

September 16, 1994

Howard and Michael Brownson
Brownson Logging Co.
PO Box 1578
Myrtle Creek OR 97457

WATER
RESOURCES
DEPARTMENT

Dear Messrs. Brownson:

On behalf of Governor Barbara Roberts, thank you for your letter of July 22 regarding water rights in the Myrtle Creek area. Senator Mark Hatfield also forwarded your concerns to us. I am aware that Don Knauer, our department's Adjudications Specialist, responded to your letter to us in late July. However, I would like to offer a further explanation about the nature of pre-1909 water right claims which are awaiting adjudication and describe what is happening in your area.

Before 1909, Oregon law did not require a state-issued water right before individuals could make use of water. When a new water rights procedure was set up in 1909, it included provisions to recognize and honor water uses that had been established before 1909. As a result, these pre-1909 claims are viewed as existing rights, rather than mere applications. Only a state court, through the adjudication process, can decide whether these claims remain valid today.

For that reason, the Oregon Attorney General's office has advised our department that we may not regulate for or against pre-1909 claims. This means that we do not respond to calls for water from a claimant by shutting off junior water rights upstream (as you allege in your letter). Conversely, we do not shut off a claimant when calls for water are made downstream. I believe this position toward a pre-1909 claim of continuous water use appears fair while waiting until the local court determines the validity of the claim through the adjudication process.

In your situation, the watermaster is responding to a senior water right holder downstream of both your diversion and that of the claimant. The claimant is continuing to take the amount in his adjudication filing because the water is in the creek going through his property.

This situation may continue to occur in drought years until such time as the Umpqua Basin or South Myrtle Creek is adjudicated. At that time, the claimant's pre-1909 water right may be awarded. If the claim is finalized by the court at that time, a water right certificate will be issued and the holder then has the right to make a call on the water. I cannot give you an accurate forecast of when the adjudication for this basin will occur, but the current workload suggests that it will not be for several years.



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

Howard and Michael Brownson
September 16, 1994
Page 2

I hope this information responds to your questions. Please do not hesitate to contact me if you have further questions or if I can be of assistance in this or other related water resource issues. You can also reach the area watermaster, Gary Ball, by calling (503) 440-4255.

Sincerely,



Martha O. Pagel
Director

cc: Sen. Mark Hatfield
Gary Ball, District 15 Watermaster
Al Cook, Southwest Region Manager

129162

BROWNSON LOGGING CO. RECEIVED
P.O. BOX 1578
MYRTLE CREEK, OR 97457 JUL 28 1994

JULY 22, 1994

GVERNOR'S OFF

The Honorable Barbara Roberts
Governor, State of Oregon
State Capitol
Salem, OR 97310

*WRD
Neighbors Water Rights
Leave NO Drinking
Water*

RE: Pre-1909 Water Right Claim
Section 19 Township T29S Range R4W

Dear Mrs. Roberts,

I am writing concerning the rights of many people that live at South Myrtle Road in Myrtle Creek, Oregon. The rights I am referring to are water rights. It seems that Roy Anderson filed an application claiming water rights dated prior to 1909. However, as to this date we have seen no proof of this. He apparently is waiting for a legal process known as "adjudication proceeding". However in the interim of this court date, he has been granted full water rights and left the remainder of us with no water. Keeping in mind that this adjudication proceeding could be postponed for several years is a great concern to all of us.

Am I right to understand that this is the legal process? At this time there is no indication that he will be granted these rights by a court of law. It hardly seems fair that an awaiting "application" could have this much power.

Please give this matter your valuable attention as we feel that this situation is grossly unjust.

Thank you in advance for your help and consideration in this matter.

Sincerely,

Howard J. Brownson

Michael Brownson

Howard Brownson, Jr.
Michael Brownson

Krauer

Oregon

WATER
RESOURCES
DEPARTMENT

September 16, 1994

Steve and Barbara Sutch
5303 South Myrtle
Myrtle Creek OR 97457

Dear Mr. and Mrs. Sutch:

Governor Roberts has asked me to respond to your recent letter to her. I hope that I can clear up the nature of pre-1909 water right claims which are awaiting adjudication and describe what is happening in the Myrtle Creek Area.

Before 1909, Oregon law did not require a state-issued water right before individuals could make use of water. When a new water rights procedure was set up in 1909, it included provisions to recognize and honor water uses that had been established before 1909. As a result, these pre-1909 claims are viewed as existing rights, rather than mere applications. Only a state court, through the adjudication process, can decide whether these claims remain valid today.

For that reason, the Oregon Attorney General's office has advised our department that we may not regulate for or against pre-1909 claims. This means that we do not respond to calls for water from a claimant by shutting off junior water rights upstream (as you allege in your letter). Conversely, we do not shut off a claimant when calls for water are made downstream. I believe this position toward a pre-1909 claim of continuous water use appears fair while waiting until the local court determines the validity of the claim through the adjudication process.

In your situation, the watermaster is responding to a senior water right holder downstream of both your diversion and that of the claimant. The claimant is continuing to take the amount in his adjudication filing because the water is in the creek going through his property.

This situation may continue to occur in drought years until such time as the Umpqua Basin or South Myrtle Creek is adjudicated. At that time, the claimant's pre-1909 water right may be awarded. If the claim is finalized by the court at that time, a water right certificate will be issued and the holder then has the right to make a call on the water. I cannot give you an accurate forecast of when the adjudication for this basin will occur, but, as you correctly state in your letter, the current workload suggests that it will not be for several years.




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

Steve and Barbara Sutch
September 16, 1994
Page 2

I hope this information responds to your questions. Please do not hesitate to contact me if you have further questions or if I can be of assistance in this or other related water resource issues. You can also reach the area watermaster, Gary Ball, by calling (503) 440-4255.

Sincerely,



Martha O. Pagel
Director

cc: Gary Ball, District 15 Watermaster
Al Cook, Southwest Region Manager

WRD
Water Rights
Questions

Governor Roberts:

RECEIVED

8/4/94

AUG 17 1994

GVERNOR'S OFFICE

This is something that my husband and I don't understand and wonder if you could help us. We would like to know why legal water right holders are being shut off and denied water use to supply water to a vested water claim Application?

What we can't understand is why they can go ahead and use the water right above us that have water rights. Especially when it hasn't even gone to court yet to prove it is even a legal claim.

We would appreciate and hope for any information we can get on this.

Please Respond

Steve & Barbara Ditch
5305 South Myrtle
Myrtle Creek, Ore

97457

Knauss

Oregon

WATER
RESOURCES
DEPARTMENT

September 20, 1994

Sandra L. Graf
10062 South Myrtle Rd.
Myrtle Creek OR 97457

Dear Ms. Graf:

Thank you for your letters to Governor Barbara Roberts, Senator Bill Bradbury, Anne Squier and myself regarding water rights in the Myrtle Creek area. I hope that I can clear up the nature of pre-1909 water right claims which are awaiting adjudication and describe what is happening in your area.

Before 1909, Oregon law did not require a state-issued water right before individuals could make use of water. When a new water rights procedure was set up in 1909, it included provisions to recognize and honor water uses that had been established before 1909. As a result, these pre-1909 claims are viewed as existing rights, rather than mere applications. Only a state court, through the adjudication process, can decide whether these claims remain valid today.

For that reason, the Oregon Attorney General's office has advised our department that we may not regulate for or against pre-1909 claims. This means that we do not respond to calls for water from a claimant by shutting off junior water rights upstream (although this may appear to be the case, as you suggest in your letter). Conversely, we do not shut off a claimant when calls for water are made downstream. I believe this position toward a pre-1909 claim of continuous water use appears fair while waiting until the local court determines the validity of the claim through the adjudication process.

In your situation, the watermaster is responding to a senior water right holder downstream of both your diversion and that of the claimant. The claimant is continuing to take the amount in his adjudication filing because the water is in the creek going through his property.

This situation may continue to occur in drought years until such time as the Umpqua Basin or South Myrtle Creek is adjudicated. At that time, the claimant's pre-1909 water right may be awarded. If the claim is finalized by the court at that time, a water right certificate will be issued and the holder then has the right to make a call on the water. I cannot give you an accurate forecast of when the adjudication for this basin will occur, but the current workload suggests that it will not be for several years.



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

Sandra Graf
September 20, 1994
Page 2

I hope this information responds to your questions. Please do not hesitate to contact me if you have further questions or if I can be of assistance in this or other related water resource issues. You can also reach the area watermaster, Gary Ball, by calling (503) 440-4255.

Sincerely,



Martha O. Pagel
Director

cc: Governor Barbara Roberts
Sen. Bill Bradbury
US Sen. Mark Hatfield
Anne W. Squier, Governor's Office
Al Cook, Southwest Region Manager
Gary Ball, District 15 Watermaster

8/28/94

Catha Pagel,
Director Water Resources

August 26, 1992 we attended a meeting by Water Resources people about the Pre 1909 Adjudication of water rights for the Uniguan Basin. We were given an application claim package, told what the fees would be and that we had to file before Dec. 31, 1992.

I spent many hours researching our place back to the Carson homestead 1889. But logic said water wasn't pumped up over a small hill in those days. So we didn't apply.

Now 8/28/94 most of the legal water right holders on South Myrtle Creek have been shut off. ^{7/14/94} Denied water use, except those who made claim application. The Douglas County ^{water to} water master says he's been instructed by Salem to supply these applicants even tho they have No Priority or Right. Because of back log it could be 6 to 8 years before they get to court. And letter writing is useless because there's more to this law or Bill than we were told.

It would appear there was a great deal of information withheld!

So if we had put up some \$, filled out some papers, mailed them before Dec. 1992. We'd have state enforced, unlimited water use for what could be several years and to hell with the legal water right holder be it 20, 30, 40 years priority.

What on earth is happening? Why would documented legal water right holders be denied, penalized, restricted for the benefit of a non-existent, possible water claim?

