

# REAL ESTATE MORTGAGE

2-1

THIS INDENTURE made on the 18th day of June 1954 by and between A. P. Cunningham and Blanche M. Cunningham, husband and wife,

of Malheur County, State of Oregon, hereinafter called the mortgagors, and THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK a corporation, of New York hereinafter called the mortgagee, WITNESSETH:

Said mortgagors, for and in consideration of the sum of THIRTY THOUSAND AND NO/100 DOLLARS, (\$ 30,000.00), United states lawful money to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said mortgagee, its successors or assigns, that certain real property situate in the County of Malheur, State of Oregon, described as follows:

ROCKY FORD AND SIBBALD:

All in Township 24 South, Range 46 E. W. M.  
Section 28,  $W\frac{1}{2}SE\frac{1}{4}$ ,  $E\frac{1}{2}SW\frac{1}{4}$ ;  
Section 29,  $SE\frac{1}{4}SE\frac{1}{4}$ ;  
Section 32,  $NE\frac{1}{4}NE\frac{1}{4}$ ;  
Section 33,  $NW\frac{1}{4}$ .

N. G. RANCH:

All in Township 26 South, Range 46 E. W. M.  
Section 4, Lot 4 (same as  $NW\frac{1}{4}NW\frac{1}{4}$ ),  $SW\frac{1}{4}NW\frac{1}{4}$ ,  $NW\frac{1}{4}SW\frac{1}{4}$ ;  
Section 5,  $SE\frac{1}{4}NE\frac{1}{4}$ ,  $E\frac{1}{2}SE\frac{1}{4}$ ;  
Section 8,  $NE\frac{1}{4}NE\frac{1}{4}$ ;

All in Township 25 South, Range 46 E. W. M.  
Section 33,  $S\frac{1}{2}SW\frac{1}{4}$ .

LOWER RANCH:

All in Township 25 South, Range 46 E. W. M.  
Section 28,  $SW\frac{1}{4}SW\frac{1}{4}$ ;  
Section 29,  $SE\frac{1}{4}$ .

BLIND CORRALS - MAHOGANY MOUNTAIN:

All in Township 26 South, Range 45 E. W. M.  
Section 28,  $E\frac{1}{2}SW\frac{1}{4}$ ,  $SW\frac{1}{4}SW\frac{1}{4}$ ;  
Section 33,  $NW\frac{1}{4}$ ,  $NE\frac{1}{4}SW\frac{1}{4}$ .

Conveying with the above described land any and all water rights and irrigating ditches belonging or in anywise appertaining thereto and especially including a first right in Carter Creek from March 1st to June 25th supplemented by water from Spring Creek. Also use of the water from Sucker Creek from April 20th to June 25th with an 1890 right. The water from said creeks is appurtenant to the land and was appropriated prior to February 24, 1909, the effective date of the State of Oregon water code.

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any unlawful or objectionable purpose that they will do all acts and things necessary to protect from pollution any and all surface waters, seepage waters, wells, springs and streams now or hereafter upon or used for irrigation or domestic purposes upon the said premises.

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NOW, THEREFORE, if the said mortgagors shall pay all and every sum of money specified in said note, and shall in all other respects fully carry out and comply with the covenants herein set forth and enumerated, this mortgage shall be void and shall be released at the cost of the mortgagors, otherwise to remain in full force and effect. But if said mortgagors shall fail to pay any of the said sums of money as specified, or in any other respect shall fail to comply with any of the covenants herein set forth they as often as such failure of payment or breach of covenant shall occur the said mortgagee, or its successors or assigns, may at any time thereafter declare the whole of the principal sum or so much thereof as at the time of such declaration may remain unpaid, with all interest accrued thereon, together with all sums with interest accrued thereupon paid by by said mortgagee under any agreement contained in this mortgage, to be at once due and payable, and the said mortgagee, its successors or assigns, may at any time after such failure of payment or breach of covenant as aforesaid proceed to foreclose this mortgage to complete payment to be made of the full amount due and payable.

