

Name Oregon Berry Packing Co.

By .....

Address Route 4, Box 197 A  
Hillsboro, Oregon 97123Date filed 10 March 1977Priority March 10, 1977Action suspended until Sur - 3/1/02 SCB

Return to applicant .....

Date of approval JUL 25 1978**CONSTRUCTION**Date for beginning JUL 25 1979Date for completion OCT 1 1980

Extended to .....

Date for application of water OCT 1 1981

Extended to .....

**PROSECUTION OF WORK**

Form "A" filed .....

Form "B" filed .....

Form "C" filed Completed**FINAL PROOF**Blank mailed 12/18/01

Proof received .....

Date certificate issued 12-22-2004Application No. 55462Permit No. 43174Certificate No. 81082Stream Index, Page No. 2-62B23

55460

55461

6-7912

**FEES PAID**

Date	Amount	Receipt No.
3-10-77	70.20	58973

Cert. Fee

**FEES REFUNDED**

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

**ASSIGNMENTS**

Date	To Whom	Address	Volume	Page

**REMARKS****OWNERSHIP UPDATE**

81082





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

## Ownership Update For Certificated Rights Only

### NO FEES ARE REQUIRED TO SUBMIT THIS FORM

**NOTICE:** A certificate of water right typically stays with the land. In order to track water right ownership, the Department requests that this form be submitted to the Department. **To update multiple rights, a separate form is required for each right.**

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

This form is not for Applications, Permits, Transfers, Groundwater Registrations, or Limited Licenses. To notify the Department of changes in ownership to these types of authorizations, an Assignment is required.

#### Current Landowner Information

Name: PH CIVILS LLC  
Mailing Address: 15 PIEDMONT CENTRAL SUITE 1070  
City: ATLANTA State: GA Zip: 30305  
Phone (Home): 404-495-8600 Work: \_\_\_\_\_ Other: \_\_\_\_\_

#### Property Description

County: WASH. COUNTY Township: 1 SOUTH Range: 3 WEST Section: 31  
Taxlot Number(s): 100, 200 & 201  
Street Address of water right property: 29495 S.W. FARMINGTON RD Hillsboro OR  
Water Right Information: Application: S - 55462 Permit: S - 43174 Certificate #: 81082

Are all the lands associated with this water right owned by the requester? Yes \_\_\_\_\_ No \_\_\_\_\_ If No, include a map showing the portion of the right involved.

Name of individual completing this form: JAFFRAY KEE Phone: 503-357-5717  
Signature of requestor: [Signature] Date: 1/2/18

The Department does not change names on certificates. This form will be placed in the file for future reference only. The Department does not provide acknowledgement that this form has been received.

RECEIVED

Last updated: June 21, 2017 Request for Ownership Update for Certificated Rights Only

WR

OWRD





TELEPHONE (503) 357-5717  
FAX (503) 357-5698  
WEBSITE: [www.stuntzner.com](http://www.stuntzner.com)  
2318-B Pacific Avenue  
Forest Grove, OR 97116

**COOS BAY - FOREST GROVE - DALLAS - JUNCTION CITY**

January 2, 2018

Oregon Water Resources Department  
725 Summer Street NE, Ste. A  
Salem, OR 97301-1266

**RE: Certificate # 81080, 81081, 81082**

To Whom It May Concern:

*Ownership Update for Certificated Rights Only* forms have been completed and are enclosed.

If you have any questions on this submitted material, please contact Jeffrey Kee at 503-357-5717 or [jkee@stuntzner.com](mailto:jkee@stuntzner.com)

Sincerely,  
***Stuntzner Engineering & Forestry LLC***

Carol Taylor  
Office Assistant

**RECEIVED**

**JAN 05 2018**

**OWRD**

14235

Per 16235  
655462



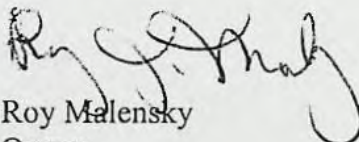
OREGON BERRY  
PACKING COMPANY  
*Since 1948*

October 8, 2004

To Whom It May Concern:

I am sorry for not filing yearly notices of water usage in the past for the months of October through April. We have not used it in the past, but our pump is ready. We are willing and able to use water in the future if it is beneficial to the ground. This is for permits G-8145, 43172, and 43174.

Sincerely,

  
Roy Malensky  
Owner

RECEIVED

OCT 14 2004

WATER RESOURCES DEPT  
SALEM, OREGON





# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

**Date Mailed: December 22, 2004**

## NOTICE OF CERTIFICATE ISSUANCE

Attached are certificates that confirm water rights established under the terms of permits issued by this department. The water rights are now appurtenant to the specific place where the use was established as described by the certificates. The water rights are limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within **60 days of the mailing date stated above** as specified by ORS 183.484(2).

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

Under ORS 537.260 and 537.270, a water right certificate may be contested before the Water Resources Department within three (3) months of the date it is issued. If a certificate is contested, the qualifying contestant shall be offered an administrative hearing.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years, that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Steve Brown at 503-986-0809.



STATE OF OREGON  
COUNTY OF WASHINGTON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OREGON BERRY PACKING COMPANY  
ROUTE 6, BOX 232  
HILLSBORO, OREGON 97123

confirms the right to use the waters of AN UNNAMED STREAM AND LRM RESERVOIR CONSTRUCTED UNDER PERMIT R-6128 WITH ANY DEFICIENCY IN THE SUPPLY TO BE APPROPRIATED FROM CAMPBELL CREEK AND RESERVOIR NO. 1 CONSTRUCTED UNDER PERMIT R-6159, tributaries of TUALATIN RIVER, for the purpose of OUT OF SEASON IRRIGATION OF 51.8 ACRES.

This right has been perfected under Permit 43174. The date of priority is MARCH 10, 1977. This right is limited to 0.65 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source. The use allowed herein may be made any time between October 1 and April 30 when water can be put to beneficial use by irrigation for immediate crop growth.

The points of diversion are located as follows:

UNNAMED STREAM AND LRM RESERVOIR - NE 1/4 NW 1/4, AS PROJECTED WITHIN C. LEWIS DLC 51, SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 900 FEET SOUTH AND 2340 FEET EAST FROM NW CORNER OF SECTION 31;

CAMPBELL CREEK - LOT 4 (SW 1/4 NE 1/4), SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 2370 FEET SOUTH AND 2790 FEET EAST FROM THE NW CORNER OF SECTION 31; AND

RESERVOIR NO. 1 - LOT 6 (NW 1/4 SE 1/4), SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 200 FEET SOUTH AND 670 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 31.

The amount of water used for irrigation under this right, 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) and shall be further limited to a diversion of not to

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 days of the date of service.



exceed 2.5 acre-feet per acre for each acre irrigated during the period of May 1 to September 30, and shall be further limited to a diversion of not to exceed 1.0 acre-foot per acre for each acre irrigated during the period from October 1 to April 30, provided further that the right allowed herein shall not exceed 2.5 acre-feet for each acre irrigated in any one year. The use of water during the period from October 1 to March 31 as authorized herein shall not establish priority of right as against future appropriations of surface water for beneficial uses or for storage for such beneficial uses, other than similar rights for irrigation from October 1 to March 31. The water user shall record and submit annually a report of all water used for irrigation during the period of October 1 through April 30 of each year.

This right shall conform to any reasonable rotation system ordered by the proper state officer.

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

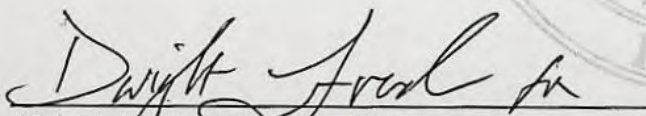
LOT 4	(SW 1/4 NE 1/4)	19.2 ACRES
LOT 5	(SE 1/4 NE 1/4)	3.3 ACRES
LOT 3	(SE 1/4 NW 1/4)	3.4 ACRES
	NE 1/4 SW 1/4	22.4 ACRES
	NW 1/4 SW 1/4	1.2 ACRES
LOT 5	(NE 1/4 SE 1/4)	0.3 ACRE
LOT 6	(NW 1/4 SE 1/4)	2.0 ACRES

## SECTION 31

TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

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. This right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

Issued December 22, 2004.

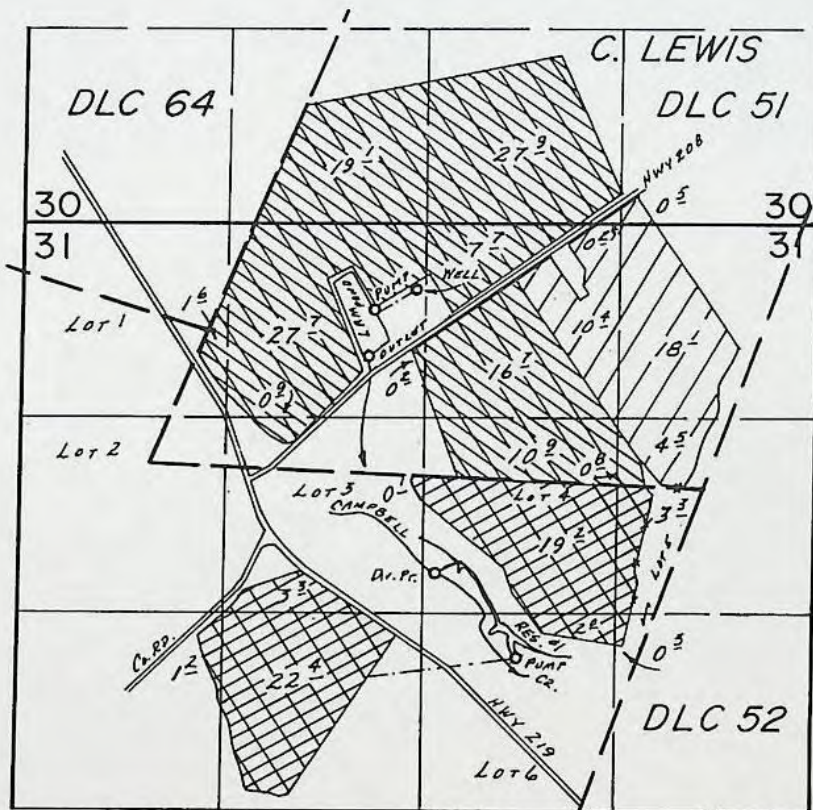
  
 Phillip C. Ward, Director  
 Water Resources Department

Recorded in State Record of Water Right Certificates Number 81082.

