

**ASSIGNED**

Name LOUIS R. MALENSKY  
By \_\_\_\_\_  
Address Route 4, Box 175 197A  
Hillsboro, OR 97123

Date filed May 19, 1972  
Priority May 7, 1973  
Action suspended until DK Cert 92184 T.S.  
5/1/83 SCB

Return to applicant \_\_\_\_\_  
Date of approval September 10, 1975

**CONSTRUCTION**

Date for beginning September 10, 1976  
Date for completion October 1, 1977  
Extended to \_\_\_\_\_  
Date for application of water October 1, 1978  
Extended to \_\_\_\_\_

**PROSECUTION OF WORK**

Form "A" filed Oct 29, 1976  
Form "B" filed Oct 29, 1976  
Form "C" filed Oct 29, 1976

**FINAL PROOF**

Blank mailed JUL 26 1983 5-24-84  
Proof received \_\_\_\_\_  
Date certificate issued DEC 8 1983

Application No. 49266

Permit No. 38077

Certificate No. ~~51777~~ 81414

Stream Index, Page No. 2-62B14

see files R-49265 and G-5800

*also see file R-49265  
G-5800*

*TB*

**ASSIGNMENTS**

Date	To Whom	Address	Volume	Page
4-18-75	Oregon Berry Packing Co.	Rt. 4, Box 198 A, Hillsboro, OR	5	636

**REMARKS**

2.2 c.f.s. from Campbell Creek, drainage ditch and 3 reservoirs to be constructed under application No. R-49265, Permit No. R-6159 for irrigation and supplemental irrigation of 181.20 acres.

**Card for A SEP 24 1976**

*Refund 4/20*

*31*

**FEES PAID**

Date	Amount	Receipt No.
5-19-72	25.00	28439
6-11-74	7.55	40821
6-20-74	1.85	From App G5800
6-18-75	1.50	47785
	\$1 Cert. Fee	

**FEES REFUNDED**

Date	Amount	Check No.
4-29-75	1.30	79

Form C

IMPORTANT—This form is a notice to the State Engineer that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the State Engineer until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated. Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when all of the water has been applied.

Application No. 49266

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, OREGON BERRY PACKING CO, the holder of Permit No. 38077 to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 20 day of AUGUST, 1974.

Remarks:

IN WITNESS WHEREOF, I have hereunto set my hand this 28 day of OCTOBER, 1976.

Oregon Berry Packing Co by Louis Malensky J. Partner RT. 4, BOX 197A HILLSBORO ORE 97123 (Signature of Applicant) (Address)

Form B

Application No. 49266

NOTICE OF COMPLETION OF CONSTRUCTION

I, OREGON BERRY PACKING CO, the holder of Permit No. 38077 to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the day of SEPTEMBER, 1972.

Remarks: ONLY RESERVOIR #1, INCLUDING THE DRAINAGE DITCH AND PUMP WAS COMPLETED. NO DAMS WERE CONSTRUCTED ON CAMPBELL CREEK.

Should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 28 day of OCTOBER, 1976.

Oregon Berry Packing Co by Louis Malensky J. Partner RT. 4, BOX 197A HILLSBORO ORE 97123 (Signature of Applicant) (Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is completed.

Form A

Application No. 49266

NOTICE OF BEGINNING OF CONSTRUCTION

I, OREGON BERRY PACKING CO, the holder of Permit No. 38077 to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the day of AUGUST, 1972.

Remarks: The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this 28 day of October, 1976.

Oregon Berry Packing Co by Louis Malensky J. Partner RT. 4, BOX 197A HILLSBORO ORE 97123 (Signature of Applicant) (Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is begun.

RECEIVED

OCT 26 1976 WATER RESOURCES DEPT SALEM OREGON

Handwritten initials

OCT 26 1976

WATER RESOURCES DEPT SALEM, OREGON

Handwritten initials

RECEIVED

OCT 26 1976 WATER RESOURCES DEPT SALEM OREGON

Handwritten initials

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application ) FINAL ORDER APPROVING A  
T-9998, Washington County ) SUBSTITUTION OF A  
) SUPPLEMENTAL GROUND WATER  
) RIGHT FOR A PRIMARY SURFACE  
) WATER RIGHT

ORS 540.524 establishes the process in which a water right holder may submit a request to substitute a supplemental water right from a ground water source for a primary water right from a surface water source. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating an application to substitute applications.

**Applicant**

Malensky Land Holding Co.  
11335 SW Hillsboro Hwy  
Hillsboro, OR 97123

**Findings of Fact**

1. On August 29, 2005, Malensky Land Holding Co. filed a transfer application to substitute a supplemental right to use ground water under Certificate 81412 for a primary right to use surface water under Certificate 81414. The Department assigned the application number T-9998.
2. The entirety of the supplemental ground water right to be substituted for the primary surface water right is as follows:

**Certificate:** 81412 in the name of Malensky Land Holding Co. (perfected under Permit G-5692)  
**Use:** Supplemental Irrigation of 69.9 acres  
**Priority Date:** May 7, 1973  
**Quantity:** 0.77 CUBIC FOOT PER SECOND (CFS)  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 2.5 acre feet per acre per year  
**Source:** A well in the Christensen Creek Basin

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
1	S	2	W	W.M.	31	SE SW	980 FEET SOUTH AND 980 FEET WEST FROM THE SW CORNER OF LANDERS DLC 52

**Authorized Place of Use:**

Township	Range	Meridian	Sec	¼ ¼	Lot	Acres
1	S	2	W	W.M.	31	SW NE 4 4.9
1	S	2	W	W.M.	31	SE NW 3 11.8
1	S	2	W	W.M.	31	NE SW 35.0
1	S	2	W	W.M.	31	NW SW 0.8
1	S	2	W	W.M.	31	NW SE 6 17.4

3. The portion of the surface water right to change from primary use to supplemental use under the substitution is as follows:

**Certificate:** 81414 in the name of Oregon Berry Packing Company (perfected under Permit S-38077)

**Use:** Irrigation of 69.9 acres

**Priority Date:** May 7, 1973

**Quantity:** 0.014 cubic foot per second

**Rate/Duty:** 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre per year

**Source:** Drainage ditch and Reservoir 1, tributary to Christensen Creek.

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Lot	Survey Coordinates
1	S	2	W	W.M.	31	NW SE	6	200 FEET SOUTH AND 670 FEET EAST FROM CENTER OF SECTION 31

**Authorized Place of Use:**

Township	Range	Meridian	Sec	¼ ¼	Lot	Acres
1	S	2	W	W.M.	31	SW NE 4 4.9
1	S	2	W	W.M.	31	SE NW 3 11.8
1	S	2	W	W.M.	31	NE SW 35.0
1	S	2	W	W.M.	31	NW SW 0.8
1	S	2	W	W.M.	31	NE* SE 6 17.4

4. There is an apparent scrivener's error in the description of the place of use in Certificate 81414 indicated by the asterisk in the above table. The listing of 29.3 acres (including the 17.4 acres affected by the substitution) in the NE SE, Lot 6, Section 31, Township 1 South, Range 2 West is in error. Based on the accompanying map and final proof survey of the original right, the location of the place of use should be listed as NWSE, Section 31, Township 1 South, Range 2 West.
5. Notice of the application for transfer was published September 20, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
8. The water rights are located within the Chehalem Mountain Ground Water Limited Area but predate the area being classified as such. The applicant's well is in the basalt aquifer.
9. To monitor the effects of water use from other wells in the area, the Department requires the water users to make and report annual static water level measurements. The static water level shall be measured in the month of March and reports must be submitted to the Department within 30 days of measurement.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights if conditioned to require annual static water level measurements and to establish the conditions under which the substitution would be terminated as a result of the effects of the use on other ground water rights.
12. On May 17, 2006, the Department issued a preliminary determination proposing to approve substitution T-9998 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on May 23, 2006, and in The Hillsborough Argus newspaper on May 26 and June 2 and 9, 2006 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

### **Conclusions of Law**

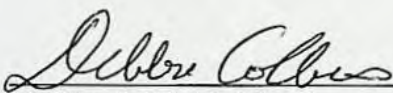
The substitution proposed in application T-9998, as conditioned, is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The substitution of a supplemental ground water right for a primary surface water right proposed in T-9998 is approved.
2. Upon approval of T-9998, the portion of the primary surface water right under Certificate 81414 listed in Finding #3 shall be treated as a supplemental water right and the listed portion of the supplemental water right evidenced by Certificate 81412 and as described in Finding #2 above shall be treated as a primary water right.
3. The right to use the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 81412 and 81414 and any related decree.
4. The proposed change shall be effective upon issuance of the Final Order.
5. Within 60 days of issuance of the Final Order, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
6. The water user shall submit an initial water level measurement in March and annually thereafter during the duration of the substitution. All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and shall be submitted to the Department on forms provided by the Department. The individual performing the measurement shall:
  - a) Identify each well with its associated measurement;
  - b) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface;
  - c) Specify the method used to obtain each well measurement; and
  - d) Certify the accuracy of all measurements and calculations submitted to the Department.
7. The substitution of a supplemental ground water right for a primary surface water right may be terminated upon a request by the water right holder. The substitution also may be terminated by an order of the Director if the Director determines the use of the ground water as the primary water right causes injury to other water rights. Upon termination, the substituted primary and supplemental water rights shall revert to their original status.

8. For purposes of determining whether the substitution is causing injury to other water rights, the Department shall consider whether:
  - a) Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years;
  - b) Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years;
  - c) Annual water level measurements reveal a water level decline of 25 or more feet; and
  - d) Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.
  
9. The reference level against which future measurements shall be compared is 40 feet below land surface as measured on October 31, 1979 as indicated on the well log identified WASH 10447.

Dated at Salem, Oregon this 14<sup>th</sup> day of July, 2006.

  
FDL Phillip C. Ward, Director

Mailing Date: JUL 21 2006



# Oregon

Theodore R. Kulongoski, Governor

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

**Date Mailed: May 12, 2005**

## NOTICE OF CERTIFICATE ISSUANCE

Attached is a certificate that correctly describes the water right. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

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

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

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

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

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

STATE OF OREGON

COUNTY OF WASHINGTON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OREGON BERRY PACKING COMPANY  
ROUTE 6, BOX 224  
HILLSBORO, OREGON 97123

confirms the right to use the waters of DRAINAGE DITCH AND RESERVOIR 1, CONSTRUCTED UNDER PERMIT R-6159, a tributary of CHRISTENSEN CREEK, for IRRIGATION OF 99.2 ACRES.

This right was perfected under Permit 38077. The date of priority is MAY 7, 1973. This right is limited to 0.02 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

LOT 6 (NW 1/4 SE 1/4), SECTION 31, T 1 S, R 2 W, W.M.; 200 FEET SOUTH AND 670 FEET EAST FROM CENTER OF SECTION 31.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed by Permit R-6159.