Please Respond

Andrea S. Gray
1062 South Myrtle Rd.
Myrtle Creek, OR
97157

August 22, 1994

STEVE SUTCH
5305 S MYRTLE
MYRTLE CREEK OR 97457

re: SWR-89, SWR-122, SWR-298

Dear Mr Sutch,

Enclosed you will find the copies you requested and our receipt # 115625 for the copy fees of \$ 70.50. If you have any questions, please give me a call.

Sincerely,

Don Knauer
Adjudication Specialist

j:\w\slc\0\swr-0298.002



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

89-122-298

STATE OF OREGON
WATER RESOURCES DEPARTMENT
RECEIPT # **115625**
158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: Stuke Sutch
BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: # 79655 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 70.50

01-00-0 WRD MISC CASH ACCT

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

REDUCTION OF EXPENSE

CASH ACCT. \$ _____

COST CENTER AND OBJECT CLASS

VOUCHER # _____

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS		
840.001	COPY FEES	\$ <u>70.50</u>
850.200	RESEARCH FEES	\$
880.109	MISC REVENUE: (IDENTIFY)	\$
520.000	OTHER (P-6) (IDENTIFY)	\$

WATER RIGHTS:		EXAM FEE		RECORD FEE
842.001	SURFACE WATER	\$	842.002	\$
842.003	GROUND WATER	\$	842.004	\$
842.005	TRANSFER	\$	842.006	\$
WELL CONSTRUCTION		EXAM FEE		LICENSE FEE
842.022	WELL DRILL CONSTRUCTOR	\$	842.023	\$
	LANDOWNER'S PERMIT		842.024	\$
_____	OTHER (IDENTIFY)			

06-00-0 WELL CONST. START FEE

842.013	WELL CONST START FEE	\$	CARD #	
_____	MONITORING WELLS	\$	CARD #	
_____	OTHER (IDENTIFY)			

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
---------	------------------	----

07-00-0 HYDRO ACTIVITY

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

RECEIPT # **115625** DATED: _____ BY: _____
Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

RECEIVED

AUG 17 1994

WATER RESOURCES DEPT.
SALEM, OREGON

Mr. Krauer:

Here is the check to
pay for three copies on the
1909 Water Claim's for
89 - Roy Anderson claim
122 - Perry Murray claim
298 - Mark Wade Rice claim
for the sum of \$70.50.

Thank-you.

Steve Sutch
5305 S. Myrtle Rd.
Myrtle Creek, Or.

97457

503-863-4057

RECEIVED

AUG 11 1994

8/9/94

WATER
SALE ORDERS

Mr. Don Knauer:

I would like to have
you send me the information
on the Vested Water Right
Claims for 121, 89, & 298.

Especially on how they qualify
for the Pre 1909 Vested Rights.

Thank You

Steve Sutch

5305 S. Myrtle

Myrtle Creek, Ore

97457

503-863-4057

8-12-94

TALKED TO STEVE SUTCH ABOUT CONTENTS
OF FILES, COPIES WILL COST \$70⁵⁰
WE'LL SEND CHECK NOW

SURFACE WATER REGISTRATION CHECKLIST

(received after July 18, 1990)

CHECK BASIN MAP DWF NAME Umpqua # 16 UNADJUDICATED AREA ? OR DWF
 RECEIPT # 95587 S W R NUMBER 298
 CHECK ENCLOSURES DWF PRELIMINARY DATA BASE ENTRY DWF
 ACKNOWLEDGEMENT LETTER DWF ENTER ON STREAM INDEX _____
 CHECK QUADRANGLE MAP _____ CHECK GLO PLATS _____
 WATERMASTER CHECKLIST _____ PUBLIC NOTICE PUBLICATION SC 94

FORM REVIEW

_____ blanks filled in
 _____ signed
 _____ date received stamped

MAP REVIEW

~~#3~~ source and trib
 diversion point location
 conveyances (pipes, ditch, etc.)
 place of use
 scale
 township, range, section
 north arrow
 CWRE stamp
 disclaimer
 date survey was performed
 _____ P.O.B. of survey
 dimensions and capacity of diversion system
 "beneficial use" type title
 "permanent-quality" paper

_____ 1/10³ acres WATER RIGHT RECORD CHECK _____ FIELD INSPECTION _____
 FINAL FILE REVIEW _____ FINAL DATA BASE ENTRY _____
 ENTER ON PLAT CARDS _____

February 26, 1993

MARK WADE RICE
PO BOX 850
MYRTLE CREEK OR 97457

Dear MR RICE,

This will acknowledge that your Surface Water Registration Statement in the name of MARK WADE RICE has been received by our office. The fees in the amount of \$430.00 have been received and our receipt #95587 is enclosed. Your registration statement has been numbered SWR-298.

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,



Dwight French
Adjudication Section

Enclosure

C:\WP51\SWR\CLAIMANT\SWR-0298.001



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

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **95587**

3850 PORTLAND ROAD NE
SALEM, OR 97310
378-8455/378-8130 (FAX)

RECEIVED FROM: Rice-Barber Machine
BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: # 216-505 OTHER: (IDENTIFY)

TOTAL REC'D \$ 430.00

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$ <u>430.00</u>
831.087	PUBLICATIONS/MAPS	\$
830.650	PARKING FEES Name/month	\$
_____	OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT.	\$
VOUCHER #	

COST CENTER AND OBJECT CLASS

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	EXAM FEE	842.002	RECORD FEE
842.003	GROUND WATER	\$	842.004	\$
842.005	TRANSFER	\$	842.006	\$
		EXAM FEE		LICENSE FEE
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	\$
---------	------------------	----

07-00-0 HYDRO ACTIVITY

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

RECEIPT # **95587** DATED: 12-29-92 BY: Smith

REPORT FOR VESTED WATER RIGHT

RECEIVED

FEB 02 1993

NAME:

Mark and Theodora Rice
P.O. Box 850
Myrtle Creek, OR 97457

WATER RESOURCES DEPT.
SALEM, OREGON

INFORMATION: Mr. Rice

SOURCE OF WATER: South Myrtle Creek, a tributary of Myrtle Creek.

DIVERSION POINT #1: MOTOR AND PUMP Two horsepower Sta-Rite single phase electrical motor direct coupled to 2"x1.5" Sta-Rite centrifugal pump.

Also used 3 hp Briggs & Stratton gas engine direct coupled to Homart 1.5"x1.5" centrifugal pump.

DIVERSION POINT #2: Domestic System. Jacuzzi jet pump with 0.75" discharge coupled to single phase 0.5 hp electrical motor. Water is chlorinated, placed in a storage tank, then pumped to the house and outside hose bibs with an 0.5 hp electrical pressure system.

PIPE: Irrigation pipe. there is 2070 feet of 2" aluminum pipe; which is more than sufficient to irrigate the claimed land. There is sufficient garden hoses and sprinklers to irrigate one-half acre.

SPRINKLERS: There are in excess of 20 sprinklers of various sizes. Most sprinklers are 3/32" x 5/32" nozzle sizes. Nine sprinklers are said to be used with the electric pump and five with the gas system.

USE: Irrigation of hay and pasture. Domestic use including irrigation of 0.5 acre lawn and non commercial garden. Stock water troughs are near the barn and in the east field.

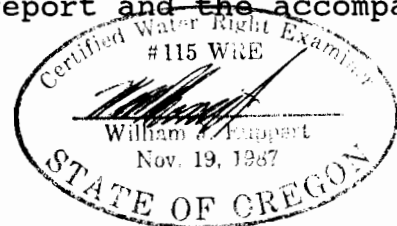
LIFT: Average lift for irrigation is 15 feet.

CALCULATION OF MAXIMUM WATER RATE:

Parameters for diversion #1. Nine sprinklers operating at 4.5 gpm (= 40.5 gpm) and 25 psi at sprinkler. Lift of 15 feet, residual pressure 58 feet, friction loss estimated at 25 feet. Total dynamic head of 98 feet. Water rate asked for .09 cfs = 40.3 gpm. Theoretical hp. required is 1.0. Electrical system needs to operate at 50.0% efficiency
Mr. Rice also reported that 5 sprinklers can be operated from the gasoline system.

SURVEY TIE: The map is based entirely on the final proof surveys for Permit No. 38361 and Permit No. 46659.

CERTIFICATION: By William J. Ruppert, Certified Water Right Examiner No. 115. The survey and inspection of the above use was completed by me on January 9, 1993, the facts contained in this report and the accompanying map are correct to the best of my knowledge.



WE, Mark Wade Rice, and Theodora D. Rice, agree to the findings of the Certified Water Right Examiner, and do submit this site report and map as part of our Claim of Beneficial Use of the water for a vested water right.

Mark Wade Rice

1-30-93 Date

Theodora D. Rice

1-30-93 Date

RECEIVED
DEC 2 1952

Adjudication Section
Oregon Water Resources Department
3850 Portland Road N.E.
Salem, Oregon 97310

WATER RESOURCES DIV.
SALEM, OREGON

Gentlemen:

Enclosed please find a completed Surface Water Registration Statement for pre 1909 vested water rights along with the required fee of \$430.00.

My property for which these rights are claimed is a portion of the Benjamin L. Stephens Donation Land Claim. Benjamin L. Stephens settled on this property on or about the 31st day of October, 1853 for the purpose of farming the land evidence of which is shown in the Donation Certificate #4132 which I received from the National Archives in Washington D.C. This document contains numerous sworn statements from that time attesting to the fact that Benjamin L. Stephens did settle and cultivate this property in 1853 pursuant to an act of the Congress of the United States of September 27, 1850 Section 7 entitled "An act to create the office of Surveyor General of the Public Lands in Oregon, and to provide for the survey, and to make donations to settlers of the Public Lands," and amendments thereto,".