55462.SB



T.1S., R.2W., W.M.

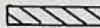
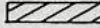
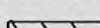
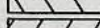



WELL LOC: 450'S. & 2650'E., DIV. Pts LOC: LRM POND - 900'S. & 2340'E.,  
RES. #1- 2370'S & 2790'E., ALL FROM NW COR SEC. 31.

SCALE: 1" = 1320'

## FINAL PROOF SURVEY

UNDER

55461	43172	
55462	43174	
G-7908	G-8144	
G-7912	G-8145	
Application No. G-9234	Permit No. G-8585	

IN NAME OF

Surveyed July 24, 1986, by B.W. BISHOP  
Feb. 4, 1987

2/4/87  
BWB  
41067-178-137A



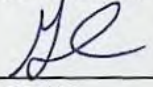
# Mailing List for Certificate

Mailing Date: 12/22/2004

Application 55462  
Permit 43174  
Certificate 81082

Permit/Certificate Holder: (include copy of map)

✓ OREGON BERRY PACKING COMPANY  
ROUTE 6 BOX 232  
HILLSBORO, OREGON 97123

<b>Copies Mailed</b>
By: <u></u> (STAFF)
on: <u>12/22/2004</u> (DATE)

## Copies of Final Certificate to be sent to:

1. ✓ Watermaster # 18: Darrell Hedin (include copy of map)
2. ✓ Data Center (include copy of map)
3. ✓ Water Availability

## Other persons to receive copies: (Include map)

✓ Malensky Land Holding Company  
11335 SW Hillsboro Highway  
Hillsboro, OR 97123

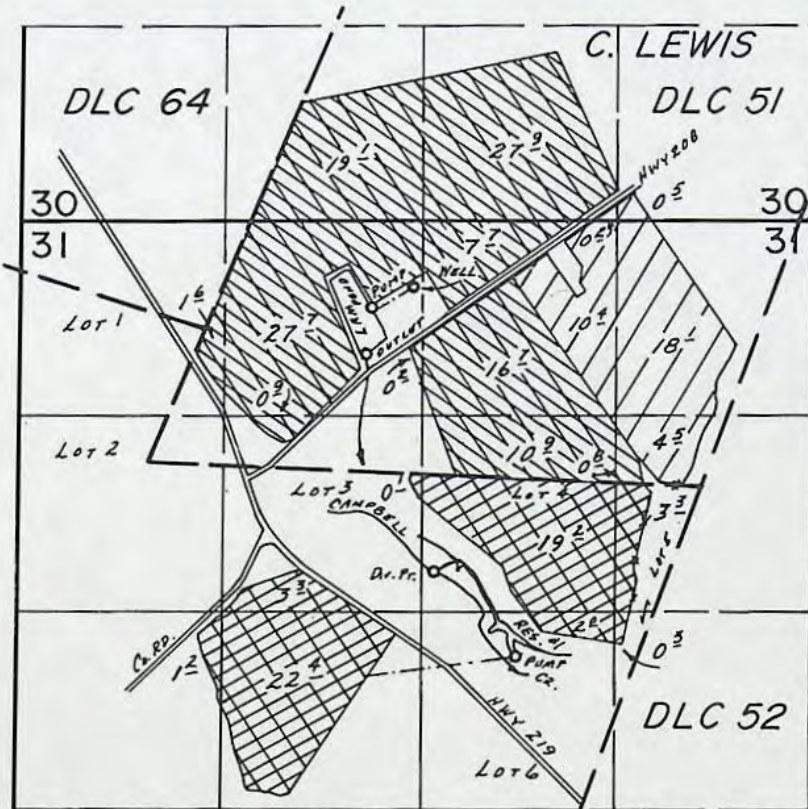
✓ Louis R. Malensky Jr.  
Donna R. Malensky  
29495 SW Farmington Rd  
Hillsboro, OR 97123

✓ Verboort, CWRE

55462.SB



T.1S., R.2W., W.M.



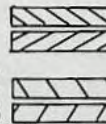
WELL LOC.: 450'S. & 2650'E., DIV. PTS LOC: LRM POND - 900'S. & 2340'E,  
RES. #1- 2370'S & 2790'E, ALL FROM NW COR SEC. 31.

SCALE: 1" = 1320'

## FINAL PROOF SURVEY UNDER

55461  
55462  
G-7908  
G-7912  
G-9234

43172  
43174  
G-8144  
G-8145  
G-8585



Application No. G-9234. Permit No. G-8585

IN NAME OF

Surveyed July 24, 1986, by B.W.BISHOP  
Feb. 4 1987

2/4/87  
BWB

41067-178-1579





# Oregon

Theodore R. Kulongoski, Governor

August 24, 2004

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

W. Richard Verboort, PE, CWRE  
666 SE 36<sup>th</sup> Avenue  
Hillsboro, OR 97123

REFERENCE: Transfer File No. T-7050 - Malensky Land Holding Co.;  
Application No. G-7908, Permit No. G-8144 - Oregon Berry Packing Co.;  
Application No. G-7912, Permit No. G-8145 - Oregon Berry Packing Co.;  
Application No. G-9234, Permit No. G-8585 - Oregon Berry Packing Co.;  
Application No. 55461, Permit No. 43172 - Oregon Berry Packing Co.;  
Application No. 55462, Permit No. 43174 - Oregon Berry Packing Co.;  
Application No. G-10319, Certificate No. 62490; and Application No.  
G-5800, Remaining Right Certificate No. 75273; and Application No.  
49266, Certificate No. 51979

Dear Mr. Verboort:

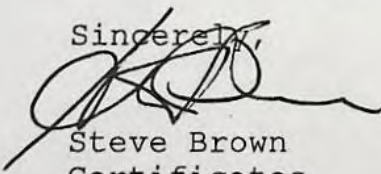
I have received your request to complete the processing of Transfer Application No. T-7050, on behalf of Mr. Malensky.

On December 18, 2001, the Department sent a letter to the Malensky's asking for additional information and the completion of an affidavit to process the above referenced files. As of this date, I do not find that we have received a reply.

Until such time as the concerns described in the letter of December 18, 2001, are adequately addressed, the above referenced files may not be further processed.

If you have any questions, please feel free to give me a call. My telephone number is 503.986.0809.

Sincerely,



Steve Brown  
Certificates

c: MALENSKY LAND HOLDING COMPANY  
11335 SW HILLSBORO HIGHWAY  
HILLSBORO, OR 97123

LOUIS R. MALENSKY JR.  
DONNA R. MALENSKY  
29495 SW FARMINGTON RD  
HILLSBORO, OR 97123

enclosures





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130  
www.wrd.state.or.us

December 18, 2001

MALENSKY LAND HOLDING COMPANY  
11335 SW HILLSBORO HIGHWAY  
HILLSBORO, OR 97123

LOUIS R. MALENSKY JR.  
DONNA R. MALENSKY  
29495 SW FARMINGTON RD  
HILLSBORO, OR 97123

REFERENCE: Transfer File No. T-7050 - Malensky Land Holding Co.;  
Application No. G-7908, Permit No. G-8144 - Oregon Berry Packing Co.;  
Application No. G-7912, Permit No. G-8145 - Oregon Berry Packing Co.;  
Application No. G-9234, Permit No. G-8585 - Oregon Berry Packing Co.;  
Application No. 55461, Permit No. 43172 - Oregon Berry Packing Co.;  
Application No. 55462, Permit No. 43174 - Oregon Berry Packing Co.;  
Application No. G-10319, Certificate No. ~~62490~~, and Application No.  
G-5800, Remaining Right Certificate No. 75273; and Application No.  
49266, Certificate No. 51979  
(62491)

Dear Ladies and Gentlemen:

Pursuant to a request by Mr. Verboort, I reviewed the Claim of Beneficial Use, Site Report and Map (Report) submitted to determine if the use of water was perfected under the terms and conditions of the Order of the Water Resources Director approving Transfer Application T-7050. A Proposed Certificate of Water Right along with instructions in regards to petitioning the Director to reconsider the contents of the proposed is enclosed.

At the time of issuance of Certificates confirming the original use of water under Applications G-5800 and 49266, Certificates 51806 and 51797 inadvertently described land which was to be deleted in favor of a right issued in approval of Application G-~~13019~~ 10319. This was authorized by a statement included in the remarks section of Application G-13019. The map attached to Certificates 51806 and 51797 does not illustrate the land in question, however due to an over site by staff, the land was not deleted from the final certificates. Please note the land in question described by Certificate No. 51806, is now described by the remaining right Certificate 75273, the portion of Certificate No. 51806 not modified by the order approving Transfer No. T-7050.



December 18, 2001  
MALENSKY, et. al.

I have prepared an affidavit, when properly completed and returned to this office, will authorize the Director to enter orders canceling the rights as evidenced by Certificates 75273 and 51797, in conflict with Certificate 62491. If requests, authorizing cancellations of the portions of the rights in conflict are not received, you are required to exercise your oldest priority right and all other rights shall be diminished to supplemental (Oregon Administrative Rule 690-015-0045).

The quantity of water associated with the remaining right Certificate No. 75273 issued due to the approval of Transfer No. T-7050 and the order was prorated based upon the number of acres of the original right of 139.6 acres. The Department will entertain a request to correct the quantity of water associated with the order approving Transfer No. 7050 along with the executed, submitted affidavit authorizing the cancellation of the conflicting water right under certificates No.'s 51797 and 75273.

Above, I have referenced the record holders of Permit No.'s G-8144, G-8145, G-8585, 43172 and 43174. Enclosed are assignment forms for use to request the change in ownership of the permits. Please consider which permits belong in which names or variations thereof and submit the requests to this office along with the required fees and our records will reflect the new owners accordingly.

