

Name Christian F. Richert
By _____
Address Bandon, Oregon

Application No. 22051
Permit No. 17313
Certificate No. ~~22935~~ 88120

Stream Index, Page No. 17-4A

FEES PAID

Date	Amount	Receipt No.
<u>10/24/46</u>	<u>17.15</u>	<u>20022</u>
<u>11/14/46</u>	<u>0.15</u>	<u>28.151</u>
	B. P. Fee	
<u>7-21-56</u>	\$1 Cert. Fee	<u>7977</u>

Date filed October 22, 1946
Priority October 22, 1946
Action suspended until _____

FEES REFUNDED

Date	Amount	Check No.
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Returned to applicant _____
Date of approval December 16, 1946

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
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CONSTRUCTION

Date for beginning December 16, 1947
Date for completion October 1, 1948
Extended to _____

REMARKS

1.02 cfs from Twomile Creek (Pacific Ocean) for the irrigation of 81.09 acres
DEC 16 1947 CARD FOR A

Date for application of water October 1, 1949
Extended to _____

T-7309 Δ Pou
T-7552 Δ Pou

V50 P336

Transfer 7552 Revoked on 12/23/96 V50 P845

PROSECUTION OF WORK

Form "A" filed _____
Form "B" filed _____
Form "C" filed December 22, 1947

FINAL PROOF

Blank mailed 1-5-48 JB
Proof received _____
Date certificate issued JUL 12 1957

Form C

Application No. 22051

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

OK
I, Christian F. Riebert, the holder of Permit No. 17313
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 30th day of September, 1947.

Remarks:

If all of the water granted in the permit has not been fully applied to beneficial use, you should so state.

IN WITNESS WHEREOF, I have hereunto set my hand this 22 day of December, 1947.

George S. Merchant

(Signature of Witness)

Bandon, Oregon

(Address)

Christian F. Riebert

(Signature of Applicant)

Bandon, Oregon

(Address)

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, when all of the water has been applied.

5-22051

STATE OF OREGON

COUNTY OF COOS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FUGATE FARMS LLC
PO BOX 1245
BANDON OR 97411

confirms the right to use the waters of TWOMILE CREEK, tributary to PACIFIC OCEAN for IRRIGATION of 12.0 ACRES.

This right was perfected under Permit S-17313. The date of priority is OCTOBER 22, 1946. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.15 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	15 W	WM	13	SE SW	PORTABLE PUMPING
29 S	15 W	WM	13	SW SE	PORTABLE PUMPING
29 S	15 W	WM	24	NE NE	PORTABLE PUMPING
29 S	15 W	WM	24	NW NE	PORTABLE PUMPING

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	13	NE SE	12.0

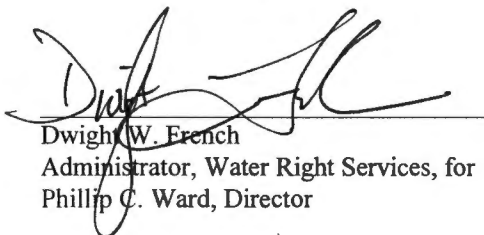
This certificate is issued to confirm a CHANGE IN PLACE OF USE approved by an order of the Water Resources Director entered DECEMBER 23, 1996, at Special Order Volume 50, Page 845, approving Transfer Application 7309, and together with Certificate 73636, supercedes Certificate 22935, State record of Water Right Certificates.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued JUL 10 2013.



Dwight W. French
Administrator, Water Right Services, for
Phillip C. Ward, Director



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Certificate of Water Right Ownership Update

NOTICE TO SELLERS & BUYERS:

By law, all water belongs to the public (ORS 537.110). In almost every instance, a permit or water right certificate from the Water Resources Department is needed before using, diverting or storing water (ORS 537.130). However, most domestic wells do not require water rights. A certificate of water right stays with the land. In order to keep track of water right ownership, the Department requests that this form be submitted to the Department.

Water that has been used for a long time in one place or that involves a water structure (like a dam) that already exists is no guarantee that there is a water right which would allow the water use to continue.

If you have any questions about this form or water right requirements, please contact your local watermaster or call the Water Resources Department at 503-986-0900.

Note: Please type or print legibly when filling in the following information. Use additional pages if necessary.

RECEIVED

DEC 03 2007

WATER RESOURCES DEPT
SALEM, OREGON

PROPERTY SELLER INFORMATION

Applicant(s): FUGATE FARMS, LLC
Mailing address: 48500 HWY 101 PO. 426
BANDON OR 97411
Phone: 541-404-2747
City State Zip
Home Work Other

PROPERTY BUYER INFORMATION

Applicant(s): BANDON BIOTA, LLC
Mailing address: 875 N MICHIGAN AVE
CHICAGO ILL 60611
Phone: 312-798-8480
City State Zip
Home Work Other

PROPERTY DESCRIPTION (attach additional pages if necessary):

County: COOS Township: 29 Range: 15 Section: 13, 24
Tax lot number(s): SEE ATTACHED EXHIBIT A

Attach a copy of your property deed or legal description of the property.

Street address of water right property: 48500 HWY 101 BANDON, OR 97411

Water Right Information (attach copy of water right permit or certificate & final proof map if available):

Application #: 3-22051 Permit #: 5-17313 Certificate or page #: 73636

Will all the lands associated with this water right be owned by the buyer? ☐ Yes ☐ No

Name of individual completing this form: _____ Phone: _____

Signature: McKane Date: 11/1/07

Water Right Information Query Results

Contact Information

▼ Current contact information

BARBARA FUGATE
 ▶ RT 1 BOX 965
 Bandon, OR 97411

Documents View all scanned documents

▼ Application: S 22051 [digital map](#)

▶ Received: 10/22/1946

▼ Permit: S 17313 [document](#), [digital map](#)

▶ Signature: 12/16/1946

▼ Certificate: 73636 [document](#), [digital map](#), [paper map](#)

▶ Signature: 12/23/1996

▶ Type: Remaining

Water Right Information

Status: Non-Cancelled

County: Coos

File Folder Location: Salem

Point(s) of Diversion

▼ POD 1 - TWOMILE CREEK > PACIFIC OCEAN

▼ Description

▶ T-R-S-QQ: 29.00S-15.00W-13-SE SW

▶ Location Description: NONE GIVEN

▼ POD Rate

Max Rate (cfs)	Rate (cfs)	Max Volume (af)	Volume (af)
▶ 0.66	0.66(est)		