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

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

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

LOT 4 (SW 1/4 NE 1/4)	16.0 ACRES
LOT 5 (SE 1/4 NE 1/4)	0.1 ACRE
LOT 3 (SE 1/4 NW 1/4)	16.6 ACRES
NE 1/4 SW 1/4	35.0 ACRES
NW 1/4 SW 1/4	0.8 ACRE
LOT 5 (NE 1/4 SE 1/4)	1.4 ACRES
LOT 6 (NE 1/4 SE 1/4)	29.3 ACRES

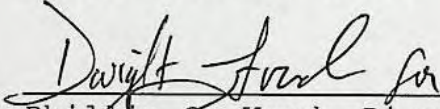
SECTION 31  
TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

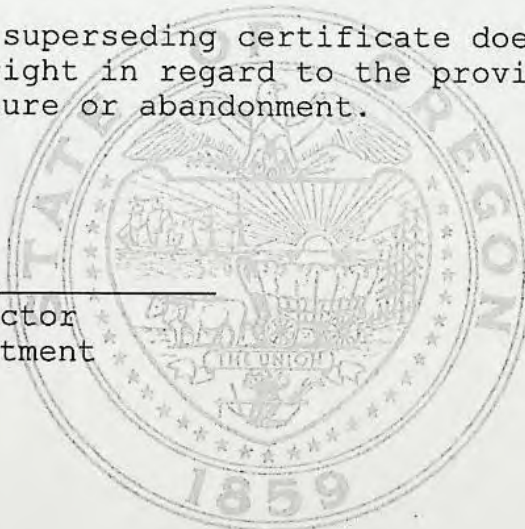
The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

This certificate is issued to and describes that portion of the water right confirmed by Certificate 51797, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on May 12, 2005.

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

Issued May 12, 2005.

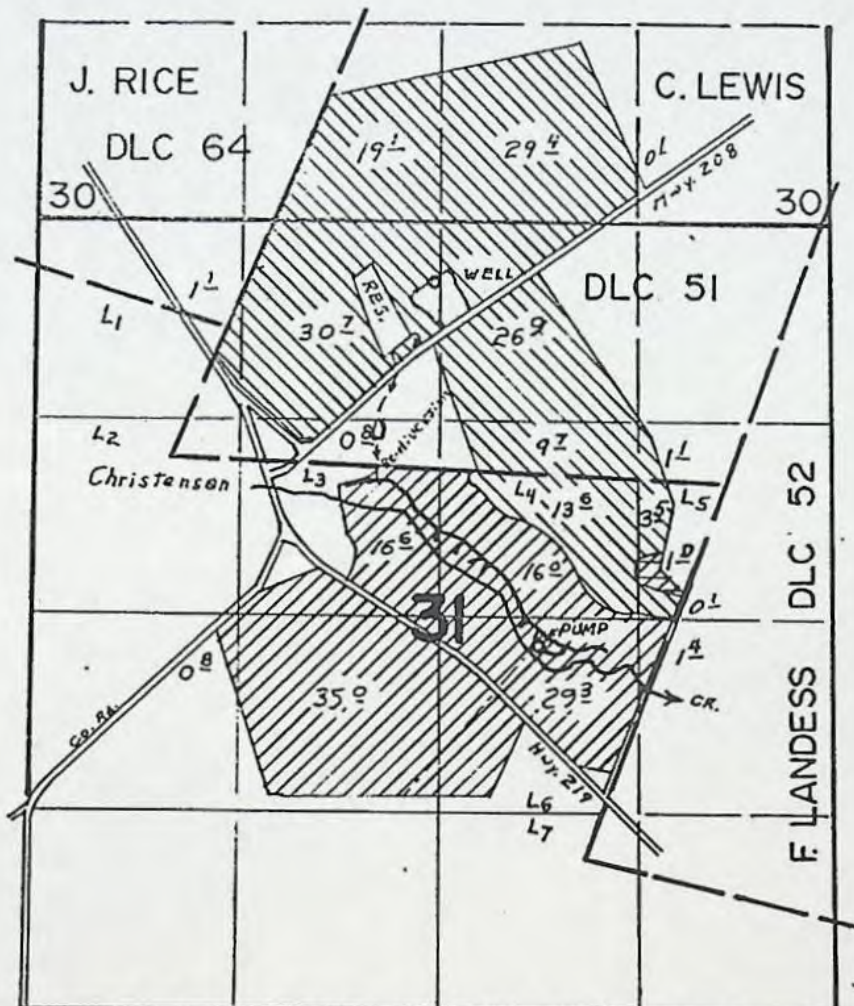
  
Philip C. Ward, Director  
Water Resources Department



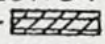
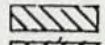
Recorded in State Record of Water Right Certificates Number 81414.

49266rr.SB

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



Well: 420'S of 2650', Reservoir: 550'S of 2350'E. Re-diversion: 1750'S of 2290'E, Pump: 2850'S of 3360'E all from NW corner Section 31

Permits R-6128 & 37849 (supplemental) {  Permit G-5692 Primary  Permit - G-5692 Supplemental

## FINAL PROOF SURVEY UNDER

G-5800                      G-5692  
R-53059                    R-6128  
Application No. 53060.... Permit No. 37849....  
IN NAME OF

...OREGON BERRY PACKING CO. ....

Surveyed JUNE 21, 22, 1978, by S.P. APPLGATE

20

RECEIVED

STATE OF OREGON AUG 3 1983

COUNTY OF

WASHINGTON WATER RESOURCES DEPT. SALEM, OREGON

Proof of Appropriation of Water

OREGON BERRY PACKING COMPANY

of Route 6, Box 224, Hillsboro, State of Oregon 97123, has applied beneficially the waters of Drainage ditch and Reservoir 1, constructed under Permit R-6159

a tributary of Christensen Creek for the purpose of irrigation of 138.6 acres

under Permit No. 38077 and that the use of said waters has been completed under the terms of said permit; that the priority of the right dates from

May 7, 1973 that the amount of water for the purposes aforesaid, has been actually beneficially used in the amount of

0.02 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the Lot 6 (NW 1/4 SE 1/4), Section 31, T1S, R2W, WM; 200 feet South and 670 feet East from Center, Section 31.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eighth of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-6159

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

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

- 16.0 acres Lot 4 (SW 1/4 NE 1/4)
  - 0.1 acre Lot 5 (SE 1/4 NE 1/4)
  - 16.6 acres Lot 3 (SE 1/4 NW 1/4)
  - 35.0 acres NE 1/4 SW 1/4
  - 0.8 acre NW 1/4 SW 1/4
  - 29.0 acres SE 1/4 NW 1/4
  - 1.4 acres Lot 5 (NE 1/4 SE 1/4)
  - 29.3 acres Lot 6 (NW 1/4 SE 1/4)
  - 10.4 acres Lot 7 (SW 1/4 SE 1/4)
- Section 31  
Township 1 South, Range 2 West, WM

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

IN WITNESS WHEREOF, I have hereunto set my hand this 30 day of Aug

1983...

OREGON BERRY PACKING CO.

Roy Malensky - Partner

Louis R. Malensky Jr - Ex Partner



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1271  
 (503) 986-0900  
 www.wrd.state.or.us

# Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a". Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/publication/reports/index.shtml](http://www.wrd.state.or.us/publication/reports/index.shtml).

RECEIVED

AUG 29 2005

## APPLICATION FOR:

WATER RESOURCES DEPT  
 SALEM, OREGON

Please check one

<input checked="" type="checkbox"/> Water Right Transfer	<input type="checkbox"/> Temporary Transfer (number of years _____)	<input type="checkbox"/> Drought Transfer
<input type="checkbox"/> Historic Change in POD	<input type="checkbox"/> Permit Amendment	<input type="checkbox"/> Point of Diversion Change Due to Government Action
<input type="checkbox"/> To Instream Use		
<input checked="" type="checkbox"/> Other Transfer		

## 1. APPLICANT INFORMATION

Name: Malensky Land Holding Company

Address: 11335 SW Hillsboro Highway  
Hillsboro OR 97123

Phone: 503-640-2313

\*Fax: \_\_\_\_\_ \*E-Mail address: \_\_\_\_\_

\*Optional information

## 2. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this transfer application)

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

\*Fax: \_\_\_\_\_ \*E-Mail address: \_\_\_\_\_

\*Optional information

79998

AUG 29 2005

WATER RESOURCES DEPT  
SALEM, OREGON

3. TYPE OF CHANGE PROPOSED

Please check all that apply

Point of Diversion or Appropriation	Place of Use	Character of Use (n/a for Permit Amendments)
<input type="checkbox"/> Change (The old point of diversion or appropriation will not be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> Additional (Both the old and new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> Historic Point of Diversion (Unauthorized point of diversion used for more than 10 years.) <input type="checkbox"/> Surface Water to Ground Water (A new point of appropriation will be used instead of the old point of diversion and not as an additional point of appropriation.)	<input type="checkbox"/> All, or a portion, of the right will be exercised at a different location than currently authorized. (Use of water at the current location will be discontinued.) <input type="checkbox"/> Exchange (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete <b>Supplemental Form B</b> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input checked="" type="checkbox"/> Substitution (A supplemental ground water right will be substituted for a primary surface water right.)

Reason for changes: Substitution - Surface water right is not adequate for primary irrigation of the acres allowed.

Describe the **current** water delivery system. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use.

*The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right. (Not applicable to applications for Permit Amendments.)*

System is adequate see Certificate 81414 dated May 12, 2005.

System capacity: 0.02 cubic feet per second (cfs) (Certificate 81414)

*Attach one or more Evidence of Use Affidavits (Supplemental Form A) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years or that a presumption of forfeiture for non-use could be rebutted. (Not applicable to applications for Permit Amendments.)*

79998

RECEIVED

AUG 29 2005

WATER RESOURCES DEPT  
SALEM, OREGON

**4. CURRENT WATER RIGHT INFORMATION**

*A separate page providing the information in this section must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.*

Water Right Subject to Transfer (check and complete **one** of the following):

<input checked="" type="checkbox"/> Certificated Right	<u>81414</u>	<u>38077</u>
	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	<u></u>	<u></u>
	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	<u></u>	<u></u>
	Permit Number	Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	<u></u>	<u></u>
	Previous Transfer Number	Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Permit for which an Amendment is Requested	<u></u>	<u></u>
	Permit Number	Completion Date of Permit

Name on Permit, Certificate, or Decree: Oregon Berry Packing Co.

County: Washington Authorized Use(s): Irrigation

Are there multiple **Priority Dates** identified on the water right?  Yes  No  
*If "Yes", any information provided on Page 4 must identify which priority date is associated with each of the proposed points of diversion/appropriation and places of use. In addition, list those priority dates:*

Source(s) of Water Listed on Right: Drainage ditch and reservoir - Permit R-6159

Tributary to: Christensen Creek

Are there other **Sources** listed on the water right?  Yes  No  
*If "Yes", any information provided on Page 4 must identify which source is associated with each of the proposed points of diversion/appropriation and proposed places of use. In addition, list those other sources:*

Are there **Other Water Rights** or permits associated with this land?  Yes  No  
*If "Yes", what are the Permit or Certificate Numbers?* 81412  
*Pursuant to ORS 540.510, any right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled.*

Remarks: Substitution: Certificate 81412 is to become the primary right and Certificate 81414 is to become the supplemental right on acres designated.