I have been able to acquire the field notes of the surveyor for Donation Land Claims, the date of which Virginia Laugen of the surveyor's office tells me is 1857, as near as she can tell. These notes show the location of the original Benjamin L. Stephen's home which I believe to be the old house on the Snyder's place across the road from me. Time has dimmed the record from the 1850's to April of 1898 when a topographical map was made of the area showing a house on what I believe is my property in section 22 within the B.L. Stephen's Claim. Also I have enclosed an article written by Ora Weaver Carter which attests to the types of agricultural uses the land in the Myrtle Creek area was put to from about 1852 onward. These include grains (Myrtle Creek had a flour mill in the 1860's) livestock and livestock feed (probably native grass hay and pasture) and prune orchards, etc. Mr. Hall, who is mentioned in the article had a large orchard between 1862 and 1922, the year of his death. There are numerous prune trees on my place that I believe are from the same era. There is also a very large weeping willow tree which I am told is the largest in Douglas County, and numerous apple and pear trees which must have been planted well over 100 years ago.

The house that I live in was built in 1929 according to the tax assessor's office. I was told it was the third house on the property by My. Leonard Dyer, long time resident of Myrtle Creek, now deceased. When Mr. Dyer was in grade school he lived in what is now the Snyder home across the street from me and walked to the school in Anchor, past my place daily. He told me he later dated a girl who lived at my place and remembered the earlier house which I believe is shown on the map of April 1898. This house may well be my barn which was once a house or it may have been an earlier structure. The barn still has the hearth of an old fireplace and some old window openings long since sealed and clearly predates the house of 1929 in which I now live. The source of water for the house, livestock and agriculture is clearly South Myrtle Creek, which runs near both structures.

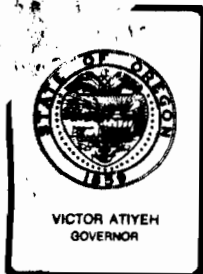
There were numerous old pumps on the place when I bought it which I have replaced. I have been using the water as applied for since 1981 as were the previous owners. Please find copies of notarized letters attesting to that fact enclosed.

I was unable to have the map made by the December 31 deadline but have made an appointment with Mr. William T. Ruppert #115 on January 9, 1993, and will forward said map to you as soon as I receive it. My. Ruppert assures me that this is acceptable as he has been in contact with your office about the matter.

Sincerely:



Mark W. Rice



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-8508

April 10, 1986

Mark Rice
PO Box 850
Myrtle Creek, OR 97457

REFERENCE: File Number 50802

RECEIVED

DEC 29 1992

WATER RESOURCES DEPT.
SALEM, OREGON

Dear Mr. Rice:

Thank you for your letter of April 8th, 1986. The information is complete and well documented to support your contention that probably all of Permit Number 38361 was irrigated within the terms of the permit. Further it apparently has not been forfeited by non-use for five successive irrigation seasons so an extension of time is not necessary. We are herewith refunding the \$100 check you submitted with the extension application.

The file has been set up for another final proof survey to be conducted to include all the available acreage. I really meant the first sentence. Rarely do we receive such a well organized and reasonable approach.

Sincerely,

Bruce A. Estes, Supervisor
Survey/Certificate Section

BAE/jw

Enclosure

RECEIVED

DEC 29 1992

WATER RESOURCES DEPT.
SALEM, OREGON

To Whom it May Concern

I am the next door neighbor to the Rices to the west and have personal knowledge of their use of irrigation water.

While, I can not specifically state which fields in what years they have irrigated, I do know they have irrigated large portions of their property every year since they moved here from California.

Walter Davidson

MWR/tr

Walter Davidson

7647 South Myrtle Rd.

Myrtle Creek, Ore

97457

RECEIVED

DEC 29 1992

WATER RESOURCES DEPT.
SALEM, OREGON

To Whom it May Concern

The undersigned certifies that; he is the owner of the five acre parcel on South Myrtle which together with Mr. Rice's ten acres are included under irrigation permit #38361.

That; to the best of my knowledge the water right was in full force and effect on the date of my purchase in 1981.

That; after I purchased the property, and specifically in that year, beneficial use of the irrigation water right was used and continues to be used.

That; while I do not specifically know which fields or in what particular years Mr. Rice irrigates, I have personal knowledge that he irrigates every year and has done so in each year since I have known him.

That; it is my belief that at no time has any portion of the fifteen acres covered under permit #38361 been unirrigated for a period in excess of five years.

Note: Acreage approximate

Robert F. Smith
Robert Smith

3001 (6/82) (Individual) First American Title Company

STATE OF CALIFORNIA
COUNTY OF *Los Angeles*

ss.

On *March 22, 1986*

before me, the undersigned, a Notary Public in and for

said State, personally appeared *ROBERT F. SMITH*

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature *Charles F. Gilb*



(This area for official notarial seal)

RECEIVED

DEC 29 1980

WATER RESOURCE
SALEM, OREGON

TO WHOM IT MAY CONCERN.

Re: Property located within the SW ¼ NE ¼ of Sec.22, Tp.29S, R.4 W
Address: So. Myrtle Rt. Box 234, Myrtle Creek, Ore. 97457

The undersigned herewith certify that, while the above mentioned property was in their possession, in the year 1977, they utilized their allowable water rights up to its maximum, on approximately 15 acres.

Signed: *Roy H. H. H.* Date: 3-12-80

Public Notary: *Sherril L. Smith* Witnessed: _____
my commission expires 5-8-89

MYRTLE CREEK MEMORIES

by

ORA WEAVER CARTER

No name is more interwoven in the development of Myrtle Creek than that of John Hall. He was born in Carysville, Ohio, on October 3rd, 1837, and crossed the plains by ox team to Sacramento in 1857, walking almost the entire length of the journey. Later in 1857 he came north from California to Douglas County, Oregon, where he engaged in mining on Starve-out Creek near Azalea. In 1861 he was married to Susannah Weaver, the daughter of Hans and Harriet Weaver, pioneers of 1853.

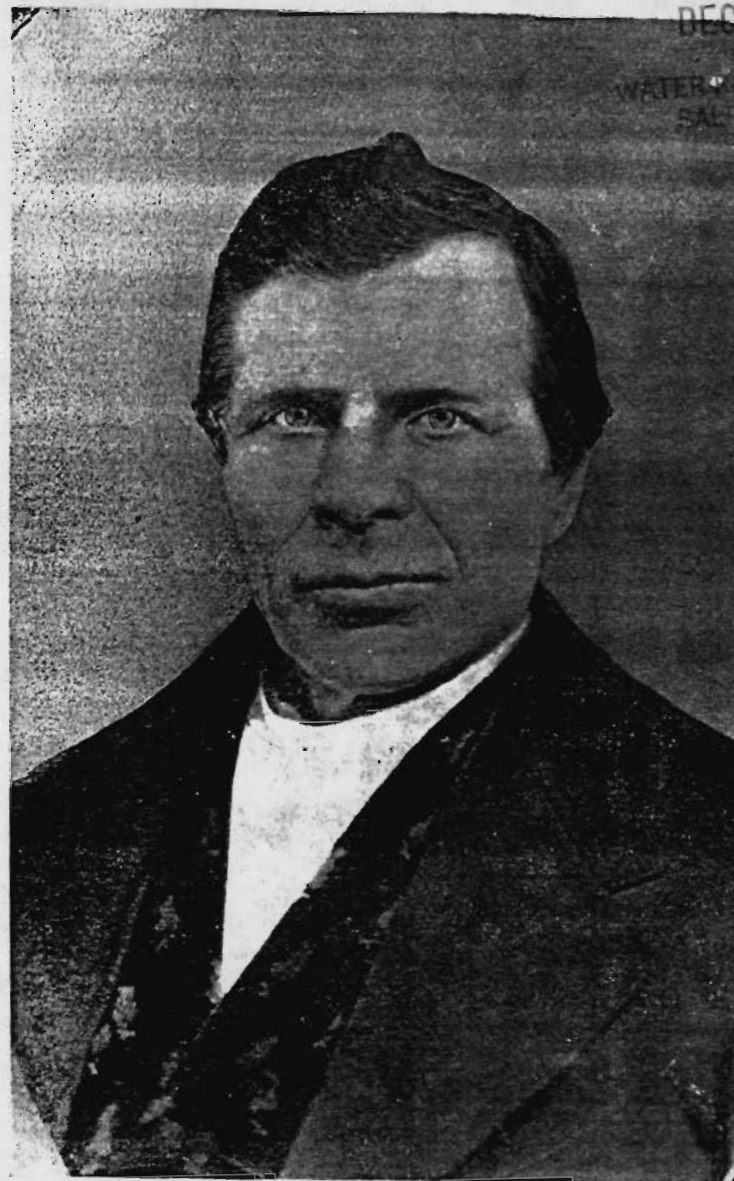
Learning that the land now occupied by the town of Myrtle Creek was for sale, Hans Weaver rode a horse through the Umpqua Canyon to his son-in-law's mining claim on Starve-out Creek to advise John Hall to purchase the land, as Weaver considered it a good buy. According to Lewis McArthur's "Oregon Geographic Names", the site was first settled by James B. Weaver in 1851; Weaver traded his claim to J. Bailey for a yoke of oxen, and in 1852 Bailey sold the claim to Lazarus Wright.

Lazarus Wright was a noted hunter and locally famous for his ability and skill in killing the grizzly bears which were numerous in the region at that time. On February 18th, 1854, a post office was established at Myrtle Creek, and Lazarus Wright was designated as the first post master.

Wright's land covered an entire section, 640 acres, extending from the mouth of Myrtle Creek up beyond the forks east of town where North and South Myrtle Creeks join. One of the first needs of settlers was a flour mill to grind their grain into flour and meal, and a water-powered grist mill was established on Myrtle Creek just below the bridge at the south end of town, near the John Hall home; this home is now known to many as the Buick house. The mill race crossed the road between the Hall house and the bridge, the water coming from a dam further up the creek; in earlier days the mill race was used as a baptismal place by the churches of Myrtle Creek.

After a few years of homesteading, Wright found the going tough, and was forced to mortgage his land to Michael Hanley of Jacksonville, Oregon.

