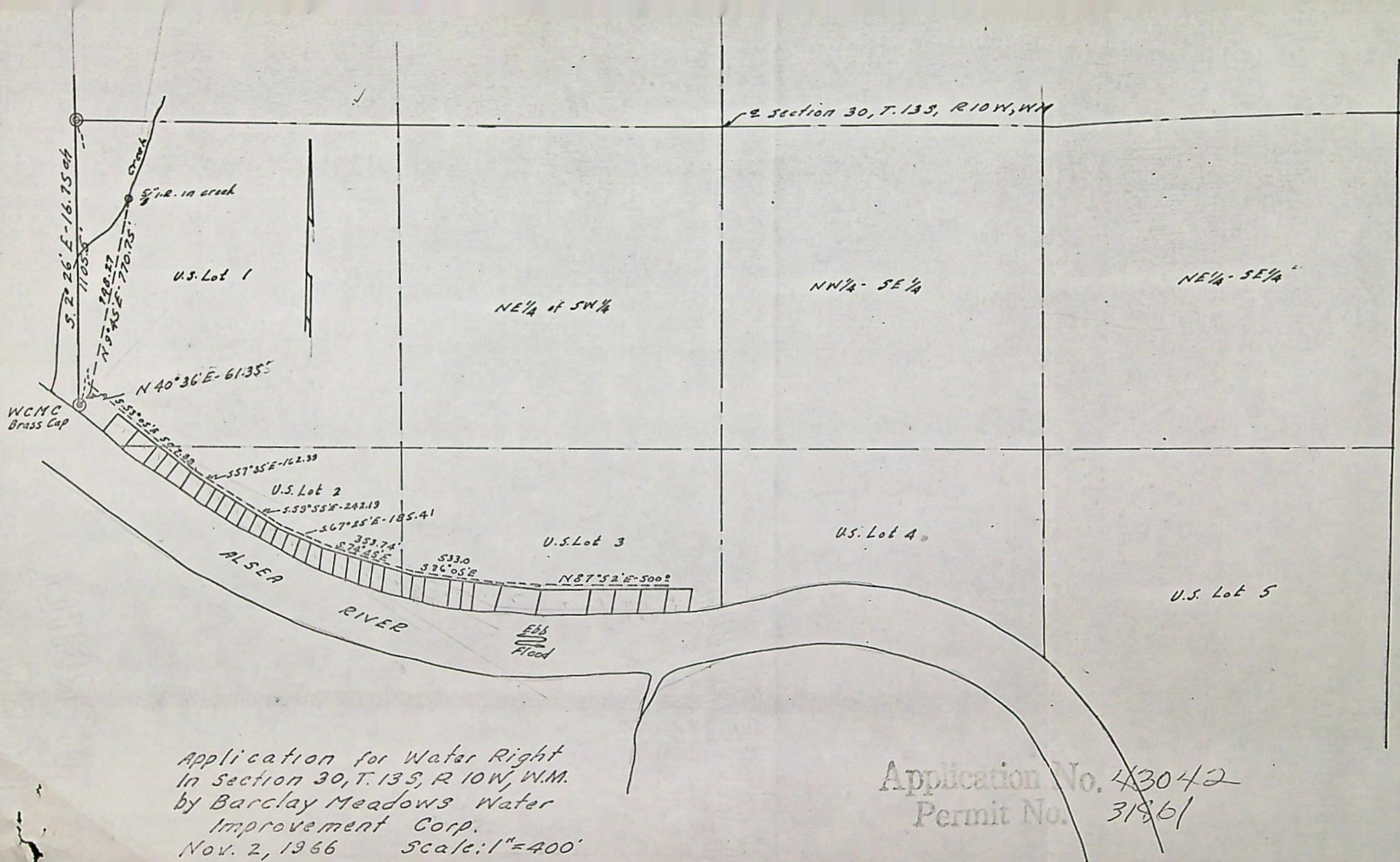
Larry B. Funn

Field Engineer

INFO- MR & MRS. CRANDALL

USING ASSESSORS MAPS LOCATED ALL LOTS USING WATER. SOME LOTS HAVE BUILDINGS, OTHER HAVE NO STRUCTURES BUT HAVE STANDPIPES. ~~THE~~ SOME OWNERS HAVE 2 LOTS AND ONE HOUSE. THE TOTAL IS 29 FAMILIES ON SYSTEM. THERE ARE 4 ~~NO~~ LOTS WITH NO STRUCTURE BUT HAVE STANDPIPE FOR WATER USE.

Larry Tall
FE
9/10/75



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



DIV. PT. LOCATION

FINAL PROOF SURVEY
UNDER

Application No. 43042 Permit No. 31861
IN NAME OF

BARCLAY MEADOWS WATER IMPROVEMENT CORPORATION

Surveyed _____ 19____, by _____



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

July 30, 1997

Lolita Haslet

RE: Certificate # 46890

Dear Mrs. Haslet:

As we discussed on the telephone today, I am summarizing the Attorney General's opinion on the issue of ORS 540.510(1) which states that water "shall remain appurtenant to the premises upon which it is used and no change in use or place of use" is permitted unless approved as a transfer.

The example given was "...a permit or certificate covers "domestic use associated with a subdivision of ten single family homes on lots X, Y, and Z," but only five homes are built, or fifteen are built. The rate and duty do not increase, nor does the nature of the use change."

The answer was given as "Assuming the ONLY change involved is the shape or number of the structures, I don't think a transfer is required." The reasoning being that in the statute the word "premises" is intended to be synonymous with "land" and is not intended to restrict the appurtenancy of water rights to specific structures. A change in the structure or structures served by a water right would not, in itself, constitute a change in place of use within the meaning of the statute.

So, boiled down, it appears as long as you do not change the rate or duty of the certificate, the number of households (structures) does not affect a change in the certificate.

Thank you for your patience while I was getting this information. If you have any other questions, please give me a call at 1-800-624-3199 extension 273.