NOTE: Two 11" X 17" Maps submitted with this application

7-998





AUG 29 2005

WATER RESOURCES DEPT  
SALEM, OREGON

**6. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS**

Are any of the water rights proposed for transfer located within or served by an irrigation or other water district?  Yes  No

Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer?  Yes  No

Is water for any of the rights supplied under a water service agreement or other contract for stored water with a Federal agency?  Yes  No

If "Yes", for any of the above, list the name and mailing address of the district and/or agency:

Tualatin Valley Irrigation District  
2330 Elm Street  
Forest Grove, OR 97116

List the name and mailing address of all affected local governments (e.g., county, city, municipal corporation, and tribal governments within whose jurisdiction the rights are located).

Washington County Land Development Services  
155 N. First Avenue, Suite 350-13  
Hillsboro, OR 97124-3072

**7. LAND OWNERSHIP \***

Does the applicant own the lands FROM which the right is being transferred?  Yes  No

If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners:

Names of Current Landowner(s): \_\_\_\_\_  
First Last

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

City State Zip

Does the applicant own the lands TO which the right is being transferred?  Yes  No

If "No", provide the following information:

Names of Receiving Landowner(s): \_\_\_\_\_  
First Last

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

City State Zip

Check one of the following:

- The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
- The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.

Transfer Application/6

\* #7 the lands in Tax Lot 201 covered by the remaining right are owned by Louis Malensky, Jr., 29495 SW Farmington Road, Hillsboro, OR 97123

7998

RECEIVED

AUG 29 2005

WATER RESOURCES DEPT  
SALEM, OREGON

**8. ATTACHMENTS**

Check each of the following attachments included with this application. The application will be returned if all required attachments are not included.

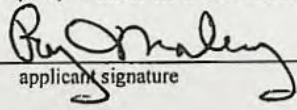
<p><b>Form A – Evidence of Use Affidavits</b></p> <p><input checked="" type="checkbox"/> At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original, not a copy.</p> <p><b>Form B – Instream Water Right Transfer</b></p> <p><input type="checkbox"/> Required for instream transfers only.</p> <p><b>Map</b></p> <p><input checked="" type="checkbox"/> Permanent Water Right Transfer The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.</p> <p><input type="checkbox"/> Permit Amendment, Temporary Transfer, or Other Application A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.</p> <p><b>Evidence of Lien Holder Notification</b></p> <p><input type="checkbox"/> Copies of the written notification of the proposed transfer provided by the applicant to each lien holder, unless the water right has been quit claimed.</p> <p><b>Recorded Deed</b></p> <p><input type="checkbox"/> Required for temporary transfers only.</p>	<p><b>Land Use Information Form:</b></p> <p><input checked="" type="checkbox"/> Enclosed</p> <p><input type="checkbox"/> Not Required if all of the following are met:</p> <ul style="list-style-type: none"> <li>① In EFU zone or irrigation district,</li> <li>② Change in place of use only,</li> <li>③ No structural changes needed, including diversion works, delivery facilities, other structures, and</li> <li>④ Irrigation only.</li> </ul> <p><b>Water Well Reports/Well Logs:</b></p> <p><input checked="" type="checkbox"/> The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.</p> <p><input type="checkbox"/> Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.</p> <p><input type="checkbox"/> The application is for a surface water transfer and water well reports are not required.</p> <p><b>Fees:</b></p> <p><input checked="" type="checkbox"/> Amount enclosed: \$ <u>250.00</u> See the Department's Fee Schedule at <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a> or call (503) 986-0900.</p>
---	---

**9. SIGNATURES**

I (we) understand that prior to approval of a permanent transfer and after issuance of a draft preliminary determination by the Department, I (we) must submit:

- (1) A report on ownership and lien information prepared by a title company within the last three months if required under OAR 690-380-3000(18), and
- (2) If I (we) are not the landowners, proof that the landowner or entity to which the water right has been quitclaimed consents to the transfer or that ownership information is not required.

I (we) affirm that the information contained in this application is true and accurate.

	Roy Malensky	8-22-05
applicant signature	name (print) General Partner	date
applicant signature	name (print)	date

**Before submitting your application, be sure you have:**

- Answered each question completely.
- Included the required attachments.
- Provided original signatures for all named deed holders or other parties with an interest in the right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

79998

WATER WELL REPORT

are to be filed with the WATER RESOURCES DEPARTMENT. SALEM, OREGON 97310 within 30 days from the date of well completion.

STATE OF OREGON NOV-31979 State Well No. 15000-3120 WATER RESOURCES DEPT SALEM, OREGON State Permit No.

S WELL

(1) OWNER: Name Oregon Berry Packing Co. Address Route 4, Box 198 C Hillsboro, Oregon 97123

(2) TYPE OF WORK (check): New Well [X] Deepening [ ] Reconditioning [ ] Abandon [ ]

(3) TYPE OF WELL: Rotary [X] Driven [ ] Cable [ ] Jetted [ ] Dug [ ] Bored [ ] (4) PROPOSED USE (check): Domestic [ ] Industrial [ ] Municipal [ ] Irrigation [X] Test Well [ ] Other [ ]

(5) CASING INSTALLED: 3/4" Diam. from plus 2 ft. to 165 ft. Gage .250

(6) PERFORATIONS: Perforated? [ ] Yes [X] No. Size of perforations in. by in.

(7) SCREENS: Well screen installed? [ ] Yes [X] No. Manufacturer's Name Type Diam. Slot size Set from ft. to ft.

(8) WELL TESTS: Drawdown is amount water level is lowered below static level. Was a pump test made? [ ] Yes [X] No If yes, by whom? Yield: 625 gal./min. with 110 ft. drawdown after 4 hrs.

(9) CONSTRUCTION: Well seal—Material used Cement Well sealed from land surface to 165 ft. Diameter of well bore to bottom of seal 15 in.

Was a drive shoe used? [ ] Yes [X] No Plugs Size: location ft. Did any strata contain unusable water? [ ] Yes [X] No Type of water? depth of strata Method of sealing strata off Was well gravel packed? [ ] Yes [X] No Size of gravel: Gravel placed from ft. to ft.

(10) LOCATION OF WELL: County Washington Driller's well number SW 1/4 SE 1/4 Section 31 T. 1 S R. 2 W W.M. Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well. Depth at which water was first found 224 ft. Static level 40 ft. below land surface. Date 10/31/79 Artesian pressure lbs. per square inch. Date

(12) WELL LOG: Diameter of well below casing 10" Depth drilled 305 ft. Depth of completed well 300 ft. Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated.

Table with columns: MATERIAL, From, To, SWL. Rows include Firm brown clay, Soft light brown silty clay, Soft gray silty clay, Sticky blue-gray clay, Sticky gray-green clay, Soft red-brown decomposed basalt, Firm gray basalt, Soft red-brown basalt, Firm gray-brown basalt, Soft red-brown basalt, Firm gray-brown basalt, Soft brown basalt, Hard gray basalt w/occ. broken zones, Extremely fractured basalt from 280 to 305, WELL COMPLETED TO 300'

Work started 10/16/79 19 Completed 10/31/79 19 Date well drilling machine moved off of well 11/1/79 19

Drilling Machine Operator's Certification: This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief. [Signed] Date 11/1/79 19 Drilling Machine Operator's License No. 751

Water Well Contractor's Certification: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief. Name A. M. JANNSEN WELL DRILLING CO. INC. Address 21075 SW Tualatin Valley Hwy. Aloha, Or. [Signed] Date 11/1/79 19 Contractor's License No. RECEIVED Date 11/1/79 19

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

RECEIVED

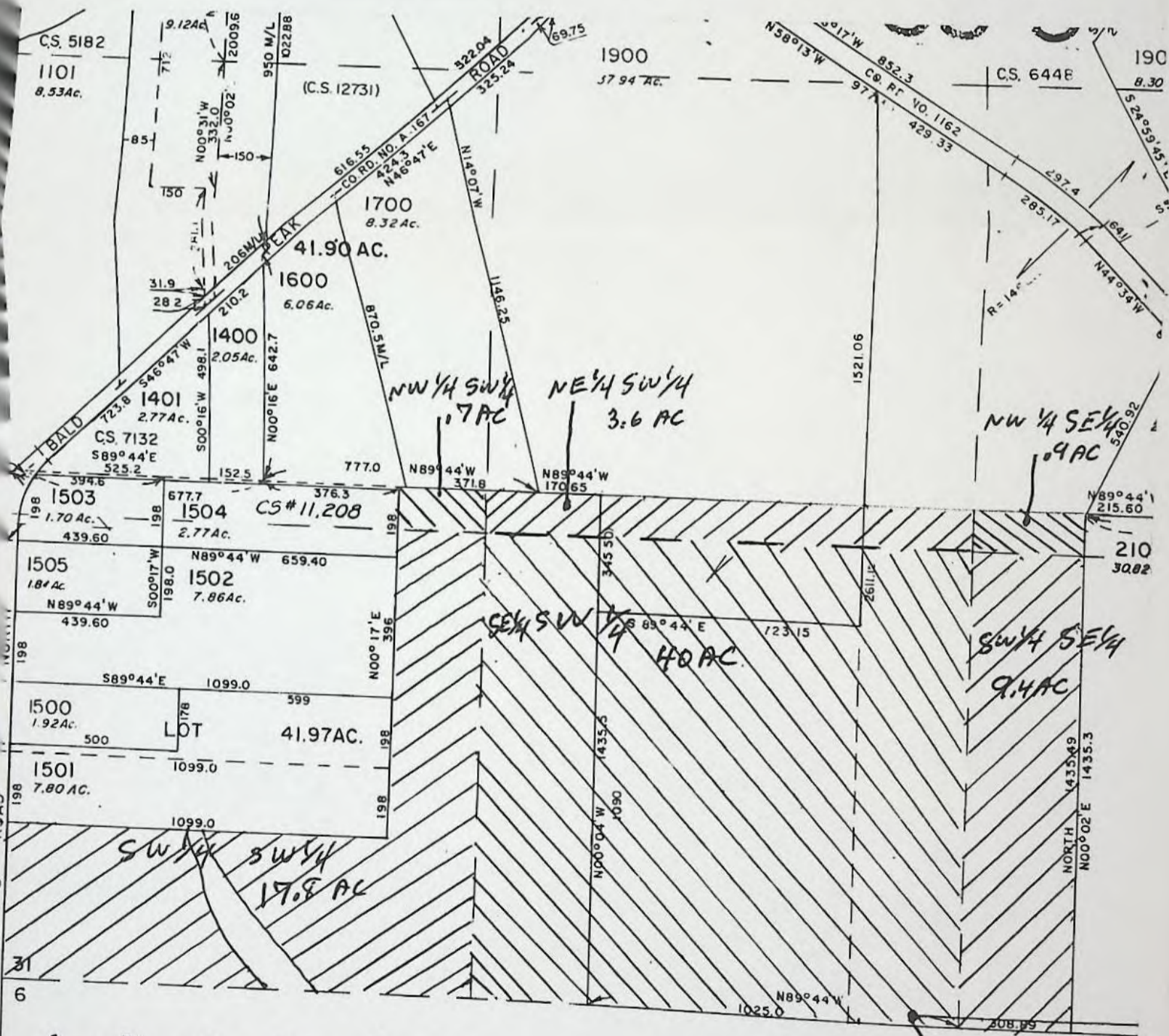
JUN 17 1981

WATER RESOURCES DEPT.  
SALEM, OREGON

*Ray J. [Signature]*  
Signature of Applicant

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

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



Application No. D10319  
Permit No.