When Lazarus Wright could not meet his mortgage, Hanley foreclosed and was willing to sell the land. Acting on Hans Weaver's advice, John Hall and his wife purchased the Myrtle Creek site from Hanley; however, their savings were so small that they could only buy



COURTESY OF MRS. ORA CARTER

Hans Weaver, Jr., the Irish-born pioneer who brought his family across the plains in 1853 and settled near Myrtle Creek in Douglas County. He was the paternal grandfather of Mrs. Harlan B. (Ora Weaver) Carter, the author of this article and a director of the Douglas County Historical Society.

half of the Wright claim, or 320 acres. The remaining 320 acres, the eastern portion of the Wright land extending out North and South Myrtle creeks, was bought by Solomon Bigham, a brother-in-law of Hans Weaver. Michael Hanley reportedly received two thousand five hundred dollars from John Hall for Hall's portion of the Wright claim, and Hall was given time to pay off the balance of the amount due.

John and Susannah Hall lived in the Overland Hotel, which was one of the first hotels in the town of Myrtle Creek; John Hall purchased the land from Hanley in 1862 and platted the town in 1865. He also kept a feed stable for travelers and freighters who put up at the hotel for the night; by hard work and thrifty saving, the Halls eventually paid for their 320 acres. The original hotel operated by the Halls stood on the east side of the road leading through town, on the same site as the later Overland Hotel. Hall later built a new home located across the road from the the hotel, and this house still stands. A long kitchen was later added to the original house, and many gay parties and dances were held there. John Hall's oldest son, William, tells of an incident that took place in the Hall house involving his uncle, Edwin Weaver; a dance was to be held there and Edwin Weaver, then a smooth-faced lad about twenty-one years old, was induced by the ladies to pose as a woman. The ladies dressed him up in curls, hoops, and a bustle and he became so amused at the idea of fooling the rest of the dancers that he laughed constantly.

John Hall farmed extensively, raising grain and later had a large prune orchard, and also had an interest in the Myrtle Creek flour mill. He and his father-in-law, Hans Weaver, acquired this mill, which had been built before Hall's arrival, and operated it under the firm name of Hall & Weaver. Later Hans Weaver sold his share of the business to a Mr. Adams and the name of the firm was changed to Hall & Adams. This mill was later operated by Willis Kramer; Kramer and his wife also operated the Overland Hotel for a time. This old hotel was destroyed by fire on the night of June 7, 1905, with the loss of life of Hattie Dement. Another early hotel in Myrtle Creek was operated by George Dement and was located near the site of the present Myrtle Hotel.

John Hall was greatly interested in the growth of Myrtle Creek and donated land for a school and various churches. An early school dating back to January 30th, 1864, was located on the Adams place near the present railroad depot.

There were seven children in the John Hall family, namely William T., James, John Todd, Ann, Emma, Florence, and Grace. Florence Hall became the wife of the late Dr. A. C. Seely and recently passed away in Roseburg at the age of 96; she was born in the old Hall

home in Myrtle Creek on March 25th, 1871. The only surviving daughter of the Hall family is Mrs. Grace Hall Lutz, who now lives at Gateway Court (Empire) Coos Bay, Oregon.

The Hall home was a happy place. Claude Riddle wrote the following: John Hall was my father's cousin . . . nowadays folks don't know the meaning of hospitality as people like John Hall and his wife, Susannah Weaver Hall, knew it: When one went to their home they made it the business of their lives for the time being to be kind and delightful and entertaining, and a dinner at their table was one that would cause you to wonder whether it were Thanksgiving or Christmas.

Susannah Weaver Hall passed away on April 10, 1895, at the age of 53. John Hall later remarried, his second wife being affectionately known as "Auntie" Hall; she had formerly been married to Jasper Hall, a school teacher and a brother of John Hall. This second marriage held the family together, and John Hall continued in his active role as civic leader. In 1884 he had become interested in politics and was elected to be a Douglas County Commissioner. Later he was one of the instigators of the organizing of the first bank in Myrtle Creek. A trusted and highly respected citizen, John Hall passed away on November 2, 1922, at the age of 85.

I wish to give credit for much of the information presented in this story to William ("Bill") Hall, eldest son of John and Susannah Hall. He recalls the accident that cost the life of Billy Weaver, the grandfather of Fred Weaver of Tri-City. Billy Weaver was a pioneer settler in the Myrtle Creek-Missouri Bottoms area, and had married a sister of the late Henry Adams, Sr. About December 30th, 1876, Billy Weaver and another man were returning home at night in a wagon driven by Isaac Bailey. Weaver and the other companion were



COURTESY OF MRS. HARLAN B. CARTER

John Hall, from a photo taken when he was in the prime of his life. Hall laid out the town of Myrtle Creek in 1865, having arrived in Douglas County in 1857 and bought the old Lazarus Wright claim embracing the townsite in 1862.

both seated on chairs placed on the wagon; the team jerked the wagon, throwing both men out onto the ground. Billy Weaver was injured so badly that he died on January 3rd, 1877.

Hans Weaver and Billy Weaver were not related, although their farms adjoined. Both men had sons named John — John Weaver, the son of Billy Weaver, once operated a store on the main street of Myrtle Creek in partnership with his cousin, James B. Weaver. Hans Weaver and his son, Robert, also operated a store in Myrtle Creek from 1872 until 1874, operating under the name of H. Weaver & Son. They sold this store to Marks, Wollenberg & Co., who placed Simon Selig in charge as manager. William Hall states that he worked in this store from April 15, 1882, until May 1, 1884; during this period the railroad was being built south from Roseburg, and Mr. Hall saw the first train arrive in Myrtle Creek, the date being about August 1, 1882, and he remembered how it frightened the cattle and horses in the fields along the track.

In a previous issue of THE TRAPPER, my story of the tragic loss of three of the children of Hans Weaver appeared, the story giving the account of the drowning of the children when the family attempted to ford Myrtle Creek when it was in flood. Since Hans Weaver is involved in the history of Myrtle Creek, a story of his life seems to be in order. Born in Dublin, Ireland, on May 22, 1816, he migrated to the United States and married Harriet Bigham. In the spring of 1835 the family started across the plains to Oregon, coming via the Southern or Applegate-Scott route. When they reached the head of the canyon south of Canyonville, their horses were about played out; the road through the canyon was only a rough trail, and in places the wagons had to be lifted in and out of the creek bed with ropes. It is said that Mrs. Weaver occasionally rode one of the horses to urge the team forward, her 11-year-old daughter mounted behind her. There were three other Weaver children in the family, all younger, whose names were James William, Robert, and Edwin. After a strenuous passage in the canyon, Mrs. Weaver walked into Canyonville with her children trailing behind her, and a few days later gave birth to another child. The family was destitute, Hans Weaver having but 50c in his pocket. The coat of one of the company of soldiers stationed at Canyonville furnished the swaddling clothes for the new baby. Word of their plight reached the other settlers who had arrived previously and these kindly people came to the aid of the Weavers. Moses True Dyer, an earlier arrival, went to Canyonville and assisted Hans Weaver in locating on a donation land claim adjoining the Dyer claim about six miles southeast of Myrtle Creek. Years later Dyer's daughter, Margaret Ann, married Hans Weaver's son, Edwin.

Hans Weaver later purchased a ranch of 160 acres located two miles south of Myrtle Creek and began raising livestock on a large scale: he also bought and sold livestock, and rapidly accumulated more land, at one time owning 3,800 acres. Through the treachery of supposed friends, he lost the vast sum of \$80,000. Hans Weaver and his wife raised twelve children. Death came to him in 1888 at the age of 70 years.

Harriet Bigham Weaver, the wife of Hans Weaver, was an outstanding pioneer woman. She was born in Ohio on December 2, 1822, and was married to Hans Weaver on August 26, 1841. He was 25 years old at the time, his parents having brought him to Gurnsey County, Ohio, from his native Ireland when he was three years old. Family legend says that Harriet Weaver could neither read nor write and because of this her husband's family frowned on the marriage. Hans Weaver and his bride left the family circle and moved to Quincy, Illinois, where they resided until the start of their journey west in 1853.

Harriet Weaver was of light complexion, and had blue eyes and sandy hair, and was a woman of unusual courage. In an encounter with Indians while crossing the plains, she grabbed up an iron shovel and struck a chief a lusty blow in the face as he was engaged in grabbing meat from the frying pan in which she was preparing the evening meal for her family.

Her action so angered the Indians that the party was forced to break camp and move on; the Indians followed the train for two days but the immigrants managed to fight them off. The shovel Harriet Weaver struck the Indian with is a cherished family relic and is now in the possession of one of the great-grandchildren. It is additionally prized because it is the handiwork of Hans Weaver, who was both a blacksmith and a carpenter.

Aside from the Hans Weaver family, there were numerous other families of Weavers in the area who were not related. Large families were customary in pioneer times, and the various Weaver clans produced numerous descendants. Around 1900 the Thomas Weaver family, no relation to any of the others, arrived with four or five children; T. Lewis Weaver, a son of Thomas Weaver now living up Days Creek said that when his family arrived, it was a question as to whether the gray squirrels or the Weavers would take over the countryside!

Harriet Bigham Weaver passed away in 1897 at the age of 74; she and her youngest son, Cleland, had run the ranch after the death of Hans Weaver, and during these last years Cleland had taught his mother to read and write. One of the last memories I have of my Grandmother Weaver is that of watching her light her corn cob pipe with a glowing coal from the fireplace.

the operation could be delayed a little longer than threshing from the shock; a well-built stack would stand a little early rain without incurring much damage. Stacked grain could be fenced off until the thresher arrived, permitting stock to be turned into the stubble fields to forage on the gleanings lost in binding and hauling.