Permit No.'s G-8145, 43172 and 43174 contain the following condition:

"Provided further, the permittee shall record and submit annually a report of all water used for irrigation during the period of October 1 through April 30 of each year."

In review of the files, I find no evidence the permittee has complied with this requirement. Enclosed are forms to report when the water was applied for the use of water. If it is not possible to provide the information since use was made, I am requesting a statement, in writing, that beneficial use of water was made during the periods of October 1 through April 30, and you are aware of the requirements of submitting annual reports and will make every effort to comply with the terms and conditions of the permit requiring annual reports of the water use for out of season irrigation use.

With the thought you will address the issues described in this letter, I am enclosing proposed certificates of water right, in addition to Transfer No. T-7050, for Permits No. G-8144, G-8145, G-8585, 43172 and 43174. If you comply with the requirements of this letter I will consider making a recommendation to the Director to issue Certificates as proposed or as modified by approved petitions for reconsideration.



December 18, 2001  
MALENSKY, et. al.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,

Steve Brown  
Certificates

c: Mr. Verboort

enclosures:      assignment forms;  
                 Temperature control forms;  
                 Statement from Application G-10319;  
                 Proposed Certificate Instructions;  
                 Proposed Certificates for T-7050, G-9234, G-7912, G-  
                 7908, 55461 and 55462;  
                 Copies of Certificates 51797, 51806, 75273, and 62491;  
                 and maps



# AFFIDAVIT

State of Oregon                     )  
  )ss  
County of Washington            )

I, \_\_\_\_\_, as duly authorized and acting on behalf of  
Malensky Land Company Limited Partnership, 11335 SW Hillsboro Hwy, Hillsboro, Oregon  
97123, being first duly sworn say:

1. We are the legal property owner of property described as tax lots 1900, 1904 and 1905, on the attached map, the property of which is located within the SE 1/4 SW 1/4 and SW 1/4 SE 1/4, Section 31, Township 1 South, Range 2 West, of the Willamette Meridian, in Washington County, Oregon;
2. Water right Certificate Number 51797 issued to Oregon Berry Packing Company, with a date of priority of May 7, 1973, for use of water from Drainage Ditch and Reservoir 1, constructed under Permit R-6159, for irrigation of 29.0 acres erroneously described within the SE 1/4 NW 1/4 Section 31, and 10.4 acres within the Lot 7 (SW 1/4 SE 1/4), Section 31, Township 1 South, Range 2 West, of the Willamette Meridian is appurtenant to our property;
3. Water right Certificate Number 75273 issued to Oregon Berry Packing Company, with a date of priority of May 7, 1973, for use of water from A Well for supplemental irrigation of 29.0 acres within the SE 1/4 SW 1/4 and 10.4 acres within the Lot 7 (SW 1/4 SE 1/4), Section 31, Township 1 South, Range 2 West, of the Willamette Meridian is appurtenant to our property;
4. We have abandoned any and all interest in the rights described by Certificates 51797 and 75273, and request the rights be canceled which are appurtenant to our land; and
5. Request the Director to correct the quantity of water associated with the order approving Transfer No. 7050 and Water right under Certificates No. 75273.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

Subscribed and Sworn to Before Me this \_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Notary Public for Oregon

My Commission Expires \_\_\_\_\_



41067-178-137A  
7/24/06  
BWB

RECEIVED

MAR 10 1977

WATER RESOURCES DEPT.  
PORTLAND, OREGON

\*APPLICATION FOR PERMIT

55462

Permit No. 13174

WASHINGTON 6-17-81

See attached map. No proof

PCR  
2-4-87  
BWB

To Appropriate the Public Waters of the State of Oregon

I, OREGON BERRY PACKING CO  
(Name of applicant)  
of RT. 1 BOX 192A 232, HILLSBORO  
(Mailing address) (City)  
State of OREGON, 97123, do hereby make application for a permit to appropriate the  
(Zip Code)  
following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

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

Div. Pts. Loc: ~~CAMPBELL~~ NE<sup>4</sup> NW<sup>4</sup> AS PROJECTED W/IN C. LEWIS DLC 51  
LOT 4 (SW<sup>4</sup> NE<sup>4</sup>)  
SEC. 31, T. 15, R. 2W, W.M.  
UNNAMED STR. & RES. 900'S. & 2340'E.  
CAMPBELL CR. & RES. 2370'S. & 2790'E.  
BOTH FROM NW COR. SEC. 31

19.2 ac. LOT 4 (SW<sup>4</sup> NE<sup>4</sup>) ✓  
3.3 ac. LOT 5 (SE<sup>4</sup> NE<sup>4</sup>) ✓  
3.4 ac. LOT 3 (SE<sup>4</sup> NW<sup>4</sup>) ✓  
22.4 ac. NE<sup>4</sup> SW<sup>4</sup> ✓  
1.2 ac. NW<sup>4</sup> SW<sup>4</sup> ✓  
0.3 ac. LOT 5 (NE<sup>4</sup> SE<sup>4</sup>) ✓  
2.0 ac. LOT 6 (NW<sup>4</sup> SE<sup>4</sup>) ✓  
51.8 SECTION 31

T. 15, R. 2W, W.M.

(c) If water is to be pumped give general description

(Size and type of pump)

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

\* A different form of application is provided where storage works are contemplated. Such forms can be secured without charge, together with instructions, by addressing the State Engineer, Salem, Oregon 97310.



41067-178-137A  
7/24/06  
BulB

See attached map - No Proof  
WASHINGTON 6-17-01  
55462  
PCR  
2-4-07  
WLB

RECEIVED

MAR 10 1977

WATER RESOURCES DEPT.  
SALEM, OREGON

\*APPLICATION FOR PERMIT

Permit No. 13174

To Appropriate the Public Waters of the State of Oregon

I, OREGON BERRY PACKING CO.  
(Name of applicant)  
of R.T. 6 BOX 1977 232  
(Mailing address) HILLSBORO  
(City)  
State of OREGON 97123  
(Zip Code), do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

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

1. The source of the proposed appropriation is UNNAMED STREAM & RES. CONST. R-6128  
(Name of stream)  
(CHRISTENSEN)  
& RES. CONST. R-6159 & CAMPBELL CREEK, a tributary of TUALATIN RIVER

2. The amount of water which the applicant intends to apply to beneficial use is 137 CFS  
~~600~~ - CAMPBELL CR  
cubic feet per second UNNAMED STREAM & RES. R-6128 & R-6159 - 0.67 CFS (2.04 12-71)  
(If water is to be used from more than one source, give quantity from each)

3. The use to which the water is to be applied is PRIMARY IRRIGATION BETWEEN  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)  
SEPT 30 AND MAY 1 OF EACH YEAR

4. The point of diversion is located 175 ft. S and 575 ft. E from the NW  
(N. or S.) (E. or W.)  
corner of NW 1/4 SE 1/4 Sec 31  
(Section or subdivision)

Campbell Cr. 300' N & 80' E from SW Cor.  
SW 1/4 NE 1/4 Sec. 31  
Res Const under Permit R-6128 Loc. - 590'S &  
(If preferable, give distance and bearing to section corner)  
& 280' W from NE Cor. NE 1/4 NW 1/4 Sec 31  
(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)  
being within the SW NE 1/4 Sec 31 of Sec. 31, Tp. 13  
(Give smallest legal subdivision) (N. or S.)  
RES - NE NW  
(E. or W.)  
R. 2 W, W. M., in the county of WASHINGTON

5. The PORTABLE PIPELINE to be  
(Main ditch, canal or pipe line) (Miles or feet)  
in length, terminating in the SW 1/4 NE 1/4 Sec 31 of Sec. 31, Tp. 13  
(Smallest legal subdivision) (N. or S.)  
R. 2 W, W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

DESCRIPTION OF WORKS

Diversion Works—

6. (a) Height of dam                      feet, length on top                      feet, length at bottom                      feet; material to be used and character of construction                       
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

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

(c) If water is to be pumped give general description                       
(Size and type of pump)  
                      
(Size and type of engine or motor to be used, total head water is to be lifted, etc.)



55462

13174

## Canal System or Pipe Line—

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

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

(c) Length of pipe, ..... 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? ..... Estimated capacity, ..... sec. ft.

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

Township North or South	Range E. or W. of Willamette Meridian	Section	Forty-acre Tract	Number Acres To Be Irrigated
15	2W	31	SE NW	17.9
15	2W	31	SW NE	29.7
15	2W	31	SE NE	3.7
15	2W	31	NW SW	0.9
15	2W	31	NE SW	38.3
15	2W	31	NW SE	31.5
15	2W	31	NE SE	1.5
15	2W	31	SE SW	31.0
15	2W	31	SW SE	9.3
				163.2
				51.8

(If more space required, attach separate sheet)

(a) Character of soil ..... LOAM

(b) Kind of crops raised ..... ROW CROPS & GRAIN

## Power or Mining Purposes—

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

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

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

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

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

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

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

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

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

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

(i) The nature of the mines to be served .....



Municipal or Domestic Supply—

10. (a) To supply the city of .....  
..... County, having a present population of .....  
(Name of)  
and an estimated population of ..... in 19.....

(b) If for domestic use state number of families to be supplied .....

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

11. Estimated cost of proposed works, \$ EXISTING FOR CURRENT WATER RIGHTS  
12. Construction work will begin on or before 1975  
13. Construction work will be completed on or before 1975  
14. The water will be completely applied to the proposed use on or before MAY 1, 1980

Oregon Berry Packing Co  
(Signature of applicant)  
By Louis R. Maloney

Remarks:

See 55461 for map & C.O.

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

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

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

WITNESS my hand this ..... day of ....., 19.....

STATE ENGINEER

By ..... ASSISTANT

55462  
43174



PERMIT

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

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

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 2040.65 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Campbell Creek a reservoir constructed under permit No. R-7159, AND an unnamed stream and reservoir constructed under permit No. R-6128, being 1.37 c.f.s. from Campbell Creek and reservoir, and 0.67 c.f.s. from the unnamed stream and reservoir.

0.21 The use to which this water is to be applied is irrigation of 51.8 ac. The use allowed herein may be made any time between October 1 and April 30 when water can be put to beneficial use by irrigation for immediate crop growth.