Sincerely,

Anita McLoud
Water Rights Specialist
Water Rights Division

cc: File

From: ian.whitlock@doj.state.or.us
Date: Tue, 29 Jul 97 13:31:34 PDT
To: <richard.d.bailey@wrд.state.or.us>
Cc: <steve.sanders@doj.state.or.us>, <meg.reeves@doj.state.or.us>
Subject: Appurtenancy
X-Incognito-SN: 611
X-Incognito-Version: 4.10.1

Dick;

Herewith a quick answer to what I believe were your questions concerning "appurtenancy" of water rights. The issue was first addressed to me as part of the Dammasch water rights matter, but I believe it may have been framed differently in inquiries directed to Steve and/or Meg. Hopefully, my response will cover all the permutations of the issue.

ISSUE: Circumstances arise in which a water right describes a use (usually domestic, but perhaps industrial) in relation to a particular structure or structures on land. If there are changes in the structure(s) over time, is a water rights transfer required? The issue arises because ORS 540.510(1) states that water "shall remain appurtenant to the premises upon which it is used and no change in use or place of use" is permitted unless approved as a transfer.

For example, suppose a permit or certificate covers "domestic use associated with a subdivision of ten single family homes on lots X, Y, and Z," but only five homes are built -- or fifteen are squeezed in. Or suppose a right is associated with a specifically described building, but the building is remodelled, or razed and rebuilt in a slightly different spot on the property. The rate and duty do not increase, nor does the nature of the use change. Must a transfer be obtained in order to utilize the water in the new (or different) buildings?

DISCUSSION: Assuming the ONLY change involved is the shape or number

of the structures, I don't think a transfer is required. Stated briefly, my reasoning is as follows:

1. As mentioned above, the transfer statute requires water to be used on the "premises" to which it is appurtenant. The terms "premises" and "appurtenant" are not defined in the statute or regulations. ORS 540.505; OAR 690-15-005. We were unable to find any authoritative definitions of the terms which apply directly to this question. Our research revealed a wide variety of definitions in various contexts. Several cases from other jurisdictions emphasize that the term "premises" is quite elastic, possibly meaning "a location on land," or land and all the appurtenances thereon, or a collection of lots. In short, the terms have no precise, independent meaning, and their interpretation is subject to the usual rules of statutory construction, which require us to examine the text and context of the law as a whole.

2. Although the appurtenancy requirement in ORS 540.510(1) speaks about "premises," and the application requirements call for a description of the "premises" upon which the water is and will be used, the word does not appear elsewhere. Instead, the statute refers to LAND upon which water is used or will be used after transfer. For example, in the same section, special provisions for the transfer of rights held by municipalities and districts speak to use of water on "lands to which the right is not appurtenant." ORS 540.510(3) and (4). In ORS 540.523, which permits temporary transfers of place of use, under conditions and procedures similar to those set out in 540.510, the law states that the "LANDS from which the water right is removed... shall receive no water..." ORS 540.523(7). And ORS 540.560 provides a mechanism for amending certificates where LANDS to which a

right is appurtenant aren't defined with sufficient specificity for management.

3. In short, the statute's context suggests to me that the term "premises" is intended to be synonymous with "land," and is not intended to restrict the appurtenancy of water rights to specific structures. For this reason, a change in the structure or structures served by a particular water right would not, in itself, constitute a change in place of use within the meaning of ORS 540.510.

4. I note that the implementing regulations do not pick up the term "premises." Instead, the rules on transfer applications call for information about the land, including property lines and boundaries, but not specific details on structures (other than structures related to the water delivery system). OAR 690-15-060, -070.

5. I have some reservations about permit amendments under ORS 537.211(4). Here, in addition to the prohibition against injury and the requirement that a permit holder own contiguous land, we have a requirement that "all other terms of the permit remain the same..." This might mean that when a permit holder desires a change in, say, a point of diversion, the holder would also be required to modify any permit terms describing structures on the land, if changes to the structures have been made.

I hope this discussion addresses your questions. I am copying Steve and Meg, and will confer with them about my conclusions. If you have further questions, I'll be pleased to get answers as quickly as possible.

