

# Oceanside Water District

P.O. Box 116  
OCEANSIDE, OREGON 97134  
Phone 842-6462

**RECEIVED**

MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

SOURCE: Coleman Creek 1S10 18

DIVERSION: The diversion is at the head waters of Coleman Creek. The water is gravity fed to a 500 gallon tank that has a 1/2 HP submersible pump. The water is then pumped to an elevation of 1,069 feet, to a 16,000 gallon reservoir. The water is piped through a 2" PVC water line 428 feet.

The purpose for the water is for a forest management caretakers home and lodge.

The water is also a back-up source for the city of Cape Meares that has a daily average of 2,000 gallons of water use.

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## COLEMAN CREEK

6/10/1907	Appropriation of Water	- Coleman Crk. Potter Chapin Rlty.Co.	Water Rights Book 1, Page 60
2/2/1909	Water Rights Potter Chapin Realty	- Sampson Creek	Book 1, - Page 104 & 105
2/2/1909	Water Rights Potter Chapin Realty	- Coleman Creek	Book 1. - Page 112 & 113
9/29/1933	Quitclaim Deed	- Bayocean to Connie Dye	Book 68 - Page illegible
10/13/1933	Quitclaim Deed	- Connie Dye to Jay Smith, W.R. Coats, & Swan Hawkinson	Book 68 Page 436, 437, - & 438
12/21/1936	Declaration of Trust	- Jay Smith, W.R. Coats, & Swan Hawkinson	123
8/31/1958	Deed Trustees to Everett Charles Merritt		Book 154 Page 513, 514, 515, 516
11/23/1957	Deed Everett Charles Merritt to Bayocean Cooperative Water Systems		Book 160 Page 176, 177 178, 179
10/9/1991	Merger Cape Mears Cooperative Water System & Oceanside Water District		Exhibit A & B
1/28/1991	Assignment Cape Meares Water Co-op Water Rights to Oceanside Water District		
11/24/1992	Coleman Creek Water Rights		Permit S 43812

index.owd

# Oceanside Water District

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OCEANSIDE, OREGON 97134  
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MAY 24 1993

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

WATER RESOURCES DEPT.  
SALEM, OREGON

May 18, 1993

Re: Petition to the Director for an extension to file.

To Whom It May Concern;

The following is an explanation of our twelfth hour application for adjudication on Coleman Creek Water Rights.

Oceanside Water District (OWD) and Cape Meares Water Co-op merged on October 9, 1991. The water rights on Coleman Creek had originally belonged to Cape Meares. They were transferred to OWD.

The new OWD Board consisted of three individuals from the original OWD Board and two new members from Cape Meares which had not previously served on the Cape Meares Water Co-op Board. This Board was not familiar with the Coleman Creek Water Rights. Since our water Board is comprised of non-paid citizens from varied occupations, these individuals do not usually look for notices dealing with issues such as adjudication. Thus, the Board became aware of the December 1992 deadline in the early part of 1993.

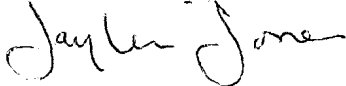
Our present Watermaster for OWD was hired in August of 1991. He was inexperienced and has been learning on the job and through the "Short School" process. Since this has been his first position as a Watermaster, he was unaware of the necessity of adjudication for Coleman Creek. Our previous Watermaster for OWD had only worked a year at the position. Thus, the Watermaster transition occurred during the same time frame as the Cape Meares Water Co-op annexation.

Additionally, during the first five months of 1993, two of our Board members have resigned. Both of these Board members had been the only members working diligently on the adjudication. With their resignations, more time passed before another Board member could continue the process.

Lastly, a map had to be prepared by a Certified Water Right Examiner (CWRE). Since Tillamook has only one qualified individual, we were at the mercy of his busy schedule.

Hopefully, everything is in order and the adjudication of Coleman Creek can proceed. Thank you for your patience.

Sincerely,



Jaylen Jones, Secretary

Notice of Appropriation of Water of  
Patten-Chapin Realty Company,

RECEIVED

MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

To All Whom it May Concern:

Notice is hereby given that the undersigned, a corporation organized and existing under and by virtue of the laws of the State of Oregon and having its principal office and place of business in the City of Portland, County of Multnomah and State of Oregon, being organized among other things for the construction and maintenance of a ditch or canal for general irrigation purposes and for supplying water for household and domestic consumption and for other purposes, intends to appropriate and hereby claims two hundred forty (240) cubic feet of water per minute, the same being three hundred sixty (360) inches of water under a six inch pressure of the otherwise unappropriated water now running or which may hereafter run in the channel of Salmon Creek in Tillamook County, Oregon for the purpose of irrigation and reclamation of arid lands, watering live stock, household use, water power and other beneficial uses as provided by the laws of the State of Oregon.

The name of the ditch, flume, canal, or pipe line is and shall be Patten-Chapin Realty Company Ditch, Flume, Canal or Pipe line; the name of the owner thereof is the Patten-Chapin Realty Company, a corporation organized and existing under and by virtue of the laws of the State of Oregon.

The above corporation has selected as a point of diversion and intends to divert the amount of water above specified at a point on the Creek, nine hundred (900) feet East and three hundred thirty (330) feet North of the quarter section corner common to sections seven (7) and eighteen (18), Township one (1) South of Range ten (10) West of the Willamette Meridian.

The head-gate is proposed to be constructed at the point of Diversion; the general course of said ditch, flume, canal or pipe line is to be in a Northerly direction from the head-gate, substantially as indicated on the annexed map or plat and which is hereby made a part hereof.

The size of the ditch, flume or pipe is to be a six inch pipe of either wood or iron and to flow or carry two hundred

3K1 pa 61  
Water Rights

RECEIVED

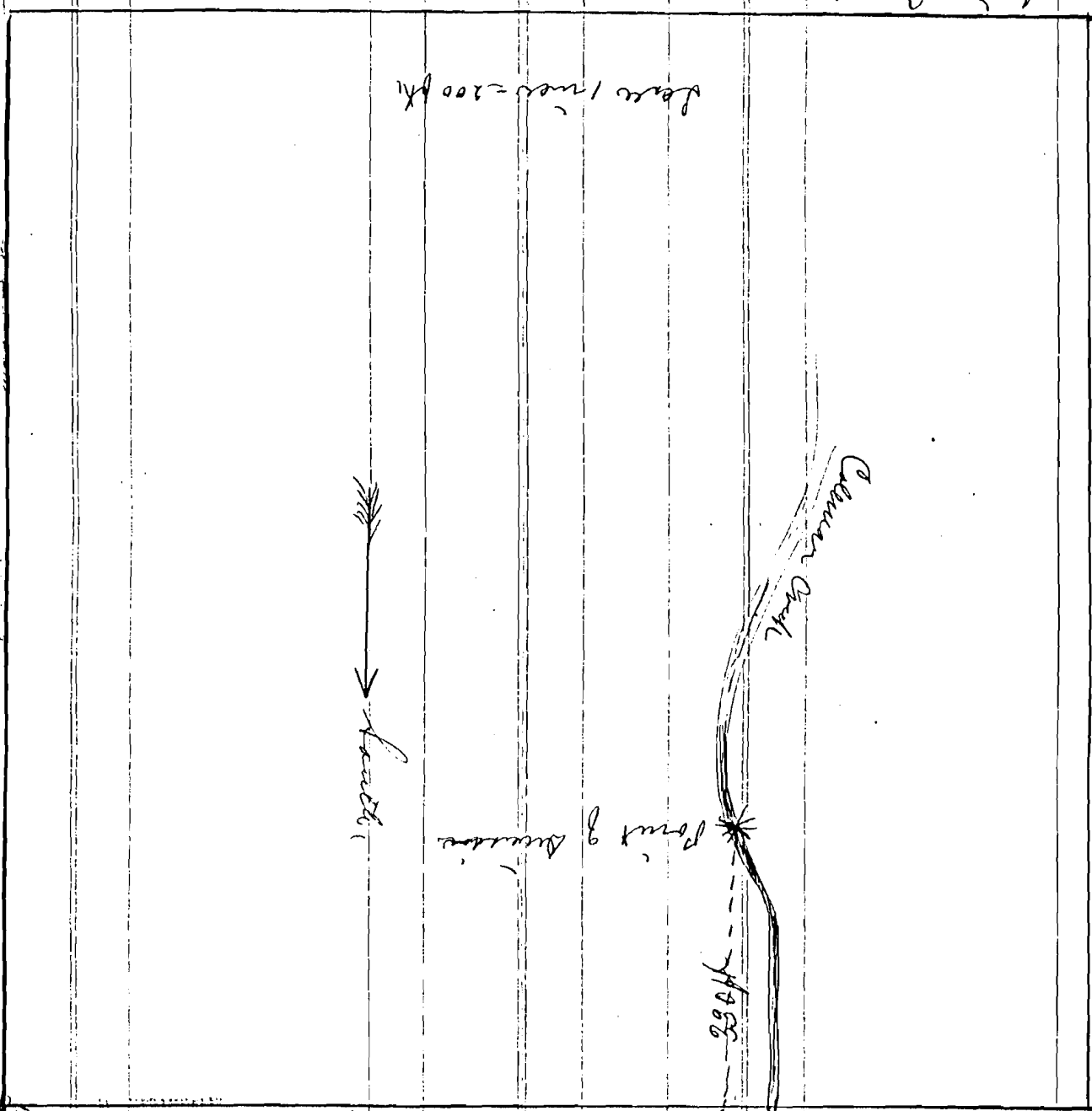
MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

July 12, 1907 water for mining, the same being that  
 furnished by (3607) which makes water available for  
 power, the mining & reservoir for the use of the  
 at the point of diversion as hereinbefore described.  
 The said corporation claims and will appropriate water  
 by virtue of the nature of the state of Oregon's grant of  
 concurrent measure and for the use and for purposes  
 characterizing water.  
 This water is taken at the point of proposed diversion as  
 shown described at the house of one F.M. on the 10th  
 day of June A.D. 1907  
 Witness my hand & the seal of the State of Oregon  
 at Salem, Oregon, this 10th day of June, 1907  
 W. O. Chapman  
 G. A. Johnson  
 0.1 dia. 100 W.M.

Porter & Clark Realty Company  
 by J. M. Chapman Secretary  
 Registered here

900 ft. - - - - -  
 Sec. 18  
 1/4 Post



Filed July 15, 1907, at 3 o'clock P.M.,  
 J. B. Bond & Co.

RECEIVED

Water Right of Potter-Chapin Realty Co. # 6447

MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

NOTICE OF APPROPRIATION  
OF  
WATER By  
POTTER CHAPIN REALTY, Company.

TO ALL WHOM IT MAY CONCERN;-

Notice is hereby given that the undersigned, a corporation organized and existing under and by virtue of the laws of the State of Oregon and having its principal office and place of business in the City of Portland, County of Multnomah and State of Oregon, being organized among other things for the construction and maintenance of a ditch or canal for general irrigation purposes and for supplying water for household and domestic consumption and for other purposes, intends to appropriate and hereby claims Two Hundred Forty (240) cubic feet of water per minute, of the otherwise unappropriated waters now running or which may hereafter run in Sampson Creek in Tillamook County, Oregon for the purpose of irrigation and reclamation of  $\frac{1}{4}$  arid lands, watering live-stock, house-hold use, water power and other beneficial uses as provided by the laws of the State of Oregon.

The name of the ditch, flume, canal or pipe line is and shall be Potter-Chapin Realty Company Ditch, Flume, Canal or Pipe Line;- the name of the owner thereof is the Potter-Chapin Realty Company, a corporation, organized and existing under and by virtue of the laws of the State of Oregon.

The above corporation has selected as a point of diversion and intends to divert the amount of water above specified at a point on the creek Two Hundred Seventy-five (275) feet East and One Thousand Three Hundred Sixty-eight (1368) feet South of One-fourth (1/4) corner between Sections Seven (7) and Eighteen (18), Township One (1) South, of Range Ten (10) West of the Willamette Meridian.

The general course of the said ditch, flume, canal or pipe line is to be in a Northeasterly direction from the headgate, substantially as indicated on the annexed map or plat and which is hereby made a part hereof.

The size of the ditch or flume to be two (2) by four (4) feet or pipe line fourteen (14) inches in diameter, and to flow or carry Two Hundred forty (240) feet of water per minute. The number of reservoirs to be one (1) to be located at the point of diversion as herein above described.

The said corporation claims and will appropriate under and by virtue of the laws of the State of Oregon ground feeders and distributing ditches.

This notice is posted at the point of proposed diversion as above described at the hour of 3.20 P.M. February 2nd. 1909.

POTTER--CHAPIN REALTY COMPANY.

By T. Irving Potter.  
Secretary.

Witnessed By  
R. L. Rankin.  
Jas. Sessions.