▼ IRRIGATION (Primary)

Priority Date	Max Rate (cfs)	Rate (cfs)	Max Volume (af)	Volume (af)	Rate/Acre	Duty	Start Date	End Date	Remarks
▶ 10/22/1946	0.66	0.66			1/80	2.50000	1/1	12/31	

▼ Remarks

▶ PORTABLE PUMPING

Place(s) of Use Add TRS grouping

▼ Use - IRRIGATION (Primary) - 53.0 acres; Priority Date: 10/22/1946

T-R-S	QQ	DLC	Gov't Lot	Taxlot	Acres	Status	Inchoate Info	Remarks
29.00S-15.00W-13	SW SE				10.2	NC		
▶ 29.00S-15.00W-24	NE NE				22.0	NC		
29.00S-15.00W-24	NW NE				20.8	NC		
Sum of Acres: 53.0								

Water Right Genealogy

☐-Cert:22935 OR CN

└─Inchoate: T 7309 CF (REG) *

☐-Cert:73636 RR SP

└─Inchoate: T 7552 CF (TMP) EX

☐-Inchoate: IL 107 CF (IL) EX

└─Cert:73636 RR EX

└─Cert:73636 RR *

[View Water Rights in same Family](#)

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[Report Errors with Water Right Data](#)

[Return to WRIS Query](#)

STATE OF OREGON
COUNTY OF COOS
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BARBARA FUGATE
ROUTE 1 BOX 965
BANDON, OREGON 97411

confirms the right to use the waters of TWOMILE CREEK, a tributary of the PACIFIC OCEAN, for IRRIGATION OF 53.0 ACRES.

This right was perfected under Permit 17313. The date of priority is OCTOBER 22, 1946. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.66 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

PORTABLE PUMPING, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 13; NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 24; T 29 S, R 15 W, WM.

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

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

A description of the place of use to which this right is appurtenant is as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$	10.2 ACRES
SECTION 13	
NE $\frac{1}{4}$ NE $\frac{1}{4}$	22.0 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.8 ACRES
SECTION 24	
TOWNSHIP 29 SOUTH, RANGE 15 WEST, W.M.	

This certificate describes that portion of the water right confirmed by Certificate 22935, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered DEC 23 1996, approving Transfer Application 7309.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director,
affixed DEC 4 1996

MARtha O. PAGEL

Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 73636.

T-7309.LHN

Water Right Information Query Results																																						
Contact Information					Documents <small>View all scanned documents</small>																																	
▼ Current contact information FUGATE FARMS ▶ RT 1 BOX 965 BANDON, OR 97411					▼ Application: S 22051 digital map ▶ Received: 10/22/1946 ▼ Permit: S 17313 document , digital map ▶ Signature: 12/23/1996 ▼ Order(s) <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Volume-Page</th> <th>Signature</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>50-845</td> <td>12/23/1996</td> <td>APPROVES T-7309</td> </tr> </tbody> </table> ▼ Transfer(s) <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Transfer</th> <th>Transfer type</th> <th>Status</th> </tr> </thead> <tbody> <tr> <td>T7309 (Confirming)</td> <td>Regular</td> <td>Completed</td> </tr> </tbody> </table>						Volume-Page	Signature	Description	50-845	12/23/1996	APPROVES T-7309	Transfer	Transfer type	Status	T7309 (Confirming)	Regular	Completed																
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Place(s) of Use <small>Add TRS grouping</small>																																						

▼ Use - IRRIGATION (Primary) - 12.0 acres; Priority Date: 10/22/1946

T-R-S	QQ	DLC	Gov't Lot	Taxlot	Acres	Status	Inchoate Info	Remarks
▶ 29.00S-15.00W-13	NE SE				12.0	NC		
Sum of Acres: 12.0								

Water Right Genealogy

Cert:22935 OR CN

└─Inchoate: T 7309 CF (REG) *

Cert:73636 RR SP

└─Inchoate: T 7552 CF (TMP) EX

Inchoate: IL 107 CF (IL) EX

└─Cert:73636 RR EX

└─Cert:73636 RR *

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COPY

STATE OF OREGON

COUNTY OF COOS

ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE

Pursuant to ORS 540.523, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TEMPORARY TRANSFER 7552 submitted by

FUGATE FARMS
ROUTE 1 BOX 968
BANDON, OREGON 97411.

The right to be modified, as evidenced by a portion of Certificate 22935, was perfected under Permit 17313 with a date of priority of OCTOBER 22, 1946. The right allows the use of TWOMILE CREEK, a tributary of PACIFIC OCEAN, for IRRIGATION OF 12.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.15 cubic foot per second, if available at the authorized point of diversion: PORTABLE PUMPING, SE~~X~~ SW~~X~~, SW~~X~~ SE~~X~~, SECTION 13, NW~~X~~ NE~~X~~, NE~~X~~ NE~~X~~, SECTION 24, T 29 S, R 15 W, WM;; or its equivalent in case of rotation, measured at the point of diversion from the source.

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

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SE X SW X	6.0 ACRES
SW X SE X	6.0 ACRES
SECTION 13	
TOWNSHIP 29 SOUTH, RANGE 15 WEST, W.M.	

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described

COPY

The applicant proposes to TEMPORARILY change the place of use to:

NE¼ SE¼ 12.0 ACRES
SECTION 13
TOWNSHIP 29 SOUTH, RANGE 15 WEST, W.M.

THIS TEMPORARY CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The change is temporary. The change shall be effective immediately. The use shall revert to the authorized place of use at the end of the 2000 irrigation season.
2. The former place of use shall no longer be irrigated as a part of this water right during the term of this order.
3. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

Certificate 22935 is suspended until the end of the 2000 irrigation season, October 31, 2000, or revocation of this order, which ever occurs first. The use of the remaining water right described by Certificate 22935 shall continue to be in accordance with the terms and conditions of Certificate 22935.

WITNESS the signature of the Water Resources
Director, affixed July 2, 1946.


for Martha O. Pagel, Director

RE: 22051

March 19, 1970

Charles J. Redmon
6060 S. Roxbury Street
Seattle, Washington 98118

Dear Mr. Redmon:

This will acknowledge your letter of March 12, 1970, in regards to the water right described by certificate 22935.

A copy of this certificate and the final proof survey map showing the exact location of land irrigated can be obtained by submitting a statutory copying fee of \$1.10.