IKW

SW1/4 SW1/4 SECTION 30 T13S R10W WM
LINCOLN COUNTY

13 10 30 C C

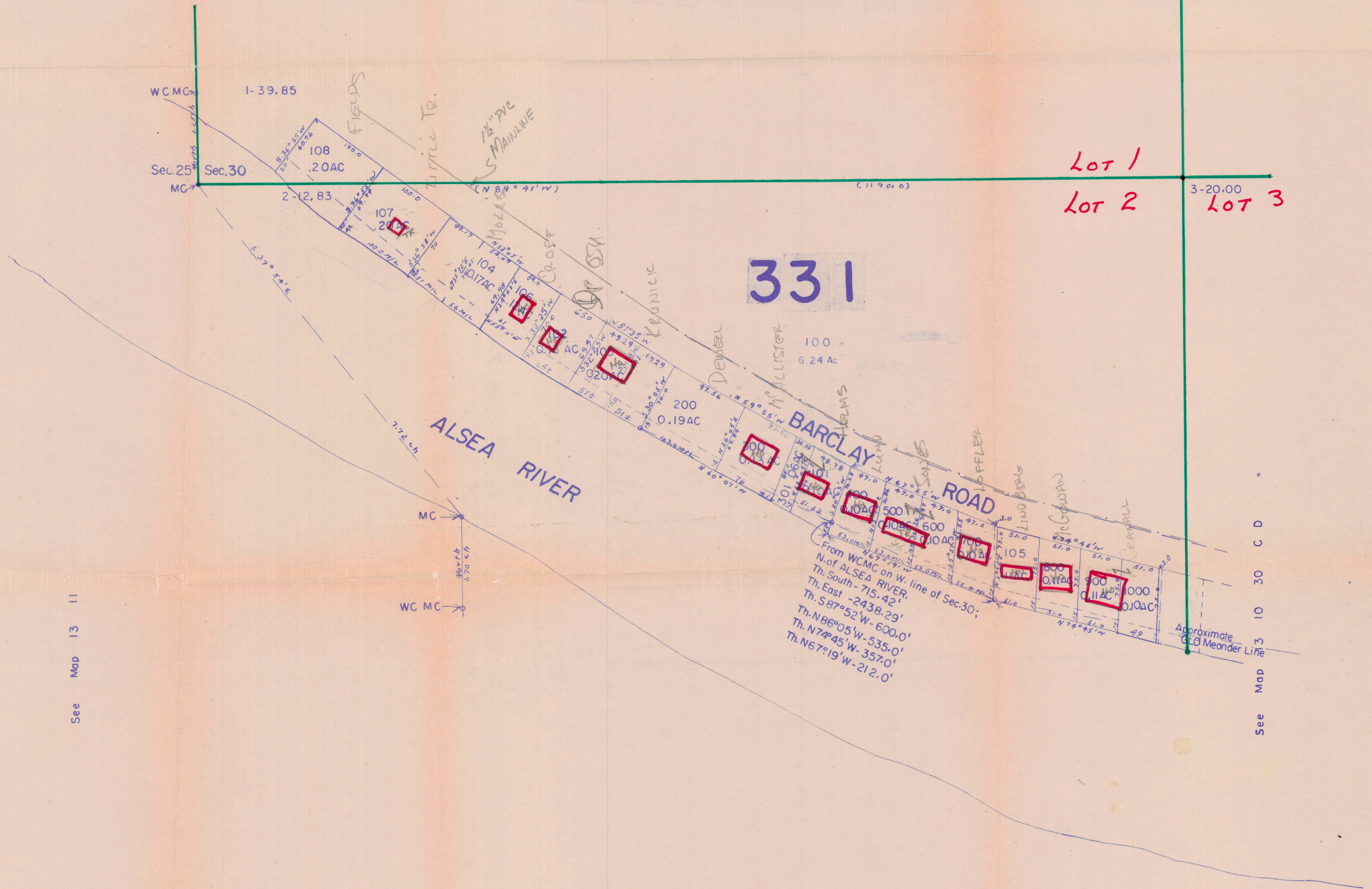
12

1" = 100'

File 43042

See Map 13 10

For Assessors Office Use Only



Lot 1
Lot 2
Lot 3

331

TAX LOTS 108, 104 & 200
HAVE SPICOTS (NO BUILDING)

See Map 13 10 30 CF

Meanders of ALSEA RIVER from GLO

As of
5-28-75

13 10 30 C C

SE 1/4 SW 1/4 SECTION 30 T13S R10W WM
LINCOLN COUNTY

13 10 30 C D

1" = 100'

File 43042

CODE - 331

See Map 13 10

Lot 1

2-12.83

Lot 2

3-20.00

Lot 3

4-20.98

Lot 4

100

14.27 Ac.

BARCLAY ROAD

Approximate GLO Meander Line

ALSEA RIVER

From WCMC on W. line of Sec. 30; N. of ALSEA RIVER
Th. South - 715.42'
Th. EAST - 2438.29'

See Map 13 10 30 C C

See Map 13 10

See Map 13 10 30 C E

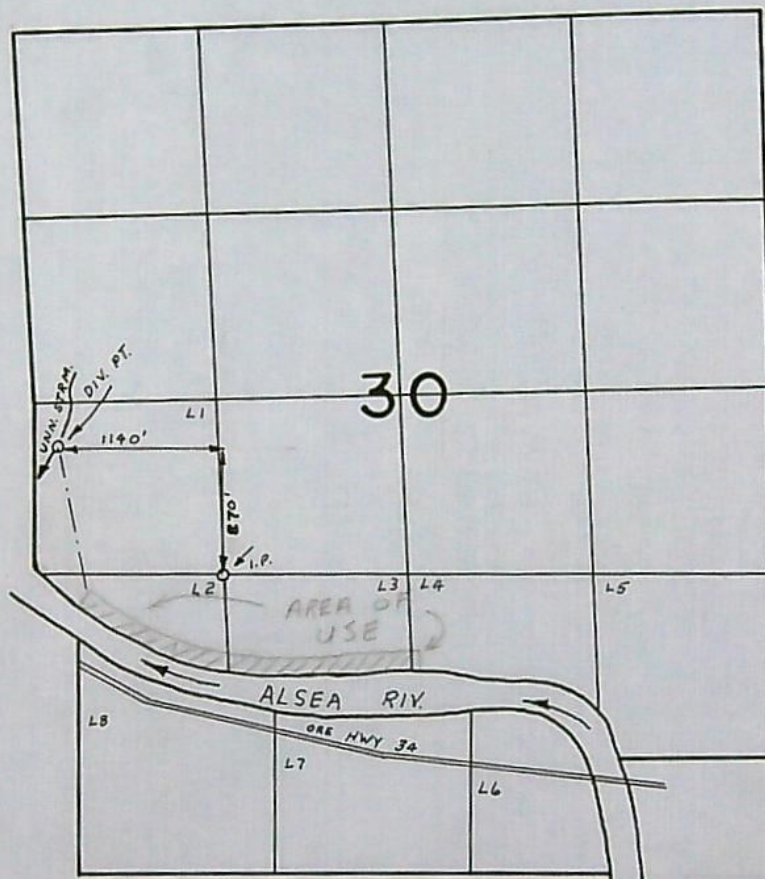
TAX Lot 600
HAS SPICOT (NO BUILDING)
TAX Lot 700
NOT HOOKED TO SYSTEM

Note: Meanders of ALSEA RIVER from GLO.