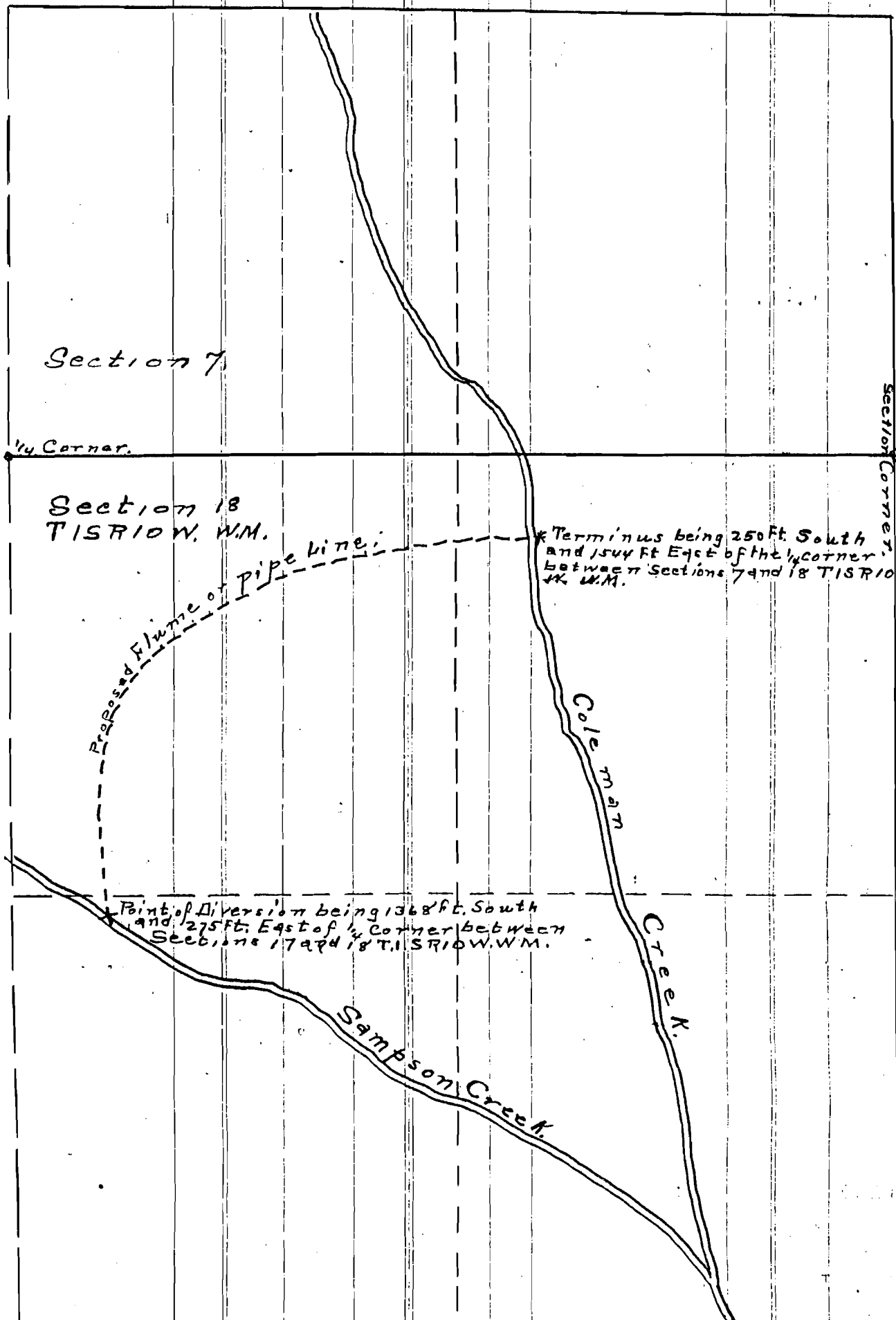
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MAY 24 1993

Bar 1 Pg 105  
water rights

WATER RESOURCES DEPT.  
SALEM, OREGON

Map showing location of  
Diversion point and proposed  
Flume or pipe line on  
Sampson Creek  
Supplemental to proposed pipe line on  
Coleman Creek.



Section 7

1/4 Corner

Section 18  
T.18 R.10 W.1 M.

Proposed Flume or pipe line

Terminus being 250 ft. South  
and 1544 ft. East of the 1/4 corner  
between Sections 7 and 18  
T.18 R.10 W.1 M.

Coleman  
Creek

Point of Diversion being 1368 ft. South  
and 275 ft. East of 1/4 corner between  
Sections 17 and 18 T.18 R.10 W.1 M.

Sampson  
Creek

Scale 400 ft = 1 inch

Filed for record, Feb. 23rd. 1909, at 5 o'clock P.M.  
By K. Mills, Deputy. J.C. Holden County Clerk.

MAY 24 1993

Water Right of Potter-Chopin Realty Co.

No. 6448 WATER RESOURCES DEPT.  
SALEM, OREGON

## NOTICE OF APPROPRIATION OF WATER BY

POTTER-CHAPIN REALTY COMPANY.

To ALL WHOM IT MAY CONCERN;<sup>1</sup>/<sub>2</sub>

Notice is hereby given that the undersigned, a corporation organized and existing under and by virtue of the laws of the State of Oregon, and having its principal office and place of business in the City of Portland, County of Multnomah and State of Oregon; being organized among other things for the construction and maintenance of a ditch or canal for general irrigation purposes and for supplying water for household and domestic consumption and for other purposes, intends to appropriate and hereby claims one Thousand (1000) cubic feet of water per minute, of the otherwise unappropriated waters now running or which may hereafter run in the Coleman Creek in Tillamook County, Oregon for the purpose of irrigation and reclamation of arid lands, watering live-stock, house-hold use, water power and other beneficial uses as provided by the laws of the State of Oregon.

The name of the ditch, flume, canal, or pipe line is and shall be Potter-Chopin Realty Company Ditch, Flume, Canal or Pipe Line; the name of the owner thereof is the Potter-Chopin Realty Company, a corporation, organized and existing under and by virtue of the laws of the State of Oregon.

The above corporation has selected as a point of diversion and intends to divert the amount of water above specified at a point on the Creek Two Hundred Sixty (260) feet South and One Thousand Five Hundred Forty-four (1544) feet East of the ONE-fourth ( $\frac{1}{4}$ ) corner Between Sections Seven (7) and Eighteen (18) Township One (1) South of Range Ten (10) West of the Willamette Meridian.

The General course of the said ditch, flume, canal or pipe line is to be in a Northerly direction from the head-gate, substantially as indicated on the annexed map or plat and which is hereby made a part hereof.

The size of the ditch or flume to be two (2) by four (4) feet or pipe line fourteen (14) inches in diameter, and to flow or carry One Thousand (1000) cubic feet of water per minute. The number of reservoirs to be one (1) to be located at the point of diversion as hereinabove described.

The said corporation claims and will appropriate under and by virtue of the laws of the State of Oregon ground ~~for~~ feeders and distributing ditches.

This notice is posted at the point of proposed diversion as above described at the hour of 2.20 P.M. February 2nd. 1909.



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MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

BHI pg 113  
Water Rights

Witnesses by:

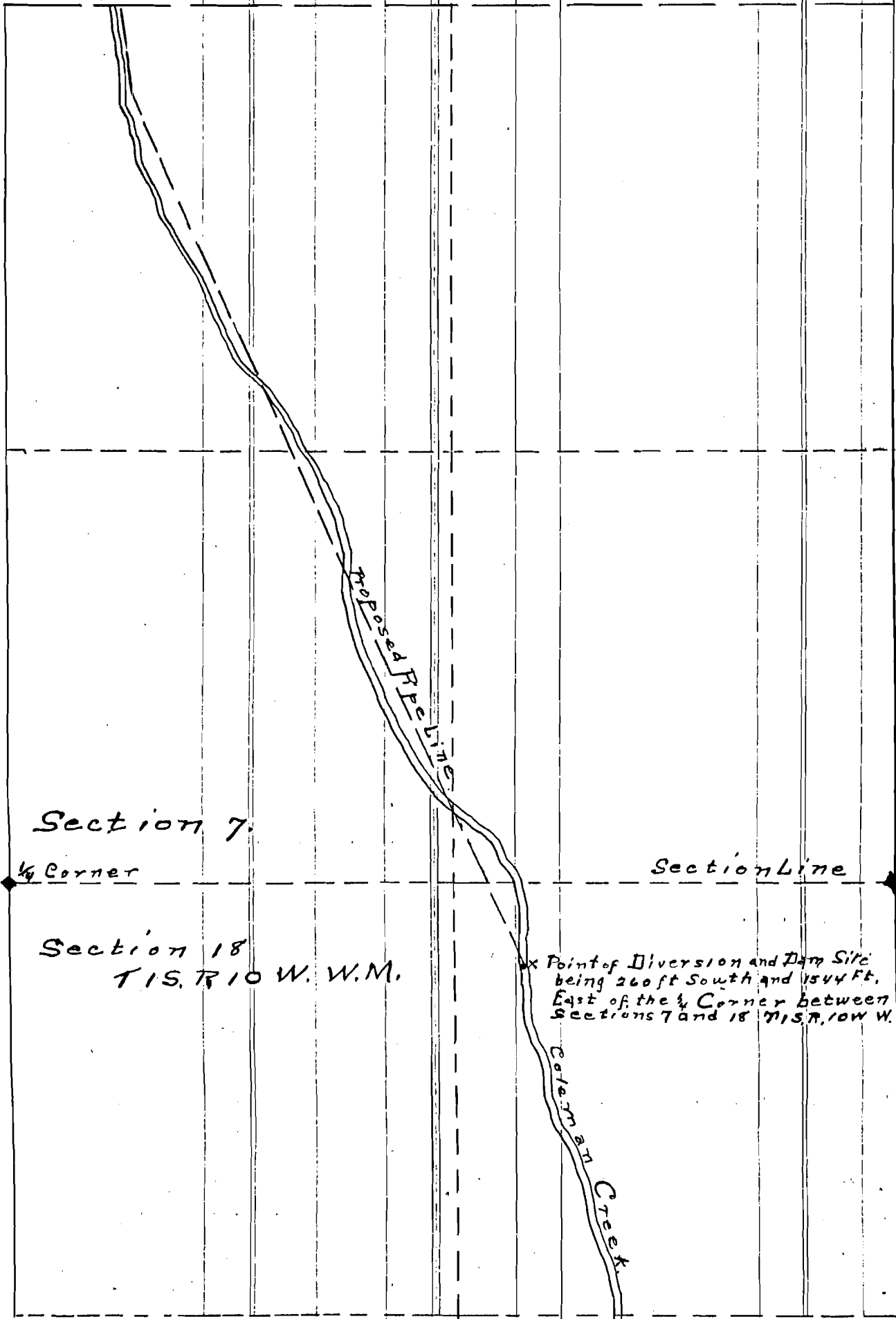
R. L. Rankin.

Jas. Sessions.

POTTER CHAPIN REALTY COMPANY.

By T. Irving Potter.

Secretary..



Section 7.

1/4 Corner

Section Line

Section Corner

Section 18  
T. 15. R. 10 W. W.M.

x Point of Diversion and Dam Site  
being 260 ft South and 1544 Ft.  
East of the 1/4 Corner between  
Sections 7 and 18 T. 15. R. 10 W. W.M.

Columbia  
Creek

Proposed  
Pipe  
Line

Filed for record February 3rd. 1909, at  
By K. Mills, Deputy.

Scale 400 ft. = 1 inch.  
at 5 o'clock P.M.  
J. C. Holden. County Clerk

MAY 2 1933

WATER RESOURCES DEPT.  
SALEM, OREGON

Bayocean Water Company

To

No. 60900 Quitclaim Deed (conveying Water rights)

Connie Dye

KNOW ALL MEN BY THESE PRESENTS, That Bayocean Water Company, a corporation duly organized and incorporated under the laws of the State of Oregon, in consideration of \$1.00 to it paid by Connie Dye, does hereby remise, release and forever QUITCLAIM unto the said Connie Dye, and unto his heirs and assigns, all its right, title and interest in and to the following described parcel of real estate, together with the tenements, hereditaments and appurtenances, situate in Bayocean, County of Tillamook, State of Oregon, to-wit:

All of the rights of the grantor held by the grantor under the certificate of water right issued by the state engineer for the right to use the water of Coleman Creek and waters stored in Bayocean reservoir, as set forth in certificate recorded in Volume 1 of Record of Water Right Certificates at Pages 167 to 169, Records of Tillamook County, Oregon.

Also the right to store the waters of Coleman Creek under Permit 9923, Reservoir Permit No. 643, as shown in the water right certificate recorded in Volume 1 at Pages 166 and 167 of Record of Water Right Certificates of Tillamook County, Oregon.

TO HAVE AND TO HOLD the same to the said Connie Dye, and to his heirs and assigns forever.

IN WITNESS WHEREOF, Bayocean Water Company, pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its President and Secretary, and its corporate seal to be hereunto affixed this 29th day of September, A.D. 1933.

BAYOCEAN WATER COMPANY

By Geo. D. Riechners, President

BAYOCEAN WATER COMPANY

By H. T. Botts, Secretary.



STATE OF OREGON, )  
County of Tillamook, ) ss.

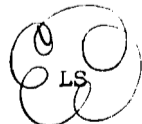
On this 29th day of September, 1933, before me appeared Geo. D. Riechners and H. T. Botts, both to me personally known, who being duly sworn, did say that he, the said Geo. D. Riechners, is the President, and he, the said H. T. Botts, is the Secretary of Bayocean Water Company, the within/Corporation, and that the seal affixed to said instrument is the corporate seal of said Corporation, and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and said Geo. D. Riechners and H. T. Botts acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.

Margaret Grider

Notary Public for Oregon

My Commission Expires Dec. 23, 1936.



Filed for record on the 16th day of October, A.D. 1933 at 1:15 o'clock P.M.

H. S. Brimhall, County Clerk

By Wilma Baker, Deputy

...

...

...

MAY 24 1995

Bayocean Water Company

To

No. 80901 Warranty Deed

WATER RESOURCES DEPT.  
SALEM, OREGON

Connie Dye

KNOW ALL MEN BY THESE PRESENTS that Bayocean Water Company, an Oregon corporation, in consideration of \$1.00 and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto Connie Dye, his heirs and assigns, the following described property, situate in Tillamook County, Oregon, to-wit:

Beginning at the quarter section corner of sections 17 and 18 in township one south of range ten W. W. M., and running north 104.75 feet; thence north 42°48' West 728 feet; thence south 47° 58' west 591.42 feet; thence south 163.09 feet; thence east 1019.09 feet to the place of beginning, containing 9.06 acres, more or less, in section 18, township one south of range ten west, W.M., also the right of way conveyed with said real property to T.B. Potter Realty Company by deed recorded at page 246 of Book 20 of the deed records of Tillamook County, Oregon.

Beginning at the quarter section corner of sections 17 and 18 in township one south of range ten west, W.M., running thence west 1019.9 feet; thence south 101.1 feet; thence south 56°19' east 1103.49 feet; thence north 17°56' east 334.77 feet; thence north 394.57 feet to the place of beginning, containing 9.90 acres, more or less, in the northeast quarter of the southeast quarter of section 18, township one south of range 10 west, W.M., subject to the reservations contained in deed to T. B. Potter Realty Company from Bertrice J. Stephens, recorded at page 615 of Book 14 of the Deed Records of Tillamook County, Oregon.