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

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON  
WASHINGTON COUNTY

IN THE MATTER OF CANCELLATION OF A )  
PORTION OF A WATER RIGHT CERTIFICATES )  
NUMBERS 51797 AND 75273 IN THE NAME ) FINAL O R D E R  
OF OREGON BERRY PACKING )

ORS 540.621 directs the Commission to enter an order canceling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

**Findings of Fact**

On February 24, 2005, the Department received an affidavit from Malensky Land Company Limited Partnership, 11335 SW Hillsboro Hwy, Hillsboro, Oregon 97123 stating they are the owners of land, the water right appurtenant to the said lands and have abandoned any and all interest in the rights described as follows:

Water right Certificate Number 51797 issued to Oregon Berry Packing Company, with a date of priority of May 7, 1973, for use of water from Drainage Ditch and Reservoir 1, constructed under Permit R-6159, for irrigation of 29.0 acres erroneously described within the SE 1/4 NW 1/4 Section 31, and 10.4 acres within the Lot 7 (SW 1/4 SE 1/4), Section 31, Township 1 South, Range 2 West, of the Willamette Meridian; and

Water right Certificate Number 75273 issued to Oregon Berry Packing Company, with a date of priority of May 7, 1973, for use of water from A Well for supplemental irrigation of 29.0 acres within the SE 1/4 SW 1/4 and 10.4 acres within the Lot 7 (SW 1/4 SE 1/4), Section 31, Township 1 South, Range 2 West, of the Willamette Meridian.

**Conclusions of Law**

The Director of the Water Resources Department concludes that a portion of the rights, described above, have been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Now, therefore, it is ORDERED:**

Portions of Certificates of water right described herein are canceled; and

Certificates of Water Rights be issued describing the portions of the rights not abandoned and canceled by the provisions of this order.

Dated at Salem, Oregon this 12th day of May, 2005.

  
\_\_\_\_\_  
Phillip C. Ward, Director

## Water Right Cancellations

ORS 540.621 authorizes the Director to issue an order canceling a perfected and developed water right whenever the owner certifies under oath that the right has been abandoned and requests a cancellation of the right.

The Department has received affidavits from owners of land to which a water right is appurtenant stating the owner has abandoned the water right and request the Department to cancel portions of the right appurtenant to the land.

The Department proposes to issue orders canceling all or a portion of the following water right(s):

County: Washington  
Water Right Certificate: 51797 in the name of Oregon Berry Packing Company  
Landowner: Malensky Land Company Limited Partnership  
Address: 11335 SW Hillsboro Hwy, Hillsboro, OR 97123  
Use: irrigation  
Quantity: 0.0 cfs  
Source: Drainage Ditch and Reservoir 1, constructed under pemrit R-6159  
tributary of Christensen Creek  
Priority : May 7, 1973  
Acreage: 39.4 acres  
Location: Tax Lots 1900, 1904 and 1905, Section 31, Township 1 South,  
Range 2 West, WM

County: Washington  
Water Right Certificate: 75273 in the name of Oregon Berry Packing Company  
Landowner: Malensky Land Company Limited Partnership  
Address: 11335 SW Hillsboro Hwy, Hillsboro, OR 97123  
Use: supplemental irrigation  
Quantity: 0.0 cfs  
Source: A Well in the Christensen Creek Basin  
Priority : May 7, 1973  
Acreage: 39.4 acres  
Location: Tax Lots 1900, 1904 and 1905, Section 31, Township 1 South,  
Range 2 West, WM



# Oregon

Theodore R. Kulongoski, Governor

August 24, 2004

## Water Resources Department

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

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

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

Dear Mr. Verboort:

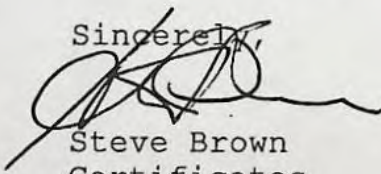
I have received your request to complete the processing of Transfer Application No. T-7050, on behalf of Mr. Malensky.

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

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

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

Sincerely,

  
Steve Brown  
Certificates

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

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

enclosures



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

December 18, 2001

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

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

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

Dear Ladies and Gentlemen:

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

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

December 18, 2001  
MALENSKY, et. al.

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

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

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

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

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

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

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

December 18, 2001  
MALENSKY, et. al.

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

Sincerely,

Steve Brown  
Certificates

c: Mr. Verboort

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

# AFFIDAVIT

State of Oregon                    )  
  )ss  
County of Washington         )

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

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

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

STATE OF OREGON  
COUNTY OF WASHINGTON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OREGON BERRY PACKING COMPANY  
ROUTE 6, BOX 224  
HILLSBORO, OREGON 97123.

confirms the right to use the waters of A WELL in the CHRISTENSEN CREEK BASIN for PRIMARY IRRIGATION OF 1.0 ACRE AND SUPPLEMENTAL IRRIGATION OF 68.7 ACRES.

This right was perfected under Permit G-5692. The date of priority is MAY 7, 1973. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.55 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , AS PROJECTED WITHIN LEWIS DLC 51, SECTION 31, T 1 S, R 2 W, W.M.; 420 FEET SOUTH AND 2650 FEET EAST FROM THE NW CORNER OF SECTION 31.

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

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

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

PRIMARY

LOT 5 (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) 1.0 ACRE

SUPPLEMENTAL

LOT 4 (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) 11.1 ACRES  
LOT 5 (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) 0.1 ACRE  
LOT 3 (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) 4.8 ACRES  
SE $\frac{1}{4}$  SW $\frac{1}{4}$  29.0 ACRES  
LOT 5 (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) 1.4 ACRES  
LOT 6 (NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) 11.9 ACRES  
LOT 7 (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) 10.4 ACRES

SECTION 31  
TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

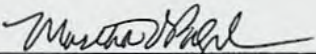
This certificate describes that portion of the water right confirmed by Certificate 51806, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered DEC 02 1997 approving Transfer Application 7050

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

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

WITNESS the signature of the Water Resources Director,

affixed DEC 02 1997

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

Recorded in State Record of Water Right Certificates numbered 75273.

T-7050.PKS



## *Water Resources Department*

### MILL CREEK OFFICE PARK

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

May 24, 1984

PHONE 378-8508

OREGON BERRY PACKING COMPANY  
Route 6, Box 224  
Hillsboro, OR 97123

REFERENCE: File G-5800 & 49266

Gentlemen:

It has been brought to my attention that Certificates of water right recorded at pages 51797 and 51806, Volume 46, State Record of Water Right Certificates, which were mailed to you recently, were issued in error.

We received a statement from Roy J. Malensky in 1981 advising us that he was relinquishing use of water from the drainage ditch, reservoir #1 and a well next to the reservoir, in favor of his well for irrigating lands initially included in Lewis Malensky's permits 38077 and G 5692. Although we deleted this area from the maps, copies of which were sent to you, I failed to eliminate these lands from the Proofs of Appropriation of water from said permits.

Enclosed are corrected proofs along with a map print. Please examine the information again. If it meets with your approval, sign both proofs and return them. I will then return the original signed proofs to you and we will issue correction certificates based on the second set of proofs.

I apologize for the inconvenience, but do thank you for your cooperation.

Sincerely,

Thomas E. Shook  
Senior Water Rights Examiner

TES:cle



*Water Resources Department*  
MILL CREEK OFFICE PARK

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

PHONE 378-8508

September 15, 1983

Oregon Berry Packing Company  
Route 4, Box 197  
Hillsboro, Oregon 97123

REFERENCE: Files Numbered G-5800, 49266, R-53059, and 53060

Gentlemen:

The proofs for your Permits Numbered G-5692, 38077, R-6128, and 37849 have been received along with your letter.

We are prepared to issue certificates of water right confirming use of water under the above mentioned permits. Perfected water rights, as evidenced by water right certificates, are appurtenances to the specific places of use upon which the rights were established and belong to the legal owner of the real property. The law does not provide for making the change of ownership of such rights a matter of record in this office; therefore, an assignment or name change is not required.

Unless we hear from you to the contrary within thirty days from the date of this letter, we will issue the certificates under the name of Oregon Berry Packing Company.

Sincerely,

Thomas E. Shook  
Senior Water Rights Examiner

TES/jw

GR-477  
G-5800  
R-53059  
· 53060  
R-49265  
49266

Memo to File:

While drafting final proof maps for Oregon Berry Packing Co. it was found that the application map for GR-477 was in error. A new map was drafted using the legal description from GR-477 and photos DFR-20-104 & DBS-444-26. The two major problems were incorrect placement of 40 lines (running east-west) and the entire South East Area below the DLC Line. While drafting the new map, the land south of the DLC line was slid eastward about 100', keeping the DLC lines aligned.

These changes were approved by Larry Toll, Tom Skook, and David Jarrett.

David Jarrett  
7/9/79

\$ 15<sup>00</sup>  
19<sup>60</sup>  

---

34<sup>60</sup>

0 0  
1.1 0  
2 3.3 0  
1 0.6 0  
1.0 0  
3 8.3 0  
3 0.0 0  
3 1.0 0  
9.3 0  
3.7 0  
1 4 8.3 0 S

4 0  
2 9.4 0  
1.6 0  
1.5 0  
1 8 1.2 0 T

Louis R. Malensky  
Route 4, Box 198 A  
Hillsboro, OR 97123

49266 and  
R-49265

38077 and R-6159 with map  
and Check No. 79 for refund of excess recording fees - \$1.30

June 20, 1975

R-53059  
53060  
R-49265  
49266  
G-5800  
GR-477

Klein and Stuckey  
Consulting Engineers  
1928 Council St.  
Forest Grove, OR 97116

ATTENTION: Andrew M. Klein

Dear Sir:

This will acknowledge return of the ground water application No. G-5800 now describing the proposed irrigation of 5.7 acres and the supplemental irrigation of 148.3 acres, return of the surface water application No. 49266 now describing the proposed irrigation of 148.3 acres and the supplemental irrigation of 32.9 acres, and the return of the application No. 53060 you submitted for Oregon Berry Packing Company now describing the proposed supplemental irrigation of 279.8 acres. The additional fees of \$4.50 were also received for which our receipts No. 47784 and No. 47785 are enclosed.

The applications No. G-5800, No. R-53059, No. 53060, No. R-49265, and No. 49266 are now in satisfactory form for approval by the issuance of permits.

Very truly yours,

Wayne J. Overcash  
Assistant

WJ:db

Encl: Receipts No. 47784 and No. 47785  
cc: Oregon Berry Packing Company  
ATTENTION: Roy J. Malensky



# STATE ENGINEER

## WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

ROBERT W. STRAUB  
~~ECM W. CASE~~  
GOVERNOR

CHRIS L. WHEELER  
State Engineer

June 9, 1975

File No. R-53059  
53060  
R-49265  
49266  
G-5800  
GR-477

Klein and Stuckey  
Consulting Engineers  
1928 Council St.  
Forest Grove, OR 97116

ATTENTION: Andrew M. Klein

The application you submitted for Oregon Berry Packing Company for a permit to construct the L.R.M. pond and to store therein 19.8 acre feet of water from an unnamed stream for irrigation and supplemental irrigation was received along with the reproducible set and print of the plans and two sets of specifications. The fees in the amount of \$25.00 were also received for which our receipt No. 46566 is enclosed. This reservoir application has been filed as No. R-53059.