Updated
1-9-74

13 10 30 C D

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

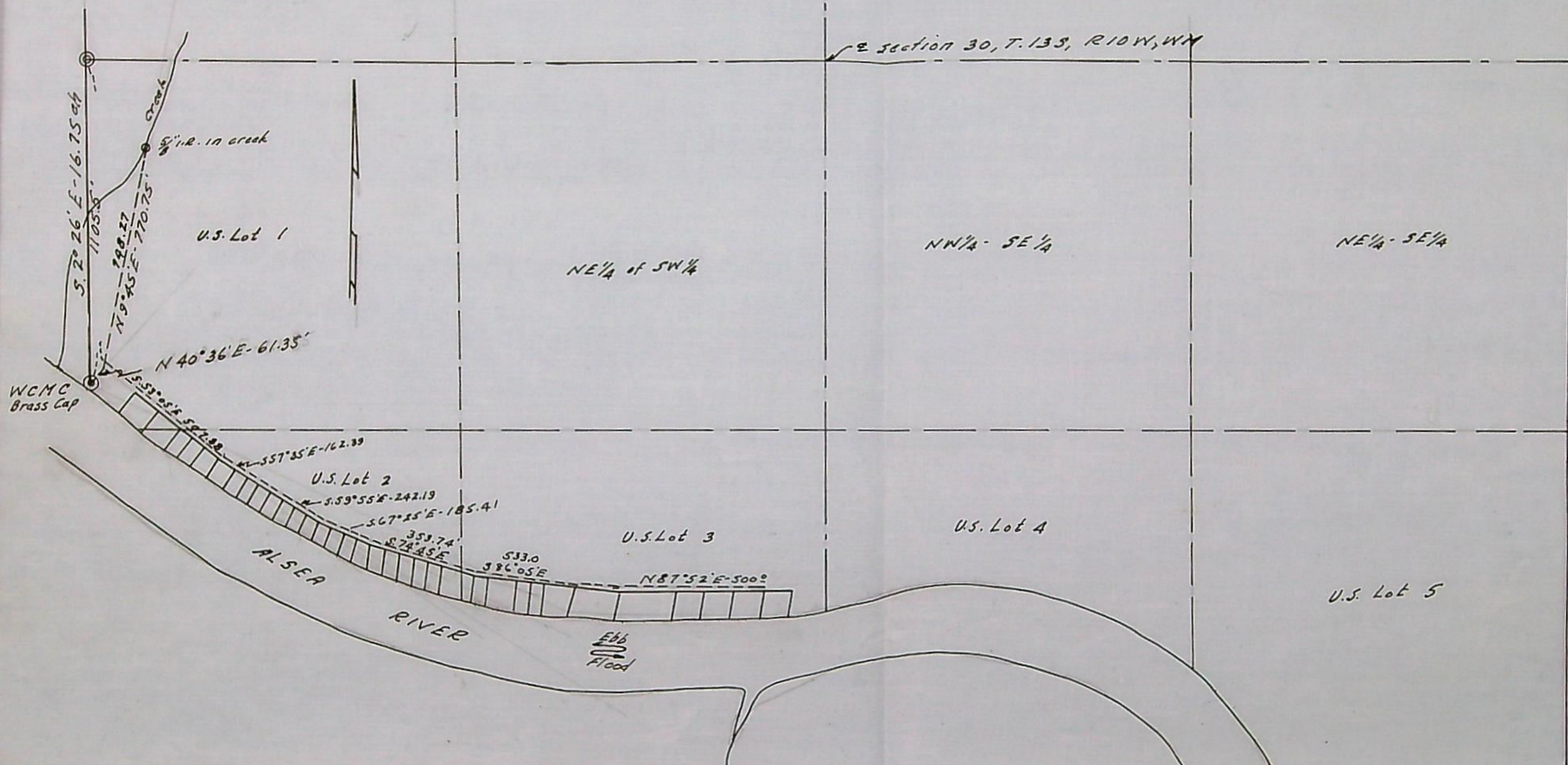


FINAL PROOF SURVEY
UNDER

Application No. 43042 Permit No. 31861
IN NAME OF

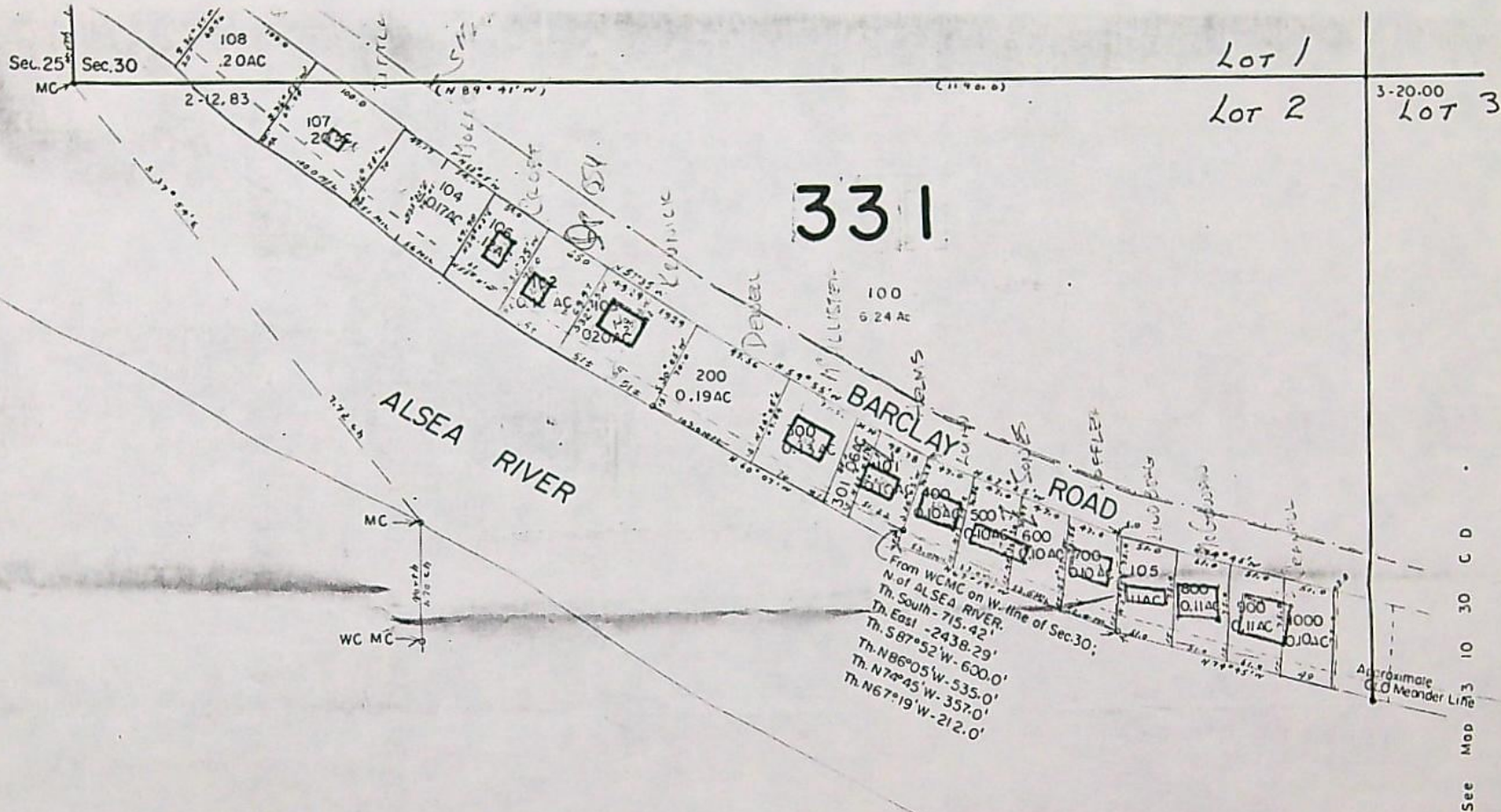
BARCLAY MEADOWS WATER IMPROVEMENT CORPORATION

Surveyed JUNE 6, 1974, by L.H. NUNN
Inspection Sept 10, 1975 by L.M. TOLL



Application for Water Right
 in Section 30, T.13S, R.10W, W.M.
 by Barclay Meadows Water
 Improvement Corp.
 Nov. 2, 1966 Scale: 1" = 400'

Application No. 43042
 Permit No. 31861



20.00

OT 3

4 - 20.98

Lot 4

100

14.27 AC

BARCLAY ROAD

Approximate GLO Meander Line

ALSEA RIVER

From WCMC on W. line of Sec. 30; N. of ALSEA RIVER
Th. South - 715.42'
Th. EAST - 2438.29'

See Map 13 10 30 CE

TAX Lot 600
HAS SPICOT (NO BUILDING)
TAX Lot 700
NOT HOOKED TO SYSTEM

Note: Meanders of ALSEA RIVER from GLO.

Member List
w.e.f.

OCT 30 1997

WATER RESOURCES DEPT.
SALEM, OREGON

	Initials	C
Prepared By		
Approved By		

1996/1997		DUE	PAID	DUE
10/1/96	1. Susan Fisher	225.00	225.00	0
11/5/96	2. Henry Allen	125.00	125.00	0
09/19/96	3. Dale Haslett	125.00	125.00	0
09/16/96	4. Leo Flocken	125.00	125.00	0
09/20/96	5. Lois Nelson	125.00	125.00	0
09/21/97	6. Robert McClain	125.00	125.00	0
09/21/96	7. Donna Juel	125.00	125.00	0
09/11/96	8. Earl Roberts	125.00	125.00	0
09/12/96	9. Gordons Scott	125.00	125.00	0
	10. Brad Barnes	125.00		125.00
10/5/96	11. Dr. Hodges	125.00	125.00	0
10/28/96	12. Cindy Riecke	125.00	125.00	0
10/11/96	13. Richard Pimm	125.00	125.00	0
10/15/96	14. LeBard & Moore	125.00	125.00	0
	15. Beneficial Mortgage	125.00		125.00
09/21/96	16. Robert Crandall	125.00	125.00	0
	17. Bob Salmon	125.00		125.00
12/02/96	18. Don DeLange	125.00	125.00	0
09/21/96	19. Charlene Petry	125.00	125.00	0
09/23/96	20. Mike Knowels	125.00	125.00	0