Any time the owner of a perfected water right fails to exercise that right at least once every five successive years it has been forfeited. The State Engineer does not have the manpower to check each and every water right periodically throughout the irrigation season. If you have any question in regard to the validity of this particular right, it might be advisable to check with the owner prior to Lester Cook and perhaps several neighbors along Twomile Creek.

Certificate 22935 is for the irrigation of a specific 65 acres. Any land in excess of the 65 acres included in the right that you wish to irrigate will require that a new application be submitted. Enclosed is the proper form for this application and a booklet of rules and regulations to assist you in completing the form.

Very truly yours,

Larry W. Jebousek
Assistant

LWJ:reo
Enclosures

p-17313
22051

6060 S. Roxbury
Seattle, Washington
March 12, 1970

RECEIVED
MAR 13 1970
STATE ENGINEER
SALEM, OREGON

STATE OF OREGON
Office of State Engineer
516 Public Service Building
Salem, Oregon 97310

WATER RESOURCES DEPARTMENT

Gentlemen:

Would you please advise me concerning the necessary steps to be taken to confirm the water rights ~~on~~ the land which I purchased in Coos County last year.

The original water rights were issued to Christian F. Richert and recorded on Page 22935, Volume 16, State Record of Water Right Certificates, which confirms the use of Twomile creek for the irrigation of 6 acres in the SE $\frac{1}{4}$, SW $\frac{1}{4}$ 16.2 acres in the SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 13, 20.8 acres in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ 22.0 acres in the NE $\frac{1}{4}$, NE Section 24, Township 29 South Range 15 West, W.M. with a date of priority of October 22, 1946. 0.81 53

We were assured by the seller, Lester Cook, that this water had been used each dry season for the past three years and we would not be required to take any further action on the water rights. However, we would like confirmation of this from your office as we plan to use Twomile creek for the proper irrigation of as much of the land as is necessary. 54

Yours very truly,



Charles J. Redmon
6060 S. Roxbury Street
Seattle, Washington 98118

July 11, 1966

Myron D. Spady
Attorney at Law
P. O. Box 38
Bandon, Oregon 97411

Dear Sir:

There is one right of record in the area designated by the legal description enclosed with your letter of July 6, 1966. Certificate of water right issued to Christian F. Richert and recorded at page 22935, Volume 16, State Record of Water Right Certificates, confirms a right to the use of the waters of Twomile Creek for the irrigation of 6 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 16.2 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, 20.8 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 22.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 24, Township 29 South, Range 15 West, W.M., with a date of priority of October 22, 1946.

This right can be considered valid provided there has not been a period of five successive years of nonuse.

Yours very truly,

CHRIS L. WHEELER
State Engineer

By
Trevor Jones, Assistant

MYRON D. SPADY

Attorney at Law

SPADY BUILDING - 11TH & ALABAMA
P. O. BOX 38
BANDON, OREGON 97411
TELEPHONE 347-3341 • AREA CODE 503

July 6, 1966

RECEIVED
JUL 8 1966
STATE ENGINEER
OREGON

Office of the State Engineer
Water Resources Division
State Capitol Building
Salem, Oregon

Dear Sirs:

I enclose property description and request that you check your records to see if any water right has been filed or permit granted for application of irrigation water to any of the property in the enclosed description. If any permit has been granted it would have been in the name of Christian F. Richert, who has also used the name of C. F. Richert and C. F. Richert, Sr.

If no permit has been granted, I would like to know if there is unappropriated water in Two Mile Creek which could be appropriated to use on the property described in the enclosed description.

Very truly yours,


Myron D. Spady

MDS/ss

Enc.

ription of Property:

Parcel A: The N 1/2 of the N 1/2 of Section 24, Township 29 South, Range 15 West of the Willamette Meridian, Coos County, Oregon.

Parcel B: The SE 1/4 of the SW 1/4, EXCEPT the West 175 feet conveyed in Book 246, Page 71, Deed Records of Coos County, Oregon; ALSO the SW 1/4 of the SE 1/4 of Section 13, Township 29 South, Range 15, West of the Willamette Meridian, Coos County, Oregon.

Parcel C: The SE 1/4 of the SE 1/4, EXCEPT a parcel conveyed in Book 73, Page 493, Deed Records of Coos County, Oregon, described as follows: Starting at the Northeast corner of the SE 1/4 of the SE 1/4 of Section 13, Township 29 South, Range 15 West of the Willamette Meridian, Coos County, Oregon, thence West 294 feet; thence South 330 feet; thence East 294 feet; thence North 330 feet to the place of beginning. ALSO the NE 1/4 of the SE 1/4 lying East of the Rural Electrification Administration power right of way line, EXCEPT the North 575 feet as conveyed in Book 242, Page 169, Deed Records of Coos County, Oregon, all in Section 13, Township 29 South, Range 15 West of the Willamette Meridian, Coos County, Oregon.

RECEIVED
JUL 8 1966
STATE ENGINEER
OREGON

July 17, 1956

Christian F. Richert
Bandon
Oregon

Dear Mr. Richert:

We are enclosing herewith for completion, final proof in connection with the incomplete water right represented by your Permit No. 17313 granting a right to the use of 0.81 cfs of the waters of Twomile Creek for irrigation.

The data contained in the proof, which is based on an inspection and survey of your project made by a representative of this department, defines the extent to which your water right has been completed within the terms of your Permit. The proof should be dated and signed by you on the second sheet under the Affidavit of Appropriator and returned to this office.

Upon receipt of the proof, properly executed and accompanied by the statutory fee of \$1, a Certificate of Water Right will be issued confirming the rights thereunder and, after being recorded in the records of Coos County, will be forwarded to you.

In the interest of economy and due to the fact that your completed project was examined by a representative of this department, it is not necessary that your signature be made before a Notary Public, nor that the signatures of witnesses be affixed to the proof.

Yours very truly,

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer

Form 117

ms
Enclosure

December 26, 1947

Mr. Christian F. Richert
Bandon, Oregon

Dear Mr. Richert:

This will acknowledge receipt of Form C, being notice of complete application of water under your Permit No. 17313.

Pursuant to your report and in line with the general practice of this office, a survey will be made at a later date for the purpose of checking the acreage actually irrigated. After this survey, proof may be made by you and certificate issued covering the lands which the survey shows to have been irrigated, and any lands described in your permit that have not been irrigated will be automatically eliminated from your water right.