Also, the perpetual right of way for a road, pipe lines, water pipes, telephone lines and water systems and the right to construct, repair and maintain the same through, over and across the following described premises, to-wit:

The south half of the southeast quarter of Section 7 and the northeast quarter of the northeast quarter of section 18, ~~and~~ the right of way to be a strip forty feet in width being twenty feet on each side of a line as the same has heretofore been surveyed and staked by T. B. Potter Realty Company, and the center line of said right of way being described as follows, to-wit:

1.

Beginning at a point 1814 feet west and 1320 feet south of the east quarter section corner of section 7, township one south of Range ten West, thence running south 57°8' east 282.2 feet; thence south 4°8' west 277.72 feet; thence south 24°34' west 269.38 feet; thence south 5°22' west 128.40 feet; thence south 7°27' East 247.16 feet; thence south 48°38' East 145.2 feet; thence south 70°46' east 361.25 feet; thence south 57°3' east 104.4 feet to the south line of section seven, township one south of range ten west, W.M., containing 1.67 acres, more or less.

2.

Beginning 2633.46 feet north and 1172.62 feet west of the east quarter section corner of section 18, township one south of range 10 west, W.M., thence running south 57°3' east 193.5 feet; thence south 6°10' east 223.2 feet; thence south 25°55' east 157.8 feet; thence south 54°5' east 107.4 feet; thence south 27°59' east 309.3 feet; thence south 33°8' east 297.9 feet; thence south 5° 20' east 263.39 feet; containing 1.43 acres more or less in section 18, township one south of range 10 west, W.M.

3.

Beginning 2371.31 feet north and 1010.84 feet west of the east quarter section corner of section 18, township one south of range 10 west, W.M., thence running south 6°10' east

township one south of range 10 west, W.M., being the same right of way granted T. B. Potter Realty Company by deed recorded page 514 of Book 26 of the Deed Records of Tillamook County, Oregon.

Also all of the water pipes, reservoirs and water rights located upon said real property and said right of way, and also the water pipes and the water system heretofore constructed by T. B. Potter Realty Company in Bayocean Park.

Also the authority, right and privilege of laying and maintaining water pipes on property in Bayocean Park reserved by T. B. Potter Realty Company to itself, its successors and assigns.

TO HAVE AND TO HOLD said property with the appurtenances thereto unto the said Connie Dye, his heirs and assigns forever. And the said Bayocean Water Company does covenant with the said Connie Dye, and his legal representatives forever, that said corporation is lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, except taxes, and that it will, and its successors shall, WARRANT AND DEFEND the same to the said Connie Dye, his heirs and assigns forever, against the lawful claims and demands of all persons whomsoever, except as to taxes.

IN WITNESS WHEREOF, the said Bayocean Water Company has caused this instrument to be executed in its name and on its behalf by its President and attested by its Secretary under its corporate seal by authority of its Board of Directors.

Dated this September 29, 1933.



BAYOCEAN WATER COMPANY

By Geo. D. Riechers President

Attest:

H. T. Botts, Secretary.

STATE OF OREGON, )  
County of Tillamook, ) ss.

On this 29th day of September, 1933, before me appeared Geo. D. Riechers and H. T. Botts, both to me personally known, who being duly sworn, did say that he, the said Geo. D. Riechers, is the President, and he, the said H. T. Botts, is the secretary of Bayocean Water Company, the within named Corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and said Geo. D. Riechers and H. T. Botts acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.



Margaret Grider

Notary Public for Oregon

My Commission Expires Dec. 23, 1936.

Filed for record on the 18th day of October, A.D. 1933 at 1:20 o'clock P.M.

H. S. Brimhall, County Clerk

By Wilma Baker, Deputy

... ..

RECEIVED

MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

RECEIVED

Connie Dye et ux

To

No. 60902 Quitclaim Deed

MAY 24 1993

Jay Smith  
Swan Hawkinson  
W. R. Coats

WATER RESOURCES DEPT.  
SALEM, OREGON

KNOW ALL MEN BY THESE PRESENTS, that we, Connie Dye and Fannie Dye, husband and wife, in consideration of \$1.00 and other valuable considerations, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and quitclaim unto Jay Smith, Swan Hawkinson, and W. R. Coats, as trustees, the following described property, situate in Tillamook County, Oregon, to-wit:

Beginning at the quarter section corner of sections 17 and 18 in township one south of range ten W.W.M., and running north 104.75 feet; thence north 42°48' West 728 feet; thence south 47°58' west, 591.42 feet; thence south 163.09 feet; thence east 1019.09 feet to the place of beginning, containing 9.06 acres, more or less, in section 18, township one south of range ten west, W.M., also the right of way conveyed with said real property to T. B. Potter Realty Company by deed recorded at page 246 of Book 20 of the deed records of Tillamook County, Oregon.

Beginning at the quarter section corner of sections 17 and 18 in township one south of range ten west, W.M., running thence west 1019.9 feet; thence south 101.1 feet; thence south 56°19' east 1103.49 feet; thence north 17°55' east 334.77 feet; thence north 394.57 feet to the place of beginning, containing 9.90 acres, more or less, in the northeast quarter of the southeast quarter of section 18, township one south of range 10 west, W.M., subject to the reservations contained in deed to T. B. Potter Realty Company from Bertrice J. Stephens, recorded at page 615 of Book 14 of the Deed Records of Tillamook County, Oregon.

Also, the perpetual right of way for a road, pipe lines, water pipes, telephone lines and water systems and the right to construct, repair and maintain the same through, over and across the following described premises, to-wit:

The south half of the southeast quarter of Section 7, and the northeast quarter of the northeast quarter of section 18, ~~and~~ the right of way to be a strip forty feet in width being twenty feet on each side of a line as the same has heretofore been surveyed and staked by T. B. Potter Realty Company, and the center line of said right of way being described as follows, to-wit:

1.

Beginning at a point 1814 feet west and 1320 feet south of the east quarter section corner of section 7, township one south of Range ten West, thence running south 57°8' east 282.2 feet; thence south 4° 8' west 277.72 feet; thence south 24°34' West 269.38 feet; thence south 5°22' west 128.40 feet; thence south 7°27' East 247.16 feet; thence south 48° 38' East 145.2 feet; thence south 70°46' east 361.25 feet; thence south 57°3' east 104. 4 feet to the south line of section seven, township one south of range ten west, W.M., containing 1.67 acres, more or less.

2.

Beginning 2633.46 feet north and 1172.62 feet west of the east quarter section corner of section 18, township one south of range 10 west, W.M., thence running south 57°3' east 193.5 feet; thence south 6° 10' east 223.2 feet; thence south 25° 55' east 157.8 feet; thence south 54°5' east 107.4 feet; thence south 27°59' east 309.3 feet; thence south 33°8' east 297.9 feet; thence south 5°20' east 263.39 feet; containing 1.43 acres more or less in section 18, township one south of range 10 west, W.M.

3.

Beginning 2371.31 feet north and 1010.84 feet west of the east quarter section

~~east 223.2 feet; thence south 25°55' east 157.8 feet; thence south 54°5' east 107.4 feet; thence south 27°59' east 309.3 feet; thence south 33°8' east 297.9 feet; thence south 6°30' east 265.39 feet; containing 1.43 acres more or less in section 18, township one south of range 10 west, W.M.~~

~~5.~~

~~Beginning 2371.31 feet north and 1010.84 feet west of the east quarter section corner of section 18, township one south of range 10 west, W.M., thence running south 6°10' east 65.2 feet; thence south 25°55' east 157.8 feet; thence west 223.29 feet; thence north 207.05 feet; thence east 150 feet to place of beginning, containing .84 of an acre in section 18, township one south of range 10 west, W.M., being the same right of way granted T. B. Potter Realty Company by deed recorded page 514 of Book 26 of the Deed Records of Tillamook County, Oregon.~~

Also all of the water pipes, reservoirs and water rights located upon said real property and said right of way, and also the water pipes and the water system heretofore constructed by T. B. Potter Realty Company in Bayocean Park.

Also the authority, right and privilege of laying and maintaining water pipes on property in Bayocean Park reserved by T. B. Potter Realty Company to itself, its successors and assigns.

Also all of the rights conveyed to use water and to store the same granted to Bayocean Water Company under the provisions of certificates issued to said corporation on April 21, 1932, by the State Engineer of the State of Oregon, which certificates are recorded in Book 1 of the Record of Water Right Certificates of Tillamook County, Oregon, at Pages 166-7, and Pages 167 to 169, of said records, and the same having been recorded on April 23, 1932.

being all of the property, real and personal, owned by the Bayocean Water Company on the 29th day of September, 1933, and on said date conveyed by said Bayocean Water Company to the grantors herein.

TO HAVE AND TO HOLD the same with the appurtenances unto the said grantees, their successors and assigns forever, subject, however, to the following terms, conditions and rights,

The grantees shall forthwith proceed to put in a reasonably good condition of repair the water system at Bayocean, which is now in operation upon and over the lands hereinbefore described, as the same is in actual use at the time of the date of this conveyance, and to that end shall within a reasonable time expend not less than \$1200.00 upon said system, including the installments of sufficient new pipe, 4 inches in diameter, in replacement of that portion of the present main line lying in the south part of Bayocean Park, to put the same in such reasonably good condition, and shall thereafter maintain such line in such order and condition as to furnish a reasonable sufficient supply of water to property owners in Bayocean Park desiring to contract for water service from said system, and water shall be sold under such contracts at reasonable rates to those persons in Bayocean Park who desire to contract for such service, but the grantors reserve the right at any time within five years from the date of this conveyance to repurchase all of the property covered by this conveyance, with such additions and betterments to the water system mentioned as may be made by the grantees during that time, by paying to the grantees herein, or their successors, the amount which they shall have expended in betterments and maintenance of said water system, with interest thereon from the date of such expenditures at the rate of 6% per annum, less such amount as shall have been received in the way of revenues from the operation of said system during that time; provided further

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that, should the grantees, or their successors, at any time hereafter abandon said water system, all right, title, interest and estate conveyed hereby shall thereupon cease and determine, and the title to all of said property and its appurtenances, including any betterments made thereto up to that time, shall thereupon revert to and revest in the grantors, their heirs or assigns. X

Dated this October 13th, 1933.

Connie Dye  
Fannie Dye

STATE OF OREGON, )  
County of Tillamook, ) ss.

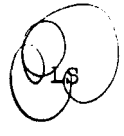
On this 13th day of October, A.D. 1933, personally appeared before me, a Notary Public in and for said County and State, the within named Connie Dye and Fannie Dye, his wife, to me personally known to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 13th day of October, 1933.

H. T. Botts

Notary Public for Oregon

My Commission Expires Jan. 13, 1936



Filed for record on the 16th day of October, A.D. 1933 at 1:25 o'clock P.M.

H. S. Brimhall, County Clerk

By Wilma Baker, Deputy

... ..

COMPARED

Tillamook County

To

No. 60903 Deed

A. F. Coats Lumber Co.

KNOW ALL MEN BY THESE PRESENTS, That H. H. Rosenberg, County Judge of Tillamook County, Oregon, and E. H. Lindsey and F. L. Owens, County Commissioners of said County of Tillamook, State of Oregon, in consideration of Seven hundred twelve and 86/100 (\$712.86) Dollars paid by A. F. Coats Lumber Company, of Tillamook County of Tillamook State of Oregon, and in pursuance of Chapter 12, Oregon Laws of 1925, amending Section 4370, Oregon Laws, providing for conveying to the record owner, or their assigns, real property acquired by counties for delinquent taxes, and said county having heretofore acquired title to the real property hereinafter described, have bargained and sold, and by these presents do grant, bargain, sell and convey unto said A. F. Coats Lumber Company, their, heirs and assigns, the record owner, all of the following bounded and described real property, situated in the County of Tillamook, and State of Oregon:

Southeast Quarter (SE $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) in Section 27, and Lots One (1), Seven (7), and Eight (8), in Section 34 Township 1 South Range 10 West of the Willamette Meridian, containing 154.25 acres.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and also all their estate, right, title and interest, in and to the same.

TO HAVE AND TO HOLD, the above described and granted premises unto the said gran-

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In Testimony Whereof, I have hereto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.



Nellie E. Schwab

Notary Public in and for said County and State.

Filed for record on the 21st day of December, A. D., 1933, at 10: 25 o'clock A. M.

W. Thomas Coates, County Clerk.

By Esther Locke, Deputy.

\*\*\*\*

COMPARED

Declaration of Trust

of

No. 66575v Declaration of Trust.

Jay Smith  
Swan Hawkinson  
Wm. R. Coats

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DECLARATION OF TRUST

THIS DECLARATION OF TRUST, Made in duplicate at Bayocean, Oregon, on this 21st day of December, 1933, by JAY SMITH, SWAN HAWKINSON and W. R. COATS, all of Bayocean, Oregon;

WITNESSETH: That WHEREAS, Jay Smith, Swan Hawkinson and W. R. Coats are the owners of the following described real property situate in Tillamook County, Oregon, to-wit:

Beginning at the quarter section corner of sections 17 and 18 in Township One South of Range Ten W. W. M., and running North 104.75 feet; thence North 42° 48' West 723 feet; thence South 47° 58' West 591.42 feet; thence South 163.09 feet; thence East 1019.09 feet to the place of beginning, containing 3.06 acres, more or less, in section 18, Township One South of Range Ten West, W. M., also the right of way conveyed with said real property to T. B. Potter Realty Company by deed recorded at page 246 of Book 20 of the Deed Records of Tillamook County, Oregon.

Beginning at the quarter section corner of Sections 17 and 18 in Township One South of Range Ten West, W. M., running thence West 1013.9 feet; thence South 101.1 feet; thence South 56° 19' East 1103.49 feet; thence North 17° 55' East 334.77 feet; thence North 334.57 feet to the place of beginning, containing 3.00 acres, more or less, in the Northeast Quarter of the Southeast Quarter of Section 18, Township One South of Range 10 West, W. M., subject to the reservations contained in deed to T. B. Potter Realty Company from Bertrice J. Stephens, recorded at page 615 of Book 14 of the Deed Records of Tillamook County, Oregon.