	21. Beverly Lund	125.00		125.00
09/30/96	22. Denham Lord	125.00	125.00	0
09/30/96	23. O.L. McCallister	125.00	125.00	0
09/17/96	24. Emma Roza	125.00	125.00	0
09/17/96	25. Donald Bates	125.00	125.00	0
09/21/96	26. Karl Drlica	125.00	125.00	0
	27. Stradley/Kash	125.00		125.00
09/28/96	28. Robert Glanther	125.00	125.00	0
10/15/96	29. LeRoy Lucht	125.00	125.00	0
09/20/96	30. Charles Field	125.00	125.00	0
10/03/96	31. John Marino	125.00	125.00	0
10/03/96	32. John Marino	125.00	125.00	0
	Joseph McCannon owes from 1995/1996	75.00		75.00
	TOTALS	4250.00	3550.00	700.00



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

October 13, 1997

Barclay Meadows Water Cooperative
P.O. Box 782
Waldport, Oregon 97394

Dear Ms. Haslett:

Upon receiving your letter of October 6, 1997, I researched the water use allowed under Water Right Application S-43042, Permit S-31861, Certificate 46890. The final legal description of what is allowed by a water right is spelled out in the Certificate of Water Right. The certificate for this water right, Certificate 46890, limits the use of water to 0.06 cfs for the purpose of domestic use for 29 families including the irrigation of not to exceed ½ acre lawn and garden. 29 is the maximum number of families that may use the water under this certificate at one time and the combined area of irrigation can not exceed ½ acre. Any additional connections or increase in irrigated area will require a new water right application.

Please be aware that if it becomes necessary for me to distribute water in your area, I will require the Cooperative to identify which 29 connections will be served for that year.

Please contact me at (503) 378-8455 ext 375, E-mail William.E.FERBER@wrdd.state.or.us, or at the address listed above if you have any questions.