In the meantime, the permit which you hold will be valid evidence of your water right.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:mjo

22051

December 16, 1946

Mr. Christian F. Richert
Bandon, Oregon

Dear Mr. Richert:

Herewith you will find Application No. 22051, Permit No. 17313,
together with blueprint.

December 3, 1946

Mr. Christian P. Richert
Bandon, Oregon

Dear Mr. Richert:

This acknowledges receipt of your application for a permit to appropriate 81/80th second-foot of water from Twomile Creek for irrigation, together with your check in the amount of \$17.15, for which our receipt No. 2002 is enclosed.

The application, which has been checked over, has been filed and given No. 22051. It appears to be in satisfactory form and is being placed in line for approval and issuance of a permit.

As our letter of October 25, addressed to you was misssent to Mr. L. H. Williams of North Powder, Oregon and returned to this office, it is thought probable that our letter to him of the same date was inadvertently sent to you, if this is the case, we will appreciate it if you will return it to this office in the enclosed stamped addressed envelope.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By

Ed K. Humphrey, Assistant

EKH:vo
Enc.

22051

October 25, 1946

Mr. Christian P. Richert
Bandon, Oregon

Dear Mr. Richert:

This acknowledges receipt of your application for a permit to appropriate 81/80 second-foot of water from Twomile Creek for irrigation, together with your check in the amount of \$17.15, for which our receipt No. 2002 is enclosed.

The application, which has been checked over, has been filed and given No. 22051. It appears to be in satisfactory form and is being placed in line for approval and issuance of a permit.

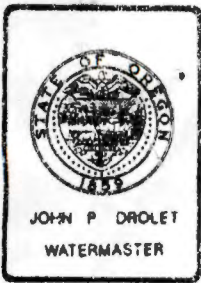
Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:vc
Enc.

*Missouri +
returned to this
of file. Supervised
by letter 12/3/46*



Water Resources Department

COOS COUNTY ANNEX, 290 NORTH CENTRAL ST., COQUILLE, OREGON 97423 PHONE 396-3121

April 11, 1995

EXT. 254

Norman Spelhaug
P.O. Box 1438
Bandon, OR 97411

T-7309
file # 22051

Dear Mr. Spelhaug:

Thank you for taking the time to talk with me last week regarding the Fugate property located adjacent to your property on Twomile Creek.

Because Fugate Farms has applied for a transfer of 12 acres of irrigated acreage from the bottom lands up to the bench where cranberry bogs are being developed, as district watermaster, I am obligated to evaluate the application for transfer.

One of the items that I consider when evaluating a transfer application is the validity of the right in respect to any 5 year non-use period of time. Oregon water law (ORS 540.610), states that 5 successive years of non-use constitutes forfeiture of a water right. This provision assures that other water users on the stream are treated fairly in respect to their right to use water.

During our conversation at your home, you indicated that since purchasing your property in 1981, with the exception of the brief period of time that Ted McNeely irrigated last year, you have observed no irrigation taking place on what is now the Fugate property.

It is important that that information accompany my evaluation of the Fugate Farms transfer application. If you would, please look over the attached affidavit. If it contains incorrect information or if you would want to elaborate on anything please make the necessary corrections and get it back to me. If corrections are necessary, I will get a clean copy back to you for signature.

Thanks for your assistance. Get back to me at 396-3121 extension 254 if you have questions.

Sincerely,

John P. Drolet
Watermaster, District XIX

JPD/dt

atch:affidavit of nonuse

CF: AJC
LHN
Dwight French (for files)

RECEIVED

APR 20 1995

WATER RESOURCES
SALEM, OREGON

AFFIDAVIT OF NONUSE OF WATER RIGHT

TO THE WATER RESOURCES DEPARTMENT OF OREGON:

I, Norman Spelhaug, of P.O. Box 1438, Bandon, State of Oregon, 97411, 347-9124, being first duly sworn, depose and say:

1. That as a result of having owned T29S, R15W, Section 24, Tax Lot 401, contiguous to the Fugate property on Twomile Creek since 1981, I am personally familiar with the lands described by Certificate No. 22935, having a priority date of October 22, 1946, issued to Christian F. Richert and recorded in the State Record of Water Right Certificates;

2. That the water right in question is appurtenant to the following:

6 ac, SE 1/4 SW 1/4 Sec. 13, T29S, R15W, WM.
16.2 ac, SW 1/4 SE 1/4 Sec. 13, T29S, R15W, WM.
22 ac, NE 1/4 NE 1/4 Sec. 24, T29S, R15W, WM.
20.8 ac, NW 1/4 NE 1/4 Sec 24, T29S, R15W, WM.

3. That the source from which water is to be diverted under the terms of the certificate is Twomile Creek, trib. to Pacific Ocean;

4. That the water right was issued for irrigation use;

5. That I know from my own observations and can state with certainty that no water from Twomile Creek has been used for the beneficial purpose described in said certificate on the lands in question as shown on the attached copy of the tax plat map obtained from the County Assessor's Office and as further described as in #2 above, under the provisions of the water right for 5 or more successive years from December, 1981, through December, 1994, except for the brief period of irrigation on a small portion of the Fugate property by Ted McNeeley during the summer of 1994;

6. That I believe that the presumption of forfeiture for five or more years of nonuse cannot and will not be rebutted by the holder(s) of the water right, because the holder(s) of the water right cannot show that any of the following items as listed in ORS 540.610 (2) apply:

a) That the water right in question is for use of water, or rights of use, acquired by a city or town for municipal purposes;

b) That a finding of forfeiture would impair the rights of such a city or town to the use of water, however acquired, previously or in the future;

c) That the use of water or rights of use are appurtenant to property obtained by the Department of Veterans' Affairs for a period of 3 years after the expiration of redemptions while the land is held by the Department of Veterans' Affairs, during which 3 year period any nonuse is not included as part of the period of more than five successive years of nonuse;

d) That the owner of the property in question was unable to use the water because of economic hardship due to bankruptcy, foreclosure, redemption by the Department of Veterans' Affairs, for a period of 3 years following the expiration of redemptions or 3 years from recording of a deed in lieu of foreclosure, or limitation or prohibition of normal use of water as a result of judicial actions or natural disaster, as described in OAR 690-17-800;

e) That the alleged period of nonuse occurred during a period of time during which the land was withdrawn from use under the Federal Conservation Reserve Program or other federal reserve program described in ORS 540.610 (2);

f) That the end of the alleged period of nonuse occurred more than 15 years before the date of this affidavit;

g) That an order of Water Resources Commission has discontinued the use of water under the certificate;

7. and that, as proponent of the cancellation of this water right, I am willing and prepared to testify in a contested case hearing to all allegations contained in this affidavit, and will do so in the event a contested case hearing is scheduled by the Water Resources Dept.