Any deficiency in the amount of the aggregate monthly, or other periodic payments, provided for herein, or in the note, or notes, secured hereby, or any failure to pay any advancements, or payments made by the Mortgagee to protect and preserve the lien hereof, shall, unless made good by the Mortgagor, within ten days thereafter, constitute an event of default under this mortgage. The Mortgagee may collect a "late charge" not to exceed two cents (2¢) for each dollar (\$1) of each payment or advancement more than ten days in arrears to cover the extra expense involved in handling delinquent payments.

IT IS FURTHER EXPRESSLY AGREED: That should the said mortgagors fail to make payment of any taxes or other charges payable by them as hereinbefore agreed, or suffer said premises to become subject to any lien or encumbrance having precedence to this mortgage as hereinbefore provided against, the said mortgagee may, at its option, make payment thereof, and the amounts so paid, with interest thereon at the highest legal rate permissible by contract under the laws of said State, shall be added to and become a part of the debt secured by this mortgage, without waiver, however, of any rights of said mortgagee arising from the breach of any of said covenants.

In the event suit is instituted to effect such foreclosure, the said mortgagee, its successors or assigns, may recover therein as attorney's fees such sum as the court may adjudge reasonable in addition to the costs and disbursements allowed by the Code of Civil Procedure of the State of Oregon.

That in the event suit is instituted to effect such foreclosure, the said mortgagee, its successors or assigns, shall as a matter of right and without regard to the sufficiency of the security or of waste or danger of misapplication of any of the properties of the mortgagors, be entitled forthwith to have a receiver appointed of all the property hereby mortgaged, and the mortgagors hereby expressly consent to the appointment of a receiver by any court of competent jurisdiction and expressly stipulates, covenants and agrees that such receiver may remain in possession and control of the mortgaged property until the final determination of such suit or proceeding.

The singular shall include the plural and the plural shall include the singular as used herein and this agreement shall be binding upon the successors, heirs, assigns, and personal representatives of the parties hereto, and all rights hereunder shall in proper case inure to the benefit of the assigns, successors, heirs, and personal representatives of either party.

IN TESTIMONY WHEREOF, the said mortgagors, have hereunto set their hands and seals the day and year first above written.

Executed in the presence of:

.....  
A. P. Cunningham  
.....  
Blanche M. Cunningham  
Blanche M. Cunningham

STATE OF OREGON } Inst. No. 9385 I certify that the within instrument of writing was received for record on the 9th day of July 1957 at 10 O'clock A.M.  
County of Malheur } SS  
STATE OF OREGON } ss.  
County of ..... }  
By: Francis J. Sackett Deputy

BE IT REMEMBERED, that on this the 8th day of JULY 1957, before me the undersigned, a Notary Public in and for said County and State, personally appeared the within named A. P. Cunningham and Blanche M. Cunningham, husband and wife,

who (as) (are) known to me to be the identical individuals.. described in and who executed the within instrument and acknowledged to me that .they.. executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year last above written.



.....  
Notary Public

My commission expires: Dec. 10, 1957  
Residence of Notary Public: Ontario, Oregon

L.R  
2-2

# The United States of America,

To all to whom these Presents shall come, Greeting:

Homestead Certificate No. 193  
Application 331

**Whereas**, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at **Salem, Oregon**

whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of **Arthur J. Moss**

has been established and duly consummated, in conformity to law, for the South West quarter of the South West quarter of Section twenty eight and the North West quarter of the South East quarter and the East half of the South East quarter of Section twenty nine in Township twenty five South of Range forty six East of Willamette Meridian in Oregon, containing one hundred and twenty acres

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according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General

Now know ye that there is, therefore, granted by the United States unto the said

**Arthur J. Moss**

the tract of Land above described: To have and to hold the said tract of Land with the appurtenances thereof, unto the said **Arthur J. Moss** and to his heirs and assigns forever, Subject to any vested and vested water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietors of a water right to extend and remove his or their flow, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, **J. B. Harrison**, PRESIDENT OF THE UNITED STATES OF AMERICA, has 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, the Second day of April in the year of our Lord one thousand eight hundred and ninety two, and of the Independence of the United States the one hundred and fourteenth

L.S.