Sincerely,

William E. Ferber
Watermaster, District 16

cc: O L McCallister
PO Box 428
Waldport, Oregon 97394-0428

RECEIVED

October 6, 1997

OCT - 7 1997

WATER RESOURCES DEPT.
SALEM, OREGON

To Whom It May Concern:

Please help us out, as we really do not understand. Barclay Meadows Cooperative is a small non-profit water system, serving the Barclay Meadows area, 7 miles east on Waldport. There are 32 members on this system, 3 of the members have empty lots (one uses water 2 or 3 weekends a year for a RV, the others do not use water at all) 3 dwellings are empty and have been for over 2 years. 2 dwelling are summer water users only. 6 dwellings use water only one to 3 weekends a year. 5 are weekend water users on occasional weekends year round. The remaining 13 are full time water users.

The last 2 memberships were given in exchange for an easement for the Barclay Meadows Cooperative. This easement allowed room for the Cooperative to place necessary sand filters and storage facilities to comply with Federal and State laws governing water standards. At the time this exchange took place we were assured that the number of members were not an issue. The only issue was that we must not exceed the diversionary allotment of water.

Several years ago Mr. McCallister said that the Cooperative was violating the law.. In July we asked Anita Mcloud to find out about this matter and enclosed is the information she sent. Saturday October 4, 1997, Robert Crandall, a member of the cooperative, was given a letter by Mr. McCallister from Bill Ferber to Mr. McCallister. This letter is also enclosed.

Barclay Meadows Cooperative does not want to violate any laws.. We only want to provide water to our members that is of good drinking quality, that meets the standards of the State of Oregon and Federal Government. Barclay Meadows Cooperative is probably the only small non profit water system employing surface water filtration/disinfection/storage that meets the State and Federal drinking standards in our area. (That we know of) We do not service commercial accounts, or serve members outside the Barclay Meadows development. The community cannot develop any more because of land use regulations, so at the present time we do not see that the cooperative will have the need to serve more members.

We do need a clear cut decision on this matter, so that we can put everyone's minds at rest as well as know where we stand. Nearly all of the work done on the Barclay Meadows Water System is volunteer by non-professionals. It is a real struggle to comply with all the rules and regulations and still be able to keep rates affordable. Now to have this added is almost overwhelming.

Thank you for your attention.

Leta Haslett
Leta Haslett

Secretary/Treasurer
Barclay Meadows Water Cooperative
P.O.Box 782
Waldport, Or. 97394
Phone 541-563-4807 (work)
541-528-7341 (home)
541-563-7341 (Fax)

Copies: Anita Mcloud



Oregon

John A. Kitzhaber, M.D., Governor

September 30, 1997

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OCT - 7 1997

**WATER RESOURCES DEPT.
SALEM, OREGON**

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

O L McCallister
P O Box 428
Waldport, Oregon 97394-0428

Dear Mr. McCallister:

Dave Jarrett forwarded your letter to me regarding Application S-43042, Permit S-31861, Certificate 46890. Mr. Jarrett's September letter is correct, 29 families is the maximum number of families that may use the water under this certificate. Any additional connections will require a new water right application.

You are limited to 29 families because your water right certificate specifies 29 as the maximum number of families to be served. If the certificate had listed a specific rate of flow without a maximum number of connections, you would be limited to that rate regardless of the number of connections. I apologize for the confusion.

Please contact me at (503) 378-8455 ext 375, E-mail William.E.FERBER@wrd.state.or.us, or at the address listed above if you have any questions.

Sincerely,

William E. Ferber
Watermaster, District 16

OREGON WATER RESOURCES DEPARTMENT



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OCT - 7 1997

WATER RESOURCES DEPT
SALEM, OREGON

Commerce Building
158 12th Street NE
Salem OR 97310-0210

To Lolita Haslet Date: 7-30-97 Page 1 of 2

Fax # 541-563-7341

From Andy McCloud

Comments: _____

Fax. 503-378-2496

Dam Safety	Director's Office	GIS / Mapping
Groundwater	Hanford Studies	Hearings
Hydrographics	Information (Computer) Services	Legislative & Rules Coord.
Public Information	Strat. Planning & Policy Coord.	Water Resources Comm. Liaison

Fax. 503-378-8130

Accounting / Fiscal	CWRE Coordination	Columbia / Snake Issues
Conservation	District 16 Watermaster	Enforcement
GWEB Liaison	Land Use Coordination	Northwest Region
Office Services	Personnel	Planning
Resource Management	Water Development Loan Fund	Water Use Reporting
Well Construction	Well Driller Licensing	

Fax. 503-378-6203

Adjudications	Final Proof Surveys	Hydroelectric Permits
Transfers	Water Rights	

8/25/95

WATER RIGHTS/NWR
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002/002



Oregon

John A. Kitzhaber, M.D., Governor

OCT - 7 1997

WATER RESOURCES DEPT.
SALEM, OREGON

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

July 30, 1997

Lolita Haslet

RE: Certificate # 46890

Dear Mrs. Haslet:

As we discussed on the telephone today, I am summarizing the Attorney General's opinion on the issue of ORS 540.510(1) which states that water "shall remain appurtenant to the premises upon which it is used and no change in use or place of use" is permitted unless approved as a transfer.

The example given was "...a permit or certificate covers "domestic use associated with a subdivision of ten single family homes on lots X, Y, and Z," but only five homes are built, or fifteen are built. The rate and duty do not increase, nor does the nature of the use change."

The answer was given as "Assuming the ONLY change involved is the shape or number of the structures, I don't think a transfer is required." The reasoning being that in the statute the word "premises" is intended to be synonymous with "land" and is not intended to restrict the appurtenancy of water rights to specific structures. A change in the structure or structures served by a water right would not, in itself, constitute a change in place of use within the meaning of the statute.

So, boiled down, it appears as long as you do not change the rate or duty of the certificate, the number of households (structures) does not affect a change in the certificate.

Thank you for your patience while I was getting this information. If you have any other questions, please give me a call at 1-800-624-3199 extension 273.

Sincerely,

A handwritten signature in dark ink, appearing to read "Anita McCloud".