Signature of Affiant

Subscribed and sworn to before me this _____ day of _____, 19____.

Signature of Notary Public

My Commission expires: _____

APR 20 1995

Permit No. 17313

Abstract of Permit No. 17313

Application No. 22051

Certificate No. 22935

Name

Christian F. Richert

Address

Bandon, Oregon

Source of water supply

Two Mile Creek, trib. of Pacific Ocean

Use

Irrigation

Point of diversion

Any point where Twomile Cr. touches property described herein, from a point which is 1025' N. & 325' W. from the S $\frac{1}{2}$ cor. Sec. 13, to a point which is 800' S. & 15' W. from the NE cor. of Sec. 24, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec.

Number of acres

65

DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Sec. 24, T. 29S., R. 15W., in Cass County.

[illegible]

Priority date

October 22, 1946

Amount of water 0.81 c.f.s. measured at the point of diversion

Time limit to begin construction

December 16, 1947

Time limit to complete construction

10-1-48 extended to

extended to

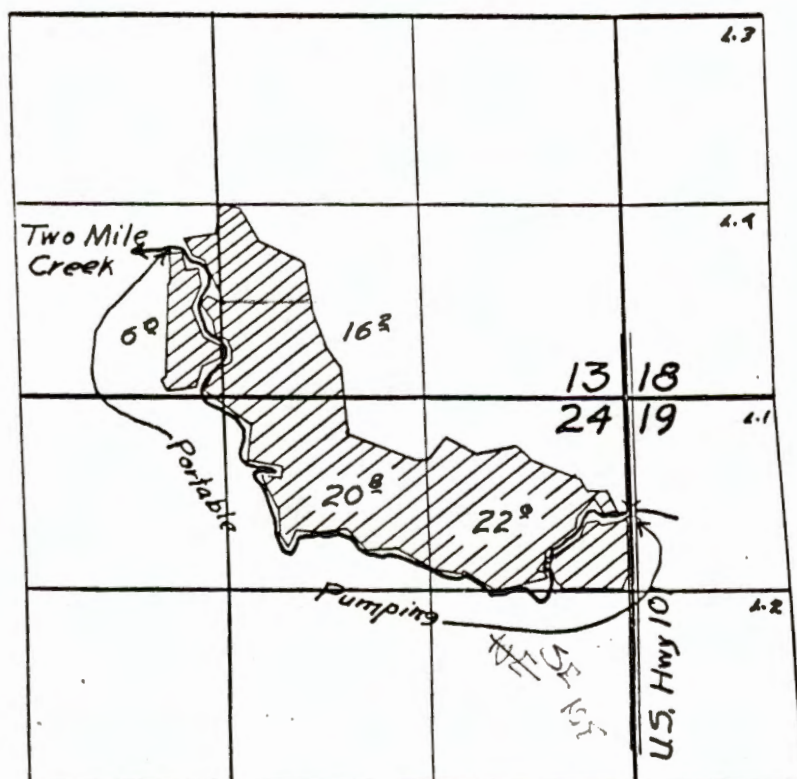
Time limit to completely apply water

~~10-1-49~~ extended to

extended to

Remarks: This appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

T. 29S, R. 14 & 15W.W.M



FINAL PROOF SURVEY

UNDER

Application No. 22051... Permit No. 17313....
IN NAME OF

.....CHRISTIAN F. RICHERT.....

Surveyed 17 March 1955, by H.L. Coffman...

Route Slip

Date 10-11-93

TO:	Name	Division/Section	Initial	Date
1.	Larry Nunn			
2.				
3.				
4.				
5.				

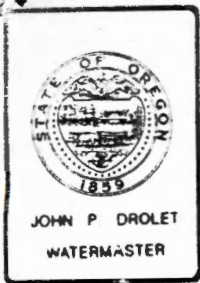
<input type="checkbox"/>	as requested	<input type="checkbox"/>	investigate	<input type="checkbox"/>	per conversation
<input type="checkbox"/>	approval	<input type="checkbox"/>	justify	<input type="checkbox"/>	prepare reply
<input type="checkbox"/>	comment	<input type="checkbox"/>	necessary action	<input type="checkbox"/>	return with more detail
<input type="checkbox"/>	confer	<input type="checkbox"/>	initial and return	<input type="checkbox"/>	review and circulate
<input checked="" type="checkbox"/>	for your information	<input type="checkbox"/>	note and file	<input type="checkbox"/>	signature

file in
22051
[Signature]

FROM: JP	Phone No. 253
----------	-------------------------

Central Stores 97877

☐ See Other Side



Water Resources Department

COOS COUNTY ANNEX, 290 NORTH CENTRAL ST., COQUILLE, OREGON 97423 PHONE 396-3121

EXT. 254

10-11-93

Sherry Fugate
Route 1, Box 968
Bandon, OR 97411

ap # 22051, pmt # 17313

Dear Ms. Fugate:

Reference is made to your September 21 phone message enquiring about the possibility of transferring a water right from irrigation to cranberry use. Please forgive the delay in response; our "water year" ends on October 1, and this is always a busy time of the year for us.

The water right as evidenced by certificate # 22935 is for the use of water for irrigation. The right is presently conditioned to allow an instantaneous pumping rate of 0.0125 cfs per acre and a total "of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year".

Your enquiry, if I understand it correctly, is whether the irrigation right may be transferred to cranberry use.

This right currently allows the use of water for cranberry irrigation within the conditions mentioned above.

Oregon administrative rules [OAR 690-11-10(8)] define cranberry use as "all necessary beneficial uses of water for growing, protecting and harvesting cranberries. This includes, but is not limited to, irrigation of cranberries or other crops in rotation, chemical application, flooding for harvesting or pest control, and temperature control." The total of these uses, in my opinion, would constitute an enlargement of the original single purpose use--irrigation.

Also, the period of use for irrigation on Twomile Creek is generally late June through September. Cranberry water uses such as temperature control and flood harvest occur outside of this period of use and again, in my opinion, would constitute an enlargement of the right.