The application you submitted for Oregon Berry Packing Company for a secondary permit to appropriate 3.5 cubic feet of water per second from the unnamed stream and L.R.M. pond for irrigation and supplemental irrigation of 279.8 acres was also received along with the map prepared on tracing paper, the print of the tracing, legal descriptions, and the fees of \$87.50. Our receipt No. 46567 is enclosed. This secondary application has been filed as No. 53060.

It will be necessary for you to further complete the map by showing the acreage to receive a primary supply of water in a different manner than the acreage to receive the supplemental supply. This may be accomplished by cross-hatching the areas to receive the primary supply of water.

According to the map you submitted with the application, it appears that the Oregon Berry Packing Company intends to irrigate, among other lands, the same acreage as illustrated on the map supporting the earlier applications No. G-5800 and No. 49266. If so, and you feel that the map correctly represents the acreage to be irrigated from the well described in the application No. G-5800 and from the Campbell Creek drainage ditch and reservoirs No. 1, No. 2, and No. 3 described in the application No. 49266, you may amend the application No. G-5800 and No. 49266 and correct the supporting map to be in agreement with the acreages listed on the map you submitted to support the application No. 53060. If the earlier filings and map are corrected, it will be necessary for you to amend Item No. 8 of the application No. 53060 by changing the present acreage listed as primary to supplemental with the exception of the first three

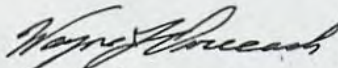
Klein and Stuckey

June 9, 1975

primary listings.

I am returning the application No. 53060 and supporting map, the ground water application No. G-5800, and the surface water application No. 49266 and supporting map for correction and completion. The applications are all endorsed so that in order to retain their priority dates, they must be received in this office on or before August 8, 1975.

Very truly yours,



Wayne J. Overcash  
Assistant

WO:db

Encl: Receipt No. 46566  
46567

cc: Oregon Berry Packing Company  
ATTENTION: Roy J. Malensky

May 8, 1975

R-49265  
49266  
G-5800  
GR-477  
GR-478

Oregon Berry Packing Co.  
Rt. 4, Box 198 A  
Hillsboro, OR 97123

Gentlemen:

The assignment of applications numbered R-49265, 49266 and G-5800 and Registration numbered GR-478, GR-477, Certificate of Registration number GR-460 and GR-459, from Louis Malensky to you has been recorded in the records of the State Engineer. Our records have been changed accordingly, and the originals are enclosed.

Very truly yours,

Vestal R. Garner  
Assistant

VRG:mm  
enc:



**STATE  
ENGINEER**

**WATER RESOURCES DEPARTMENT**

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

TOM McCALL  
GOVERNOR

CHRIS L. WHEELER  
State Engineer

June 19, 1974

File No. G-5800  
R-49265  
49266

Louis R. Malensky  
Route 4, Box 175  
Hillsboro, OR 97123

Dear Mr. Malensky:

Thank you for your check in the amount of \$7.55 for recording fees.

Your applications numbered G-5800, R-49265, and 49266 are now in satisfactory form for approval by the issuance of permits.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TES:cdp  
Encl. Receipt No. 40821

May 23, 1974

0-5700  
3-49265  
49266

Louis R. Malensky  
Route 1, Box 175  
Hillsboro, OR 97123

Dear Mr. Malensky:

We have been holding action on your application numbered 49266 pending receipt of the additional irrigation recording fees.

Due to a change in the number of acres that you intend to irrigate from the well as described under application numbered 3-5800 we have been able to apply \$1.00 from the ground water application to your file number 49266. If you will now send us the irrigation recording fees in the amount of \$7.50, we will be able to continue processing your applications for permits.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TEW: cdp

6/10/74

Address change:

Rt 4, Box 198A

Hillsboro, Oregon

RECEIVED

97123

JUN 11 1974

STATE ENGINEER

SALEM OREGON

Mrs. Louis Malinsky

SM-  
**RECEIVED**  
MAY 19 1972

STATE ENGINEER  
SALEM, OREGON

Permit No. Superseded

**\*APPLICATION FOR PERMIT**

# To Appropriate the Public Waters of the State of Oregon

I, LOUIS R MALENSKY

(Name of applicant)

of RT4 BOX 175 HILLSBORO

(Mailing address)

State of OREGON

, do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

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

1. The source of the proposed appropriation is CAMPBELL CREEK AND RESERVOIRS LM  
(Name of stream)  
PUMPING RESERVOIR (#1), #2 AND #3 IN CAMPBELL CREEK, a tributary of TUALATIN RIVER

2. The amount of water which the applicant intends to apply to beneficial use is 2.2 LM  
cubic feet per second.

(If water is to be used from more than one source, give quantity from each)

\*\*3. The use to which the water is to be applied is IRRIGATION AND SUPPLEMENTAL  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)  
IRRIGATION LM

4. The point of diversion is located 300 ft. N and 63° 30 FT W from the SE  
(N. or S.) (E. or W.)  
(#1) NE 1/4 OF SE 1/4 OF SEC 31  
corner of SW 1/4 OF NE 1/4 OF SEC 31  
(Section or subdivision)

(#2) " " " " " "

(#3) " " " " " "

LM

(If preferable, give distance and bearing to section corner)

(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)

being within the SW 1/4 OF NE 1/4 of Sec. 31, Tp. 1S  
(Give smallest legal subdivision) (N. or S.)

R. 2W, W. M., in the county of WASHINGTON  
(E. or W.)

5. The PIPE to be 20 FEET  
(Main ditch, canal or pipe line) (Miles or feet)  
in length, terminating in the SW 1/4 OF NE 1/4 of Sec. 31, Tp. 1S  
(Smallest legal subdivision) (N. or S.)

R. 2W, W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

## DESCRIPTION OF WORKS

### Diversion Works—

6. (a) Height of dam \_\_\_\_\_ feet, length on top \_\_\_\_\_ feet, length at bottom \_\_\_\_\_ feet; material to be used and character of construction \_\_\_\_\_  
(Loose rock, concrete, masonry,

rock and brush, timber crib, etc., wasteway over or around dam)

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

(c) If water is to be pumped give general description 20 H.P. CENTRIFUGAL PUMP LM  
(Size and type of pump)

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

\*A different form of application is provided where storage works are contemplated.

\*\*Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

Canal System or Pipe Line—

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

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

(c) Length of pipe, 20 ft.; size at intake, 6" in.; size at 20 ft. from intake 6" in.; size at place of use RESERVOIR in.; difference in elevation between intake and place of use, NONE ft. Is grade uniform? YES Estimated capacity, 7 sec. ft.

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

Township North or South	Range E. or W. of Willamette Meridian	Section	Forty-acre Tract	Number Acres To Be Irrigated
15	2W	31	SE 1/4 OF NW 1/4	<del>25</del> 23.3 PM
15	2W	31	SW 1/4 OF NE 1/4	<del>40</del> 10.6 PM
<del>15</del>	<del>2W</del>	<del>31</del>	<del>SE 1/4 OF NE 1/4</del>	<del>6</del>
15	2W	31	NW 1/4 OF SW 1/4	1
15	2W	31	NE 1/4 OF SW 1/4	37
15	2W	31	NW 1/4 OF SE 1/4	30
15	2W	31	SE 1/4 OF SW 1/4	30
15	2W	31	SW 1/4 OF SE 1/4	10
SUPPLEMENTAL				
15	2W	31	SE 1/4 OF NW 1/4	1.7 PM
✓	✓	✓	SW 1/4 OF NE 1/4	29.4 PM
			SE 1/4 OF NE 1/4	4.9 PM

(If more space required, attach separate sheet)

(a) Character of soil LOAM

(b) Kind of crops raised ROW CROPS & ALFALFA

Power or Mining Purposes—

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

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

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

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

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

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

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

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

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

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

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

Municipal or Domestic Supply—

10. (a) To supply the city of .....

(Name of)

County, having a present population of .....

and an estimated population of ..... in 19.....

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

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

11. Estimated cost of proposed works, \$.....

12. Construction work will begin on or before N/A

13. Construction work will be completed on or before 1971

14. The water will be completely applied to the proposed use on or before AUG 1974

X Louis Malinsky  
(Signature of applicant)

Remarks: THE PIPE RUNS FROM THE CREEK TO THE STORAGE AND PUMPING RESERVOIR, IF CAMPBELL CREEK IS CLOSED, THE PIPE CAN BE BLOCKED OFF TO ALLOW DIRECT FLOW OF CREEK TO PASS DOWNSTREAM. PLEASE CONSIDER A WATER RIGHT TO JULY 1 OF EACH YEAR. CURRENTLY THERE IS ADEQUATE WATER IN CAMPBELL CREEK UNTIL AT LEAST JULY 15, INCLUDING THE LAST 5 YEARS WHICH HAVE BEEN DRY YEARS.

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

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

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before ~~November 21~~, 19 ~~72~~ ✓  
January 16, 73 ✓

WITNESS my hand this ~~21st~~ 16th day of ~~September~~ ✓ November ✓, 19 ~~72~~ 72 ✓

RECEIVED NOV 9 1972 STATE ENGINEER SALEM, OREGON  
RECEIVED MAY 7 1973 STATE ENGINEER SALEM, OREGON

CHRIS L. WHEELER

STATE ENGINEER

By Thomas E. Shook  
Thomas E. Shook

ASSISTANT

PERMIT

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

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

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed ..... cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from .....

The use to which this water is to be applied is .....

If for irrigation, this appropriation shall be limited to ..... of one cubic foot per second or its equivalent for each acre irrigated .....

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

The priority date of this permit is .....

Actual construction work shall begin on or before ..... and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 19.....

Complete application of the water to the proposed use shall be made on or before October 1, 19.....

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

STATE ENGINEER

Application No. 49266  
Permit No. Superseded

PERMIT  
TO APPROPRIATE THE PUBLIC  
WATERS OF THE STATE  
OF OREGON

This instrument was first received in the office of the State Engineer at Salem, Oregon, on the 19th day of May, 1922, at 8 o'clock P.M.

Returned to applicant: .....

Approved: .....

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

STATE ENGINEER

Drainage Basin No. 2 page 62814  
Fees .....



STATE  
ENGINEER

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

TOM McCALL  
GOVERNOR

CHRIS L. WHEELER  
State Engineer

File No. R-49265  
49266  
G-5800

October 18, 1973

Louis Malensky  
Rt. 4, Box 175  
Hillsboro, OR 97123

Dear Sir:

This will acknowledge your applications numbered R-49265, 49266, and G-5800 and the supporting reproducible map.

I apologize for not bringing this to your attention earlier, but your application for a permit to appropriate water from Campbell Creek, the drainage ditch, and the three reservoirs requires an examination fee of \$15.00 in addition to an irrigation recording fee for 177.9 acres of \$19.40. Although \$25.00 has been applied to this application, an additional \$9.40 is required to complete the fees.