If for irrigation, 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 period of May 1 to September 30, and shall be further limited to a diversion of not to exceed 1 acre foot per acre for each acre irrigated during the period from October 1 to April 30, provided further that the right allowed herein shall not exceed 2 1/2 acre feet for each acre irrigated in any one year. The use of water during the period from October 1 to March 31 as authorized herein shall not establish priority of right as against future appropriations of surface water for beneficial uses or for storage for such beneficial uses, other than similar rights for irrigation from October 1 to March 31. Provided further, the permittee shall record and submit annually a report of all water used for irrigation during the period of October 1 through April 30 of each year,

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

The priority date of this permit is March 10, 1977

Actual construction work shall begin on or before July 25, 1979 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1980.

Complete application of the water to the proposed use shall be made on or before October 1, 1981.

WITNESS my hand this 25th day of July, 19 78

*James E. Benson*  
STATE ENGINEER

Application No. 55462

Permit No. 13174

PERMIT

TO APPROPRIATE THE PUBLIC  
WATERS OF THE STATE  
OF OREGON

This instrument was first received in the  
office of the State Engineer at Salem, Oregon,  
on the 10th day of March,  
19 77, at 2:36 o'clock P. M.

Returned to applicant:

Approved:

Recorded in book No. \_\_\_\_\_ of  
Permits on page \_\_\_\_\_

STATE ENGINEER

Drainage Basin No. 2 page 62823

Fees 70



GENERAL REPORT FOR APP. # 55461, #55462, G-7912 & G-9234

INFO: LOUIS MALENSKY JR. OWNER OF MOST LAND INVOLVED WITH THE EXCEPTION OF THE MOST SOUTHERLY PIECE ON APP. # 55462 WHICH IS OWNED BY HIS BROTHER ROY. LOUIS MALENSKY WANTS THESE PERMITS IN HIS NAME AS HE NO LONGER IS ASSOCIATED WITH OREGON BERRY PACKING CO.

SOURCE: A WELL, AN UNNAMED STREAM, <sup>1</sup> CAMPBELL CREEK, & TWO RESERVOIRS. THE WELL IS 720' DEEP, 12" CASING, SWL 25', AIRLINE & SANITARY SEAL DRILLED BY JANNSEN.

DIV. PT. CAMPBELL CREEK - 6" PIPE WITH CAP ALLOWS WATER TO BE DIVERTED INTO RESERVOIR. CONST UNDER PERMIT R-6159 WHERE IT IS PUMPED TO LAND SOUTH OF CO. RD. 1553.

RES. CONST. UNDER PER. # R-6128 IN CHANNEL OF UNN. STREAM. VALVE IN CONDUIT THROUGH DAM CAN BE OPENED TO ALLOW WATER TO FLOW INTO ABOVE DESCRIBED RES. TO BE REPUMPED TO SAME LANDS. ALSO A PUMP ON RESERVOIR IS USED TO APPLY WATER DIRECTLY TO ALL LAND EXCEPT LAND OWNED BY ROY.

THE WELL IS PUMPED INTO UPPER RESERVOIR, WHERE IT IS RE-PUMPED TO LAND OR RELEASED TO LOWER RESERVOIR. THE WELL <sup>WATER</sup> REACHES ALL LANDS DESCRIBED IN APPLICATION.

WELL  
PUMP: SUBMERSIBLE JOHNSTON 50 HP. @ 3600 RPM 6" DISCHARGE  
MODEL # S50A38TTZ

UPPER RES

PUMP: BERKELEY DDC 6"x4" MODEL B4EPBL RATED @ 620 GPM @ 290' HL.  
MOTOR: MARATHON 60 HP. @ 3530 RPM. MOD. # ED326TTDR 7303 BB.

LOWER RES:

PUMP: } SAME TYPE AS UPPER RES.  
MOTOR: }



PIPE: BURIED 6" STEEL TO ROY'S LAND.  
THOUSANDS OF FEET OF 6" ALUM.  
" " " " " "

HEADS: 10 NELSON #100 FA .89 RING BY 7/32 SPREADER  
THREE MAX FROM EITHER PUMP ON  
LOUIS'S LAND. 4 MAX ON ROY'S LAND.  
OPERATING @ 115 PSI ON LOUIS' & 105 PSI  
ON ROY'S.

USE: IRRIGATION & OUT OF SEASON IRRIGATION.  
LOUIS STATED THAT WATER IS OFTEN  
USED IN OCTOBER. CROP: CANEBERRIES,

LIFT: LOWER RES. +50' TO USE  
UPPER RES. +5' SUCTION - 0' DISCHARGE.  
-50 FT FROM UPPER RES. TO LOWER RES.  
WELL - 0' TO RESERVOIR

TIE: 41067-178-137A.

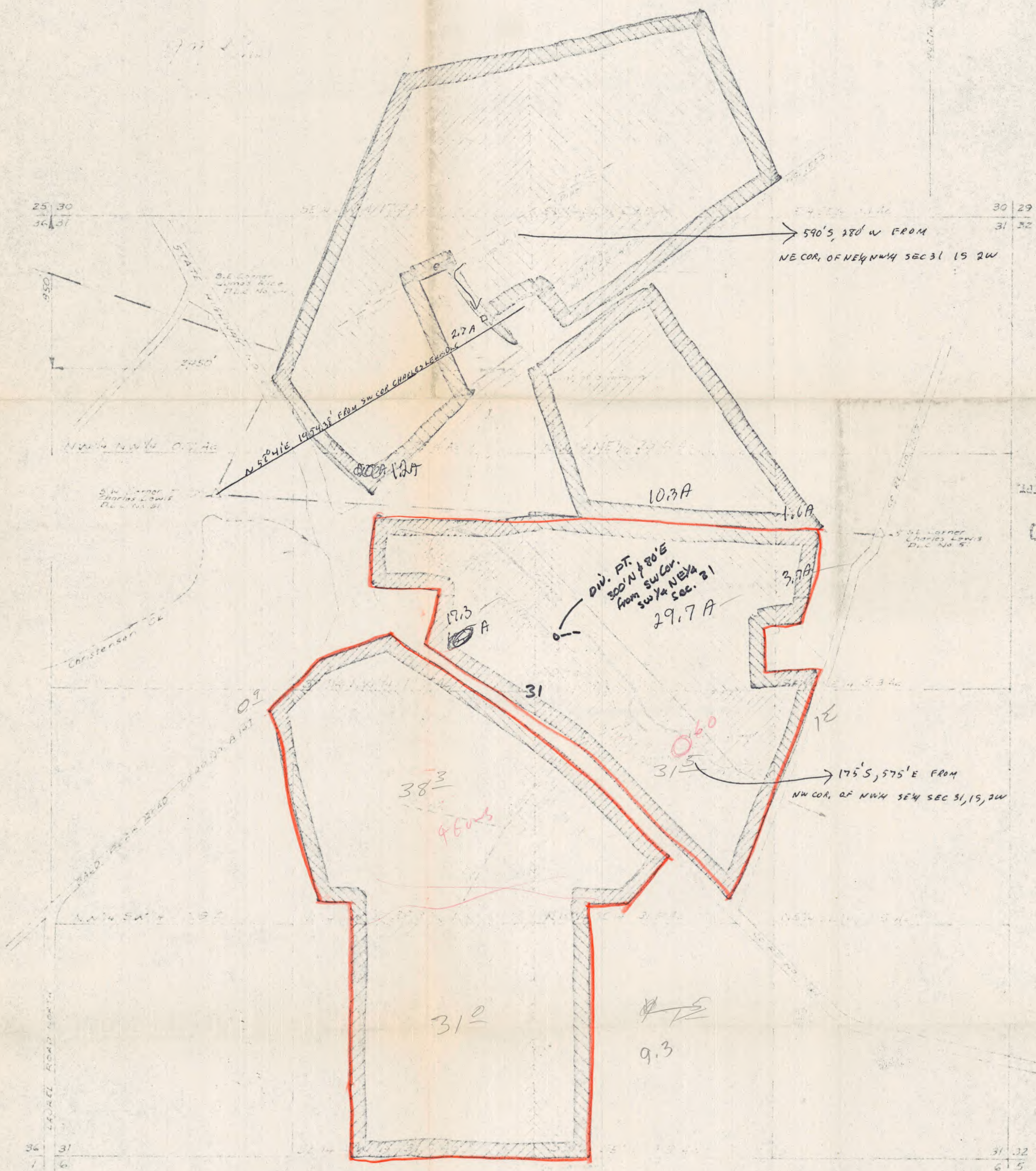
FOR EQUIPMENT CALCS.  
SEE 55461

7/24/86  
Benjamin W. Bishop  
W.R.E.

$$Q_{LAND} \frac{51.8}{80} = 0.65 \text{ cfs.}$$



Application No. 6-11912  
Permit No. 6 8145



Both  
Supp. 1  
from well

Thiss App. 55461

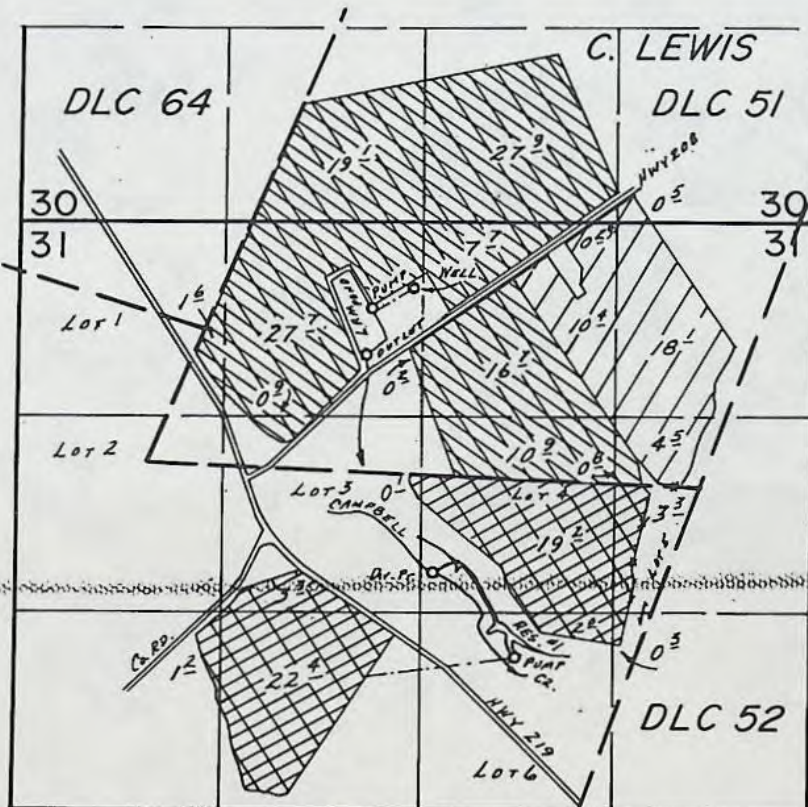
App 55462












T.1S., R.2W., W.M.