Enlargement of a water right traditionally has not been allowed by the Department.

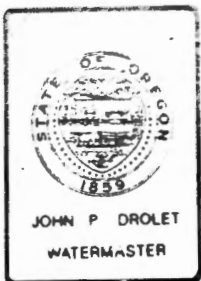
Please get in touch if you have further questions or contact Larry H. Nunn with the transfer section of the Department's water rights division.

Sincerely,

John P. Drolet
Watermaster, District XIX

JPD/dt

CF: AJC
LHN



Water Resources Department

COOS COUNTY ANNEX, 290 NORTH CENTRAL ST., COQUILLE, OREGON 97423 PHONE 396-3121

EXT. 254

10-11-93

RECEIVED

OCT 12 1993

WATER RESOURCES DEPT.
SALEM, OREGON

Sherry Fugate
Route 1, Box 968
Bandon, OR 97411

ap # 22051. pmt # 17313

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Enlargement of a water right traditionally has not been allowed by the Department.

Please get in touch if you have further questions or contact Larry H. Nunn with the transfer section of the Department's water rights division.

Sincerely,

John P. Drolet
Watermaster, District XIX

JPD/dt

CF: AJC
LHN

Karen Cox

Permit No. 17313

22935

Application No. 22051County Coos

Proof of Appropriation of Water

RECEIVED
 JUL 31 1956
 STATE ENGINEER
 SALEM, OREGON

1. Name Christian F. Richert 2. Address Bandon, Oregon
3. Source of supply Twomile Creek
 Tributary of Pacific Ocean
4. Amount of water 0.81 cfs 5. Priority date October 22, 1946
6. Use Irrigation 1/80th & 2 1/2
7. Location of point of diversion SE 1/4 SW 1/4 SE 1/4 13
NW 1/4 NE 1/4 NE 1/4 NE 1/4 Sec. 24, Twp. 29 S, Range 15 W, W. M.
 (Legal Subdivision)
8. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use.

Township	Range	Section	Legal Subdivision	No. Acres Actually Irrigated
29 S	15 W	13	SE 1/4 SW 1/4	6.0
		31	SW 1/4 SE 1/4	16.2
		24	NW 1/4 NE 1/4	20.8
		24	NE 1/4 NE 1/4	22.0
				65.0

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

IN WITNESS WHEREOF, I have hereunto set my hand this 25 day of July,

1956

Christian F. Richert

Christian F. Richert: Description of land.

In Section 13, T. 29 S. R. 15 W. W. M., Coos County, Oregon: the $SE\frac{1}{4}$; the $S\frac{1}{2}$ of the $SW\frac{1}{4}$; the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$.

In Section 24, T. 29 S. R. 15 W. W. M., Coos County, Oregon: the $N\frac{1}{2}$ of the $NE\frac{1}{4}$.

RECEIVED

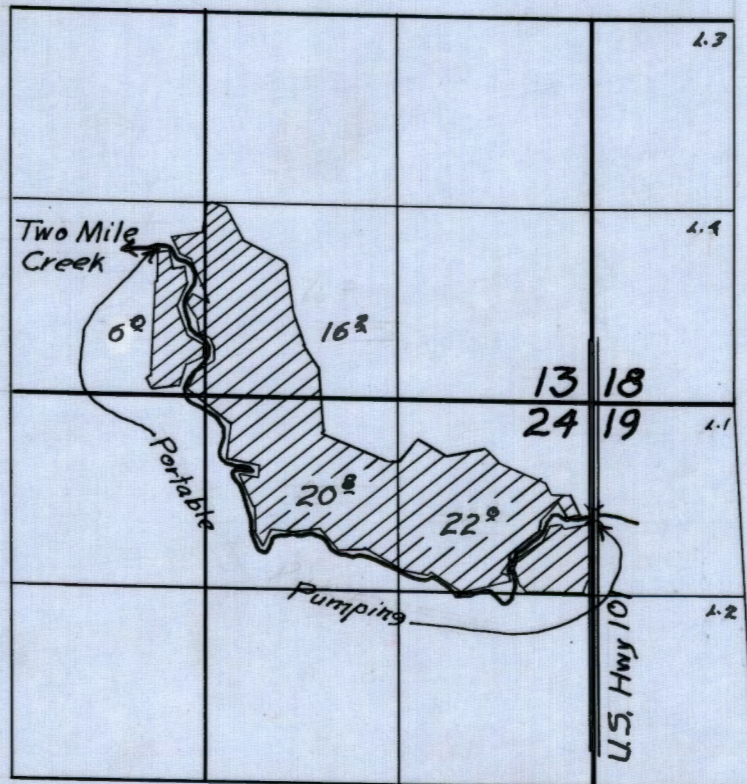
OCT 22 1946

STATE ENGINEER
SALEM OREGON

HOWARD BOND
MADE IN U.S.A.

22051

T. 29S, R. 14 & 15W.W.M



FINAL PROOF SURVEY
UNDER

Application No. 22051... Permit No. 17313...
IN NAME OF

CHRISTIAN F. RICHERT

Surveyed 17 March 1955, by H.L. Coffman...

1955 A.

DESCRIPTION OF WORKS

9. (a) If a dam has been constructed, give description: Height, ft.; length on top, ft.;
length on bottom, ft.; material used and character of construction,

(b) Give description of headgate: Width, ft.; depth, ft.; material used and character
of construction,

(c) Size of canal: Width on top (at waterline), ft.; width on bottom, ft.; depth of
water, ft.; grade, ft. fall per 1,000 ft. Actual capacity, sec.-ft.

Give general description:

(d) Pipe line: Description of intake,

Length of pipe, ft.; size at intake, in.; size at ft. from intake, in.; size
at place of use, in. Difference in elevation between intake and place of use, ft.

Is grade uniform? Actual capacity of pipe line, sec.-ft.

Give general description:
(Material: Steel, wrought, cast iron, wood stave, etc.)

(e) Pumping plant: Give size and type of pump,

Suction lift, ft.; discharge lift, ft. Type of motor used

Horsepower rating, H. P. Actual capacity of pump, sec.-ft.

10. During what months is water beneficially used?

11. State character of soil

Kind of crops raised

12. Does the accompanying map, filed with your application, show correctly the point of diversion, area
of land irrigated, or place of use?