By the President: **J. B. Harrison**  
**J. M. Townsend** Recorder of the General Land Office  
**Wm M. Kean** Secretary

# The United States of America RECEIVED

To all to whom these presents shall come. Greeting:

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SALEM, OREGON

WHEREAS, a Certificate of the Register of the Land Office at **Vale, Oregon,**

has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862,

"To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

**The Heirs of William H. Tomlinson**

has been established and duly consummated, in conformity to law, for the southwest quarter of the southeast quarter of Section twenty-nine and the north half of the northeast quarter of Section thirty-two in Township twenty-five south of Range forty-six east of the Willamette Meridian, Oregon, containing one hundred twenty acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant, the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant, and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, **Woodrow Wilson**

President of the United States of America, 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, the **TWENTIETH**

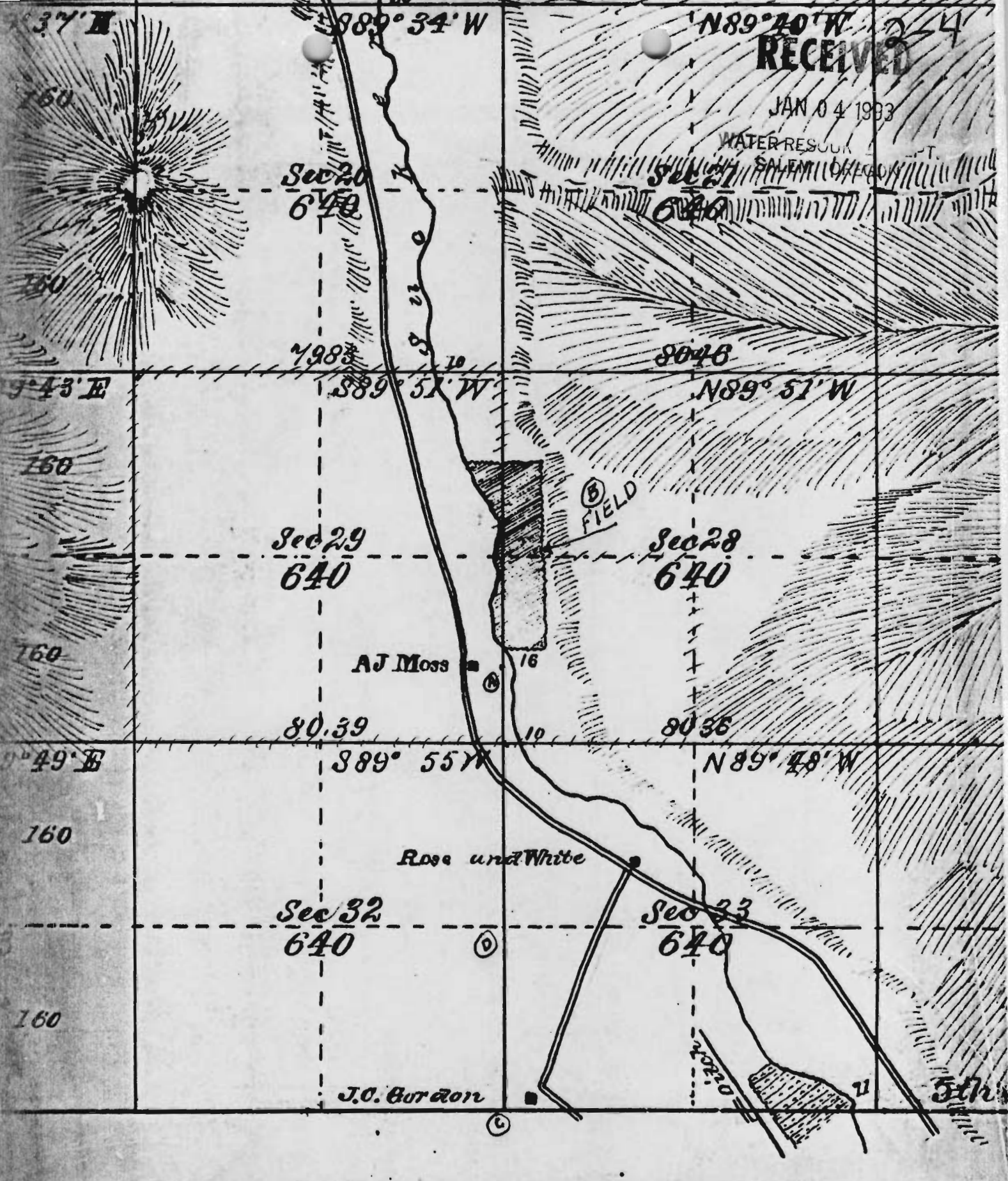
(SEAL.)