WELL LOC.: 450'S. & 2650'E., DIV. PTS LOC.: LRM POND - 900'S. & 2340'E,  
RES. #1- 2370'S & 2790'E, ALL FROM NW COR SEC. 31.

SCALE: 1" = 1320'

## FINAL PROOF SURVEY UNDER

55461	43172	
55462	43174	
G-7908	G-8144	
G-7912	G-8145	
Application No. G-9234	Permit No. G-8585	

IN NAME OF

Surveyed July 24, 1986, by B.W. BISHOP  
Feb. 4 1987

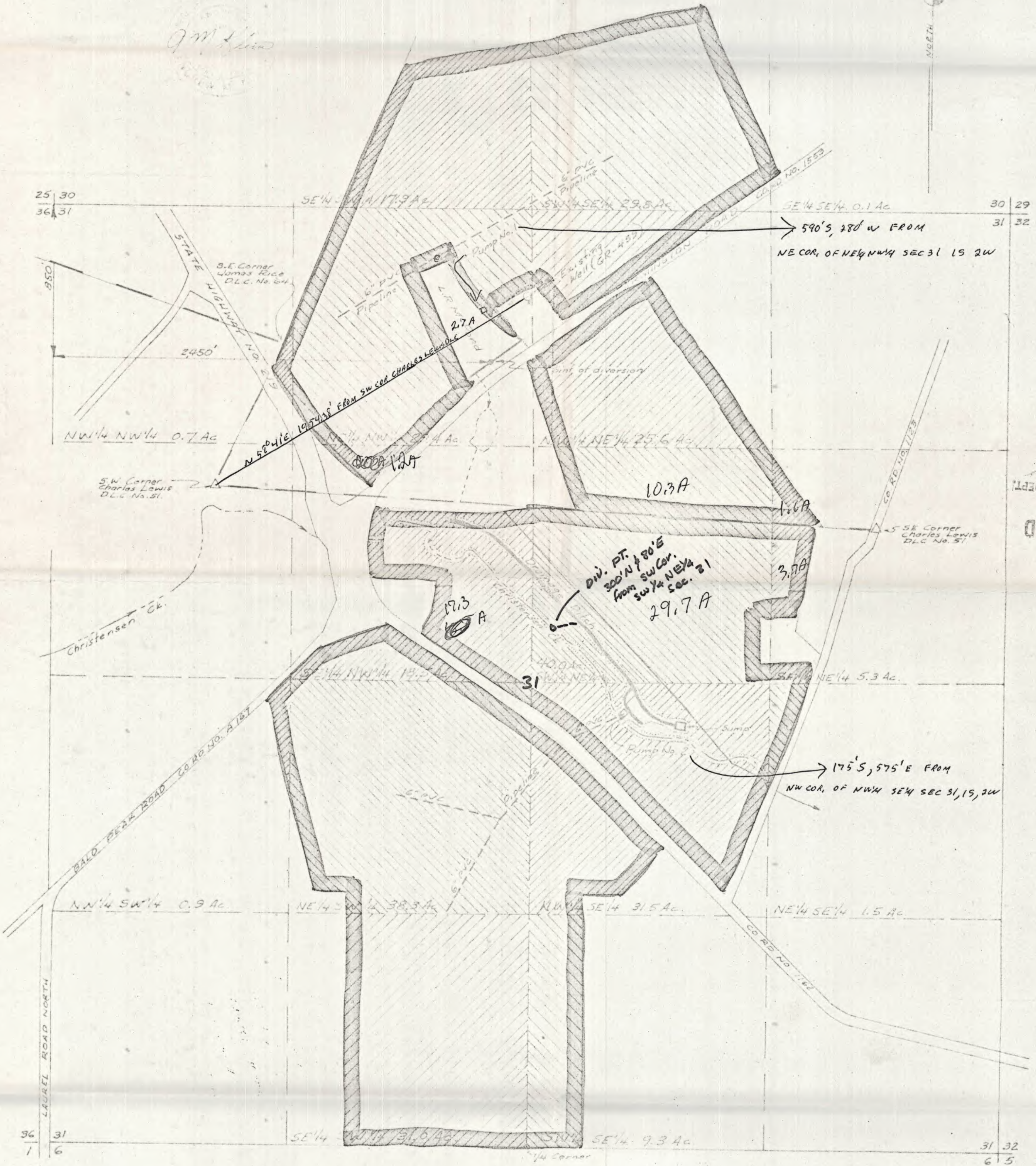
2/4/87  
BWB

41067-178-137A



Application No. 6-1912  
Permit No. 6 8145

WATER RIGHT MAP  
OREGON BERRY PACKING COMPANY  
SECTIONS 30 & 31, T15, R2W, W.M.  
WASHINGTON COUNTY, ORE  
Scale 1" = 400' April 1975

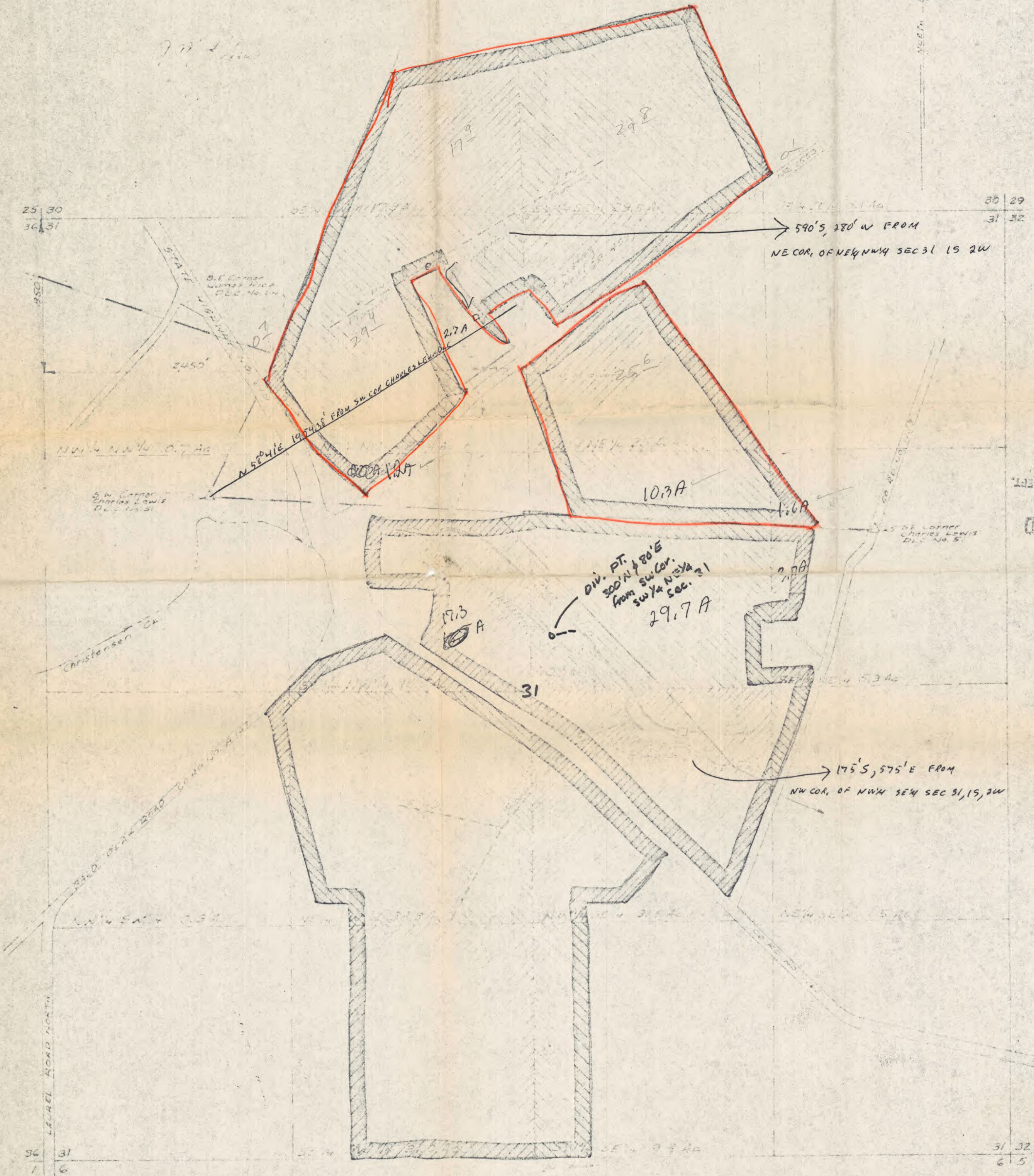


RECEIVED  
MAR 10 1977  
WATER RESOURCES DEPT.  
ASTORIA, OREGON

Both  
Suppl.  
from well

Thiss App. 55461  
App 55462





RECEIVED  
JAN 10 1912  
DEPT. OF AGRICULTURE  
WASHINGTON, D.C.

Booth  
Suppl.  
from well

{   This App. 55461  
  App 55462



功

387

49

642.58

H. J. Masters

of Richard White's claim, No. 47,  
No. 2 West. Will. Mex. is hereby approved.