Also, the perpetual right of way for a road, pipe lines, water pipes, telephone lines and water systems and the right to construct, repair and maintain the same through, over and across the following described premises, to-wit:

The South half of the Southeast Quarter of Section 7 and the Northeast Quarter of the Northeast quarter of Section 18, the right of way to be a strip forty feet in width, being twenty feet on each side of a line as the same has heretofore been surveyed and staked by T. B. Potter Realty Company, and the center line of said right of way being described as follows, to-wit:

1.

Beginning at a point 1314 feet West and 1320 feet South of the East quarter section corner of Section 7, Township One South of Range Ten West, thence running South 57° 0' East 232.2 feet; thence South 4° 0' West 277.72 feet; thence South 54° 24' West



269.38 feet; thence South 5° 22' West 138.40 feet; thence South 7° 27' East 247.16 feet; thence South 48° 33' East 145.2 feet; thence South 70° 46' East 361.25 feet; thence South 57° 3' East 104.4 feet to the South line of Section Seven, Township One South of Range Ten West, W. M., containing 1.67 acres, more or less.

2.

Beginning 2633.46 feet North and 1172.82 feet West of the East Quarter Section corner of Section 13, Township One South of Range 10 West, W. M., thence running South 57° 3' East 132.5 feet; thence South 6° 10' East 223.2 feet; thence South 25° 55' East 157.8 feet; thence South 54° 5' East 107.4 feet; thence South 27° 59' East 309.2 feet; thence South 23° 8' East 297.9 feet; thence South 5° 20' East 262.29 feet, containing 1.45 acres, more or less, in Section 13, Township One South of Range 10 West, W. M.

3.

Beginning 2371.31 feet North and 1010.64 feet West of the East quarter section corner of Section 18, Township One South of Range 10 West, W. M., thence running South 6° 10' East 65.2 feet; thence South 25° 55' East 157.8 feet; thence West 222.29 feet; thence North 207.05 feet; thence East 150 feet to place of beginning, containing .34 of an acre in Section 18, Township One South of Range 10 West, W. M., being the same right of way granted T. B. Potter Realty Company by deed recorded page 514 of Book 26 of the Deed Records of Tillamook County, Oregon.

Also all of the water pipes, reservoirs and water rights located upon said real property and said right of way, and also the water pipes and the water system heretofore constructed by T. B. Potter Realty Company in Bayoccan Park.

Also the authority, right and privilege of laying and maintaining water pipes on property in Bayoccan Park reserved by T. B. Potter Realty Company to itself, its successors and assigns.

Also all of the right to use water and to store the same granted to Bayoccan Water Company under the provisions of certificates issued to said corporation on April 21, 1932, by the State Engineer of the State of Oregon, which certificates are recorded in Book 1 of the Record of Water Right Certificates of Tillamook County, Oregon, at Pages 166-7, and Pages 167 to 169, of said records, and the same having been recorded on April 23, 1932.

NOW, THEREFORE, this general Declaration further WITNESSETH: and it is hereby Agreed and Declared that the Trustees shall hold said property and any other property and assets of any kind and character, both tangible and intangible, at any time acquired or received by them as Trustees hereunder, including, without limitation of the generality of the foregoing, all choses in action and all revenue, rights and privileges arising out of or in connection with said property and its operation; all of the foregoing while so held being hereinafter generally designated "THE TRUST ESTATE",

IN TRUST in the manner and with and subject to the powers, prohibitions, restrictions and provisions hereinafter contained concerning the same for the benefit of the purchasers and holders of the issue of Counterpart Certificates of Trust, hereinafter designated "Owners", according to their respective undivided interests ascertainable as hereinafter provided.

#### DEFINITIVE PROVISIONS.

"COUNTERPART TRUST CERTIFICATE" means certificates issued for unit or multiple unit interests in the property of the Trust Estate.

"TRUST ESTATE" means all of the property of every description, tangible and intangible, now owned or hereafter acquired, title to which is or may hereafter be vested

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in the Trustees.

"THIS TRUST", when used, except where the context otherwise requires, shall refer to the Trustees as Trustees, but not to them, or either or any of them, personally.

"WATER SYSTEM" shall mean the property, plant, equipment, pipe lines, gates, valves and reservoir now and formerly used to supply water for domestic use in Bayocean Park and all subsequent additions thereto.

"TERRITORY" shall include Bayocean Park and Ocean View as the same appear upon the official plats of Tillamook County, Oregon, and any other beach subdivision contiguous or adjacent thereto.

"TRUSTEES" shall include the present record owners of the Trust Estate and their successor Trustees.

"OWNERS" shall mean those individuals or companies who have purchased undivided interests in the Trust Estate and to whom Counterpart Trust Certificates have been issued, and their heirs, executors, administrators, successors or assigns.

"COMPENSATION" means monthly contributions by owners for water service supplied from the water system and shall be considered interchangeable with "monthly water rate".

"RESIDENT" or "INHABITANT" shall mean one who resides in the territory not less than three months in each year.

"VENDEE" means one who has purchased, under contract, any premises located in the territory, but who has not fully paid for the same and received a conveyance thereof.

#### ARTICLE 1.

So far as practicable, the business of this Trust shall be conducted and transacted under the name of "BAYOCEAN COOPERATIVE WATER SYSTEM", and the place of business shall be in Bayocean, Oregon.

#### ARTICLE 2.

One duplicate original of this Declaration, after having been duly recorded in the office of the County Clerk of Tillamook County, Oregon, shall be kept at the place of business of this Trust and shall at all times be accessible for inspection of Counterpart Trust Certificate holders, otherwise defined as owners, and the other duplicate original shall be lodged in the office of the Oregon Utilities Commissioner at Salem, Oregon.

#### ARTICLE 3.

##### POWERS OF TRUSTEES.

The Trustees, subject only to the specific limitations and prohibitions in this Declaration contained, shall have the absolute control, management and disposition of the Trust Estate and the conduct and management of the business of this Trust.

Without limiting the generality of the foregoing, but subject in each case to any specific limit in regard thereto that may be contained elsewhere in this Declaration, the Trustees shall have power:

E-A. To acquire, by purchase, donation or otherwise, and to use for the benefit of the Trust Estate, any and all material, pipes, mains, joints, valves and other fixtures necessary in replacements, extensions and repairs of the water system, and to bargain, sell and transfer any and all useless and obsolete assets unnecessary in the management and operation of said water system.

E-B. To contract for, purchase or otherwise acquire, own, lease, occupy, use and maintain, operate or develop any lands, or interest or estate in lands, for the benefit of the Trust Estate in the operation of the water system, and to bargain, sell and convey the Trust Estate.

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3-C. To maintain, improve, extend, manage and operate the Trust Estate for a period of twenty years from the 1st day of September, 1936.

3-D. From time to time, in their discretion as the need demands, to sell undivided ownerships in the Trust Estate to eligible purchasers to obtain funds for the purpose of renovation, replacement and extension of the water system and the construction of reservoirs or water storage facilities, and shall issue Counterpart Certificates of Trust to each purchaser, designating the amount paid for such interest.

3-E. To employ such assistants, including hydraulic engineers, superintendent and foremen, as may be necessary to operate, maintain, improve, better and extend said water system.

3-F. To determine the monthly compensation to be paid by the owners for water service; such determination shall be based upon necessity for revenue for maintenance, repair, replacement and operation of the water system, but shall always be fair and reasonable and no change in the rates or compensation shall be made other than once in any year and shall be made not less than ninety days prior to the date and the rates shall become effective.

3-G. To formulate and establish reasonable rules and regulations, not inconsistent with these Articles, governing the extension of mains, installation of service pipes, connection thereof with water mains and the use of water from said water system, the keeping of records, custody of funds and manner of disbursement thereof.

3-H. To bargain, sell and convey said Trust Estate to any person, firm or corporation at any time during the trust period, and in any event before the expiration thereof, for such sum as said Trustees shall consider adequate and upon condition that the purchaser thereof will, for a definite term of years to be fixed by the Trustees, continue to supply water to the inhabitants of the territory.

3-I. Upon sale of the Trust Estate, to discharge all indebtedness of the Trust and to disburse and distribute the net funds pro rata to the owners of record in proportions that the amount represented in each Counterpart Trust Certificate bears to the aggregate amount expressed in all outstanding effective Counterpart Trust Certificates.

#### ARTICLE 4.

##### DUTIES OF TRUSTEES.

4-A. All compensation paid by owners for water service shall be used and expended by the Trustees:

1. For the discharge of taxes, charges for legal services, if any, costs of ordinary supervision and repairs; and
2. The balance of the compensation so received shall be devoted by the Trustees to the betterment, improvement, replacement and extension of said water system.

4-B. The Trustees may issue Counterpart Certificates to all residents, inhabitants or property owners in said territory who advanced moneys to the Trustees prior to September 1, 1936, for the purpose of replacement of a portion of said water system; the amounts of such respective advances shall be inserted in said respective Certificates for the purpose of designating the undivided interests of such persons who made said advances, and said Trustees may also issue and deliver to Connie Dye and his associates certificates evidencing the amount of money necessarily paid to obtain a deed of confirmation of title to said water system.

4-C. All moneys received from the sale of undivided ownerships in said water system, represented by Counterpart Certificates, shall be used and expended by the Trustees in the improvement, betterment, renovation, replacement and extension of said water system.

and the erection and construction and proper maintenance of a reservoir or other water storage facilities.

4-D. The Trustees shall not borrow any money or create any indebtedness of any character that shall constitute a lien or charge upon or against the Trust Estate, except, in an emergency, the Trustees may incur an indebtedness not to exceed the amount of one Year's gross revenue from the operation of the water system, which revenue, when received, shall immediately be applied in satisfaction of such emergency indebtedness.

4-E. The Trustee shall keep an accurate account of all moneys received from whatever sources obtained, and a like account of all moneys expended and for what purpose expended, and shall prepare annually, on the first day of July of each year, a summary of receipts and expenditures and a copy thereof shall be delivered or mailed to each owner.

4-F. The Trustees shall cause to be kept, in a book provided for that purpose, Minutes of all Meetings of the Trustees and of all Resolutions adopted, and the Trustees shall act by resolution at meetings at which a quorum is present, and two of the Trustees shall constitute a quorum.

4-G. The Trustees shall keep a Register and note therein the date, number and amount of each Trust Certificate issued and delivered and the name and address of the purchaser, and shall register therein each transfer or assignment of Certificates, and no assignment or transfer of any such Certificate shall be valid until such transfer or assignment is noted in such Register. The Trustees shall not register an assignment or transfer of a Certificate unless the transferee or assignee is eligible to ownership.

4-H. The Trustees shall not supply water for domestic or other purposes to any person, firm or corporation not an owner, except water may be supplied to the lessee, tenant or vendee of an owner upon premises of an owner upon the written direction and responsibility of the owner.

4-I. In the event of the failure of any owner to pay and discharge the monthly compensation for water service, the Trustees may discontinue such service until all arrears of compensation shall have been paid, but such right of discontinuance shall not be exercised without ten day's notice to the owner in writing, served personally or by United States Mail.

4-J. No Trustee shall receive any compensation for services rendered as such Trustee, but when compelled to travel in performance of the duties incumbent upon them, or either or any of them, as such Trustee, such Trustee or Trustees shall be entitled to be reimbursed for the actual moneys expended for travel and hotel expenses, and if either Trustee shall perform actual labor in the operation, renovation or repair of the water system, he shall be compensated therefor.

#### ARTICLE 5.

##### QUALIFICATIONS OF TRUSTEES.

5-A. The present Trustees are residents of and owners of property in the territory, and all successor Trustees shall be residents of and owners of property in the territory. Any person owning property in the territory who resides therein three months of each year shall be considered an inhabitant. If and when a Trustee shall cease to be an inhabitant of and owner of property in the territory, he shall be disqualified to act as Trustee and a successor Trustee shall be selected in the manner prescribed in these Articles.

5-B. Upon the death, resignation or disqualification, or in the event of permanent physical or mental incapacity of any Trustee, the remaining Trustees shall elect

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a successor Trustee, and as often as vacancies occur successor Trustees may be so elected; all successor Trustees shall be residents of and property owners in the territory. In the event of a vacancy or vacancies, and the remaining Trustees are unable to agree upon a successor Trustee, the Presiding Judge of the Circuit Court of the State of Oregon for Tillamook County, upon the suggestion of the remaining Trustee or Trustees, or of any owner, shall select and appoint such successor Trustee or successor Trustees as the necessity for such appointment or appointments may arise.

#### ARTICLE 6.

##### COUNTERPART CERTIFICATES.

6-A. Sales of undivided interests of the property constituting the water system shall be made only to inhabitants of the territory and to the owners of property therein. Inhabitants shall include lessees, tenants and vendees of real property in the territory who actually occupy any premises in the territory three months in each year.

6-B. No owner shall sell or assign or transfer any Counterpart Certificate issued by the Trustees, to any person, firm or corporation, unless such person, firm or corporation shall own property in the territory or shall be a resident or inhabitant thereof.

6-C. If any owner shall transfer or assign his Trust Certificate to a person or corporation who is neither an inhabitant of the territory nor an owner of property therein, the Trustees may at their option with funds of the Trust Estate redeem such Certificate and the undivided interest or ownership thereby represented, by payment to such purchaser of the amount paid at the time of the original issue thereof specified in said Certificate, and thereupon such Certificate so redeemed shall be cancelled.

6-D. The heirs, executors or administrators of a deceased owner who are ineligible to hold an undivided interest in said Trust Estate shall hold such Certificate of the deceased owner subject to redemption and at the option of the Trustees by repayment from the Trust Estate of the amount of money paid by the owner for said undivided interest. Succession by an eligible heir or legal representative of the owner shall be noted in the Register, but no succession by an ineligible heir, executor or administrator shall be registered.

6-E. Any person becoming entitled to any Counterpart Certificate of Trust in consequence of the death, bankruptcy or insolvency of the owner, or otherwise by operation of law, shall, if eligible to ownership, be entitled to have such involuntary transfer registered; but if ineligible to ownership, the Trustees shall have at their option the right to redeem such Certificate.