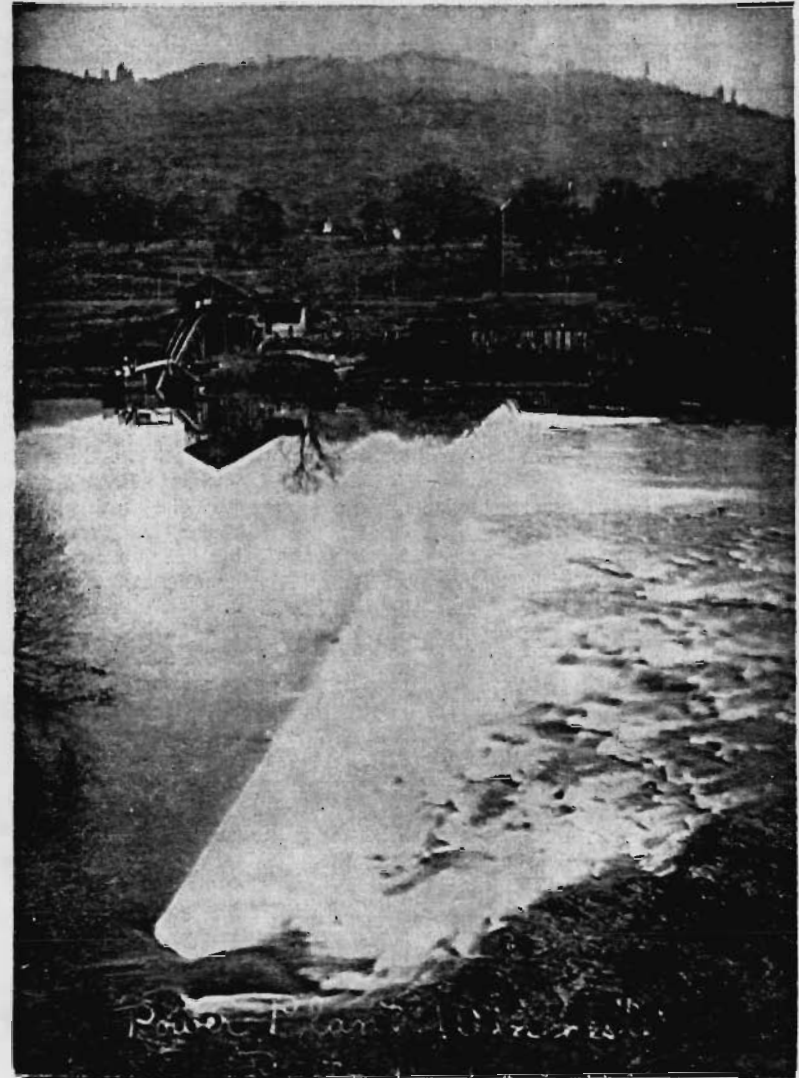
To list all the men in the county who operated threshers would prove a monumental task, since the names of many are all but forgotten. A number of pioneer operators have been mentioned earlier in this article; to these might be added other well-known operators, such as Washington Hughes of Lone Rock, whose horse-power rig worked the Glide area and South Deer Creek, occasionally going on over the low divide to thresh the upper reaches of Roberts Creek; the Mumpowers, who threshed on Pass Creek; the Denn steam thresher of Camas Valley; "Hank" Jones, who threshed around Myrtle Creek and Lookingglass; John Spaugh, who operated around Lookingglass and Deer Creek; the Cloakes of Cloakes Ferry district; Volney Oden, who operated a Rumely oil-pull engine on Deer Creek; and many others.

A vintage piece of harvest equipment is the primitive thresher owned by the Douglas County Historical Society and currently stored at the Fairgrounds. Reportedly shipped to Scottsburg by boat in the late 1860's, this old separator was used by the Burchards on their Long Prairie ranch above Scottsburg. It was later acquired by the Cutlack family of the Cox Creek area, who traded a bear skin for it, and still later came into the possession of C. L. "Mont" Spalding. Mr. Spalding recognized the historic value of the machine and presented it to the Historical Society. It is hoped to have this machine restored to its original color scheme and appearance.

The advent of the internal combustion engine sounded the death-knell for the steam traction engine, and the large grain farms which flourished in Douglas County in earlier days have dwindled away to a rather limited acreage. The powered combine harvester has supplanted the reaper, binder, and threshing machine in the remaining grain fields, performing with relative ease the task that required so many days of hard manual labor by the large crews who manned the threshers of yesteryear. The work is now done faster, cheaper, and more efficiently but the modern methods can never replace the color and excitement of an old-time steam threshing outfit in full swing.

THE UMPQUA TRAPPER

Publication of the Douglas County
(Oregon) Historical Society



WINTER HUNT
1967

PRICE

Vol III No. 4

RECEIVED

DEC 29 1992

WATER RESOURCES DEPT.
SALEM, OREGON

Land office Roseburg Oregon
~~OLYMPIA, W. T.~~

DONATION CERTIFICATE,

No. 413

of Benjamin L Stephens
& Wife

April - 1864.

Sent to Special
Pat

Pat dated April 19/1867
Recorded Vol 8 page 331
Sent to Regs April 29, 1867

No interference
Pat - App. Mar 9/89
(1) Vol 8 85M
104

DONATION.

CERTIFICATE, }
No. 413

{ NOTIFICATION,
No. 120 1/2

Whereas, In conformity with the provisions of the 7th Section of the Act of Congress, approved September 27, 1850, entitled "An act to create the office of Surveyor General of the Public Lands in Oregon, and to provide for the survey, and to make donations to settlers of the Public Lands," and the amendments thereto,

~~Benjamin J. Stephens a married man~~
of the county of Douglas in the Territory of State of Oregon

claiming a Donation right, in virtue of the Act aforesaid, to a half section tract of Public Lands known and designated in the Surveys and Plats of the United States as the Claim 38ⁱⁿ 21, 22, + 23,

Township No 29 S, Range No 4 W, beginning at a point 9,27 chains S, & 15,65 chains W. from the N E corner of Section 21, thence running E 120,50 chains; thence S, 26,67 chains; thence W 120,00 chains; thence N 27,10 chains to the place of beginning; containing Three Hundred twenty-two ⁶⁹/₁₀₀ (322,69) acres; of which the W. half is designated for the wife, Ellen Stephens

having proven to the satisfaction of the Register and Receiver of Thompson District Territory, the fact that such settlement was commenced on the 31st day of Oct. 1853; & continued to the 1st day of July 1858, four years prior to the date hereof; and having, in pursuance of the requirements of the 7th Section of the act aforesaid, established by two disinterested witnesses, the fact of continued residence and cultivation required by the said act:

Now, therefore, be it known, That we, John Kelly and Aedison A Flint REGISTER AND RECEIVER of Public Lands in said Territory, do hereby, and pursuant to the 7th Section of the act aforesaid, certify to the COMMISSIONER OF THE GENERAL LAND OFFICE the facts aforesaid, accompanied by the evidence thereof, in order that a patent may be issued to said claimant, Benjamin L Stephens for the tract of land described, as required by the 7th Section of the act aforesaid.

Provided, That the said Commissioner shall find no valid objection thereto.

Given under our Hands at the LAND OFFICE IN OLYMPIA, for ~~the District of Washington Territory, this~~

Aswung, Oregon this 4th day of April 1864.

John Kelly REGISTER.
A. R. Flint, RECEIVER.

No. 120 1/2

NOTIFICATION

To the Register & Receiver of Wapinitia Dist., on the settlement of
Public Land in Township numbered 29 South Range 4 West.

PURSUANT to the act of Congress approved on the 27th day of September, 1850, entitled "An act to create the office of SURVEYOR GENERAL OF PUBLIC LANDS IN OREGON, and to provide for the survey and make donations to settlers of the public lands," and amendments thereto—

I, Benjamin L. Stephens of Douglas County

In the Territory of Oregon, hereby give notice of my claim to DONATION of Three hundred and twenty acres of land, known and designated in the surveys and plats of the United States as the following description sets forth

Beginning at a point 150 chs. West and 1000 chs. South of the N.E. corner of Sec. 21 T. 29 S. R. 4 W. and running

Then South 300 chains

" East 106.67 "

" North 30.00 "

" West 106.67 " to the place

beginning

Wm. Clark C.T.
May 16th 1855

Signature
Benjamin L. Stephens

André Bore, New York, N.Y.

*Publications of the
of Gen. S. Stephens.*

April, 1864.

H

[3]

DONATION.

CERTIFICATE, }
No. 413

{ NOTIFICATION,
No. 120 1/2

And whereas, In conformity with the provisions of the 7th Section of the Act of Congress. approved

No. 120 1/2

FORM OF SETTLER'S OATH;

Claiming by virtue of Settlement and Cultivation commenced subsequent to December 1, 1850.

I, Benjamin L. Stephens of Douglas County Oregon
am a claimant of the public land described in the annexed Notification to the Register and Receiver of the
Land Office for Surveyor's dist. number 120 1/2, under the provisions of the act of
Congress approved the 27th day of September, 1850, entitled "An act to create the office of Surveyor
... by me is for my own use and
cultivation, and that I have made no sale or transfer, or any arrangement or agreement for any sale,
transfer, or alienation of the same, or by which the said land shall inure to the benefit of any other person.

Subscribed and sworn before me, this

16th day of May 1855,
at Dear Creek Co.

Signature Benjamin L. Stephens

Signature R. H. Dearborn

Auditor of Douglas County
Co.

No. 120 1/2

Moss F. Alger, of Douglas County,
in the Territory of Oregon, being first duly sworn, says that he is personally acquainted
with Benjamin L. Stephens the person who claims a donation right to the tract of land
described in Notification No. 120 1/2, and Ellen his wife;
and that he has known them to live together as man and wife from 1st of Oct., 1853,
to 16th of May 1855; and that they are and were reputed by their neighbors as such
during said period.

Subscribed and sworn before me, this

16th day of May 1855,
at Dear Creek Co.

Signature Moss F. Alger

Signature R. H. Dearborn

Auditor of Douglas Co.
Co.