Also, a date for the completion of your reservoir project must be given in item 13 of the original application numbered R-49265. If you will give us a completion date and your authorization to add it to your application, it will not be necessary to return your application for this correction.

Further action will be held on your applications for a reasonable length of time pending your reply.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TES:cdp

R-49265  
49266  
G-5800

April 16, 1973

Mr. Louis R. Malensky  
Route 4, Box 175  
Hillsboro, OR 97123

Dear Sir:

Early last February, I advised you that your three applications were not found in our office. I also mentioned that on receipt of the applications, they would be reinstated.

In the event the original applications have been lost, I have enclosed new forms to be used as superseding applications. Also enclosed is an aerial photo along with an earthwork computation sheet and a print of a map.

We will hold action on your applications for a reasonable length of time pending your reply.

Very truly yours,

THOMAS E. SHOOK  
Assistant

30  
TES:bjs  
Enclosures

L-49265  
49266  
G-5800

February 8, 1973

Mr. Louis Malensky  
Route 4, Box 175  
Millsboro, OH 97123

Dear Sir:

Thank you for your letter of January 30, 1973 regarding applications numbered L-49265, 49266, and G-5800.

We have searched our records for your applications, but they were not found. Although I do not know the date your applications were received in this office last fall, it was before November 16, 1972 because I returned the three applications and the two reproducible maps to you on that date. A copy of my letter is enclosed.

We will be happy to reinstate your applications just as soon as they are received in this office. If you have any questions, do not hesitate to call on us.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TES:bjjs  
Enclosure

RECEIVED  
JAN 30 1973  
STATE ENGINEER  
SALEM OREGON

LOUIS MALEUSKY  
RT4, Box 175  
HILLSBORO, OREGON 97123

Dear Mr. Shook;

In answer to your letter dated January 18, 1973, regards the loss of priority on specific water rights, I request that the dates be reinstated.

My applications numbered R-49265, 49266, and G-5800 were corrected and mailed to your office in October, 1972. I request that a thorough search be made for these documents in your office, as they were either lost in the mail or misplaced in your office.

This is the second time that documents have evidently disappeared regards these specific applications. Please check other existing water rights under my name in case they were filed there.

If the corrected applications listed above cannot be found, please let me know so I shall have to gather all of the necessary information again. I hope you can find them!

Application No. R-49265, 49266 G-5800  
Permit No.

Sincerely yours  
Louis Maleusky

K-49265  
49266  
G-5800

January 18, 1973

Mr. Louis R. Malensky  
Route 4, Box 175  
Hillsboro, OR 97123

Dear Sir:

Your applications numbered K-49265, 49266, and G-5800, which were returned to you for correction and completion, have not been received. They were endorsed so that in order to have retained their priority dates they should have been received on or before January 16, 1973.

They have, therefore, lost their priority, but may be reinstated and given new priority dates as of the day they are again received.

Very truly yours,

THOMAS L. SROOK  
Assistant

TLS:bjs

R-49265  
49266  
G-5800

November 16, 1972

Mr. Louis R. Malensky  
Route 4, Box 175  
Hillsboro, OH 97123

Dear Sir:

This will acknowledge your reservoir application numbered R-49265, the secondary application numbered 49266, and the ground water application numbered G-5800 as well as the reproducible water right map.

You were right, the original reproducible map was not returned to you with your applications on September 21, 1972. We have recently found this map in the office; therefore, let's work with the original rather than the second map which was prepared by the FGA Company.

The designation of the reservoirs should be given in item 1 of the reservoir application numbered R-49265. Perhaps Rumping Reservoir, Creek Reservoir Number 2 and Creek Reservoir Number 3 would be appropriate.

Item 3 must be amended by listing the amount of water to be stored in each of the creek reservoirs and item 5(a) should be amended by listing Creek Reservoirs 2 and 3 as being in the channel of a running stream.

You have mentioned that a concrete dam with flash boards will be built in Campbell Creek; therefore, it will be necessary to complete item 6 by giving a general description of each dam. This information could be included under the remarks section of the application or on a separate sheet of paper.

November 10, 1972

2

R-49265  
49266  
C-5800

It will also be necessary to amend item 10 by listing the area submerged, in acres, by each of the reservoirs as well as listing the approximate mean depth of water for each reservoir. The product of these figures for each reservoir will have to correspond with the acre foot figures that are given in item 3 of this application.

The drainage ditch must be included as a source of water in item 1 of application numbered 49266 and it is also necessary to specify, in item 2, a specific amount of water to be appropriated from Campbell Creek as well as from the drainage ditch for irrigation.

Based on the information shown on the map prepared by the FGL Company, the government survey corner should be designated as the northwest corner of the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 31 rather than the southeast corner of the NE $\frac{1}{4}$  SW $\frac{1}{4}$  as given in item 4. If true, please change the application accordingly. It is also necessary to further describe the location of each diversion point as being within a quarter-quarter section of Section 31. Again, based on your map, the diversion points numbered 1 and 2 are located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 31 and diversion point numbered 3 is located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 31 and if you agree, line 7 of this item should show this.

I have enclosed a print of your original reproducible map to assist you in correcting your original map. The location description of each diversion point, including the well, must be shown on the map as it is given in item 4. Please note that the area to be irrigated is to be shown hatched and the number of acres to be irrigated within each quarter-quarter section will have to be inserted within the hatched area. This information must correspond with the data given in item 8.

Also enclosed are two partially completed applications for your inspection and completion. If you agree with them, please sign the applications in the spaces provided and return them along with the original applications.

I am returning both reproducible maps and the applications for correction and completion. The applications are endorsed so that in order to retain their priority dates, they must be received in this office on or before January 10, 1973.

Very truly yours,

THOMAS E. SHOOK  
Assistant

TLS:bjs  
Enclosures

R-49265  
49266  
GR-477

September 21, 1972

Mr. Louis Malensky  
Route 4, Box 175  
Hillsboro, OR 97123

Dear Mr. Malensky:

This will acknowledge an application for a permit to construct a reservoir and store therein 7.775 acre feet of water for irrigation and fees of \$20.00 for which our receipt numbered 28438 is enclosed. This application has been filed and numbered R-49265.

Also acknowledged is an application for a permit to appropriate 0.7 cubic foot of water per second from Campbell Creek for the irrigation of 179 acres, a reproducible map, a print of a map, a legal description, and the fees of \$25.00 for which our receipt numbered 28439 is enclosed. This application has been filed and numbered 49266.

A second application has also been received requesting a permit to appropriate 2.2 cubic feet of water per second from Campbell Creek and a reservoir for the irrigation of 179 acres. This application has not been filed because it appears to duplicate most of the data given on application numbered 49266. The information on this application should be included on application numbered 49266.

We cannot accept an application for the storage of ground water, therefore, application numbered R-49265 must be amended by deleting "supplemental wells, certificate numbered GR-459" from line 2 of item 2. Campbell Creek is mentioned as a source of water in a couple of places on the application so it must be included in this item as a source of water.

Under the remarks section, you have implied that "two basic systems" make up the proposed project for storing water, namely the ditch and the sump. After the sump is filled, it appears that the ditch will have to be closed to allow storage in the ditch. If this is correct, it is necessary that the quantity of water to be stored within each reservoir be listed in item 3.

Based on the lands shown on the map that have to be irrigated along with the information given on application numbered 49266, some of the stored water will be used to supplement water from the well described in Certificate of Water Right recorded at Page GN-459, Ground Water Registration Records. If this is the case, application numbered 49265 must be amended by inserting "and supplemental irrigation" in item 4.

Please list the location of both reservoirs in item 5. Also, item 5 (b) must be changed by deleting the information given and describing how the water will be conveyed from the source to the reservoir.

The quarter-quarter section listed in item 6 of the application describing the location of the dam, does not agree with the information that is shown on the map. Either the map or the application will have to be changed so that they agree with each other. It is also necessary that items numbered 6, 7, 8, 9, and 10 be completed by listing information for each reservoir.

The two reservoirs will have to be included as a source of proposed appropriation in item 1 of the secondary application numbered 49266.

Based on the number of acres that you wish to irrigate, you will be allowed to appropriate up to 2.2 cubic feet of water per second; therefore, item 2 could be amended by deleting 0.7 cubic foot of water per second and inserting 2.2 cubic feet of water per second.

As mentioned previously, part of the lands described in this application are included under an earlier claim and "supplemental irrigation" will have to be listed on the application in item 3, if you intend to maintain the earlier claim.

The description of the location of the diversion points, referenced to a government survey corner, must be included in item 4 along with listing the quarter-quarter sections within which the diversion points are located.

Please complete item 6 by listing the physical characteristics of each of the diversion works.

If there are supplemental irrigated lands, this must be clarified in item 8 of the application by listing the number of acres of primary irrigation within an appropriate forty-acre tract as well as listing the number of acres of supplemental irrigation within each forty-acre tract.

The description of the location of the points of diversion must be shown on the map as they are given in item 4 of application numbered 49266. The area to be irrigated will also have to be shown, hatchured, and the number of acres to be irrigated inserted within the hatchured area within each forty-acre tract. It will be necessary that this information agree with the data given in item 8 of the application.

To assist you in correcting and completing the enclosed reproducible map and reservoir and secondary applications, I am returning the unfiled application. Applications numbered k-49265 and 49266 are endorsed so that in order to retain their priority dates, they must be received in this office on or before November 21, 1972.

Very truly yours,

Thomas L. Shook  
Assistant

TLS:bjs  
Enclosures

# Abstract of Ground Water Registration

Registration No. GR-477

Certificate No. GR-459

Name Louis R. Malensky  
 Address Route 4 Hillsboro, Oregon  
 Source of water supply Pump Well  
 Use Irrigation  
 Point of diversion N. 58° 41' <sup>E</sup> W. 1954.38' from the SW corner of Charles Lewis DEC 751, being within the NE 1/4 NW 1/4 of Sec. 31, T. 1 S., R. 2 W., W.M., in the county of Washington.  
 Number of acres 138.6

**RECEIVED**  
 MAY 19 1972  
 STATE ENGINEER  
 SALEM OREGON

### DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4
1S	2W	30																
		31		25.6	29.4	1.6	33.5	1.8		1.7					0.4	1.5		

Priority date Unknown

Amount of water claimed 780 g.p.m.