6-F. Nothing contained in this Declaration of Trust, nor in any relations created thereby, nor in any Counterpart Certificate hereafter issued, shall bar any Trustee from individually purchasing Counterpart Trust Certificates and thereby acquiring an undivided interest in said trust estate in common with other owners under the terms of this trust.

#### ARTICLE 7.

The death of an owner shall not terminate the trust created by these Articles, nor entitle his heirs or legal representatives to claim an accounting; nor to take any action or proceeding in any Court for partition or sale of the water system; nor otherwise affect the rights, duties, obligations and liabilities of the Trustees or other owners; and all owners, for themselves, their heirs, executors, administrators and assigns, expressly waive the right to an accounting, to partition and sale, and all other rights, legal or equitable, statutory or otherwise, which but for this waiver would be incident to the relation of cestui que trust and Trustee, or incident to ownership of an undivided

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interest in real and personal property, until the expiration of the trust period.

ARTICLE 8.

The compensation for water service from December 1, 1986, until changed in the manner in these Articles provided, shall be:

Residences occupied more than three months per year:	\$1.50 per month.
Residences occupied three months or less per year:	\$1.00 per month.
Stores only:	\$.50 per month.
Apartment Houses, containing less than four apartments	\$1.50 per month.
Apartment Houses, containing four or more apartments;	\$2.50 per month.
Hotels:	\$3.50 per month.
Parks, containing less than 10 cottages:	\$2.00 per month.
Parks, containing ten or more cottages:	\$3.50 per month.
Farm purposes, with or without dairy	\$1.50 per month.

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ARTICLE 9. WATER RESOURCES DEPT.  
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No Article singly, nor any Articles in combination, shall in anywise ever be so construed as to constitute the Trustees, or either or any of them, the agent or agents of either or any of the owners, and no declaration, statement or provision in these Articles shall be construed as requiring extension of said water system, except in the discretion of the Trustees.

ARTICLE 10.

The minimum unit of ownership in said water system shall be represented by the sum of \$10.00. The Trustees at their discretion may sell to any person any multiple of the minimum unit without limit.

ARTICLE 11.

RELATIONSHIP BETWEEN OWNERS AND TRUSTEES.

No partnership is created by this Declaration or by the operation of this Trust hereunder. It is expressly declared, as between the owners and Trustees, that a trust and not a partnership is deemed to be created by this Declaration, irrespective of whether any different status may be held to exist as far as others are concerned, and that the owners shall be deemed to hold only the relationship of cestui que trustant to the Trustees with only such rights as are conferred upon them as such cestui que trustants hereunder and subject to the waiver contained in Article 7.

ARTICLE 12.

No owner shall be liable personally in any event, except for payment of the purchase price of Counterpart Trust Certificates and for compensation for water received from the water system; and by becoming an owner such owner incurs no personal liability of any character whatever.

ARTICLE 13.

The Trustees shall have power to construe this Declaration of Trust and to act upon any such construction and their construction of the same and any acts taken pursuant thereto by the Trustees in good faith shall be final and conclusive.

ARTICLE 14.

NO PERSONAL LIABILITY OF TRUSTEES.

The Trust Estate shall be directly liable for the payment or satisfaction of all obligations and liabilities lawfully created or incurred by the Trustees within the scope of their authority and power and no Trustee shall be held to any personal liability whatsoever in tort, contract, or otherwise, in connection with the affairs of this Trust, save only that arising from his own negligence or unauthorized act; and all persons shall

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look solely to the Trust Estate for satisfaction of claims of any nature arising in connection with the affairs of this Trust.

ARTICLE 15.

This Declaration of Trust is executed and acknowledged by the Trustees, who at this time are the owners of the property in this Declaration described, for the purpose of maintaining, improving, replacing and operating said water system for the benefit of the inhabitants and property owners of the territory for a period of twenty years and, being the owners and for the purpose of creating the Trust Estate, have nominated themselves as Trustees, and as creators of the Trust Estate have herein provided for the appointment of successive Trustees.

IN WITNESS WHEREOF, We, Jay Smith, Swan Hawkinson and W. R. Coats, have hereunto set our hands and seals at Fayocean, Oregon, on the day and year first in this Declaration written.

Executed in our Presence:	Jay Smith	(SEAL)
	W. R. Coats	(SEAL)
F. J. Becker	Swan Hawkinson	(SEAL)
H. G. Sounekes		

STATE OF OREGON }  
COUNTY OF TILLAMOOK } ss.

THIS CERTIFIES, That on this 31st day of December, A. D., 1936, personally appeared before me, the undersigned, a Notary Public in and for said County and State, the within named JAY SMITH, SWAN HAWKINSON and W. R. COATS, named Trustees in the foregoing instrument, who are personally known to me to be the identical individuals named in and who executed the foregoing Declaration of Trust, and who acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes in said Declaration of Trust expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial seal on this 31st day of December, A. D., 1936.

Clarence Arney  
Notary Public for Oregon

My commission expires: April 2, 1938.

Filed for record on the 31st day of December, A. D., 1936, at 10:30 o'clock A. M.

W. Thomas Coates, County Clerk.

By Esther Locke, Deputy.

\*\*\*\*

COMPARED

Frank Freeman, Executor

To

No. 23576 / Executor's Deed.

E. G. Gienger  
Lenhart M. Gienger

KNOW ALL MEN BY THESE PRESENTS, That I, Frank Freeman, Executor of the Last Will and Testament of F. G. Freeman, deceased, under and by virtue of the authority given me by the terms of said Will, in consideration of Ten Dollars, and other valuable considerations to me paid, do hereby grant, bargain, sell and convey unto E. G. Gienger and Lenhart M. Gienger, their heirs and assigns, the real property situate in Tillamook County, Oregon, more particularly described as follows, to-wit:

Beginning at the northwest corner of section 34, in township one south of range ten west of the Willamette Meridian, thence east 40.42 chains to the quarter section post

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KNOW ALL MEN BY THESE PRESENTS That LEWIS L. BENNETT, Trustee of the Bayocean Cooperative Water System and HILDA E. BENNETT, his wife, B. E. RANDALL, Trustee of the Bayocean Cooperative Water System and JESSIE B. RANDALL, his wife, and EARL GREENE, Trustee of the Bayocean Cooperative Water System and NIVA GREENE, his wife, in consideration of Ten Dollars (\$10.00) and other valuable consideration to them paid by EVERETT CHARLES MERRITT do hereby grant, bargain, sell and convey unto the said EVERETT CHARLES MERRITT, his heirs and assigns all of the following real property with the tenements, hereditaments and appurtenances, situated in the County of Tillamook, State of Oregon, bounded and described as follows, to-wit:

Beginning at the quarter section corner of Sections 17 and 18 in Township One South of Range Ten West, W. M., and running North 104.75 feet; thence North 42° 48' West 728 feet; thence South 47° 58' West 591.42 feet; thence South 163.09 feet; thence East 1019.09 feet to the place of beginning, containing 9.06 acres, more or less, in Section 18, Township One South of Range Ten West, W. M., also the right of way conveyed with said real property to T. B. Potter Realty Company by deed recorded at page 246 of Book 20 of the Deed Records of Tillamook County, Oregon.

Beginning at the quarter section corner of Sections 17 and 18 in Township One South of Range Ten West, W. M., running thence West 1019.9 feet; thence South 101.1 feet; thence South 56° 19' East 1103.49 feet; thence North 17° 55' East 334.77 feet; thence North 394.57 feet to the place of beginning, containing 9.90 acres, more or less, in the Northeast Quarter of the Southeast Quarter of Section 18, Township One South of Range 10 West, W. M., subject to the reservations contained in deed to T. B. Potter Realty Company from Bertrice J. Stephens, recorded at page 615 of Book 14 of the Deed Records of Tillamook County, Oregon.

Also, the perpetual right of way for a road, pipe lines, water pipes, telephone lines and water systems and the right to construct repair and maintain the same through, over and across the following described premises, to-wit:

The South half of the Southeast Quarter of Section 7 and the Northeast Quarter of the Northeast quarter of Section 18, the right of way to be a strip forty feet in width, being twenty feet on each side of a line as the same has heretofore been surveyed and staked by T. B. Potter Realty Company, and the center line of said right of way being described as follows, to-wit:



1.

Beginning at a point 1914 feet West and 1320 feet South of the East quarter section corner of Section 7, Township One South of Range Ten West, thence running South  $57^{\circ} 8'$  East 282.2 feet; thence South  $4^{\circ} 8'$  West 277.72 feet; thence South  $24^{\circ} 34'$  West 269.38 feet; thence South  $5^{\circ} 22'$  West 128.40 feet; thence South  $7^{\circ} 27'$  East 247.16 feet; thence South  $48^{\circ} 38'$  East 145.2 feet; thence South  $70^{\circ} 46'$  East 361.25 feet; thence South  $57^{\circ} 3'$  East 104.4 feet to the South line of Section Seven, Township One South of Range Ten West, W. M., containing 1.67 acres, more or less.

2.

Beginning 2633.46 feet North and 1172.62 feet West of the East Quarter Section corner of Section 18, Township One South of Range 10 West, W. M., thence running South  $57^{\circ} 3'$  East 193.5 feet; thence South  $6^{\circ} 10'$  East 223.2 feet; thence South  $25^{\circ} 55'$  East 157.8 feet; thence South  $54^{\circ} 5'$  East 197.4 feet; thence South  $27^{\circ} 51'$  East 300.3 feet; thence South  $33^{\circ} 8'$  East 297.9 feet; thence South  $5^{\circ} 20'$  East 263.39 feet, containing 1.43 acres, more or less, in Section 18, Township One South of Range 10 West, W. M.

3.

Beginning 2371.31 feet North and 1019.34 feet West of the East quarter section corner of Section 18, Township One South of Range 10 West, W. M., thence running South  $6^{\circ} 10'$  East 65.2 feet; thence South  $25^{\circ} 55'$  East 157.8 feet; thence West 223.29 feet; thence North 207.05 feet; thence East 150 feet to place of beginning, containing .84 of an acre in Section 18, Township One South of Range 10 West, W. M., being the same right of way granted T. B. Potter Realty Company by deed recorded page 514 of Book 26 of the Deed Records of Tillamook County, Oregon.

Also all of the water pipes, reservoirs and water rights located upon said real property and said right of way, and also the water pipes and the water system heretofore constructed by T. B. Potter Realty Company in Day Ocean Park.

Also the authority, right and privilege of laying and maintaining water pipes on property in Day Ocean Park reserved by T. B. Potter Realty Company to itself, its successors and assigns.

BOOK 154 PAGE 515

Also all of the rights to use water and to store the same granted to Bayocean Water Company under the provisions of certificates issued to said corporation on April 21, 1932, by the State Engineer of the State of Oregon, which certificates are recorded in Book 1 of the Record of Water Right Certificates of Tillamook County, Oregon, at Pages 166-7, and Pages 167 to 169, of said records, and the same having been recorded on April 23, 1932.

Being all of the property, real and personal, owned by the BAYOCEAN WATER COMPANY on the 29th day of September, 1933 and on said date conveyed by said BAYOCEAN WATER COMPANY to JAY SMITH, SWAN HAWKINSON, and W. R. COATES, as trustees of the BAYOCEAN COOPERATIVE WATER SYSTEM and being all of the property, both real and personal, owned by BAYOCEAN COOPERATIVE WATER SYSTEM on August 31, 1956, to Have and to Hold the above described and granted premises unto the said EVERETT CHARLES MERRITT, his heirs and assigns forever, subject, however, to the following terms, conditions, and rights.

That Grantee shall for a term of twenty years from date hereof supply water to the inhabitants of the territory encompassed and served by the Bayocean Cooperative Water System as described, created and set up in that declaration of trust recorded in Book 73 and page 123 to 130 deed records of Tillamook County, Oregon, and in event of a substantial, continued and protracted failure to so supply water then title to all property hereby conveyed is to revert and revest in grantors, their heirs, administrators, executors and assigns as trustees of the Bay Ocean Water System.

IN WITNESS WHEREOF the grantors above named hereunto set their hands and seals this 31<sup>ST</sup> day of August, 1956.

Lewis S. Bennett

Hilda E. Bennett

B. E. Randall

Jessie B. Randall

Earl Greene

Iva Greene

STATE OF OREGON )  
 )  
County of Tillamook )

BE IT REMEMBERED, That on this 31st day of August, 1956, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named LEWIS L. BENNETT, HILDA E. BENNETT, B. E. RANDALL, JESSIE B. RANDALL, EARL GREENE and NIVA GREENE who are known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

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

*Geoff Scribner*

Notary Public for Oregon  
My Commission expires 3/20/59



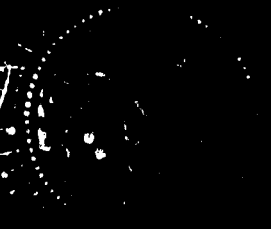
STATE OF OREGON )  
County of Tillamook )

I Heroby Certify that the within instrument of writing was by me recorded on the 31st day of August 1956 at 3:50 o'clock P. M. in Book 154 page 513 of said county.

Witness my hand and seal of said county affixed.

GLADYS L. HOOVER

County Clerk  
By *June Weigert*



Book No of page 176

146420

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WATER RESOURCES DEPT.  
SALEM, OREGON

KNOW ALL MEN BY THESE PRESENTS That EVERETT CHARLES MERRITT and BETTY MERRITT, husband and wife, in consideration of Ten Dollars (\$10.00) and other valuable consideration to them paid by the CAPE MEARS COOPERATIVE WATER SYSTEM, a cooperative association, do hereby grant, bargain, sell and convey unto the said CAPE MEARS COOPERATIVE WATER SYSTEM, its successors and assigns, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Tillamook, State of Oregon, bounded and described as follows, to-wit:

Beginning at the quarter section corner of Section 17 and 18 in Township One South of Range Ten W., W.M., and running North 104.75 feet; thence North 42° 48' West 728 feet; thence South 47° 58' West 591.42 feet; thence South 163.09 feet; thence East 1019.09 feet to the place of beginning, containing 9.06 acres, more or less, in Section 18, Township One South of Range Ten West, W.M., also the right of way conveyed with said real property to T. B. Potter Realty Company by deed recorded at page 246 of Book 20 of the Deed Records of Tillamook County, Oregon.