No. 120 1/2

Amos P. Strong, of Jackson County, in the Territory of Oregon, being first duly sworn, says that he is in no way interested in the tract or tracts of land claimed as a donation by Benjamin L. Stephens and particularly described in Notification No. 120 1/2, hereunto annexed; that he is personally acquainted with said Benjamin L. Stephens, and knows that he has personally

Subscribed and sworn before me, this

30th day of Sept. 1862 Signed Amos P. Strong at Jacksonville Oregon

Signed Wm Hoffman County Clerk of Jackson Co. Oregon

No. 120 1/2

Garrett Bennett, of Jackson County, in the Territory of Oregon, being first duly sworn, says that he is in no way interested in the tract or tracts of land claimed as a donation by Benjamin L. Stephens and particularly described in Notification No. 120 1/2, hereunto annexed; that he is personally acquainted with said Benjamin L. Stephens, and knows that he has personally resided upon and cultivated said tract or tracts of land, continuously, from the

day of October 1853, to the day of July 1868

Subscribed and sworn before me, this

20th day of Sept. 1862

at Jacksonville Oregon

Signed Wm Hoffman County Clerk of Jackson Co. Oregon

I, Benjamin L. Stephens of Lenoir Co
a (Distant) Claimant on the Pub Lands
do solemnly Swear that I will support, protect, and defend the
Constitution and Government of the United States against all enemies, whether
domestic or foreign, and that I will bear true faith, allegiance, and loyalty to
to the contrary notwithstanding; and, further, that I do this with a full
determination, pledge, and purpose, without any mental reservation or evasion
whatsoever; and, further, that I will well and faithfully perform all the duties
which may be required of me by law. So help me God.

Benjamin L. Stephens [SEAL.]

Land Office

Roseburg

} ss.

Sworn and subscribed to before me, this 7 day of Oct 1862

John Kelly

(15) Register of the Land Office at Roseburg

I Benjamin L. Stephens of Douglas County
a. Donatist. Clerk in 1862, 1863

do solemnly swear that I will support, protect, and defend the
Constitution and Government of the United States against all enemies, whether
domestic or foreign, and that I will bear true faith, allegiance, and loyalty to
the same, any ordinance, resolution, or law of any State Convention or Legislature
to the contrary notwithstanding; and, further, that I do this with a full
determination, pledge, and purpose, without any mental reservation or evasion
whatsoever; and, further, that I will well and faithfully perform all the duties
which may be required of me by law. So help me God.

Signed, Benjamin L. Stephens [SEAL.]

Land Office
Roussell Co. Ky. } ss.

Sworn and subscribed to before me, this 7th day of October 1862

Signed, John Kelly,
Register of the Land Office at Roussell Co. Ky.

AFFIDAVIT OF SETTLER.

Benjamin L Stephens of Douglas County, in the State of Oregon, being first duly sworn, says that he is a white Male settler on public lands in T. 29d R. 4th that he arrived in said State on the 31st day of August 1853; that he is a Native Citizen of the United States

and that he was born in Green Co, Ohio in the year 1824; that he has personally resided upon and cultivated that part of the public lands in Oregon aforesaid, particularly described in the annexed Notification to the Register and Receiver of the Washington District, continuously, from the day of October 1853, to the day of July 1858. And he further says that he is intermarried with Ellen his wife, and that he was legally married to her on the 28th day of March 1844 in Lee County, in Iowa

Subscribed and sworn before me, this 30th day of Sept. 1866 at Jacksonville Oreg

Signed Benjamin L Stephens

Signed Wm McOffeman County Clerk of Jacksonville, Oreg

L.S.

No. 120 1/2

Notification to the Register and Receiver of the Land Office for Oregon,
on the settlement of Public Land, in Township numbered 29 S Range 4 West

PURSUANT to the Act of Congress, approved on the 27th day of September, 1850, entitled, "An Act to create the office of SURVEYOR GENERAL OF THE PUBLIC LANDS IN OREGON, and to provide for the survey and make Donations to Settlers of the Public Lands" and amendments thereto—

I Benjamin Stephens a married
man of Douglas Co Oregon
In the Territory of Oregon hereby give notice of my claim to
DONATION of Three Hundred and twenty (320) acs
of Land, known and designated in the Surveys and Plats of the United States, as the following

Beginning 15.71 chains West 10.00 chains
South of the N.E. cor. of sec. 21, T. 29. S.
Rang. 4 West
Thence South 30.00 chains
" East 106.67 "
" North 30.00 "
" West 106.67 " to place of beginning

I would respectfully state that
J A Burns & E W Bowman, be appointed
to make the final survey of my claim
Attest
Benjamin Stephens
My. 16. 1853

Benjamin Stephens

W

No.

Benjamin L. Stephens of Douglas County, in
 the Territory of Oregon, being first duly sworn, says that he is a white
 man settler on public lands in Oregon, that he
 arrived in said Territory on the 31st day of August 1853;
 that he was a resident thereof between the 27th day of September, and the 1st day of December, 1850;
 and will be above the age of 21 years on the 1st day of December, 1855;

And that
 he is a native born citizen of the United
 States of America

and that he was born in Green Co Ohio in the year 1820
 that he has personally resided upon and cultivated that part of the public lands in Oregon
 particularly described in Notification No. , hereunto annexed, continuously
 from the 1st day of Oct 1853, to the 16
 day of May 1853. And he further says that he is intermarried with

Ellen Stephens his wife, and that he was legally married to her on the
 26 day of March 1844, in Lee Co Iowa

Subscribed and sworn before me, this
 16 day of May 1853;
 at Denver Colo

Benjamin L. Stephens
 witness my hand and seal of
 office affixed this day and year above
 written R. M. Deaton

[10] Auditor Douglas Co Oreg [10]

No. *Wm. Weaver*, of *Douglas* County,
in the Territory of *Oregon*, being first duly sworn, says that he is in no way interested
in the tract or tracts of land claimed as a donation by *Benj. Stephens*, and
particularly described in Notification No. _____, hereunto annexed; that he is personally acquainted
with said *Benjamin Stephens* and knows that he has personally resided upon and
cultivated said tract or tracts of land, continuously, from the *1st* day of *October*
1853, to the *16th* day of *May* 1855.

Subscribed and sworn before me, this

16 day of *May* 1855

at *Deer Creek*

Wm Weaver
witness my hand and seal
of office affixed this day in
year above written
R. W. Denton
Auditor Douglas Co Ory

No. *Moses T Dyer*, of *Douglas* County,
in the Territory of *Oregon*, being first duly sworn, says that he is in no way interested
in the tract or tracts of land claimed as a donation by *Benj. Stephens*, and
particularly described in Notification No. _____, hereunto annexed; that he is personally acquainted
with said *Benjamin Stephens* and knows that he has personally resided upon and
cultivated said tract or tracts of land, continuously, from the *1st* day of *Oct*
1853, to the *16* day of *May* 1855.

Subscribed and sworn before me, this

16 day of *May* 1855

at *Deer Creek*

M T Dyer
witness my hand and seal
of office affixed this day in
year above written
R. W. Denton
Auditor Douglas Co Ory

No.

228 May 55

FORM OF SETTLER'S OATH,

CLAIMING BY VIRTUE OF SETTLEMENT AND CULTIVATION COMMENCED SUBSEQUENT TO DECEMBER 1, 1850.

I Benjamin Stephens of Douglas County Oregon Territory am a claimant of the Public Land described in the annexed notification of the Register and Receiver of the Land Office for Oregon, Number , under the provisions of the Act of Congress, approved the 27th day of September, 1850, entitled "An Act to create the office of Surveyor General of the Public Lands in Oregon, and to make donations to settlers of the said Public Lands;" and I do solemnly swear that I am not acting directly or indirectly as an agent for, or in the employment of others in making such claim, but that the land so claimed by me is for my own use and cultivation, and that I have made no sale or transfer, or any arrangement or agreement for any sale, transfer, or alienation of the same, or by which the said land shall inure to the benefit of any other person.

Subscribed and sworn before me, this 16 day of May 1855, at Elletts Creek } Witness my hand and seal of office affixed this day and year above written

R W Dearborn Auditor Douglas Co O.Ty

No.

Moses I Dyer, of Douglas County, in the Territory of Oregon, being first duly sworn, says that he is personally acquainted with Benjamin Stephens, the person who claims a donation right to the tract or tracts of land described in Notification No. and Ellen Stephens, his wife; and that he has known them to live together as man and wife from Oct. 1. 54 1853, to May. 16. 1855; and that they are and were reputed by their neighbors as such during said period.

Subscribed and sworn before me, this 16 day of May 1855, at Elletts Creek } Witness my hand and seal of office affixed this day and year above written

R W Dearborn Auditor Douglas Co O.Ty

Proof of Four Years' Residence and Cultivation.

Samuel P. Strang of Jackson County, in the State of Oregon, being first duly sworn, says he is in no way interested in the tract or tracts of land claimed as a donation by Benjamin L. Stephens and particularly described in the ~~annexed~~ ^{in file} Notification to the Register and Receiver of the Umpqua District, that he is personally acquainted with said Benjamin L. Stephens and knows that he has personally resided upon and cultivated said tract or tracts of land, continuously from the day of October 18 53 to the day of July 18 58

Subscribed and sworn before me, this 30th day of Sept 1862, at Roseburg Jacksonville

Sam P Strang

H. Hoffman

County Clerk Jackson County Oregon with the seal of the County Court of said County attached.

Garrett Crockett of Jackson County, in the State of Oregon, being first duly sworn, says he is in no way interested in the tract or tracts of land claimed as a donation by Benjamin L. Stephens and particularly described in the ~~annexed~~ ^{in file} Notification to the Register and Receiver of the Umpqua District; that he is personally acquainted with said Benjamin L. Stephens and knows that he has personally resided upon and cultivated said tract or tracts of land, continuously, from the day of October 18 53 to the day of July 18 58

Subscribed and sworn before me, this 30th day of September 1862, at Roseburg Jacksonville

Garrett Crockett

H. Hoffman

County Clerk, Jackson County Oregon with the seal of the County Court of said County attached

AFFIDAVIT OF SETTLER.