James M. Rice

AC.56

**Acres**

23888

1383

Cl. 64

Acres 375.89

Charles Lewis

1391 62.51

*Acres 64-0-00*

*Felix Lawless*

1732

U.52

Acres 647.40

John M. Richy

1733

*Cl. 50*

Acres 323.46

Ph.

Агрег.

Cl. 38

~~50.8 Acres 56.2~~



TOWNSHIP <u>15</u> RANGE <u>2W</u> W. M. Card #1																SECTION <u>31</u>		
NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
01652	01651	01652	01651	01652	01651	01652	01651					01652	01651	01652	01651			
		Lot 4	Lot 5		Lot 1	Lot 2	Lot 3					Lot 5	Lot 6	Lot 7	Lot 8			
TOTAL ACREAGE IN SUBDIVISION AS SHOWN ON GOVERNMENT PLAT																		
																4190	4197	
																2	6	2
14	84	2						35	4					23		18324	13958	<del>CANCELLED</del>
																1.5	2.5	
																04	1.5	
25	29	1	33	1		2										23587	18607	<del>CANCELLED</del>
22		2														25558	20158	<del>CANCELLED</del>
																GR-477	GR-459	
																31653	25027	31016
																42041	26823	33119
																6-75	6-4753	45347
																R-48577	R-5958	<del>CANCELLED</del>
																48578	35691	<del>CANCELLED</del>
																R-49265	R-6159	51796
																49266	38077	51797
																49266	38077	

(SEE BACK OF CARD FOR PLAT OF SECTION)

TOWNSHIP <u>15</u> RANGE <u>2W</u> W. M. Card #2																SECTION <u>31</u>			
NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER	
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT, IF OTHER THAN 40 ACRES																			
		16	0.1					16	35	0.8		29	1	29	10	Supplemental	G-5800	G-5692	51806
				Res												R-53059	R-6128	51794	
26	39	2	52	30	1			17	35	0.8		1	29			Supplemental	53060	37849	51795
																55460	43173	<del>CANCELLED</del>	
																6-7909	G-8143	<del>CANCELLED</del>	
25	10	1	29	0				1								Supplemental	55461	43172	2
								17	38	0.9		31	1	31	9	Supplemental	55462	43174	
				fish												6-7908	G-8144		
25	40	5	29	0				18	38	0.9		31	1	31	9	Supplemental	6-7912	G-8145	2
19	10		5													G-9234	G-8585	2	
2			21													Supplemental	G-9458	G-8861	2
								3	0	17	40		0	9		G-10319	G-9369	2	
													18	28		G-10320	G-9370		
																G-8598	G-9621		

TOWNSHIP <u>15</u> RANGE <u>2W</u> W. M. Card #3																SECTION <u>31</u>		
NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT, IF OTHER THAN 40 ACRES																		
																Supplemental	G-8615	G-9622







July 27, 1978

Oregon Berry Packing Co.  
Route 4, Box 197 A  
Hillsboro, Oregon 97123

55460, 55461,  
55462

43172, 43173, 43174





## *Water Resources Department*

### MILL CREEK OFFICE PARK

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

PHONE 378-3066

55460, 55461, 55462  
G-7906, G-7907, G-7908,  
G-7909, G-7912

June 30, 1978

Oregon Berry Packing Company  
Route 4, Box 197 A  
Hillsboro, OR. 97123

Dear Sirs:

On March 10, 1977, we received your various maps, total fees of \$424.40, and eight applications requesting permits.

Applications numbered 55460 and G-7909 request a permit to use 0.37 cubic foot of water per second from Campbell Creek, an unnamed drain ditch, and a reservoir for primary irrigation and a well for supplemental irrigation of 29.77 acres throughout the entire year. Application numbered 55641 requests a permit to use 1.46 cubic feet of water per second from an unnamed stream and a reservoir for supplemental irrigation of 116.6 acres outside of the normal irrigation season.

Application numbered 55642 is requesting a permit to use 1.37 cubic feet of water per second from Campbell Creek and a reservoir and 0.67 cubic foot of water per second from an unnamed stream and reservoir for supplemental irrigation outside of the normal irrigation season for 163.2 acres. Application numbered G-7912 is requesting a permit to use 780 gallons of water per minute from a well for supplemental irrigation outside of the normal irrigation season for 279.8 acres.

Application numbered G-7906 requests a permit to use 0.88 cubic foot of water per second from four wells for irrigation of 70.15 acres throughout the entire year. Application numbered G-7907 requests the use of 0.88 cubic foot of water per second from four wells for irrigation of 65.11 acres throughout the entire year, and 0.22 cubic foot of water per second from well number 4 for fish culture. Application numbered G-7908 requests the use of 600 gallons of water per minute from a well for fish culture in LRM Pond.

You may recall that there has been some delay in issuing permits in approval of these applications because of the request for irrigation outside of the normal irrigation season. I am sure you are aware that the normal irrigation season in your vicinity begins May 1 and concludes September 30. It has been substantiated that on many years it may be necessary to begin irrigation in the Tualatin Basin as early



Page Two  
Oregon Berry Packing Co.

as mid-March and often times through April. This is especially true for shallow seeded or shallow rooted plants.

Much of the data which we collected to substantiate beneficial use outside of the irrigation season indicated a need to apply water for chemical distribution. The use of water for chemical distribution is not classed as irrigation and if water is needed for chemical distribution, a permit should be requested specifically for this purpose.

Another use which was requested as irrigation was storing water in the soil for future use. It has been determined that permits for irrigation to build the soil moisture profile within the Willamette Valley would not be issued. Fall rains normally begin in mid-September and end by mid-November. Soil is often at its maximum storage capacity. Additional water placed on the soil either runs off or percolates into a ground water body.

Of the data collected, irrigation for immediate crop growth outside of the normal irrigation season has been determined to be the only beneficial use of water as irrigation. Therefore, your applications which have requested out-of-season use or year-round use, together with your existing rights, would allow for use of water from the various sources for beneficial use or immediate crop growth at any time that such use is beneficial.

Since the irrigation season has been set by certain Court Decree, it has been determined that out-of-season irrigation rights shall not have priority against other rights for beneficial use but shall establish priority only against similar rights for irrigation. However, since many Court Decrees throughout the Willamette Valley begin the irrigation season on April 1, beneficial use of water for irrigation during the month of April will establish priority as against all other rights from the same source.

We have further concluded that it would be very difficult to prove beneficial use of water in order for a Certificate to be issued. Therefore as a condition of your out-of-season permits and year-round permits, it will be necessary that you submit a report annually of all beneficial use of water for irrigation outside of the normal irrigation season. If annual reports are not made, the right for out-of-season use will not be confirmed.

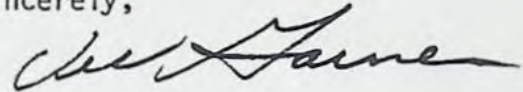
All of your applications as referred to herein are satisfactory and



Page Three  
Oregon Berry Packing Co.

will now be considered for approval by issuance of permits. Should you have questions regarding your applications, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Vestal Garner", written in dark ink.

VESTAL GARNER  
Water Rights Engineer

VG:tld



*Luc*

10 March 77

Application No.

55462

Permit No.

13174

Name Oregon Berry Packing Co.

Address Route 4, Box 197A Hillsboro, OR. 97123

Assigned

Address

Beginning construction JUL 25 1979

Completion of construction OCT 1 1980

Extended to

Complete application of water OCT 1 1981

Extended to



RECEIVED

MAR 10 1977

WATER RESOURCES DEPT.  
SEASIDE, OREGON

Oregon Berry Packing Co.  
Rt. 4, Box 197A  
Hillsboro, Oregon 97123

Phone 503-628-1630

State Engineer  
1178 Chemeketa Street N.E.  
Salem, Oregon 97310

Dear Sir:

- A. We request that we be allowed to irrigate our crops, between Sept. 30th. and May 1st. of each year, as well as the rest of the year.

Currently our major crops are black raspberries, 120 acres, strawberries, 60 acres and grain crops. Our row crops are routinely rotated over all our property, so this request is for all of our irrigable property included under various water rights.

The needs are as follows:

1. Black Raspberries:

It is recommended that potassium fertilizer be put on in the months of February or March. The purpose of this is to avoid winter leaching of the fertilizer. Substantial water is required to leach the fertilizer into the root zone by the first part of April. Some years that are not near as dry as the winter of 1976-1977 would require irrigation as a supplement to rainfall to leach the fertilizer.

Black raspberries begin to grow in March of each year. The most critical period for production is between March 15th. and April 20th. During this period of time the fruit spurs are formed, and the vigor of the plant determines the number of fruit spurs, the number of blossoms and the size of the fruit. We also put on about 100 pounds of actual nitrogen between March 15th. and April 20th. The fertilizer is ammonium nitrate, which is very fast acting. This cultural practice helps give the plants a strong boost during this period of time.

Water is an absolute NEED prior to May 1st. The moisture content of the soil must be high during March and April, and water, either rain or irrigation - has to leach the ammonium nitrate into the root zone at this critical period.

Lack of adequate moisture as required during March and April - in a year like 1977 - could reduce our crop potential by as much as 40%. It is not unusual for our fields to yield 2 tons per acre. A 40% loss would be a 1600 pound reduction at an expected cannery price of 50¢ a pound. It is very possible that not being able to irrigate our black raspberries prior to May 1st. in some years could cost us \$800. an acre! We absolutely need the right to irrigate this crop prior to May 1st. of each year.

2. Strawberries:

This crop has a critical need for moisture from March through Sept. We have experienced that strawberries require good moisture at all

Application No. 55462  
Permit No.



times down to a depth of at least 2 feet. If the top 6" gets dry at any time between March and July 1st., the size of the fruit is definitely affected. It is also very possible the number of fruit spurs would be reduced if the plant becomes short of moisture in March and April. We would estimate that lack of moisture between March and May 1st., could reduce our strawberry crop between 20% to 40%. The economics is not only the loss of the potential crop of about (20% x 6 tons x 25¢ lb.) \$600 - \$1200 per acre, but also the problem of keeping pickers to pick the smaller and fewer berries.