Beginning at the quarter section corner of Sections 17 and 18 in Township One South of Range Ten West, W.M., running thence West 1019.9 feet; thence South 101.1 feet; thence South 56° 19' East 1103.49 feet; thence North 17° 55' East 334.77 feet; thence North 394.57 feet to the place of beginning, containing 9.90 acres, more or less, in the Northeast Quarter of the Southeast Quarter of Section 18, Township One South of Range 10 West, W.M., subject to the reservations contained in deed to T. B. Potter Realty Company from Beatrice J. Stephens, recorded at page 615 of Book 14 of the Deed Records of Tillamook County, Oregon.

Also, the perpetual right of way for a road, pipe lines, water pipes, telephone lines and water systems and the right to construct, repair and maintain the same through, over and across the following described premises, to-wit:

The South half of the Southeast Quarter of Section 7, and the Northeast Quarter of the Northeast Quarter of Section 18, the right of way to be a strip forty feet in width, being twenty feet on each side of a line as the same has heretofore been surveyed and staked by T. B. Potter Realty Company, and the center line of said right of way being described as follows, to-wit:

8-8-1976

Russell E. Kline

1.  
Beginning at a point 1914 feet West and 1320 feet South of the East quarter section corner of Section 7, Township One South of Range Ten West, thence running South 57° 8' East 282.2 feet; thence South 4° 8' West 277.72 feet; thence South 24° 34' West 269.38 feet; thence South 5° 22' West 128.40 feet; thence South 7° 27' East 247.16 feet; thence South 48° 38' East 145.2 feet; thence South 70° 46' East 391.25 feet; thence South 57° 3' East 104.4 feet to the South line of Section Seven, Township One South of Range Ten West, W. M. containing 1.67 acres, more or less.

2.  
Beginning 2633.46 feet North and 1172.62 feet West of the East Quarter Section corner of Section 18, Township One South of Range 10 West, W. M., thence running South 57° 3' East 193.5 feet; thence South 6° 10' East 223.2 feet; thence South 25° 55' East 157.84 feet; thence South 54° 5' East 107.4 feet; thence South 27° 59' East 309.3 feet; thence South 33° 8' East 297.9 feet; thence South 5° 20' East 263.39 feet; containing 1.43 acres, more or less, in Section 18, Township One South of Range 10 West, W. M.

3.  
Beginning 2371.31 feet North and 1010.84 feet West of the East quarter section corner of Section 18, Township One South of Range 10 West, W. M., thence running South 6° 10' East 65.2 feet; thence South 25° 55' East 157.8 feet; thence West 223.29 feet; thence North 207.05 feet; thence East 150 feet to place of beginning, containing 84 of an acre in Section 18, Township One South of Range 10 West, W. M., being the same right of way granted T. B. Potter Realty Company by deed recorded Page 514 of Book 26 of the Deed Records of Tillamook County, Oregon.

Also all of the water pipes, reservoirs and water right located upon said real property and said right of way, and also the water pipes and the water system heretofore constructed by T. B. Potter Realty Company in Bay ocean Park,

Also the authority, right and privilege of laying and maintaining water pipes on property in Bayocean Park reserved by T. B. Potter Realty Company to itself, its successors and assigns.

MAY 24 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

also all of the rights to use water and to store the same granted to Bayocean Water Company under the provisions of certificates issued to said corporation on April 21, 1932, by the State Engineer of the State of Oregon, which certificates are recorded in Book 1 of the Record of Water Right Certificates of Tillamook County, Oregon, at Pages 166-7 and Pages 167- to 169, of said records, and the same having been recorded on April 23, 1932.

Being all of the property, real and personal, owned by the BAYOCEAN WATER COMPANY on the 29th day of September, 1933 and on said date conveyed by said BAYOCEAN WATER COMPANY to JAY SMITH, SWAN HAWKINSON, and W. R. COATES, and their successors in interest, as trustees of the BAYOCEAN COOPERATIVE WATER SYSTEM and being all of the property, both real and personal, owned by BAYOCEAN COOPERATIVE WATER SYSTEM on August 31, 1956, to Have and to Hold the above-described and granted premises unto the said CAPE MEARS COOPERATIVE WATER SYSTEM, a cooperative association, its successors and assigns, forever.

IN WITNESS WHEREOF the grantors above-named hereunto set their hands and seals this 23<sup>rd</sup> day of November, 1957.

Ernest Charles Merritt

Betty Merritt

Sept 8 1976

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SALEM, OREGON

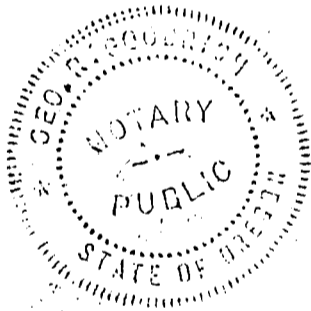
STATE OF OREGON )  
                          ) ss  
County of Tillamook )

BE IT REMEMBERED, That on this 23<sup>rd</sup> day of November, 1957,  
before me, the undersigned, a Notary Public in and for said County and  
State, personally appeared the within named EVERETT CHARLES MERRITT  
and BETTY MERRITT, husband and wife, who are known to me to be the  
identical individuals described in and who executed the within instrument and  
acknowledge to me that they executed the same freely and voluntarily.

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

*Earl G. Smith*  
Notary Public for Oregon

My Commission Expires 2. 26. 58



STATE OF OREGON, }  
County of Tillamook. }

I Herby Certify that the within  
instrument of writing was received for  
recd on the 21<sup>st</sup> day of  
December 1957  
at 4:00 o'clock P. M. and  
recorded in Book 160 Page 176  
Recd of Deed  
of said County  
Witness my hand and seal of said  
county this 23<sup>rd</sup> day of November 1957

GLADYS E. HOOPER  
County Clerk  
By Jane Wagner  
Deputy

*Sept 8 - 1976*

*Russell O'Brien*

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10/21/91

COUNTY COURT JOURNAL

BOOK 103 PAGE 133

FILED

91 OCT -9 PM 3:44

JOSEPHINE VELTRI  
COUNTY CLERK  
*J. Walker*  
DEPUTY

BEFORE THE BOARD OF COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

In the matter of annexation )  
of land and territory to the ) Resolution/Order 91-146  
Oceanside Water District #51 ) District File # 454

This matter came before the Board of Commissioners upon the petition of a majority of registered voters of an area of land in the Cape Meares area in Tillamook County. The petitioners seek to have real property annexed to the Oceanside Water District.

A public hearing was held before the Board of Commissioners on September 11, 1991. Notice of that public hearing was duly made by publication of a notice of the hearing in the Headlight-Herald, a newspaper of general circulation in Tillamook County, Oregon. In addition, notice was made by posting the notice of public hearing in three public places near the area to be annexed.

The affidavit of Paul Levesque as to the posting of notice of public hearing and the affidavit of publication of public hearing are attached hereto as exhibits to this order.

Being fully advised, the Board of Commissioners makes the following findings of fact and order:



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FINDINGS OF FACT

1. Water District annexations are governed by **ORS 198.800--198.820** and **198.850--198.867**.
2. The petitioners constitute a majority of registered voters and own more than one half of the property sought to be annexed to the Oceanside Water District.
3. The property sought to be annexed lies entirely within Tillamook County, Oregon.
4. The proposed annexation meets with the approval of the Oceanside Water District Board, as evidenced by the endorsement of the District's Board in favor of annexation.
5. The property to be annexed consists primarily of rural property in the area of Oceanside and no adjacent property owners appeared in opposition to annexation.
6. The proposed annexation will have no adverse or contradictory impact on the present land use ordinances and comprehensive land use plan for Tillamook County and is consistent with the Oregon statewide land use planning goals, as the annexation will not allow any use of land which is inconsistent with the above existing land use ordinances and comprehensive plan.
7. Public notice of this proposed annexation was published, and was made by publishing the notice for public hearing before the Board of Commissioners, including publication of the legal description of the property to be annexed. Additional notice of the public hearing was made by posting a notice of hearing in three nearby public places and at the

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Tillamook County Courthouse.

THEREFORE, IT IS HEREBY ORDERED AND RESOLVED that the real property described in Exhibit "A" which is attached hereto and incorporated herein by this reference, and lies in Tillamook County, State of Oregon; and is hereby annexed to and made a part of the Oceanside Water District, and is subject to the outstanding indebtedness, bonded or otherwise, of the District, as provided by law. Two certified copies of this resolution and order shall be provided to the Oregon Department of Revenue. One certified copy of this resolution and order shall be provided to the Oregon Secretary of State. One certified copy shall be filed with the Tillamook County Clerk in the clerk's records pertaining to the District. One certified copy shall be provided to the Tillamook County Assessor. One certified copy shall be provided to the Oceanside Water District.

The \$100.00 deposit paid to the County Clerk is exonerated and shall be returned by the Treasurer. The various county departments which have incurred costs related to this annexation shall prepare a statement of costs and a bill shall be submitted to the Oceanside Water District, pursuant to ORS 198.775.

DATED this 9th day of October, 1991.

THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

Kenneth M. Burdick  
KENNETH M. BURDICK, Chairman

Jerry A. Dove  
JERRY A. DOVE, Vice-Chairman

IDA A. LANE, Commissioner  
OCEANSIDE WATER DISTRICT ANNEXATION  
Page 3

APPROVED AS TO FORM:

William K. Sargent  
WILLIAM K. SARGENT  
County Counsel

ATTEST:  
JO VELTRI, County Clerk

By Leota Leake  
LEOTA LEAKE, Deputy

Exhibit A

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WATER RESOURCES DEPT.  
SALEM, OREGON

Parcel 1  
Section 7 Twp. 1-South Range 10 West WM.

Parcel 2  
Govt. Lot 1 Section 8 Twp. 1-South Range 10 West WM.

Parcel 3

Beg at the  $\frac{1}{4}$  Sec cor common to Sec 17 and 18 Twp 1S R  
10W WM in TCO and running  
th N 104.75 ft  
th N 42° 48' W 728 ft  
th S 47° 58' W 599.42 ft  
th S 163.9 ft  
th E 1019.09 ft to the pob, containing 9.06 Ac mol

Beg at the  $\frac{1}{4}$  Sec cor common to Sec 17 and 18 Twp 1S R  
10W WM in TCO, and running  
th W 1019.9 ft  
th S 101.1 ft  
th S 56° 19' E 1103.49 ft  
th N 17° 55' E 334.77 ft  
th N 394.57 ft to the pob, containing 9.90 Ac, all  
of said tract being in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec 18 Twp 1S R  
10W WM

Parcel 4

A R/W 40 ft in width, being 20 ft on each side of the  
cen line and the cen line of said R/W being described  
as follows:

Beg 2633.46 ft N and 1172.62 ft W of the E  $\frac{1}{4}$  Sec cor  
of Sec 18 Twp 1S R 10W WM  
th running S 57° 3' E 193.5 ft  
th S 6° 10' E 223.2 ft  
th S 25° 55' E 157.8 ft  
th S 54° 5' E 107.6 ft  
th S 27° 59' E 309.3 ft  
th S 33° 8' E 297.9 ft  
th S 5° 20' E 263.39 ft containing 1.43 Ac mol

Reg 2371.31 ft N and 1010.84 ft W of the E  $\frac{1}{4}$  Sec cor.  
of Sec 18 Twp 1S R 10W WM  
th running S 6° 10' E 65.2 ft  
th S 25° 55' E 157.8 ft  
th W 223.29 ft  
th N 207.05 ft  
th E 150 ft to pob, containing .84 of an Ac.

1 = 2000

SEE MAP IN 10

# TILLAMOOK

# BAY

PORT

SEE MAP

IS 10 6

SEE MAP

SEE MAP

IS 10 7

IS 10 8

INSERT  
T.L. 600  
1" = 400'

LOT 1  
24.48  
100' 23.00Ac  
EAST

800  
539.30Ac.  
600  
SEE  
INSERT

500  
640.00Ac.