Anita McCloud
Water Rights Specialist
Water Rights Division

cc: File

*APPLICATION FOR PERMIT

CERTIFICATE NO. 46890

To Appropriate the Public Waters of the State of Oregon

I, BARCLAY MEADOWS WATER IMPROVEMENT CORPORATION, % O. D. Stephenson
(Name of applicant)
of Route 1, Box 216, Jefferson
(Mailing address)
State of Oregon, do hereby make application for a permit to appropriate the
following described public waters of the State of Oregon, **SUBJECT TO EXISTING RIGHTS:**

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is Unnamed Stream
(Name of stream)

, a tributary of Alsea River

2. The amount of water which the applicant intends to apply to beneficial use is 0.06
cubic feet per second.
(If water is to be used from more than one source, give quantity from each)

**3. The use to which the water is to be applied is domestic, including up to 1/2 acre
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

lawn and garden for each house

4. The point of diversion is located ft. and ft. from the
(N. or S.) (E. or W.)
corner of Section or subdivision

North 40°36' East, 61.35 feet and North 9°45' East, 770.75 feet from Brass cap
set for Witness Corner to Meander Corner in West line of Section 30, T 13 S,
R 10 W, WM.
(If preferable, give distance and bearing to section corner)

(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)
being within the U.S. Lot 3 of Sec. 30, Tp. 13 S.
(Give smallest legal subdivision) (N. or S.)

R. 10 W, W. M., in the county of Lincoln
(E. or W.)

5. The Pipe line to be 3,233 feet
(Main ditch, canal or pipe line) (Miles or feet)
in length, terminating in the U.S. Lot 3 of Sec. 30, Tp. 13 S
(Smallest legal subdivision) (N. or S.)

R. 10 W, W. M., the proposed location being shown throughout on the accompanying map.
(E. or W.)

DESCRIPTION OF WORKS

Diversion Works—

6. (a) Height of dam None feet, length on top feet, length at bottom

feet; material to be used and character of construction (Loose rock, concrete, masonry,

rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate (Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description 3 H.P. Multistage Jacuzzi Pump
(Size and type of pump)

(Size and type of engine or motor to be used, total head water is to be lifted, etc.)

*A different form of application is provided where storage works are contemplated.

**Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) feet; width on bottom feet; depth of water feet; grade feet fall per one thousand feet.

(b) At miles from headgate: width on top (at water line) feet; width on bottom feet; depth of water feet; grade feet fall per one thousand feet.

(c) Length of pipe, 3,233 ft.; size at intake, 2 $\frac{1}{2}$ " in.; size at ft. from intake in.; size at place of use 2 $\frac{1}{4}$ " in.; difference in elevation between intake and place of use, 20' ft. Is grade uniform? Yes Estimated capacity, sec. ft.

8. Location of area to be irrigated, or place of use

Township North or South	Range E. or W. of Williams Meridian	Section	Forty-acre Tract	Number Acres To Be Irrigated
13 S	10 W	30	U. S. Lot 1	Domestic included,
13 S	10 W	30	U. S. Lot 2	up to $\frac{1}{2}$ A. L. L. &
13 S	10 W	30	U. S. Lot 3	garden

(If more space required, attach separate sheet)

(a) Character of soil

(b) Kind of crops raised

Power or Mining Purposes—

9. (a) Total amount of power to be developed theoretical horsepower.

(b) Quantity of water to be used for power sec. ft.

(c) Total fall to be utilized feet.
(Head)

(d) The nature of the works by means of which the power is to be developed

(e) Such works to be located in of Sec.
(Legal subdivision)

Tp., R., W. M.
(No. N. or S.) (No. E. or W.)

(f) Is water to be returned to any stream?
(Yes or No)

(g) If so, name stream and locate point of return

....., Sec., Tp., R., W. M.
(No. N. or S.) (No. E. or W.)

(h) The use to which power is to be applied is

(i) The nature of the mines to be served

10. (a) To supply the city of _____

(Name of) County, having a present population of _____
and an estimated population of _____ in 19_____(b) If for domestic use state number of families to be supplied 30 families O.D.

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of proposed works, \$ 1,000.00
12. Construction work will begin on or before June 1, 1967
13. Construction work will be completed on or before September 1, 1967
14. The water will be completely applied to the proposed use on or before September 1, 1967

Remarks: _____

Borley Meadows Water
improvement cooperated by O.D. Stephenson, Jr.
(Signature of applicant)

STATE OF OREGON, }
County of Marion, } ss.

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for _____

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before _____, 19_____

WITNESS my hand this _____ day of _____, 19_____

STATE ENGINEER

By _____

ASSISTANT

PERMIT

STATE OF OREGON, }
County of Marion, } ss.

This is to certify that I have examined the foregoing application and do hereby grant the s
SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial
and shall not exceed 0.06 cubic feet per second measured at the point of diversion from
stream, or its equivalent in case of rotation with other water users, from an unnamed stream

The use to which this water is to be applied is domestic use of thirty families includ
the irrigation of not to exceed one-half acre lawn and garden

If for irrigation, this appropriation shall be limited to of one cubic foot
second or its equivalent for each acre irrigated

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

The priority date of this permit is November 15, 1966

Actual construction work shall begin on or before April 11, 1968 and :
thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1968..

Complete application of the water to the proposed use shall be made on or before October 1, 1968

WITNESS my hand this 11th day of April, 1967

STATE ENGINEER

Application No. 430412
Permit No. 31861

PERMIT

TO APPROPRIATE THE PUBLIC
WATERS OF THE STATE
OF OREGON

This instrument was first received in the
office of the State Engineer at Salem, Oregon,
on the 15th day of November,
1966, at 10:44 o'clock A. M.