3. Wheat:

Wheat may be short of moisture, and may run out before May 1, 1977. If we could put approximately 4" of water per acre, we could fertilize our wheat one time at a near normal rate. Based on facts stated at the meeting Feb. 16, 1977 at the Hillsboro Junior High School, we could anticipate an additional yield of at least 20 bushels of wheat per acre and up to 28 bushels per acre. This would give us additional income of between \$60 and \$84 per acre on the irrigated wheat. We realize we could not irrigate all of our wheat in any given year but our wells and ponds would allow us to irrigate a substantial acreage.

4. Planting - Strawberries and Black Raspberries:

We always plant strawberries as early in the spring as the weather allows. March or early April is very desirable because the plants respond to the cooler weather. Black Raspberries are normally planted in April. Both transplanted berries require adequate moisture in the top one foot of ground for the first two months to become well established.

Our normal cultural practice is to plant, fertilize and put on weed chemicals which require up to 2" of water immediately after they are applied. The weed chemical and irrigation must be done within one to two weeks of planting, otherwise a very serious and expensive weed problem will occur.

The planting year of both strawberries and black raspberries affect all future production years for the respective crops. If a field gets a bad start, it will never become a good producing field for the life of the crop - 3 to 4 years for strawberries; 5 to 8 years for black raspberries.

5. Plantings:

Wheat, clover and other fall seeded crop:

In some years it may be necessary to water various crops if the fall rains do not come soon enough. It is critical that a crop have vigorous growth soon after planting in the fall. This vigorous growth must continue through November and into December.

6. There are no alternatives for irrigation if needed rains are not forthcoming at critical times. All our row crops are predicated on irrigation, and we have invested between \$75,000 and \$100,000 over the years for irrigation. Wheat is not as critical over the years, but if water is available and needed in any particular year, we feel we should have the right to irrigate it.

Most of our waterings are between 2" and 4" of water per acre. We find that frequent light irrigations produce the best results with minimum water runoff. This maximizes the results we can get with the limited water we have available to us.

Application No. 55462  
Permit No.



7. We cannot at this time foresee what crops we will raise in the future. Therefore we cannot name all the needs for irrigation we may have between September 30th. and May 1st. of any given year. We do know that irrigation during this time may be critical for us.
- B. We request that the 30 day waiting period be waived for both the September 30th to May 1st. water right applications and the regular water right applications being currently submitted. We appear to have adequate moisture at the moment, but it may become dry for certain crops prior to May 1st. of 1977.
- C. We specifically request that the September 30th. to May 1st. portion of our water right applications be given an exemption to the 3 year proving period and the 5 year application of irrigation water rules. We request this exemption only on lands that meet the 3 year and 5 year water application rules for the period between May 1st. and September 30 th. of each year and that we have the right to have water applied between May 1st. and September 30th.

The reasons for requesting this exemption are as follows:

1. Only particular crops require that they get irrigation between Sept. 30 th. and May 1st.
2. There is not a need, due to the changing weather, to irrigate any crops between Sept. 30th. and May 1st. in many years.
3. We rotate our crops. It would not be unusual to have an acreage that would not require water during a 5 year period due to the combination of weather (wet fall, dry spring, or dry fall, wet spring) and the crops being raised on that particular acreage. The loss of the September 30th. to May 1st. water right on that particular acreage would jeopardize our desired crop rotation in future years.
4. Allowing this exemption would save us the cost of reapplying for Sept. 30 th. to May 1st. water rights on specific acreages that would not have had water applied on them when required by your department. Your department would also not have to spend time and effort on needless water applications.
5. Two very important factors are that water would be conserved, and electrical energy would be saved. In some years weather makes it a marginal situation as to whether we should irrigate a particular crop or not between Sept. 30th. and May 1st. The 3 year and 5 year water application requirements would force us to irrigate under marginal conditions to save our water rights. This would be a possible waste of water and energy. We would prefer to evaluate a crop dryness situation and be sure that a total substantial economic gain would be achieved upon application of water. Our evaluation would include all our costs, including conservation, energy use, labor and equipment.
6. We anticipate raising high yield crops in the future, along with other rotation crops. If we have water available to us from our irrigation systems, we feel we should have the right to protect our crops at any time during the year.

We do not request the waivering of the 30 day waiting period on request C. - exemption from the 3 year and 5 year application rules. We realize that you

Application No. 55462

-3- Permit No.



may or may not have the power to grant this exemption. If you cannot grant this exemption, please include this power in the changes in rules being presented to the legislature from your department.

Sincerely yours,

Oregon Berry Packing Co.

*Oregon Berry Packing Co.*

*Louis R. Malensky Jr.*

Louis R. Malensky Jr.  
Partner

Application No. 55462  
Permit No.



WATER RESOURCES DEPARTMENT  
158 12th STREET NE  
SALEM, OR 97310  
ATT: Mr. Steve Brown

February 21, 2002

RE: permits 43172  
43174

Dear Mr. Brown:

This is a follow up from the meeting between Lars Milling, my farm manager, Dick Verboort, Verboort Engineering and you on February 19, 2002. Thank you for your time in meeting with them.

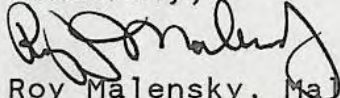
Unfortunately we have kept no written records for the out of season irrigation use allowed by the two referenced permits. However, we have been ready, willing and able to use this water when the need arises.

Permits 43172 and 43174 fall on land owned by myself (Malensky Land Company) and my brother, Louis Malensky, Jr. and/or his wife, Donna Malensky.

My brother and his wife are both out of the country at this time and unable to co-sign this letter.

I certify that we have collectively been ready, willing and able to provide out of season irrigation water to the lands covered under the referenced permits.

Sincerely,



Roy Malensky, Malensky Land Company

CC: Mr. & Mrs. Louis Malensky, Jr.

RECEIVED

FEB 25 2002

WATER RESOURCES DEPT.  
SALEM, OREGON





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130  
[www.wrd.state.or.us](http://www.wrd.state.or.us)

December 18, 2001

MALENSKY LAND HOLDING COMPANY  
11335 SW HILLSBORO HIGHWAY  
HILLSBORO, OR 97123

LOUIS R. MALENSKY JR.  
DONNA R. MALENSKY  
29495 SW FARMINGTON RD  
HILLSBORO, OR 97123

REFERENCE: Transfer File No. T-7050 - Malensky Land Holding Co.;  
Application No. G-7908, Permit No. G-8144 - Oregon Berry Packing Co.;  
Application No. G-7912, Permit No. G-8145 - Oregon Berry Packing Co.;  
Application No. G-9234, Permit No. G-8585 - Oregon Berry Packing Co.;  
Application No. 55461, Permit No. 43172 - Oregon Berry Packing Co.;  
Application No. 55462, Permit No. 43174 - Oregon Berry Packing Co.;  
Application No. G-10319, Certificate No. 62490; and Application No.  
G-5800, Remaining Right Certificate No. 75273; and Application No.  
49266, Certificate No. 51979

Dear Ladies and Gentlemen:

Pursuant to a request by Mr. Verboort, I reviewed the Claim of Beneficial Use, Site Report and Map (Report) submitted to determine if the use of water was perfected under the terms and conditions of the Order of the Water Resources Director approving Transfer Application T-7050. A Proposed Certificate of Water Right along with instructions in regards to petitioning the Director to reconsider the contents of the proposed is enclosed.

At the time of issuance of Certificates confirming the original use of water under Applications G-5800 and 49266, Certificates 51806 and 51797 inadvertently described land which was to be deleted in favor of a right issued in approval of Application G-13019. This was authorized by a statement included in the remarks section of Application G-13019. The map attached to Certificates 51806 and 51797 does not illustrate the land in question, however due to an over site by staff, the land was not deleted from the final certificates. Please note the land in question described by Certificate No. 51806, is now described by the remaining right Certificate 75273, the portion of Certificate No. 51806 not modified by the order approving Transfer No. T-7050.



December 18, 2001  
MALENSKY, et. al.

I have prepared an affidavit, when properly completed and returned to this office, will authorize the Director to enter orders canceling the rights as evidenced by Certificates 75273 and 51797, in conflict with Certificate 62491. If requests, authorizing cancellations of the portions of the rights in conflict are not received, you are required to exercise your oldest priority right and all other rights shall be diminished to supplemental (Oregon Administrative Rule 690-015-0045).

The quantity of water associated with the remaining right Certificate No. 75273 issued due to the approval of Transfer No. T-7050 and the order was prorated based upon the number of acres of the original right of 139.6 acres. The Department will entertain a request to correct the quantity of water associated with the order approving Transfer No. 7050 along with the executed, submitted affidavit authorizing the cancellation of the conflicting water right under certificates No.'s 51797 and 75273.

Above, I have referenced the record holders of Permit No.'s G-8144, G-8145, G-8585, 43172 and 43174. Enclosed are assignment forms for use to request the change in ownership of the permits. Please consider which permits belong in which names or variations thereof and submit the requests to this office along with the required fees and our records will reflect the new owners accordingly.

Permit No.'s G-8145, 43172 and 43174 contain the following condition:

"Provided further, the permittee shall record and submit annually a report of all water used for irrigation during the period of October 1 through April 30 of each year."

In review of the files, I find no evidence the permittee has complied with this requirement. Enclosed are forms to report when the water was applied for the use of water. If it is not possible to provide the information since use was made, I am requesting a statement, in writing, that beneficial use of water was made during the periods of October 1 through April 30, and you are aware of the requirements of submitting annual reports and will make every effort to comply with the terms and conditions of the permit requiring annual reports of the water use for out of season irrigation use.

With the thought you will address the issues described in this letter, I am enclosing proposed certificates of water right, in addition to Transfer No. T-7050, for Permits No. G-8144, G-8145, G-8585, 43172 and 43174. If you comply with the requirements of this letter I will consider making a recommendation to the Director to issue Certificates as proposed or as modified by approved petitions for reconsideration.



December 18, 2001  
MALENSKY, et. al.