day of **OCTOBER** in the year of our Lord one thousand nine hundred and **SIXTEEN** and of the Independence of the United States the one hundred and **FORTY-FIRST.**

By the President:

By

*Woodrow Wilson*  
*M. P. LeRoy*, Secretary.  
*L. C. Lamar*  
Recorder of the General Land Office.



ED.	BY WHOM SURVEYED.	NO.	DATE OF CONTRACT.	AMOUNT OF SURVEYS.		
				Miles.	Chains.	Links.
mos	Thomas C. Jenkins	441	May 15 1882	17	79	34
	do do do	do do do	do do do	60	03	60

Subdivisions of T. 25 South R. 46 **RECEIVE**

Willamette Meridian, Oregon.

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marked 1/4 on W. face dug pits  
18x18x12 ins N. and S. of stone 5 1/2 ft  
diam. and raised a mound of  
earth 1 1/2 ft high 3 1/2 ft base alongside,  
The cor. to Secs. 3, 4, 9 & 10.

79.60

Land mountainous 79.60 chs.  
Soil sandy and stony, 3<sup>rd</sup> rate.  
Excellent growth of bunch grass.  
August 4<sup>th</sup> 1852

Begin again on S. bdy of  
Tp. at standard cor. to Secs.  
32 and 33, which is a trap,  
stone 16x10x8 ins 11 ins in ground  
marked with 4 notches on E. and  
2 notches on W. and S.E. on N.  
edges, pits 18x18x12 ins N.E. & W.  
mound of earth 2 ft high and  
4 1/2 ft. base alongside.  
N. bet. Secs. 32 and 33.

Var 19° 15' E.

© 3.00

From this point J. L. Gordon's

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Dwelling house bears east about

5.00 chs dist. stable <sup>and</sup> corral adjoining

① 40.00 Set trap stone 14 x 12 x 8 ins 10 ins 4.00

in ground for 1/4 Sec. loc. marked

1/4 on W. face, deep pits 18 x 18 x 12 40.00

ins N and S. of stone 5 1/2 ft dist 80.36

raised mound of earth 1 1/2 ft high. 3 1/2 ft base along side.

From this loc. frame dwelling house of Thos. Waite and Wm

Rose bears N. 65° E.

71.80 Settlement wagon road bears N 50° W. 40.18

80.00 Set flint stone 16 x 10 x 8 ins

11 ins in ground for loc. to Secs

28, 29, 32 <sup>and</sup> 33, marked with

1 notch on S. and 4 notches

on E. edges. deep pits 18 x 18 x 12 ins

in each sec 5 1/2 ft dist, raised

mound of earth 2 ft high and

4 1/2 ft base along side.

land nearly level, soil mostly sandy &

rich 2<sup>d</sup> & 3<sup>d</sup> rate. Black & Yellow sage,

Bunch grass. 80.36

Subdivisions of T. 26 S. R. 11. 46 East

Willamette Meridian, Oregon.

Soil 3<sup>d</sup> rate, except W. 20,00 chs  
1<sup>st</sup> rate. Sage and willow,  
Bunch and rye grass.

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WATER RESOURCES DIVISION  
SALEM, OREGON

N. bet. Secs. 28 and 29.

Var. 19° 45' E.

Through bottom land of Sucker Creek!  
From this point frame dwelling  
house of A. J. Moss bears W. about  
7.00 chs, dist. stable, corral  
and garden adjoining.