Benjamin L. Stephens of Jackson County, in the State of Oregon, being first duly sworn, says that he is a white male settler on public lands in T29 S R14 W that he arrived in said State on the 31st day of August 1853; that he is a Native born Citizen of the United States

and that he was born in Green County State of Ohio in the year 1820; that he has personally resided upon and cultivated that part of the public lands in

Oregon aforesaid, particularly described in the ~~annexed~~ Notification to the Register and Receiver of the Umpqua District, continuously, from the ^{while} ^{about} middle of October 1853, to the [^] day of July 1858

And he further says that he ^{was} intermarried with Ellen his wife, and that he was legally married to her on the 28th day of March 1844 in Lee County, in Iowa

Subscribed and sworn before me, this 30th day of September 1862 at Jacksonville Benjamin L. Stephens

H. M. Hoffman County Clerk Jackson County Oregon with the seal of the County Court attached

THE UNITED STATES OF AMERICA,

Benjamin S. Stephens and wife

To all to whom these presents shall come, Greeting:

Whereas, There has been deposited in the GENERAL LAND OFFICE of the UNITED STATES a Certificate numbered *four thousand one hundred and thirty* of the Registrar and Receiver at Roseburg, Oregon, whereby it appears that under the provisions of the act of Congress approved the 27th day of September, 1850, entitled "An act to create the office of Surveyor General of the Public Lands in Oregon, and to provide for the survey and to make donations to settlers of the said public lands," and the legislation supplemental thereto, the *Claim of Benjamin S. Stephens as settler in the lands of Roseburg, Oregon, Oregon Territory No. 1202,* has been established to a donation of *one half* section, or *three hundred and twenty* acres of land, and that the same has been surveyed and designated as *claim number thirty-eight* in parts of sections *twenty-one, twenty-two, and twenty-three*, in Township *twenty-nine* North of Range *four* West.

according to the Official Plat of Survey returned to the GENERAL LAND OFFICE by the SURVEYOR GENERAL, being bounded and described as follows, to wit: Beginning at a point nine chains and twenty-seven links South, and fifteen chains and sixty-five links West from the North East corner of said section *twenty-one*, and running thence East one hundred and twenty chains and fifty links; thence South twenty-six chains and sixty-seven links; thence West one hundred and twenty chains, and thence North twenty-seven chains to the place of beginning, in the district of lands subject to sale at Roseburg, Oregon, containing three hundred and twenty-two acres and sixty-nine hundredths of an acre.

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the provisions of the act aforesaid, HAVE GIVEN AND GRANTED, and by these presents DO GIVE AND GRANT, unto the said Benjamin S. Stephens and to his heirs the East half, and unto his wife, the said Ellen Stephens, and to her heirs, the West half of the tract of land above described;

To have and to hold the said tract, with the appurtenances, unto the said Benjamin S. Stephens and his wife Ellen Stephens, and to their heirs and assigns forever, their respective portions as aforesaid.

In testimony whereof, I, Andrew Johnson,

PRESIDENT OF THE UNITED STATES, have caused these Letters to be made Patent, and the Seal of the GENERAL LAND OFFICE to be herunto affixed.

Given under my hand, at the CITY OF WASHINGTON, this nineteenth

day of April, in the year of our Lord one thousand eight hundred and sixty seven, and of the Independence of the United States the ninety first



BY THE PRESIDENT: Andrew Johnson

By Gen. L. Hill,

Secretary.

Abner Bullhatch Recorder of the General Land Office, ad interim

RECEIVED

DEC 29 1992

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

WATER RESOURCES DEPT.
SALEM, OREGON

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives of the United States, that the attached reproduction(s) is a true and correct copy of documents in his custody.



SIGNATURE <i>Janet L. Hargett</i>	
NAME Janet L. Hargett	DATE 8-19-85
TITLE Chief, General Branch	
NAME AND ADDRESS OF DEPOSITORY Civil Archives Division The National Archives Washington, D.C. 20409	

NA FORM APR 85 1407-B

of Range four West
 according to the Official Plat of Survey returned to the GENERAL LAND OFFICE by the SURVEYOR
 GENERAL being bounded and described as follows to wit: Beginning at a point nine chains
 and twenty-seven links north of the intersection of fifteen chains and sixty-five links West from the North
 East corner of said Section two, and running thence East one hundred and twenty
 chains and fifty links; thence South twenty-six chains and sixty-seven links; thence
 West one hundred and twenty chains and thence North twenty-seven chains to the
 place of beginning, in the District of lands subject to Sale at Roseburg, Oregon,
 containing three hundred and twenty-two acres and sixty-nine hundredths of an
 acre.

Now know ye, That the United States of America, in consideration of the premises, and
 in conformity with the provisions of the act aforesaid, HAVE GIVEN AND GRANTED, and by these presents
 DO GIVE AND GRANT, unto the said Benjamin L. Stephens and to his heirs the East half, and
 unto his wife, the said Ellen Stephens, and to her heirs, the West half of the tract
 of land above described;

To have and to hold the said tract, with the appurtenances, unto
 the said Benjamin L. Stephens and his wife Ellen Stephens,
 and to their heirs and assigns forever, their respective portions as aforesaid.

In testimony whereof, I, Andrew Johnson,

PRESIDENT OF THE UNITED STATES, have caused these Letters to be made Patent, and the Seal
 of the GENERAL LAND OFFICE to be hereunto affixed.

Given under my hand, at the CITY OF WASHINGTON, this nineteenth

day of April, in the year of our Lord one thousand eight
 hundred and sixty-seven, and of the Independence of the
 United States the ninety-first



BY THE PRESIDENT: Andrew Johnson.

By Edwin L. Hill,

Secretary.

Monten Bullhachy Recorder of the General Land Office.
 ad interim

FIELD NOTES

T29 R4

DONATION LAND CLAIMS

RECEIVED

DEC 20 1992

CHAINS

T29S R3W DLC37

T29S R4W DLC 37

West On N boundary Var 18° E

29.23 Intersect line between Secs 19 & 20, 7.53 chs N of 1/4 Sec cor

104.68 Intersect line between Rs 3 & 4W, 11 lks N of 1/4 post E boundary Sec 24 & 7.08 chs N of 1/4 Sec post W boundary Sec 19

123.40 A pine 24 in dia NW cor, from which
 A fir 18 in dia bears S 18° W 32 lks
 An alder 12 in dia bears S 28° E 38 lks

South On W boundary Var. 18° E

27.40 To beginning cor.

For Claim No 37 see page 524 Daniel T. Craig

T29S R4W DLC 38

WATER RESOURCES DEPT.
 SALEM, OREGON
 ? PLAT 5473
 6.53 6/5/91 JH

Acres 1857 per Virginia Langem
 Douglas County Surveyor's Office
 12-28-92

Field Notes of Benjamin L Stephens' Claim Not-
 ification No. 120 Claim No. 38 in T 29 S R 4w,
 Containing 322.69 Acres.

Beginning at the SW cor which is a fir 12 in dia in Sec
 21, from which

A fir 30 in dia bears N 30° W 27 lks
 A fir 10 in dia bears N 65° E 58 lks

East On S boundary

11.50 Myrtle Creek 50 lks wide co NW

14.65 Intersect line between Secs 21 & 22, 2.42 chs N of 1/4 Sec post

FIELD NOTES

T29 R4

DONATION LAND CLAIMS

CHAINS

T29S R4W DLC 38

19.75 Same creek 5² lks wide co SSW

31.75 Same co NW

36.00 Same co SSW

90.65 Intersect line between Secs 22 & 23, 4.60 chs N of $\frac{1}{4}$ Sec
post The corner and distance from quarter post W boundary
of Sec 22 to $\frac{1}{4}$ post on E boundary is S 88°15' E 76.00 chs

93.70 Same creek 40 lks wide co WSW

105.00 Same co WNW

120.00 Set post SE cor, from which

A fir 18 in dia bears S 47° W 13 lks

A fir 15 in dia bears N 88° W 16 lks

North On E boundary

10.60 Myrtle creek 30 lks wide co W

22.00 Road co E & W

26.67 Set post NE cor, from which

A oak 18 in dia bears S 7° W 74 lks

A pine 24 in dia bears S 85° E 85 lks

West On N boundary

7.15 Branch 15 lks wide co S

28.00 Intersect line between Secs 22 & 23, 7.60 chs S of Sec
cor

51.70 Branch 5 lks wide co S

94.70 Branch 1 lks wide co S

104.85 Intersect line between Secs 21 & 22, 9.27 chs S of Sec
cor Stephens' house bears S 20° W about 10 chs

The course of line between Secs 15 & 22 in N 88°45' W
76.85 chs

112.10 Branch 3 lks wide co S

120.50 Set post NW cor, from which

An oak 15 in dia bears S 85° W 192 lks

An oak 10 in dia bears S 60° E 194 lks

South On W boundary

6.25 Road co NW & SE

7.00 Enter field co NW & SE

FIELD NOTES

T29 R4

DONATION LAND CLAIMS

CHAINS

T29S R4W DLC 38

12.87 A balm 60 in dia

12.87 Same house bears N 57° E

14.00 Myrtle creek 50 lks wide co NNW

27.00 To beginning cor

SE cor Hans Weaver's Claim

T29S R4W DLC 39

Field Notes of Hans Weaver's Claim Notification

No. 119. Claim No. 39, Containing 320.60 Acres.

