

RECEIVED

JAN 04 1993

WATER RESOURCES DEPT.  
SALEM, OREGONSTATE OF OREGON  
WATER RESOURCES DEPARTMENTSURFACE WATER REGISTRATION STATEMENT  
PRE-1909 VESTED WATER RIGHT CLAIM

1. Name of Registrant: Mack Birkmaier  
Mailing Address: 79832 Crow Creek Rd.  
Enterprise, Ore. 97828 Telephone No: 426-4275
2. Source of water: Butte Creek  
Tributary to: Chesnimus Creek
3. Purpose(s) for which water is used: Stock water  
(Irrigation, Stockwater, Domestic, Hydroelectric power, Industrial, Etc.)  
If irrigation, total number of acres irrigated: \_\_\_\_\_
4. Priority Date  
a) Date of use: Livestock water use before 1909  
b) Date water use development first initiated: 1922  
c) Name of party who initiated development: W.W. Zeecher
5. Amount of water claimed: 10 cfs, in CFS or GPM  
(Water pur. to beneficial use)
6. Location of place of use:  
30 Sections, Township 2 NS, Range 46 EW.  
\_\_\_\_ Sections, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W.  
(Attach additional pages if necessary)
7. Usual period of use: JAN 1 1 to Dec. 1 31 (Year Long)  
month day month day

8. Remarks: This ranch was known as the Jim Blakely place. He ran horses there before 1909. He was Wallowa Co. Sheriff in 1908. The deeds show him owning an adjacent place we are still investigating these deeds. Remnants of water troughs are still evident.

9. Total amount submitted with claim: \$ 200

Notarized Statement Signed by Claimant

STATE OF OREGON )  
County of WALLOWA )  
: ss

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WATER RESOURCES DEPT.  
SALEM, OREGON

I, Mack Bierbauer, having been duly sworn, depose and say that I, and being the claimant of the existing surface water right described herein, have read the contents of this claim and to the best of my knowledge all of the matters stated herein are true and correct.

Mack Bierbauer  
Signature of Claimant

Signed and attested before me this 30<sup>th</sup> day of December, 19 92



Marty Papac  
NOTARY PUBLIC for the State of Oregon  
My commission expires: 1-23-93

**THIS FORM MUST BE ACCOMPANIED BY A MAP PREPARED BY A CERTIFIED WATER RIGHT EXAMINER (CWRE).**

Certified Water Right Examiner

Name: \_\_\_\_\_ CWRE#: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

## File water rights

You will be doing a great public service to include this letter in your next editorial page.

Dec. 31, 1992, is the final date to file a water-use statement in unadjudicated areas of the state. In an effort to be brief, many facts will not be covered. My purpose is to alert landowners immediately in as much as the deadline for filing for these rights is only weeks away.

It seems that not all of Oregon's "vested water rights" have been adjudicated (judged to belong to a specific piece of property), according to the Surface Water Code which was passed in 1909. Approximately 1/3 of the state has not been adjudicated. Time does not permit me to check on the Enterprise area, but I know the North End is an unadjudicated area.

The reason we need to file for these vested water rights, if we have knowledge of their continuous use prior to 1909, is because in 1987, our state legislature passed Senate Bill 130. From what I have read Senate Bill 130 creates a rebuttable presumption of no claim if a person fails to file the registration statement. This means that the state assumes there is no right to water unless the claimant can submit evidence proving otherwise.

What this actually means is that any water right not applied for automatically reverts to the state. This necessarily means that state agencies would be deciding the best use of the water. This could mean that the water that has for generations been used to water stock on your property, or even for domestic use, could be lost. State agencies could decide your water is more beneficial to an adequate water level in the stream into which some portion of your water might eventually flow, for the preservation of the salmon. They

might deem your water more beneficial to create or preserve wildlife than to water your stock, or even to provide your domestic needs. State agencies are very likely to look at the state as a whole and make decisions they feel are in the best interests of the state. That is not to say that this would happen, only that it could happen.

If your water source at any time of the year flows off your property, I urge you to call 1-800-624-3199. In order to file for the "Pre-1909 Vested Water Rights," you must have knowledge of its continuous use in connection with your property since before the passage of the Surface Water Code (Feb. 24, 1909). However, I was informed by a knowledgeable source that even if you can't prove pre-1909 use or meet all the criteria, you should file a registration statement for your water. They won't issue any water rights at this time, but at least there will be a recorded request. That will disprove the presumption of Senate Bill 130, that there is no right to water because you failed to file for it.

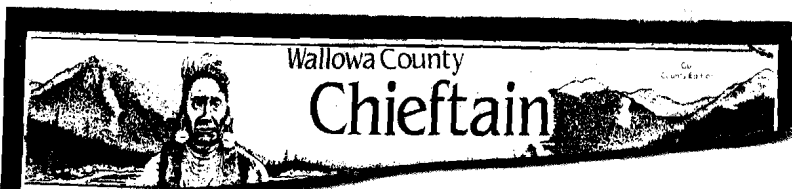
This is not an inexpensive procedure, but land without water loses much, or all of its value. I urge you to at least call this number. In this beautiful county where so many descendants still live and work on land their ancestors pioneered, people must be apprised of the potential loss of one of their most precious resources.