Ⓐ 18.00

Sucker Creek 16 chs wide flows  
N. 10° W. thence through field  
of A. J. Moss in and alongside  
of sucker creek.

Ⓑ 22.00

40.00

Set trap stone 18 x 12 x 9 ins 12 ins  
in ground for 1/4 sec. Corn marked  
1/4 on W. face, dug pits 18 x 18 x 12  
ins N. and S. of stone 5 1/2 ft dist,  
raised mound of earth 1 1/2  
ft high 3 1/2 ft base alongside



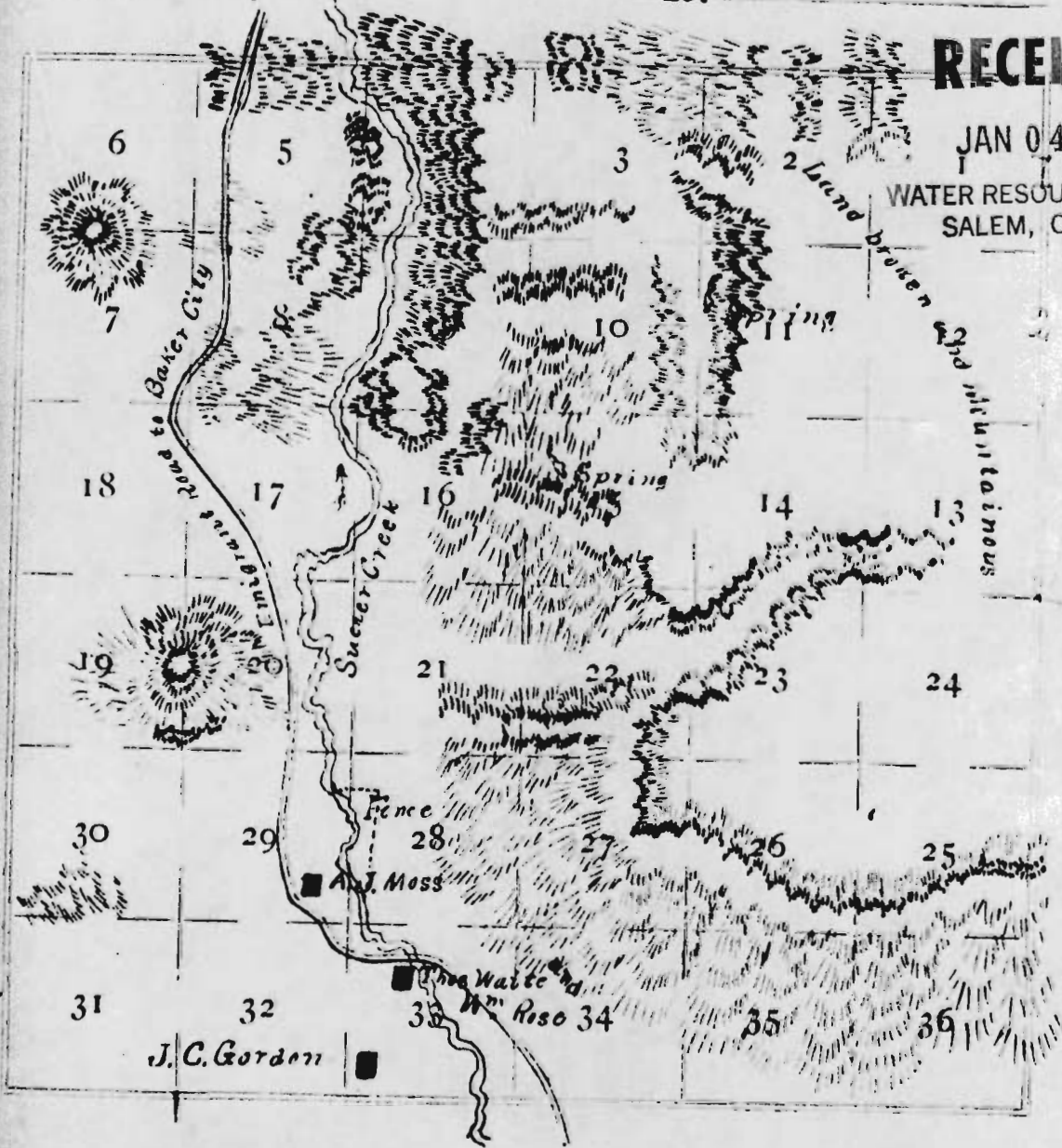
R. 23

Diagram of T. 25 South R. 46 East

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WATER RESOURCE  
SALEM, OREGON