Beginning at the SE cor which is a fir 12 in dia in Sec
21 T 29 SR 4 W., from which

A fir 30 in dia bears N 30° W 27 lks

A fir 10 in dia bears N 65° E 58 lks

North On E boundary

27.00 NW cor Benjamin L Stephen's claim

36.84 NE cor Sec 21 bears S 87° 45' E 15.65 chs

42.65 Set post NE cor., from which

An oak 15 in dia bears N 67° E 67 lks

An oak 15 in dia bears S 5° W 235 lks

West On N boundary

51.67 A fir 40 in dia NW cor, from which

A fir 10 in dia bears S 10° E 34 lks

A fir 12 in dia bears S 40° W 27 lks

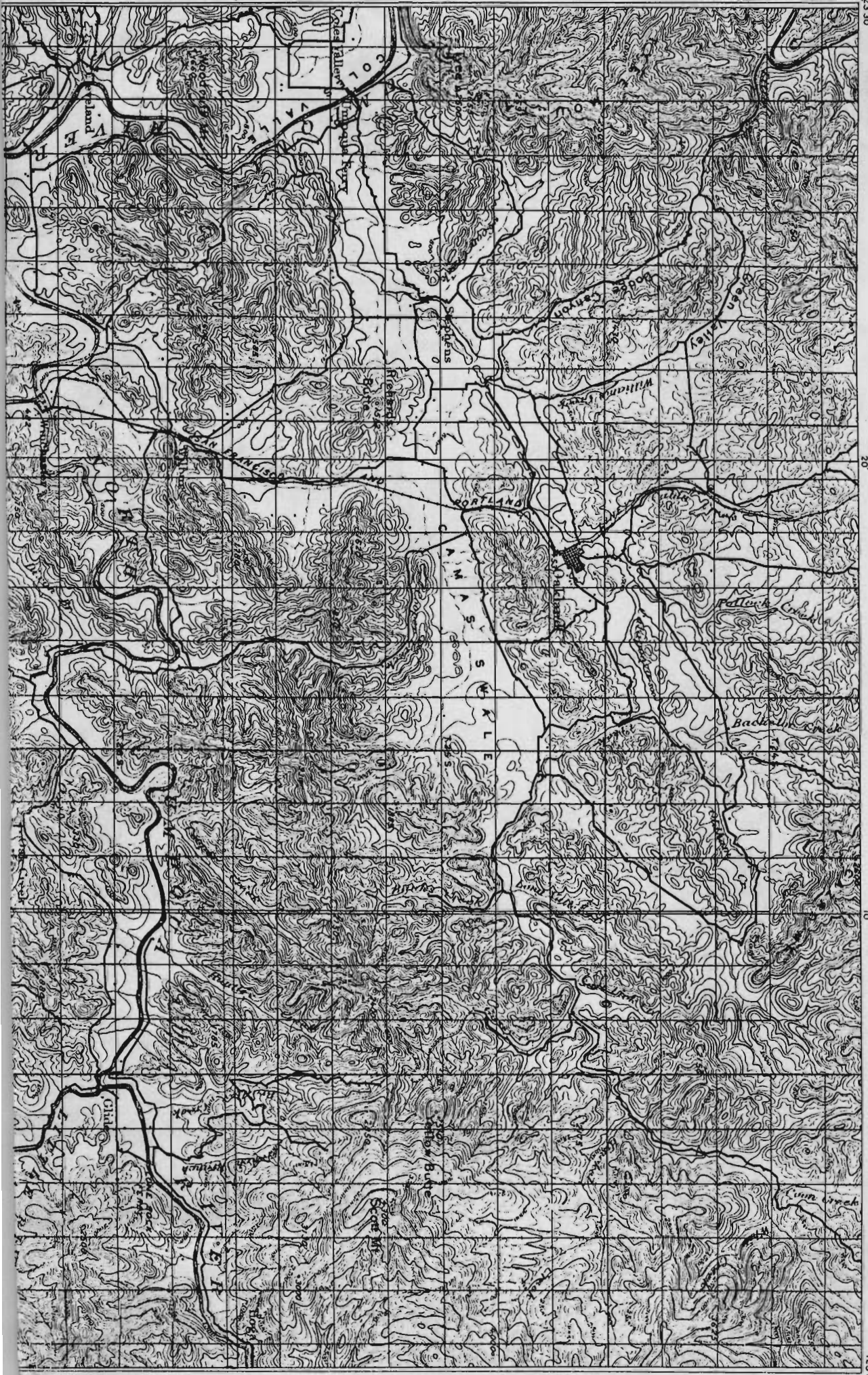
U.S. GEOLOGICAL SURVEY
 CHARLES D. WALCOTT,
 DIRECTOR

TOPOGRAPHIC SHEET

OREGON
 (DOUGLAS CO)
 ROSEBURG QUADRANGLE

CONVENTIONAL
 SIGNS

- CULTURE
(printed in black)
- Roads and buildings
 - Private and secondary roads
 - Trails
 - Railroads
 - Street railroads
 - Tunnels
 - Bridges
 - Fences
 - Rocks
 - Dunes
 - Lakes



CONVENTIONAL
 SIGNS

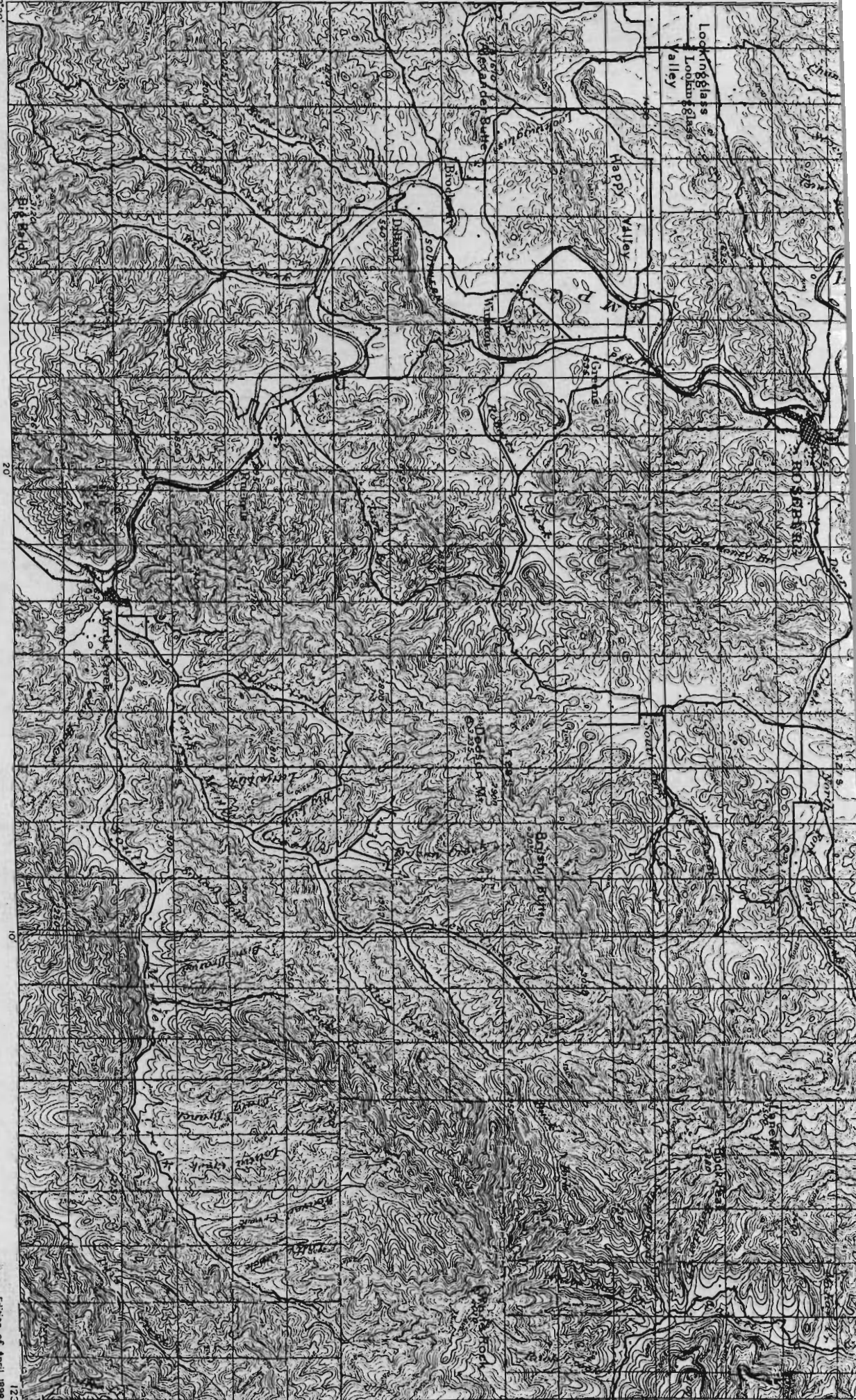
- RELIEF
(printed in brown)
- 5463
 FIGURES
(showing height above mean sea level in feet - measured at datum)
 - CONTOURS
(showing height above and below certain points of the surface)
 - Depression contours
 - Levees
 - CHIRPS
 - Mine dumps
- DRAINAGE
(printed in blue)
- Streams
 - Falls and rapids
 - Intermittent streams

RECEIVED

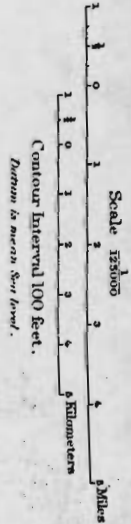
DEC 29 1992

WATER RESOURCES DEPT.
SALEM, OREGON

- Not found
- Triangulation stations
- S.M.
- Bench marks
- Mines and quarries
- Prospects
- Shales
- Mine tunnels (showing direction)
- Mine tunnels (no showing direction)



Henry Gannett, Chief Topographer.
 R.U. Goode, Geographer in charge.
 Triangulation by W. T. Griswold.
 Topography by E. C. Bernard.
 Surveyed in 1894-95.



Contour Interval 100 Feet.
Broken in mean sea level.

Edition of April 1898.

123°00' *Antitonal zone.*

- Lakes
- Glaciers
- Springs
- Salt marshes
- Fresh marshes
- Tidal flats

The above signs are in general use. Some variations from this usage appear in some maps of other areas.