Time limit to completely apply water completed extended to extended to

Remarks:

**Application No.** R. 49265, 49266, G-5800  
**Permit No.**

Campbell to wells

Basin 2 Vol. 16

RECEIVED  
MAY 19 1972  
STATE ENGINEER  
SALEM OREGON

75118

CONTRACT

THIS CONTRACT made the 13 day of May, 1960, between JULIUS CHRISTENSEN and RUTH CHRISTENSEN, husband and wife, first party, and LOUIS MALESKY and MARY MALESKY, husband and wife, second party, WITNESSETH:

That in consideration of the stipulations herein contained and the payments to be made as hereinafter set forth, the first party hereby agrees to sell, and the second party agrees to purchase the following described real property situated in Washington County, State of Oregon, to-wit:

Parcel 1:

Beginning at the one-quarter section corner on the south line of section 31, township 1 south, range 2 west of the Willamette Meridian, in Washington County, Oregon, running thence north 89° 44' west 1025 feet on the south line of said section to the southwest corner of that tract conveyed to Julius Christensen by deed book 119 page 509 recorded November 16, 1920; thence north 00° 04' west 1435.5 feet; thence north 89° 44' west 170.65 feet to the southeast corner of that tract of land conveyed to James Forster et ux by deed book 358 page 631; thence north 14° 07' west on the easterly line of said Forster tract 1146.25 feet to the southeasterly line of that tract conveyed to Joseph W. Twigg et ux in deed book 180 page 569 and the center line of county road No. A-167; thence north 44° 30' east on said southeasterly line and said center line 325.24 feet to a point from which an iron pipe bears north 70° 10' east 69.25 feet; thence north 70° 10' east 478.85 feet on the southerly line of a tract of land conveyed to the State of Oregon by deed recorded in deed book 384 page 358 to the most easterly corner thereof on the southerly right-of-way line of Hillsboro-Silverton Highway; thence on said southerly right-of-way line on a 507.46 foot radius curve to the left (the long chord of which bears south 53° 33' east 47.20 feet) 47.20 feet; thence south 56° 13' east 977.30 feet continuing on said right-of-way line; thence on a 1402.58 foot radius curve right (the long chord of which bears south 50° 23' 30" east 284.52 feet) 285.17 feet; thence south 44° 34' east 548.31 feet to the northeast corner of that tract of land conveyed to C. R. Brunson, et ux by deed book 384 page 287; thence south 41° 27' west 354.55 feet on the westerly line of said Brunson tract to the southwest corner thereof on the northerly line of that tract of land conveyed to August Billings, et ux in deed book 175 page 7; thence north 89° 44' west 215.40 feet on the north line of said Billings tract to the northwest corner thereof; thence south 1435.49 feet on the west line of said Billings tract to the southwest corner thereof on the south line of section 31, thence north 89° 44' west 388.89 feet on said south line of section 31 to the place of beginning.

Parcel 2: Beginning at the southwest corner of the Charles Lewis

Page 1.

Application No. R-49265, 49266 G-5800  
Permit No:

RECEIVED  
MAY 13 1930  
STATE ENGINEER  
SALMON, OREGON

7509

CONTRACT

THIS CONTRACT was made the 23 day of May, 1926, between JULIUS CHRISTENSEN and RUTH CHRISTENSEN, husband and wife, first party, and LOUIS SLOANSKY and MARY SLOANSKY, husband and wife, second party, WISCONSINS.

That in consideration of the stipulations herein contained and payments to be made as hereinafter recited, the first party hereby agrees to sell, and the second party agrees to purchase the following described real property situated in Washington County, State of Oregon, to-wit:

Parcel 1:

Beginning at the one-quarter section corner on the south line of section 31, township 4 south, range 7 west of the Willamette Meridian, in Washington County, Oregon, running thence north 88° 44' west 1041 feet to the south line of said section to the southwest corner of that tract conveyed to Julius Christensen by deed book 117 page 387 recorded November 18, 1930; thence north 00° 04' west 1434.5 feet; thence north 84° 34' west 170.63 feet to the southeast corner of that tract of land conveyed to James Forester et ux by deed book 128 page 411; thence north 14° 07' west on the easterly line of said Forester tract 1448.25 feet to the southeasterly line of that tract conveyed to Joseph W. Feigy et ux in deed book 189 page 569 and the center line of county road No. A-147; thence north 44° 38' east on said southeasterly line and said center line 325.24 feet to a point from which an iron pipe bears north 70° 10' east 69.23 feet; thence north 70° 10' east 478.83 feet on the southerly line of a tract of land conveyed to the State of Oregon by deed recorded in deed book 234 page 288 to the most easterly corner thereof on the southerly right of way line of Hillsboro-Silverton Highway; thence on said southerly right-of-way line on a 507.46 foot radius curve to the left (the long chord of which bears south 33° 33' east 47.38 feet) 43.22 feet; thence south 54° 13' east 977.30 feet continuing on said right-of-way line; thence on a 1403.88 foot radius curve right (the long chord of which bears south 50° 23' 30" east 384.52 feet) 285.17 feet; thence south 44° 34' east 688.75 feet to the northeast corner of that tract of land conveyed to C. R. Bronson, et ux by deed book 384 page 287; thence south 41° 47' west 334.53 feet on the westerly line of said Bronson tract to the southwest corner thereof on the northerly line of that tract of land conveyed to August Billings, et ux in deed book 175 page 7; thence north 89° 44' west 315.60 feet on the north line of said Billings tract to the northwest corner thereof; thence south 1475.83 feet on the west line of said Billings tract to the southwest corner thereof on the south line of section 31, thence north 89° 44' west 308.83 feet on said south line of section 31 to the place of beginning.

Parcel 2: Beginning at the southwest corner of the Charles Lewis

Page 1.

EX-31-1075

Application No. R-49265, 49266, G-5800  
Permit No.

7509-7

donation land claim number 51 of Section 31, township 1 south, range 2 west of the Willamette Meridian, in Washington County, Oregon, running thence south 86° 24' east on the south line of said claim 13.33 chains to an iron pipe in the county road; thence south 3° 36' west 47.5 feet to the southwest corner of that tract conveyed to Nathan A. Westin et ux by deed book 280 page 541 on November 21, 1947; thence south 86° 17' east on the south line of said Weston tract 35.2 feet to the true place of beginning; thence south 86° 17' east 535.7 feet to an iron pipe at a corner on the south line of said Weston tract; thence north 86° 28' east 189.1 feet to the west corner of tract 2 of that land conveyed to Louis R. Malensky et ux by deed book 340 page 270 on September 13, 1954; thence south 42° 56' east on the southwesterly line of said tract 2, 1483.2 feet to an iron bolt in a fence corner at an angle on said southwesterly line; thence continuing along said southwesterly line south 40° 20' east 438.7 feet to an iron; thence south 64° 31' east 223.2 feet to an iron rod; thence north 62° 45' east on the southerly line of said Malensky tract 60.1 feet to the easterly southeast corner of said Malensky tract in the center of county road #1123; thence south 21° 21' west on the center line of said road 736.7 feet to the northeasterly line of the Hillsboro-Silverton State Highway; thence north 44° 38' west on the north-easterly line of said highway 1184.4 feet to an iron at the beginning of a curve to the left having a radius of 1462.5 feet; thence on said curve thru a central angle of 11° 39' a distance of 297.4 feet to an axle; thence north 56° 17' west on said highway line 977.3 feet to an iron pipe 30 feet northerly, measured at right angles, from Engineers center line station 6+66.6; thence on a 447.46 foot radius curve to the right (the long chord bears north 23° 15' west 487.85 feet) 515.96 feet to an iron pipe; thence north 9° 47' east 116.0 feet to the terminus of said boundary line opposite the beginning point of county road #1162; thence north 9° 47' east 31.1 feet to the true place of beginning. Except therefrom that part conveyed to the State of Oregon, deed book 405, page 50, recorded May 19, 1954.

for the sum of sixty-five Thousand Dollars (\$65,000.00) on account of which the sum of Three Thousand Dollars (\$3,000.00) has been paid on the execution hereof, the receipt of which is acknowledged by the first party, and the remainder to be paid to the order of the first party, or the survivor of either, with interest at the rate of five percent per annum from the date hereof, in the amounts and on the dates as follows: the sum of Fifteen Thousand Dollars (\$15,000.00) plus interest at five percent per annum on the unpaid balance, on or before September 1, 1960, and not less than Six Thousand Dollars (\$6,000.00) on the 1st day of September, 1961.

Page 2.

WV 430 WZ 609

Application No. R-49265, 49266, G-5800  
Permit No.

# MONDAY

MAY						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

# 12

## JUNE 1967

JULY						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

8:00

8:30

Examination fee \$ 15.00

9:00

Recording fee

9:30

179 acres

10:00

30 A

5.00

10:30

70 A

10.50

11:00

79 A

3.95

11:30

12:00

3 Examination fees 45.00

1:00

1:30

79.45

2:00

2:30

3:00

3:30

4:00

4:30

5:00

5:30

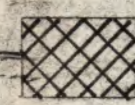
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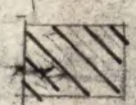
JUNE						
S	M	T	W	T	F	S
				1	2	3
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11	12	13	14	15	16	17
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25	26	27	28	29	30	

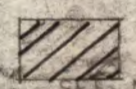
11

JUNE 1967



 Primary Irrigation  
Applic. G-5800

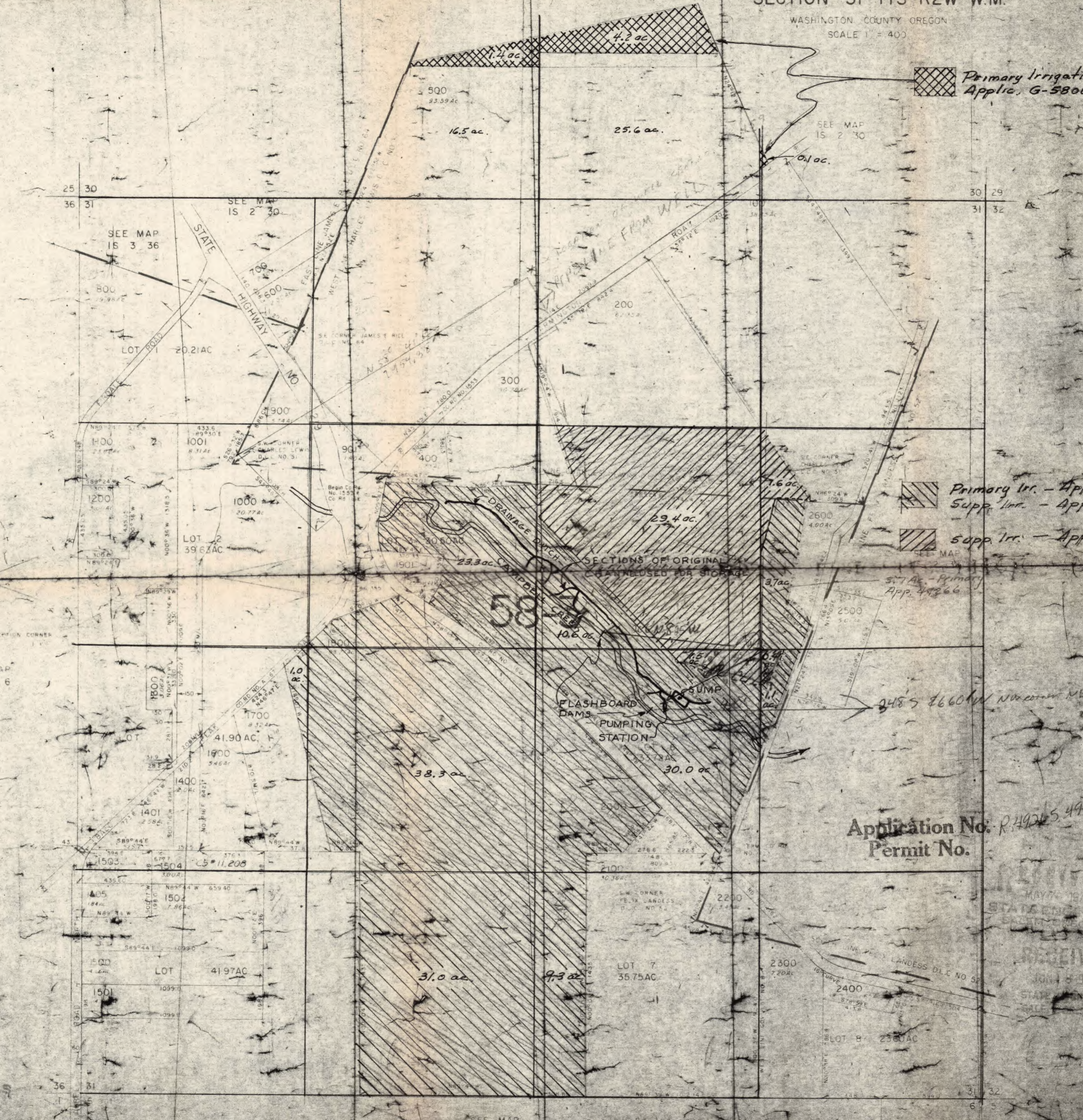
 Primary Irr. - App. 49266  
Supp. Irr. - App. G-5800