SEE MAP

18

17

IS 10 16

SEE  
MAP

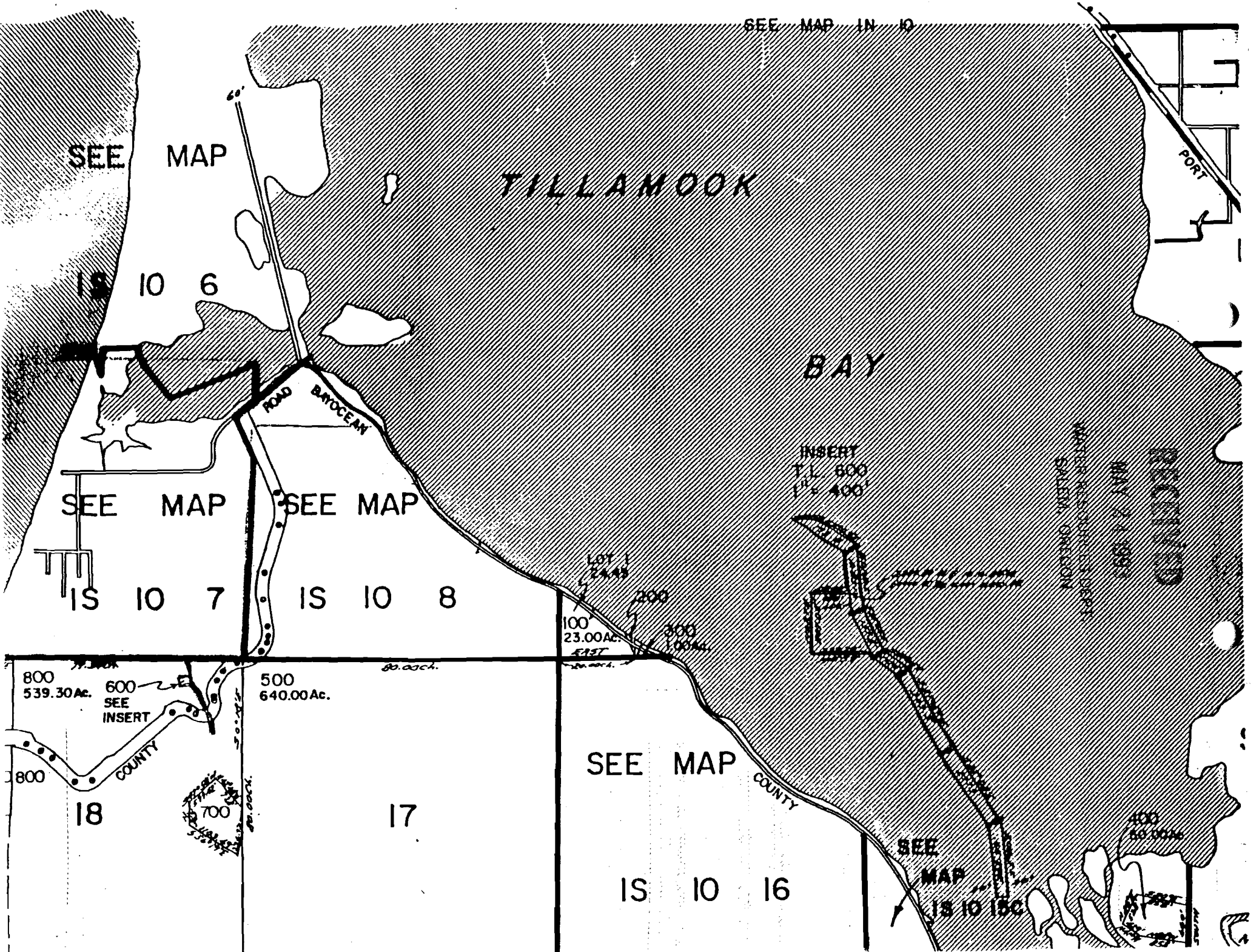
IS 10 15C

WATER RESOURCES PROJECT  
SALMON DIVISION

MAY 7 1981

RECORDED

400  
NO. 1011



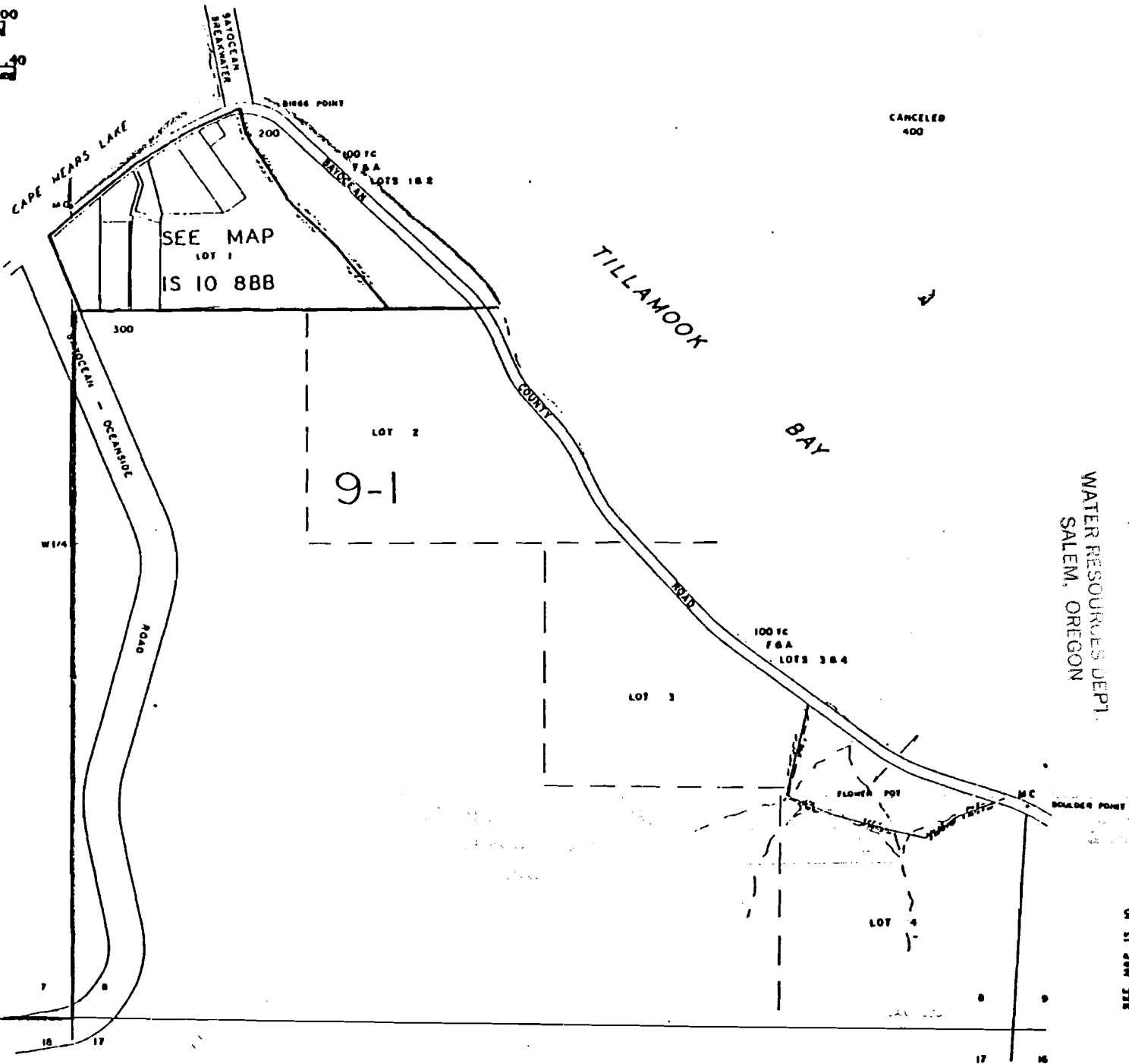
The map may be printed for  
reproduction only.

SCALE 1:9600



SEE MAP 15 10

1"=400'



CANCELED  
400

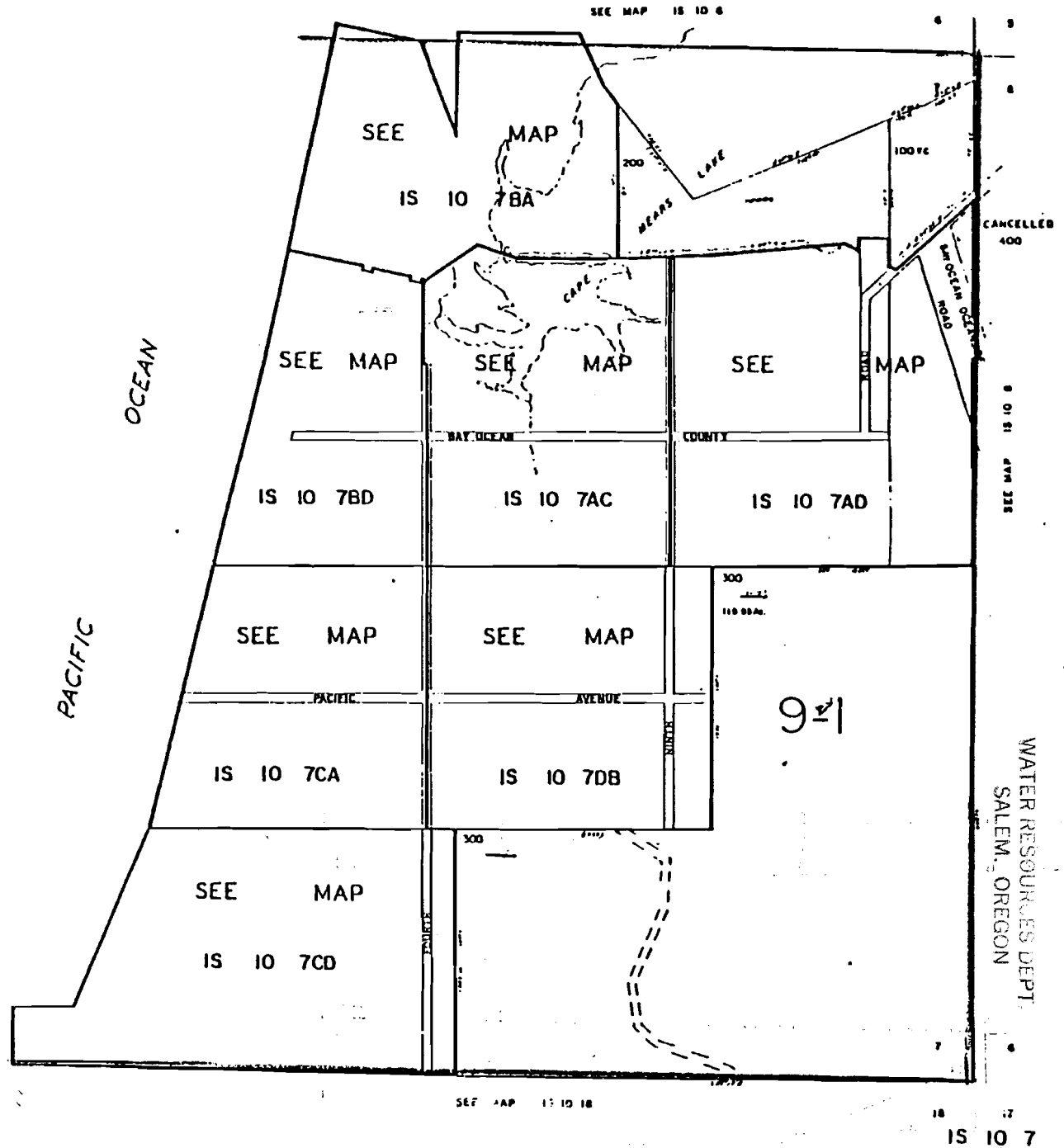
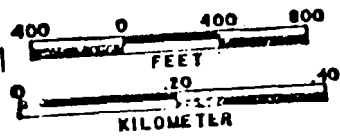
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ON SI 400 325

SEE MAP 15 10

1" = 400'

SCALE 1:9600.



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*File*

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MAY 24 1993

30 May, 1991  
DRAFT

WATER RESOURCES DEPT.  
SALEM, OREGON

EXHIBIT "B"

ANNEXATION AGREEMENT

THIS AGREEMENT, made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between the Oceanside Water District, and Oregon municipal corporation, hereinafter referred to as the "District", and the Cape Meares Water Cooperative System, an Oregon water cooperative, hereinafter referred to as "Cooperative";

W I T N E S S E H:

WHEREAS, in order to meet the continuing water requirements of the Cooperative's membership, the Cooperative has determined that it must obtain a sufficient and reliable source of potable filtered water, and

WHEREAS, the District has sufficient capacity to serve the current as well as the future filtered potable water needs of the Cooperative, and

WHEREAS, the Cooperative has, at it's own expense, installed a water transmission line and water pump station for the purpose of connecting with the District's existing system, and

WHEREAS, it is in the best interest of the District and the Cooperative to annex the area served by the Cooperative and to set forth the obligations and responsibilities of both the District and the Cooperative prior to, as well as after, the said annexation;

NOW, THEREFORE, it is hereby agreed as follows;

1. The Cooperative has at it's own expense and in accordance with the engineering plans previously reviewed by the District, installed a water transmission line and pump station between the area currently served by the Cooperative and the District's existing system at a location designated by the District.
2. The Cooperative will cause to be filed a Petition for Annexation before the Board of Commissioners of

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SALEM, OREGON

Tillamook County. The said Petition shall request the Tillamook County Board of Commissioners to initiate proceedings for annexation of the area served by the Cooperative and described in Exhibit "A" attached hereto and incorporated herein by reference.

3. Pending the approval of the annexation.....
  - a. In the event the annexation is approved, it is agreed by the District and the Cooperative that neither party nor the areas served by the respective parties (i.e. the area described in Exhibit "A" or the area currently designated as the District) shall become liable for any outstanding indebtedness or obligation of either party incurred prior to the annexation.
  - b. In the event the annexation is approved, the Cooperative shall deed and/or deliver to the District all right, title and interest it has in any and all water transmission lines, laterals, pump stations, reservoirs, real property and/or easements, and also materials and supplies currently existing as property of the Cooperative. In exchange, the District shall provide sufficient filtered potable water to the water users within the annexed area in accordance with the rules and regulations pertaining to the entire District.
  - c. In the event the annexation is approved, the District shall establish a special building fund for the express and limited purpose of undertaking repairs on the water transmission lines, laterals, pump stations, and reservoir obtained by the District from the Cooperative. The Cooperative shall pay into the fund the amount of \$5,000.00. All monies in the fund shall draw interest, and all interest shall be deposited into the fund. At the date of the annexation, or 1 October, 1991, which ever is later, all funds in the said special building fund shall be returned to the Cooperative for the specific purpose of paying any last expenses of the Cooperative and shall then be returned to the Cooperative owners in accordance with the Cooperative's rules and regulations.
  - d. The District agrees that it will at no time



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sell, transfer, or assign any right, title or interest the District acquires as a result of the annexation to the Cooperative's watershed or reservoir and shall retain state issued water rights on said water shed and that, in the event the area identified in Exhibit A is ever withdrawn from the District, the District shall deed intact, it's interest in the watershed, reservoir, water transmission lines or pump station to any entity providing potable water to the said area. The District shall have the prerogative to use the acquired water rights to serve the operating needs of the District.

- e. Each of the parties agree that all costs associated with the annexation petition or with this agreement shall be shared equally between the parties.
- f. Each party is aware that John H. Tuthill, Attorney at Law, has and continues to represent each party in this matter. Each party acknowledges the potential conflict with this situation and specifically waives any objections thereto.

IN WITNESS WHEREOF, Oceanside Water District, a municipal corporation, has caused this agreement to be signed by it's chairman and Secretary by authority of resolution, and Cape Meares Water Cooperative System, an Oregon water cooperative, has caused this agreement to be executed pursuant to a resolution, the day and year first hereinabove written.