SURFACE WATER REGISTRATION CHECKLIST

(received after July 18, 1990)

CHECK BASIN MAP See NAME Omyure # 11 UNADJUDICATED AREA ? yes

RECEIPT # 95890 (Success (2)) S W R NUMBER 477

CHECK ENCLOSURES See PRELIMINARY DATA BASE ENTRY JWT

ACKNOWLEDGEMENT LETTER See ENTER ON STREAM INDEX \_\_\_\_\_

CHECK QUADRANGLE MAP \_\_\_\_\_ CHECK GLO PLATS \_\_\_\_\_

WATERMASTER CHECKLIST \_\_\_\_\_ PUBLIC NOTICE PUBLICATION SC87

FORM REVIEW

- \_\_\_\_\_ blanks filled in
- \_\_\_\_\_ signed
- \_\_\_\_\_ date received stamped

\$ 426

Out of total 1920-

MAP REVIEW

- 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

\$ 413 = PERS

426  
-413  
\$ 13 REFUND

WATER RIGHT RECORD CHECK Not here FIELD INSPECTION \_\_\_\_\_

FINAL FILE REVIEW \_\_\_\_\_ FINAL DATA BASE ENTRY \_\_\_\_\_

ENTER ON PLAT CARDS \_\_\_\_\_

REFUND  
\$ 13 -

April 12, 1993

JOANNE STITZEL  
PO BOX 132  
AROCK OR 97902

Dear MS STITZEL,

This will acknowledge that your Surface Water Registration Statement in the name of JOANNE STITZEL has been received by our office. The fees in the amount of \$1920.00 have been received and our receipt #95890 is enclosed. Your registration statement has been numbered SWR-477.

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

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

Sincerely,



Don Knauer  
Adjudication Specialist

Enclosure

J:\WP51\SWR\CLAIMANT\4\SWR-0477.001



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

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

RECEIPT # **95890**

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

RECEIVED FROM:  
BY:

*Lawrence H. Hest*

APPLICATION	
PERMIT	
TRANSFER	

CASH:  CHECK # X 92-9 OTHER: (IDENTIFY)

TOTAL REC'D \$ 1920.00

**01-00-0 WRD MISC CASH ACCT**

842.010	ADJUDICATIONS	\$ <u>1920.00</u>
831.087	PUBLICATIONS/MAPS	\$
830.650	PARKING FEES Name/month	\$
	OTHER: (IDENTIFY)	\$

**REDUCTION OF EXPENSE**

COST CENTER AND OBJECT CLASS

CASH ACCT.

VOUCHER #

**03-00-0 WRD OPERATING ACCT**

**MISCELLANEOUS:**

840.001	COPY FEES	\$
850.200	RESEARCH FEES	\$
880.109	MISC REVENUE: (IDENTIFY)	\$
520.000	OTHER (P-6): (IDENTIFY)	\$

**WATER RIGHTS:**

842.001	SURFACE WATER	842.002	\$
842.003	GROUND WATER	842.004	\$
842.005	TRANSFER	842.006	\$

**WELL CONSTRUCTION**

842.022	WELL DRILL CONSTRUCTOR	842.023	\$
842.016	WELL DRILL OPERATOR	842.019	\$
	LANDOWNER'S PERMIT	842.024	\$

**06-00-0 WELL CONST START FEE**

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

**45-00-0 LOTTERY PROCEEDS**

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

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

RECEIPT # **95890**

DATED: 14-93

BY: *Smith*

Distribution—White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

000  
0.000  
254.000  
232.000  
212.000  
426.000  
414.000  
322.000  
006  
1,920.000  
CORR filing fees on  
Per 1909 water rights