 Supp. Irr. - App. 49266

5.7 Ac. - Primary  
App. 49266

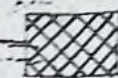
Application No. R-49265-49266  
Permit No. 65692

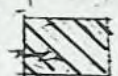
MAY 7 1973  
STATE ENGINEER  
RECEIVED  
JUN 8 1973  
STATE ENGINEER

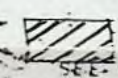


SEE MAP  
25 2 6

WASHINGTON COUNTY OREGON  
SCALE 1" = 400'

 Primary Irrigation  
Applic. G-5800

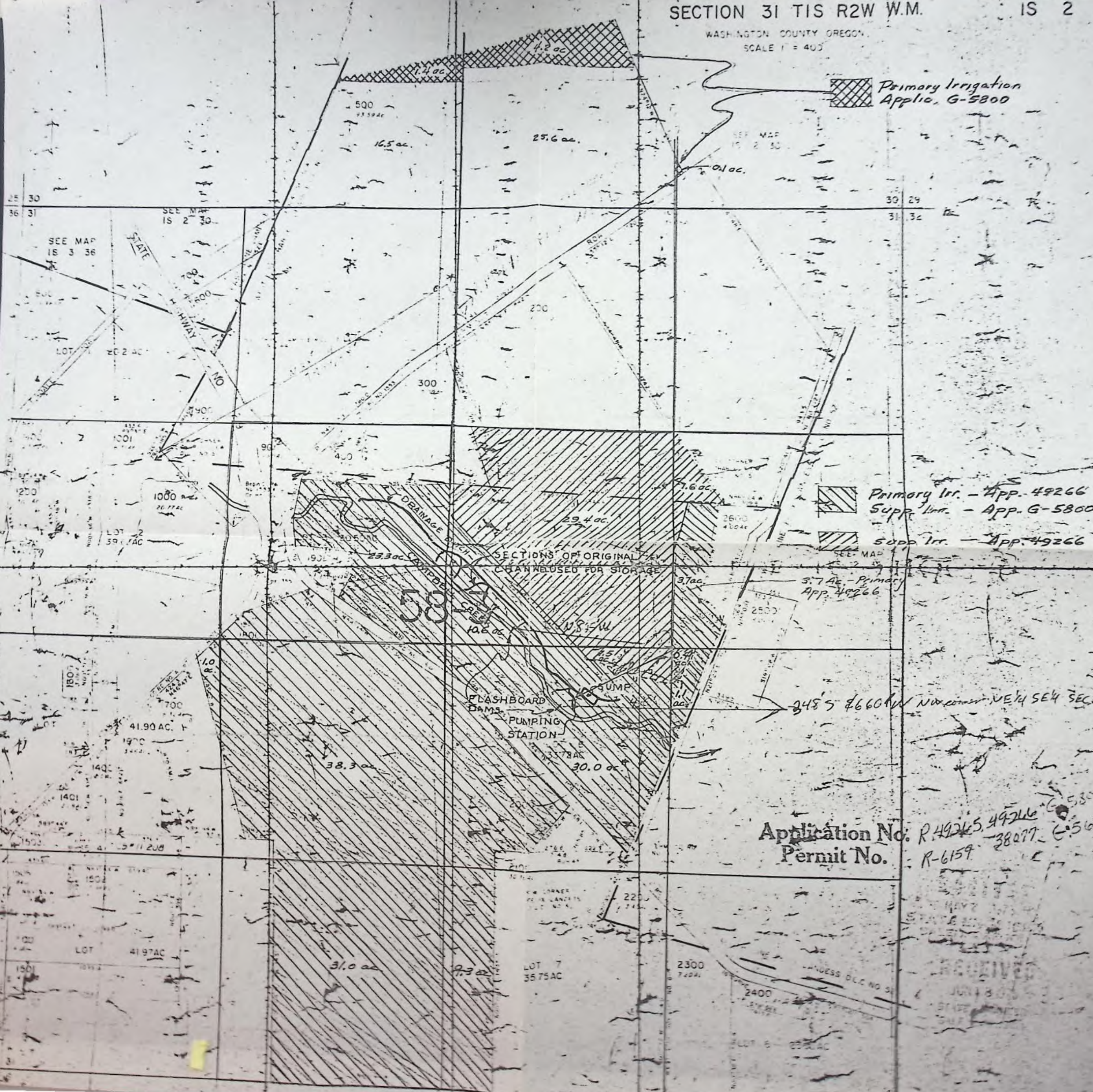
 Primary Irr. - App. 49266  
Supp. Irr. - App. G-5800

 Supp. Irr. - App. 49266


5.7 AC. - Primary  
APP. 49266

248'S \$660 NW NW CORNER NE 1/4 SEC 31


Application No. R-49265, 49266, 5800, 38077, 5692  
Permit No. R-6159




RECEIVED  
JUN 13 1959  
STATE ENGINEER

 Primary Irrigation  
Applic. G-5800



 Primary Irr. - App. 49266  
Supp. Irr. - App. G-5800

 Supp. Irr. - App. 49266

348 S 8660 W NW corner NE 1/4 SEC 31

Application No. R-49266  
Permit No. R-6159

49266  
38077  
G-5800  
G-5692

MAY 7 1975  
STATE ENGINEER  
SALEM, OREGON  
RECEIVED  
JUN 18 1975  
STATE ENGINEER

SEE MAP  
25 2 8

Mr. Malensky, Jr. has to be as far as crops for some small areas which are not covered out. This is because the same area 20 of farmstead to that is covered 2077A ✓

## Abstract of Permit No. 49266

Application No. 49266 ✓ Certificate No.

**Name:** Louis R. Malensky *ORENBERRY PACKING Co. - partner*  
**Address:** Route 4, Box 175 RT #6 BOX #58 AZZA Hillsboro, OR 97123 HILLSBORO OR 97123  
**Source of water supply:** Campbell Creek, drainage ditch, three Reservoirs to be constructed under Application No. R-49265, Permit No. R-8159, trib., Amistat R.  
**Use:** Irrigation, ~~Fertilizer Irrigation~~ of 381 AC. *Christensen Creek*  
**Point of diversion:** #1, 563'30" N, 595', #2, 348'S & 560' N, #3, 206' N & 825' W, Sump; 300'S & 430' W, all from the NW cor., NE1/4 sec. 31, being within #1, #2, & Sump; NW1/4 sec. 31, T.1 S., R.2 W., W.M.; Washington County. PUMP LOC: 200'S, 670'E, From Center of Lot 3  
**Number of acres:** 148.3 - Primary  
 32.9 - Supply

### DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4
			GR-477															
			49266															
			Found Allowed															
			PRI SUPD PRI SUPD															
S R2W Sec 31																		
NW NE W/IN C. Lewis DHC 51			262				92				182				102			
SW NE W/IN C. Lewis DHC 51			92				1				92				92			
SE NE " " "			14				1				1				1			
Lot 4 (SW NE)			13 <sup>6</sup>				16 <sup>0</sup>				13 <sup>6</sup>				16 <sup>0</sup>			
Lot 5 (SE NE)			35				0 <sup>1</sup>				3 <sup>5</sup>				0 <sup>1</sup>			
Lot 3 (SE NW)			16 <sup>6</sup>				16 <sup>6</sup>				16 <sup>6</sup>				35 <sup>2</sup>			
NE SW			37 <sup>6</sup>				0 <sup>8</sup>				0 <sup>8</sup>				29 <sup>2</sup>			
NW SW			29 <sup>2</sup>				1 <sup>0</sup>				1 <sup>0</sup>				29 <sup>2</sup>			
SE NW			1 <sup>0</sup>				1 <sup>0</sup>				1 <sup>0</sup>				1 <sup>0</sup>			
Lot 5 (NE SE)			30 <sup>2</sup>				30 <sup>2</sup>				29 <sup>2</sup>				29 <sup>2</sup>			
Lot 6 (NW SE)			10 <sup>4</sup>				10 <sup>4</sup>				10 <sup>4</sup>				10 <sup>4</sup>			
Lot 7 (SW SE)			143 <sup>1</sup>				46 <sup>6</sup>				143 <sup>1</sup>				38 <sup>1</sup>			
			138 <sup>6</sup>															

DBS-ALL-26  
 6-22-78  
 SPA

Dist. 1, Volume

7217B  
 Lot DL  
 GR-477  
 18324  
 55461  
 55002  
 id  
 6-7-74  
 6-7-74  
 6-7-74  
 6-7-74  
 6-7-74



INFO: MR. MALENSKY, JR. LAND IS IRR. AS FILLED EXCEPT FOR SOME SMALL AREAS WHICH ARE NOT BRUSHED OUT. THIS RES. IRRIGATES THE SAME AREA SO. OF FARMINGTON RD. THAT IS COVERED BY Appl. G-5800. NO USE FROM CAMPBELL CR.

Source: UNN, DRAINAGE DITCH & RES. #1  
 - RES. #1 ALSO FGD FROM LRM POND & WELL - SUE  
 Appl #s 6-5800, R-53059, & 53060

Motor: MARATHON 60 HP @ 3530

Pump: BERKELEY C.D.D. 5" x 3"  
 "620 GPM @ 290' HD.

Pipe: BURIED 6" PVC SHOWN ON PHOTO FROM PUMP TO SLY FIELDS.  
 Plenty of 2", 4", 5", & 6" ALUM. LATERALS FOR OPERATION BIG GUN

SPRINKLERS Most of LAND IN BERRY CROPS ARE SOLID SET SYSTEMS.

HEADS: 5 RB 95 & NELSON 100 MAX

- PUT OUT ABOUT 125 GPM @ @ 120-130 PSI, SAYS MALENSKY

CROPS: BERRIES, HAY, PASTURE, L&G, FILBERTS

LIFT: SEE QUAD.

TIE: DBS-4LL-26

Steve C. Copley  
 FIELD ENG.  
 6-22-78

10/10/78  
 10/10/78  
 10/10/78