CAPE MEARES  
COOPERATIVE WATER SYSTEM

OCEANSIDE WATER DISTRICT

By: \_\_\_\_\_  
Chairman

By: \_\_\_\_\_  
Chairman

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Secretary

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WATER RESOURCES DEPT.  
SALEM, OREGON

ASSIGNMENT

I, Cape Meors Coop. of  
5645 5<sup>th</sup> St. N.W. Tillamook OR 97141  
(MAILING ADDRESS) (CITY) (STATE) (ZIP)  
do hereby assign all my interest in and to water right Application  
Number 57510, Permit Number 43812, as filed in the office  
of the Water Resources Director, to:

Oceanside Water District  
(NAME)  
P.O. Box 239 Oceanside OR 97134  
(MAILING ADDRESS) (CITY) (STATE) (ZIP)

TELEPHONE NUMBER 842-6462

WITNESS my hand this 28<sup>th</sup> day of January 1991.

Robert A. Rice  
(SIGNATURE OF PERMITTEE)  
Chairman

The completed assignment must be submitted to the Water Resources Director, 3850 Portland Road, NE, Salem, OR 97310, together with a recording fee of \$10.

PAID  
DATE 1-28-91  
AMT \$ 10.00  
CK # 1310  
ACCT # 527 \$ 10.00  
ACCT # \_\_\_\_\_ \$ \_\_\_\_\_

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WATER RESOURCES DEPT.  
SALEM, OREGON

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\* 11/24/1992  
Select by permit S 43812

Name: OCEANSIDE WATER DISTRICT  
PO BOX 239  
OCEANSIDE, OR 97134  
County : TILLAMOOK  
Status : NON-CANCELLED  
Certificate type:  
Certificate date: / /  
Application: S 57510  
Permit : S 43812  
Certificate: 0  
Supercedes certificate: 0

Related documents: P-R643  
Remarks :

Sources : COLEMAN CREEK AND BAYOCEAN RESERVOIR CONSTRUCTED UNDER PERMIT R-643, TRIBUTARIES OF TILLAMOOK BAY

Purposes: QUASI-MUNICIPAL.

Rates : 1.0 CUBIC FOOT PER SECOND

Priority:

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
COLEMAN CR/RES > TILLAMOOK BAY	QM	P	12/21/1978	1.0000CFS	1 S 10 W 18 NENE		V

Legal description: NORTH 24 DEGREES 15 MINUTES WEST 1723.9 FEET FROM E1/4 CORNER, SECTION 18

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
=====						
QM	P		1 S 10 W 7 NENE		0.000	V
QM	P		1 S 10 W 7 NWNE		0.000	V
QM	P		1 S 10 W 7 SWNE		0.000	V
QM	P		1 S 10 W 7 SENE		0.000	V
QM	P		1 S 10 W 7 NENW		0.000	V
QM	P		1 S 10 W 7 SENW		0.000	V
QM	P		1 S 10 W 7 NESW		0.000	V
QM	P		1 S 10 W 7 NWSW		0.000	V
QM	P		1 S 10 W 7 SWSW		0.000	V
QM	P		1 S 10 W 7 SESW		0.000	V
QM	P		1 S 10 W 7 NESE		0.000	V
QM	P		1 S 10 W 7 NWSE		0.000	V
QM	P		1 S 10 W 7 SWSE		0.000	V
QM	P		1 S 10 W 7 SESE		0.000	V
QM	P		1 S 10 W 8 NWNW		0.000	V
QM	P		1 S 10 W 18 NENE		0.000	V
QM	P		1 S 10 W 18 NWNE		0.000	V



**SURFACE WATER REGISTRATION CHECKLIST**

(received after July 18, 1990)

CHECK BASIN MAP DWF NAME North Coast # 1 UNADJUDICATED AREA ? OK DWF  
RECEIPT # 100289 S W R NUMBER 604  
CHECK ENCLOSURES DWF PRELIMINARY DATA BASE ENTRY DWF  
ACKNOWLEDGEMENT LETTER DWF ENTER ON STREAM INDEX \_\_\_\_\_  
CHECK QUADRANGLE MAP \_\_\_\_\_ CHECK GLO PLATS \_\_\_\_\_  
WATERMASTER CHECKLIST \_\_\_\_\_ PUBLIC NOTICE PUBLICATION \_\_\_\_\_

**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  
#14 \_\_\_\_\_ "permanent-quality" paper  
\_\_\_\_\_ 1/10<sup>th</sup> Ac. DWF

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

June 15, 1993

ATTN: JAYLEN JONES  
OCEANSIDE WATER DISTRICT  
PO BOX 116  
OCEANSIDE OR 97134

WATER  
RESOURCES  
DEPARTMENT

RE: SWR-604

Dear Ms. Jones,

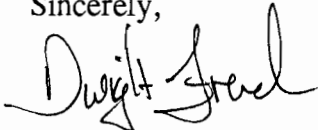
Martha O. Pagel, the director of the Water Resources Department signed a special order this morning that officially accepted for filing the Surface Water Registration Statement in the name of Oceanside Water District. I have enclosed a copy of the special order.

Your registration statement has been numbered SWR-604.

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

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

Sincerely,



Dwight French  
Adjudication Section

enc

CC: Greg Beaman, Watermaster

J:\WP51\SWR\CLAIMANT\6\SWR-604.003



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

BEFORE THE DIRECTOR OF THE  
OREGON WATER RESOURCES DEPARTMENT  
SALEM, OREGON

IN THE MATTER OF THE )  
SURFACE WATER REGISTRATION )  
STATEMENT TO BE FILED IN THE )  
NAME OF OCEANSIDE WATER DISTRICT )  
\_\_\_\_\_ )  
ORDER ACCEPTING  
SURFACE WATER  
REGISTRATION  
STATEMENT  
(Late filing)

The above entitled matter comes before the Director for authorization to file a Surface Water Registration Statement after the filing deadline of December 31, 1992.

It appears that the claimed use of water has not been abandoned, that water has been applied to beneficial use and that the use of water by the claimant is subject to registration pursuant to ORS 539.240(4).

NOW, THEREFORE, it is hereby ORDERED that the Department accept for filing a Surface Water Registration Statement in the name of

OCEANSIDE WATER DISTRICT  
P.O. BOX 116  
OCEANSIDE, OR 97134  
TILLAMOOK COUNTY

Dated June 15, 1993.

  
\_\_\_\_\_  
Martha O. Pagel, Director

INTEROFFICE MEMORANDUM  
Oregon Water Resources Department  
Adjudications Section

SIDEBAR:

I figured that if you did not agree with my interpretation that you would at least be <sup>a step</sup> closer to developing your own interp. of 539.240(4).

TO: Reed Marbut

FROM: Dwight French *DF*

DATE: June 1, 1993

RE: 539.240(4) and pending petitions

(Attached is 539.240(4), late filing.)

My interpretation of 539.240(4):

A person may file a petition if they have good cause to show that they have not abandoned the claim. Nothing we have defines what good cause is so a liberal interpretation should be allowed.

The director cannot reject a petition without holding a CC hearing first.

Without a hearing the director may accept sworn statements in support of the claim. Since the law does not indicate that the petition must be sworn (notarized) then another sworn statement should suffice, i.e. SWR Claim Form. The petition (and sworn statements if petition/letter is not sworn) is judged not on why they didn't make the deadline but rather on whether or not the person has a use of water that would be subject to registration under 539. If the petition/sworn statement meets this condition then the director issues an order authorizing the person to file a registration statement.

-----  
Using this interpretation I offer the following recommendations on the four petitions received so far.

Petition #1 "Brown" (SWR-603)

We received both a notarized petition and a notarized claim form along with fees and CWRE map. We need to issue an order that officially authorizes WRD to accept the Brown late claim.

Petition #2 "Rose"

Unnotarized petition with fees have arrived. Instruct Mr. Rose that if he'll send in a completed (to include notarized) claim form we will accept it (issue an order).

Petition #3 "King"

Unnotarized petition with fees have arrived. Instruct Mr. King that if he'll send in a completed (to include notarized) claim form we will accept it (issue an order).

*604*  
Petition #4 "Oceanside Water District"

Petition and notarized claim form with fees have arrived. Issue order accepting claim.

file c:\w\s\petition.539

*DF* *6/6*  
Discuss w/ Dwight  
→  
letter - Dwight  
Orders - Reed  
(Simple)



(2) Upon request, the Water Resources Director shall make available a blank registration statement required under subsection (1) of this section. The claimant shall complete the registration statement by providing the information necessary for determination of the claimed vested or reserved right. The registration statement shall include at least the following:

(a) The name and mailing address of the claimant.

(b) The claimed beneficial use of the water and the amount used. *SWR Form?*

(c) The stream from which the water is diverted.

(d) A map from a survey prepared by a water right examiner certified under ORS 537.798 showing:

(A) The location of the point of diversion in reference to an established corner of the United States Public Lands Survey or, if within a platted and recorded subdivision, from an established lot corner of the subdivision.

(B) The location of the place of use by quarter-quarter section of the United States Public Lands Survey. If the use is for irrigation, the number of acres irrigated within each quarter-quarter section.

(e) The time of commencement of the claimed use of water.

(f) The times of beginning and completion of any division and distribution works used to appropriate the claimed use of water and the water carrying capacity of such works, if known.

(g) The location of the place of use by quarter-quarter section of the United States Public Lands Survey. If the use is for irrigation, the number of acres irrigated within each quarter-quarter section during the first year of use and during each subsequent year until the full amount of claimed use was accomplished.

(h) The period of the year during which the claimed use of water is usually made.

(3) The failure of any person, corporation or governmental agency to file a registration statement for an undetermined vested right or federal reserved right shall create a rebuttable presumption that the claim has been abandoned.

(4) For good cause shown, any person who fails to file a registration statement within the period set forth in subsection (1) of this section may file within one year after December 31, 1992, a petition with the director requesting that the person be given an opportunity to rebut the presumption that the person has abandoned the claim. Upon the filing of such a petition, the director may schedule a hearing to take testimony and evidence on the date the water was applied to beneficial use or the director may accept sworn statements in writing in support of such petition. The director shall not deny a petition without first holding a contested case hearing. If it appears after hearing or from such sworn statements that the person has a use of water that would be subject to registration under this chapter, the director shall issue an order authorizing the person to file a registration statement as described under subsection (1) of this section. A person who files a petition under this subsection shall submit with the petition a fee, the amount of which shall be one and one-half times the amount the person would have submitted under ORS 539.081 with a timely registration statement.

(5) Upon receipt, affirmation or modification of the registration statement under subsection (1), (4) or (8) of this section, the director shall:

(a) Indorse on the registration statement the date of its receipt, affirmation or modification;

(b) Enter the indorsed statement in the record of the department;

(c) Mail a copy of the indorsement to the person filing the registration statement; and

(d) Include the person in any further proceeding to adjudicate the water rights represented by the indorsed registration statement.

(6) Upon entry of the indorsed statement in the department's records, the registrant is prima facie entitled to appropriate the surface water and apply it to beneficial use to the extent and in the manner disclosed in the recorded registration statement.

(7) No registration statement recorded under this section, including a statement affirmed or modified under subsection (8) of this section, shall be construed as a final determination of any matter stated therein. The right of the registrant to appropriate surface water under a recorded registration statement is subject to determination under ORS 539.010 to 539.240, and is not final or conclusive until so determined. A right to ap-

## INTEROFFICE MEMORANDUM

*Oregon Water Resources Department  
Adjudications Section*

TO: Reed Marbut

FROM: Dwight French

DATE: May 26, 1993

RE: Petition for Late Filing of Surface Water Registration

Our office received a petition on May 24, 1993 from Oceanside Water District.

I have sent the claimant their receipt.

The petition explains how the unfortunate timing of staff changes caused them to miss the deadline. A notarized claim form, CWRE map and \$300.00 arrived with the petition. The claim is for 1 CFS for domestic. Priority date: June 10, 1907. I have attached a copy of the claim form and petition.

At our last Adjudication meeting you said that we would discuss the petition process so that we all would understand what is required. We need to know what is required of us as processors and ~~required~~ what is required of the claimant.

539.240 (4) says that "... the director shall issue an order authorizing the person to file a registration statement..." SWR-603 has been accepted without an order. We should study this together and decide what we're going to do about these petitions.

May 25, 1993

ATTN: JAYLEN JONES  
OCEANSIDE WATER DISTRICT  
PO BOX 116  
OCEANSIDE OR 97134

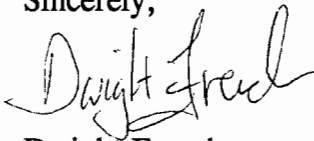
RE: PETITION FOR LATE REGISTRATION STATEMENT FILING

Dear Ms. Jones,

This will acknowledge your petition for a late registration statement filing and the fees of \$300.00. Our receipt #100289 is enclosed. I will give the petition to my supervisor for processing.

If you have any questions please give me a call.

Sincerely,



Dwight French  
Adjudication Section

enc

j:\w\slc\occeansid.001



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

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **100289**

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

RECEIVED FROM: BY:	<i>Oregonville Water</i>	APPLICATION	
	<i>LLC</i>	PERMIT	
		TRANSFER	

CASH:  CHECK: #  *24-12* OTHER: (IDENTIFY)

TOTAL REC'D \$ *310.00*

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

842.010	ADJUDICATIONS	\$ <i>310.00</i>
831.087	PUBLICATIONS/MAPS	\$
830.650	PARKING FEES Name/month	\$
	OTHER: (IDENTIFY)	\$

**REDUCTION OF EXPENSE**

	CASH ACCT.	\$
	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	EXAM FEE	RECORD FEE
842.003	GROUND WATER	\$	\$
842.005	TRANSFER	\$	\$
<b>WELL CONSTRUCTION</b>			
842.022	WELL DRILL CONSTRUCTOR	EXAM FEE	LICENSE FEE
842.016	WELL DRILL OPERATOR	\$	\$
	LANDOWNER'S PERMIT	\$	\$

**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 # **100289**

DATED: *May 4* BY: *[Signature]*