Pat Gustafson  
Enterprise

## Gratifying project

Recently the Beta Xi Sorority sponsored a philanthropic project to collect coats, hats, and gloves for the homeless in Oregon. Our thanks to the dozens of people who dropped off coats at my office at High Country Real Estate. The results were overwhelming.

We collected approximately 150 coats and a large box of hats, scarves and gloves. Before the coats were transported to Portland, we contacted the local schools, day care, HELP Inc., and Children's Services, and discovered six local people who were in need of a warm coat. The remainder were taken to the West Women's and Children's Shelter and a rescue mission in Portland.



12-22-93

MARK BURKMAIER  
CALLED AND SAID HE  
DIDN'T HAVE MUCH GOOD  
EVIDENCE. WHEN TALKED  
ABOUT G.L.O. RECORDS &  
THE HOMESTEAD PROCESS. HE  
SAID HE HAD DOCUMENTS  
(MAYBE PATENTS) AROUND  
1912. I GAVE HIM THE  
BLM PHONE # FOR  
RESEARCH.

D. Linn

December 14, 1993

MACK BIRKMAIER  
79832 CROW CREEK RD  
ENTERPRISE OR 97828

RE: SWR-469

Dear Mr Birkmaier,

I am in the process of reviewing the maps submitted in support of pre-1909 vested water right claims. There may have been some misunderstanding about the required map during the last few months before the December 31, 1992 deadline. As the deadline approached, it was apparent the Water Right Examiners (WRE) would not be able to survey and prepare the required map and site report. We allowed claimants to submit most any kind of map to meet the deadline. We tried to insure claimants understood that the survey, map and site report would be required as soon as the WRE had time to make the field survey and complete the map and report.

The reason I am writing today is about your map. The map submitted does not meet the statutory requirements. I need to know when I might receive the required map from you. I cannot complete my review of your claim without the required map.

If you have any questions, please give me a call. The toll free number is 1-800-624-3199.

Sincerely,



Don Knauer  
Adjudication Specialist

J:\W\S\C\4\SWR-0469.002



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

April 9, 1993

MACK BIRKMAIER  
79832 CROW CREEK RD  
ENTERPRISE OR 97828

Dear MR BIRKMAIER,


This will acknowledge that your Surface Water Registration Statement in the name of MACK BIRKMAIER has been received by our office. The fees in the amount of \$200.00 have been received and our receipt #95880 is enclosed. Your registration statement has been numbered SWR-469.

The map you submitted with your claim is not acceptable. ORS 539.240 (2) (d) requires the map be prepared by a Certified Water Right Examiner (CWRE). Within 60 days of this letter you must send a letter to this address indicating you have contracted with a CWRE to prepare your map. You should send your letter to my attention. In your letter you must identify the name of the CWRE who will prepare your registration statement map. We will contact the CWRE to arrange a map submittal deadline.

We will not be able to process your claim until we have received your map. If you have any questions regarding this process, please do not hesitate to give me a call.

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

Sincerely,



Don Knauer  
Adjudication Specialist

Enclosure

SURFACE WATER REGISTRATION CHECKLIST

(received after July 18, 1990)

CHECK BASIN MAP Jek NAME Grand Run # 8 UNADJUDICATED AREA ? yes  
RECEIPT # 95880 S W R NUMBER 469  
CHECK ENCLOSURES Jek PRELIMINARY DATA BASE ENTRY \_\_\_\_\_  
ACKNOWLEDGEMENT LETTER Jek ENTER ON STREAM INDEX \_\_\_\_\_  
CHECK QUADRANGLE MAP \_\_\_\_\_ CHECK GLO PLATS \_\_\_\_\_  
WATERMASTER CHECKLIST \_\_\_\_\_ PUBLIC NOTICE PUBLICATION lcv

**FORM REVIEW**

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

**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

WATER RIGHT RECORD CHECK \_\_\_\_\_ FIELD INSPECTION \_\_\_\_\_  
FINAL FILE REVIEW \_\_\_\_\_ FINAL DATA BASE ENTRY \_\_\_\_\_  
ENTER ON PLAT CARDS \_\_\_\_\_

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

RECEIPT # **95880**

RECEIVED FROM: <u>Buckmaier Ranch INC</u> BY: _____	APPLICATION	
	PERMIT	
	TRANSFER	

CASH: <input type="checkbox"/>	CHECK: # <u>24-39</u> <input checked="" type="checkbox"/>	OTHER: (IDENTIFY) <input type="checkbox"/>	TOTAL REC'D \$ <u>200.00</u>
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**01-00-0 WRD MISC CASH ACCT**

842.010	ADJUDICATIONS	\$ <u>200.00</u>
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**

<b>MISCELLANEOUS:</b>		
840.001	COPY FEES	\$
850.200	RESEARCH FEES	\$
880.109	MISC REVENUE: (IDENTIFY)	\$
520.000	OTHER (P-6): (IDENTIFY)	\$
<b>WATER RIGHTS:</b>		
842.001	SURFACE WATER	\$
842.003	GROUND WATER	\$
842.005	TRANSFER	\$
<b>WELL CONSTRUCTION</b>		
842.022	WELL DRILL CONSTRUCTOR	\$
842.016	WELL DRILL OPERATOR	\$
	LANDOWNER'S PERMIT	\$