13. If not, wherein is such map in error?

14. Domestic use: Give number of families actually using water at this time

15. If for power, mining, municipal, manufacturing, storage or any other purpose than irrigation, give
extent and method of such use

No Pic
1955A

Permit No. 17313

Application No. 22051

County COOS

PROOF OF APPROPRIATION OF WATER

1. Name Christian F. Richert 2. Address Bandon, Oregon

3. Source of supply Twomile Creek

Tributary of Pacific Ocean

4. Amount of water 0.81 1.02 c.f.s. 5. Priority date October 22, 1946

6. Use Irrigation 1/80 & 2 1/2

~~Portable pump and pipe line, from any point on Twomile Creek within SE 1/4 SW 1/4 & SW 1/4 SE 1/4 of S. 13, T. 29 S., R. 15 W. W.M. & from N 1/2 of the NE 1/4 of S. 24, T. 29 S., R. 15 W. W.M.~~

7. Location of point of diversion, SE 1/4 SW 1/4, SW 1/4 SE 1/4 13 Sec. 13 & 24, Twp. 29 S., Range 15 W., W.M.
(Legal Subdivision)

8. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use.

Township	Range	Section	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
29 S.	15 W.	13	NW 1/4, SE 1/4	4.45	
29 S.	15 W.	13	SE 1/4, SW 1/4	7.75	6.0 ✓
29 S.	15 W.	13	SW 1/4, SE 1/4	18.30	16.2 ✓
29 S.	15 W.	24	NW 1/4, NE 1/4	26.08	20.2 ✓
29 S.	15 W.	24	NE 1/4, NE 1/4	24.51	22.0 ✓
			NE 1/4 NW 1/4	81.09	65.2 ✓

Property on which water is to be used is a part of that more explicitly described by applicant as follows: In Section 13, T. 29 S., R. 15 W. W.M., Coos County, Oregon: The SE 1/4, the S 1/2 of the SW 1/4; the NW 1/4 of the SW 1/4. In Section 24, T. 29 S., R. 15 W. W.M., Coos County, Oregon: The N 1/2 of the NE 1/4.

This appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

AFFIDAVIT OF APPROPRIATOR

STATE OF OREGON,

County of

} ss.

I,, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this day
of, 194.....

Subscribed and sworn to before me this day of, 194.....

Notary Public for Oregon

[Notarial Seal]

My commission expires

AFFIDAVIT OF WITNESSES

STATE OF OREGON,

County of

} ss.

We,, and
of, being first duly sworn, depose and say that
we are well acquainted with the facts and conditions set forth in the foregoing statement relative to
proof of appropriation of water under Permit No.; that we and each of us have been over and
upon each tract described in said proof, and from such personal inspection have knowledge that all
necessary ditches, dams and other diversion and distributing works have been constructed, and water
used as stated therein; that we have carefully read such proof of appropriation, and that each and every
statement contained therein is true to the best of our knowledge and belief.

Subscribed and sworn to before me this day of, 194.....

Notary Public for Oregon

[Notarial Seal]

My commission expires

REPORT OF PERSON MAKING INSPECTION

(For use by Representative of State Engineer)

I, J. P. Coffman, do hereby certify that I have made an inspection of the works described herein and in Permit No. 22051, on the 17 day of March, 1941, and found the foregoing statements and descriptions of works to be accurate. In my opinion the appropriation has been completed to the extent of _____ (Quantity of water in second-feet or acre-feet) and I recommend the issuance of water right certificate for this amount.

NOTICE TO INSPECTORS

If conditions do not justify the above report by you, please return the proof without your signature, with a full report by letter.

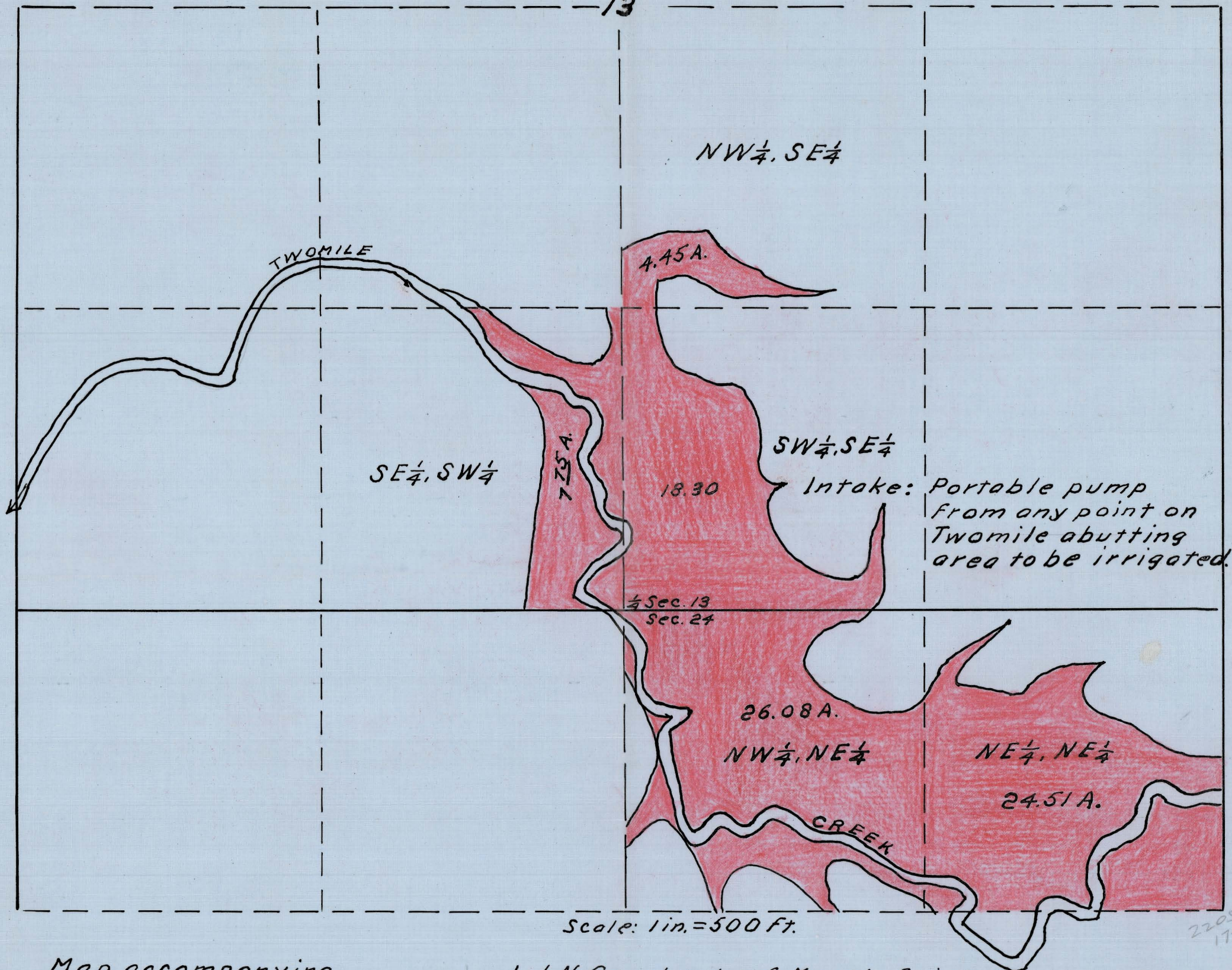
(Name)