Sincerely,

c: Mr. Verboort

enclosures:      assignment forms;  
                 Temperature control forms;  
                 Statement from Application G-10319;  
                 Proposed Certificate Instructions;  
                 Proposed Certificates for T-7050, G-9234, G-7912, G-  
                 7908, 55461 and 55462;  
                 Copies of Certificates 51797, 51806, 75273, and 62491;  
                 and maps



Remarks: I do not intend to make proof on the use of water allowed under permits # 38077, G-5692, 37849, 43174, and G-8145 and for any lands described in this application.

RECEIVED

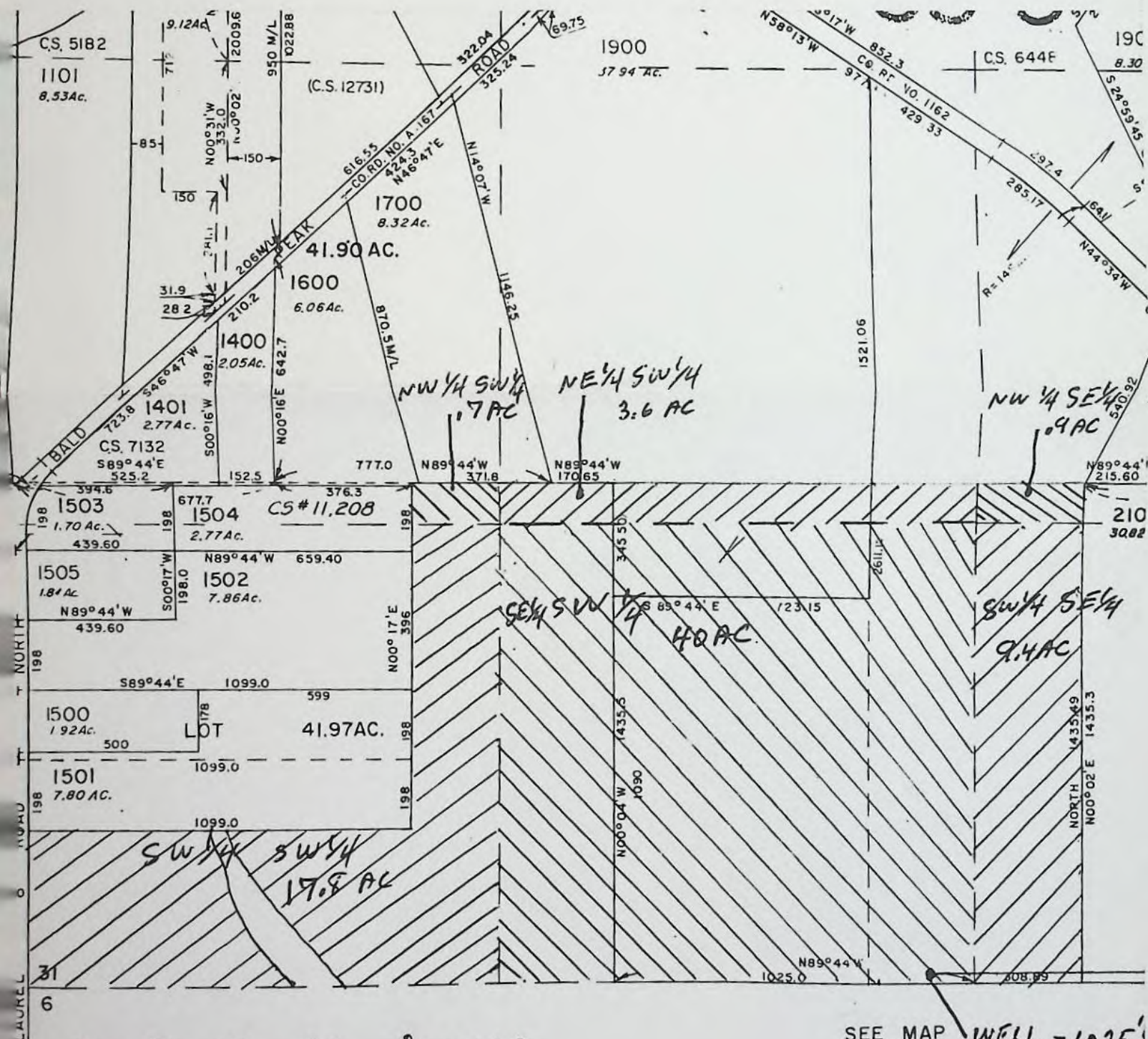
JUN 17 1981

WATER RESOURCES DEPT.  
SALEM, OREGON

*Ray J. Mahoney*  
Signature of Applicant

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before....., 19.....



Application No. 910319  
Permit No.

SEE MAP 2S 2 6 WELL - 1025'  
S.W. CORNER FE



STATE OF OREGON  
COUNTY OF WASHINGTON

201 - C R Jr.  
1900 LTD PARTNER  
1904

PROPOSED CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OREGON BERRY PACKING COMPANY  
ROUTE 6, BOX 232  
HILLSBORO, OREGON 97123

confirms the right to use the waters of AN UNNAMED STREAM AND LRM RESERVOIR CONSTRUCTED UNDER PERMIT R-6128 WITH ANY DEFICIENCY IN THE SUPPLY TO BE APPROPRIATED FROM CAMPBELL CREEK AND RESERVOIR NO. 1 CONSTRUCTED UNDER PERMIT R-6159, tributaries of TUALATIN RIVER, for the purpose of OUT OF SEASON IRRIGATION OF 51.8 ACRES.

This right has been perfected under Permit 43174. The date of priority is MARCH 10, 1977. This right is limited to 0.65 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source. The use allowed herein may be made any time between October 1 and April 30 when water can be put to beneficial use by irrigation for immediate crop growth.

The points of diversion are located as follows:

UNNAMED STREAM AND LRM RESERVOIR - NE 1/4 NW 1/4, AS PROJECTED WITHIN C. LEWIS DLC 51, SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 900 FEET SOUTH AND 2340 FEET EAST FROM NW CORNER OF SECTION 31;

CAMPBELL CREEK - LOT 4 (SW 1/4 NE 1/4), SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 2370 FEET SOUTH AND 2790 FEET EAST FROM THE NW CORNER OF SECTION 31; AND

RESERVOIR NO. 1 - LOT 6 (NW 1/4 SE 1/4), SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.; 200 FEET SOUTH AND 670 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 31.

The amount of water used for irrigation under this right, 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) and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the period of May 1 to September 30, and shall be further limited to a diversion of not to exceed 1.0 acre-foot per acre for each acre irrigated during the period from October 1 to April 30, provided further that the right allowed herein shall not exceed 2.5 acre-feet for each acre irrigated in any one year. The use of water during the period from October 1 to March 31 as authorized herein shall not establish priority of right as against future appropriations of surface water for beneficial uses or



for storage for such beneficial uses, other than similar rights for irrigation from October 1 to March 31. The water user shall record and submit annually a report of all water used for irrigation during the period of October 1 through April 30 of each year.

This right shall conform to any reasonable rotation system ordered by the proper state officer.

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

LOT 4	(SW 1/4 NE 1/4)	19.2 ACRES
LOT 5	(SE 1/4 NE 1/4)	3.3 ACRES
LOT 3	(SE 1/4 NW 1/4)	3.4 ACRES
	NE 1/4 SW 1/4	22.4 ACRES
	NW 1/4 SW 1/4	1.2 ACRES
LOT 5	(NE 1/4 SE 1/4)	0.3 ACRE
LOT 6	(NW 1/4 SE 1/4)	2.0 ACRES

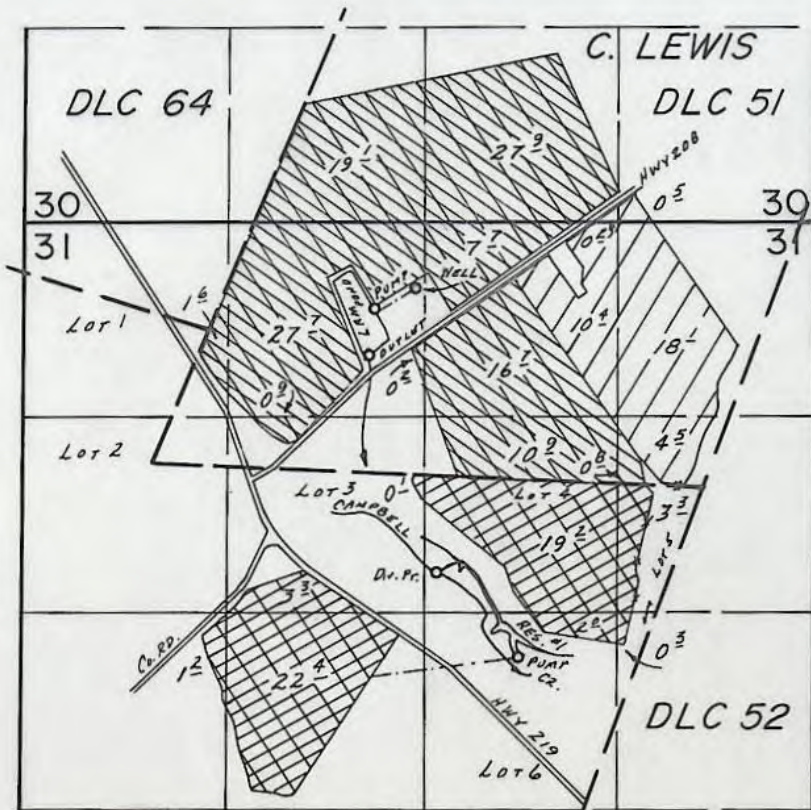
SECTION 31

TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

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. This right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.




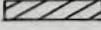
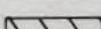
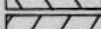

T. 1 S., R. 2 W., W.M.



WELL LOC.: 450'S. & 2650'E., DIV. PTS LOC.: LRM POND - 900'S. & 2340'E,  
RES. #1-2370'S & 2790'E, ALL FROM NN COR SEC. 31.

SCALE: 1" = 1320'

## FINAL PROOF SURVEY UNDER

55461	43172	
55462	43174	
G-7908	G-8144	
G-7912	G-8145	
Application No. G-9234	Permit No. G-8585	

IN NAME OF

Surveyed July 24, 1986, by B.W. BISHOP.....  
Feb. 4 1987

2/4/87  
BWB

41067-178-137A