<b>EXAM FEE</b>	
\$	842.002
\$	842.004
\$	842.006
<b>EXAM FEE</b>	
\$	842.023
\$	842.019
\$	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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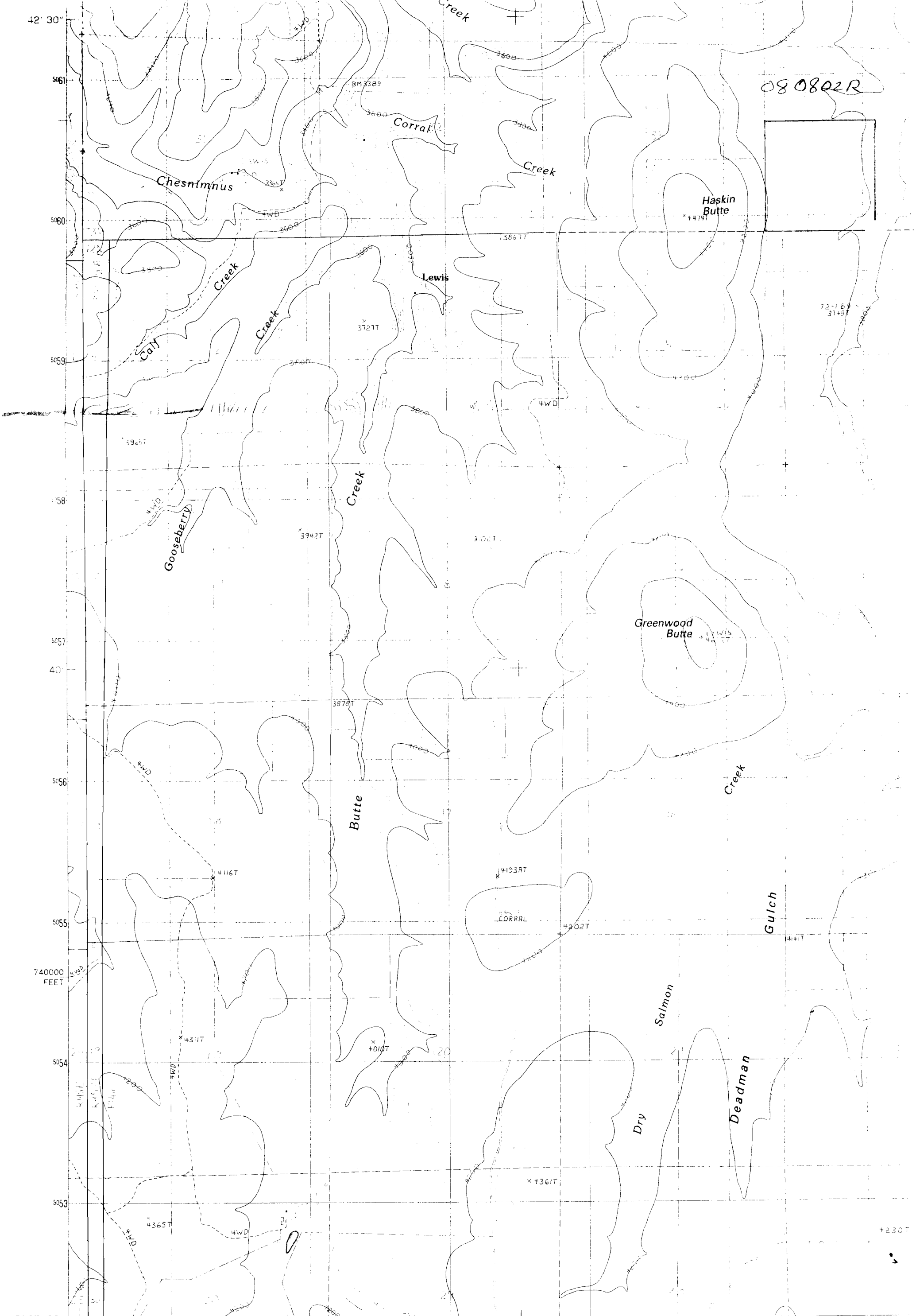
**07-00-0 HYDRO ACTIVITY**

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

RECEIPT # **95880**

DATED: 1-4-93 BY: R. Bushnell





PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY  
 CONTROL BY USGS AND NOS/NOAA  
 COMPILED FROM AERIAL PHOTOGRAPHS TAKEN 1981-82  
 FIELD CHECKED 1987. MAP EDITED 1990  
 PROJECTION LAMBERT CONFORMAL CONIC  
 GRID 1000-METER UNIVERSAL TRANSVERSE MERCATOR ZONE 11  
 10,000 FOOT STATE GRID REGION, NORTH  
 UTM GRID 117° 07' 30" WEST  
 1970 MAGNETIC NORTH DECLINATION 17° 30' EAST  
 NATIONAL GEOD. TIC VERTICAL DATUM OF 1929