(Title)

Div. Pt. an convenient point along 2 mile creek on Permittel's Property
Pump Gardner Denver 4x3 Cent Model?
Belt to tractor - Pump & most of pipe at Sons ranch
Pipe 400' 4" Galv steel some pipe at neighbors Crambrey bog
120' 6" Steel Casing
580' 3" Galv. Steel
140' 3" Galv. Steel
Heads 36- #40RB 7/32 x 5/32
w/t Sinc. 90+ disch 00
Crop- Pasture for Dairy herd
Oats & Vetch

T. 29 S. R. 15 W. W. M.

13



Map accompanying
application of
Christian F. Richert
to appropriate water.

Application No. 22007
RECEIVED 17313
OCT 22 1946
STATE ENGINEER
SALEM OREGON

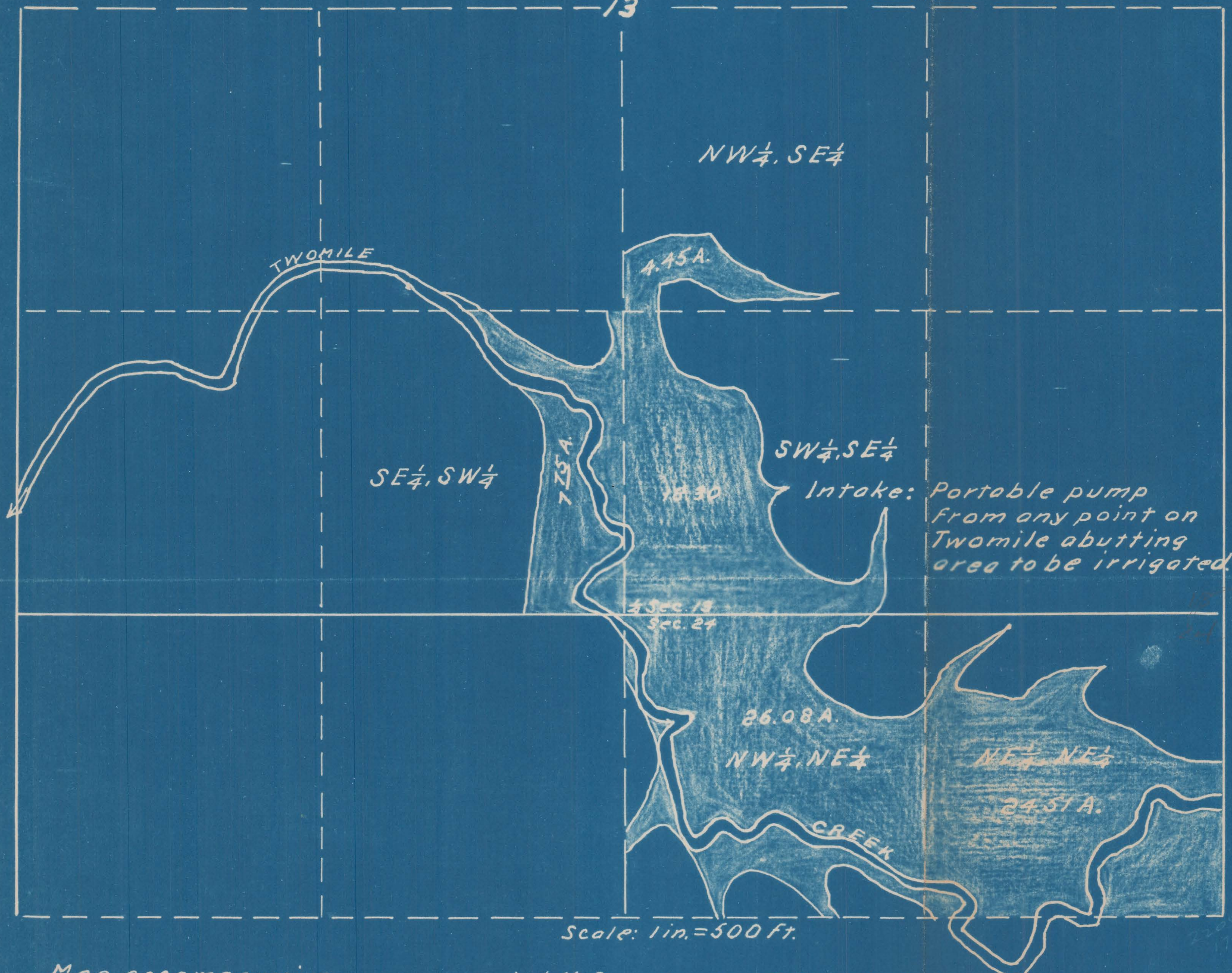
I, J. N. Gearhart, of Myrtle Point, Oregon, do hereby certify that this map was traced from the Assessor's map, which map was made from an actual survey, and that it correctly represents the works described in the accompanying application together with the location of streams in the immediate vicinity.

J. N. Gearhart
Oregon No. 183

22051
17-4A

T. 29 S. R. 15 W. W. M.

13



Map accompanying
application of
Christian F. Richert
to appropriate water.

Application No. 22067
Serial No. 17313

I, J. N. Gearhart, of Myrtle Point, Oregon, do
hereby certify that this map was traced from
the Assessor's map, which map was made
from an actual survey, and that it correctly
represents the works described in the
accompanying application together with
the location of streams in the immediate
vicinity.

J. N. Gearhart
Oregon No. 183