Returned to applicant:

Approved:

April 11, 1967

Recorded in book No. of
Permits on page 31861

CHRIS L. H. H. H.
STATE ENGINEER

Drainage Basin No. 18 page 12D

D E S C R I P T I O N O F P R O P E R T Y
(BARCLAY MEADOWS WATER IMPROVEMENT CORPORATION)

Beginning at a point that is 715.42 feet South and 2438.29 feet East of the Witness Corner to the Meander Corner on the North Bank of the Alsea River between Sections 25 and 30, Township 13 South, Range 10 West, Willamette Meridian; Thence South $87^{\circ}52'$ West, 600.0 feet; Thence North $86^{\circ}05'$ West, 535.0 feet; Thence North $74^{\circ}45'$ West, 357.0 feet; Thence North $67^{\circ}19'$ West, 212.0 feet; Thence North $60^{\circ}07'$ West, 256.10 feet; Thence North $57^{\circ}36'$ West, 166.30 feet; Thence North $53^{\circ}11'$ West, 271.0 feet; Thence North $53^{\circ}05'$ West, 200.0 feet; Thence North $36^{\circ}55'$ East, 70.0 feet; Thence South $53^{\circ}05'$ East, 362.26 feet; Thence South $57^{\circ}35'$ East, 163.58 feet; Thence South $59^{\circ}55'$ East, 243.90 feet; Thence South $67^{\circ}25'$ East, 188.0 feet; Thence South $74^{\circ}45'$ West, 357.0 feet; Thence South $86^{\circ}05'$ East, 535.0 feet; Thence North $87^{\circ}52'$ East, 600.0 feet; Thence South $10^{\circ}52'$ West, 86.0 feet to the Point of Beginning, together with all land lying Southerly of the above described Tract and Mean High Water line of the Alsea River.

Application No. 43042
Permit No.

STATE OF OREGON

COUNTY OF

LINCOLN

RECEIVED

NOV 1 1978

WATER RESOURCES DEPT.
SALEM, OREGON**Proof of Appropriation of Water**BARCLAY MEADOWS WATER IMPROVEMENT
CORPORATIONof P. O. Box 782, Waldport
has applied beneficially the waters of
an unnamed stream

, State of Oregon, 97394 ,

a tributary of Alsea River for the purpose of
domestic use for 29 families including the irrigation of not to exceed $\frac{1}{2}$ acre
lawn and garden
under Permit No. 31861 and that the use of said waters has been completed under the
terms of said permit; that the priority of the right dates from
November 15, 1966
that the amount of water for the purposes aforesaid, has been actually beneficially used in the
amount of
0.06 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.
The point of diversion is located in the Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 30, T. 13 S., R. 10
W., W. M., 870 feet North and 1140 feet West from the SE Corner, Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)
Section 30

The amount of water used for irrigation, together with the amount secured under any other
right existing for the same lands, shall be limited to ----- of one cubic foot per second
per acre,

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

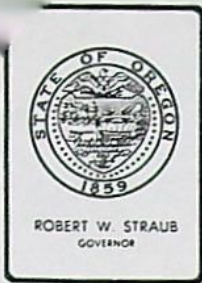
A description of the place of use under the right, and to which such right is appurtenant, is
as follows:

Lot 1 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 2 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 3 (SE $\frac{1}{4}$ SW $\frac{1}{4}$)
Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$)
Section 30
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 16TH day of SEPT.,
1978.

Barry C. Lucht President



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8508

October 25, 1978

File No. 43042

Barclay Meadows Water Improvement Corp.
P.O. Box 782
Waldport, OR 97394

Dear Gentlemen,

While marking records I realized the proof form recently sent to you was in error.

Your diversion point was identified on the map and the proof form as being 1370 feet North of the reference corner. It should have been 870 feet North. I apologize for the oversight.

Here is another proof form for your inspection. I have also enclosed the original proof for your comparison.

Please sign the proof form and return it at your earliest convenience. Your certificate will be issued with the next group of permits being processed.

Sincerely,

Thomas E. Shook
Water Rights Engineer

TES/dw



STATE OF OREGON

STATE ENGINEER
WATER RESOURCES DEPARTMENT
516 PUBLIC SERVICE BUILDING
SALEM 97310

July 2, 1969

REFER TO
FILE NO. 43042

Barclay Meadows Water Improvement Corp.
c/o O. D. Stephenson
P. O. Box 281
Waldport, Oregon 97394

Gentlemen:

This will acknowledge receipt of your notice to the effect that complete application of water has been made under permit No. 31861.

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

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

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

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 128

skf



STATE OF OREGON

STATE ENGINEER

WATER RESOURCES DEPARTMENT

516 PUBLIC SERVICE BUILDING

SALEM 10

October 21, 1968

REFER TO
FILE NO. 42042

Barclay Meadows Water Improvement Corp.
c/o O. D. Stephenson
Route 1, Box 260
Jefferson, Oregon 97352

Gentlemen:

This will acknowledge the notice of completion of construction under the terms of permit No. 31861.

Under the provisions of the permit, the time limit for completion of the appropriation by accomplishing the authorized beneficial use of water to the full extent intended will expire October 1, 1969. (In the case of irrigation completion of the appropriation means at least one beneficial irrigation of all the land to be irrigated under the subject permit.)

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 119
ks



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

REFER TO
FILE NO. 43042

October 26, 1967

Barclay Meadows Water Improvement Corp.
c/o O. D. Stephenson
Route 1, Box 260
Jefferson, Oregon 97352

Gentlemen:

This will acknowledge the notice of beginning
of construction under the terms of permit No. 31861.

Our records show the time limit for completion
of construction of the works and/or the purchase and
installation of all the facilities required for the
authorized beneficial use of water will expire on
October 1, 1968.

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 118
ks

43042

April 25, 1967

Barclay Meadows Water Improvement Corp.
C/O O. D. Stephenson
Route 1, Box 216
Jefferson, Oregon

Gentlemen:

43042, permit No. 31861 with a blueprint.

November 22, 1966

Barclay Meadows Water Improvement
Corporation
c/o O. D. Stephenson
Route 1, Box 216
Jefferson, Oregon

Gentlemen:

This will acknowledge your application to appropriate 0.06 cubic foot of water per second from an unnamed stream for domestic use of 30 families including up to one-half acre of lawn and garden for each house, a map, legal description, and the fee of \$20 for which our receipt No. 1584 was handed to you.

This application has been filed and numbered 43042 and is in satisfactory form for issuance of a permit.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Larry W. Jebousek
Assistant

LWJ:hls