

PARTIAL ASSIGNED

Name Carlton Cattle Co.
By _____
Address Box 896
Summer Lake, OR 97640

Date filed 24 May 78
Priority May 24/1978
Action suspended until Sub

Return to applicant _____
Date of approval AUG 16 1978

CONSTRUCTION

Date for beginning AUG 16 1979
Date for completion OCT 1 1980
Extended to _____
Date for application of water OCT 1 1981
Extended to _____

PROSECUTION OF WORK

Form "A" filed SEP 13 1979 8-30-79
Form "B" filed _____
Form "C" filed April 19, 1982

FINAL PROOF

Blank mailed _____
Proof received _____
Date certificate issued 1/26/2007

Application No. **57451**
Permit No. **43260**
Certificate No. 83069

Stream Index, Page No. 13-13

FEEES PAID

Date	Amount	Receipt No.
<u>5-24-78</u>	<u>207.30</u>	<u>3124</u>
<u>10/31/02</u>	<u>27.50</u>	<u>56676</u>
<u>4/1/03</u>	<u>17.00</u>	<u>59067</u>
	Cert. Fee	

FEEES REFUNDED

Date	Amount	Check No.

ASSIGNMENTS

Date	ASSIGNED To Whom	Address	Volume	Page
<u>7-23-87</u>	<u>1st Interstate Bank of Oregon</u>	<u>Special Assets Dept, P.O. Box 3131, Portland, OR 97208</u>		<u>By Deed</u>
<u>3/28/03 and</u>	<u>NW Farm Credit Services FICA/PCA,</u>	<u>P.O. Box 87, Summer Lake, OR 97640</u>		
	<u>Thomas MacDonald, P.O. Box 148,</u>	<u>Klamath Falls, OR 97601</u>		

REMARKS

CARD FOR B OCT 23 1980 14.3-13

CARD FOR C OCT 26 1981

Card for A AUG 22 1979

Form C (690-9-77)

IMPORTANT—This form is a notice to the Water Resources Director 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 Water Resources Department 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 Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. 57451

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Carbon Cattle Co., the holder of Permit No. 43267

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 1 day of OCT, 1981

Remarks: HAVE decided against putting
SPRINKLERS ON AT THIS TIME.
Will Flood irrigate out of ditches

IN WITNESS WHEREOF, I have hereunto set my hand this 13 day of April, 1982

Joan Carbon
(Signature of Applicant)

Summer Lake, Ore
(Address)

RECEIVED

APR 19 1982

WATER RESOURCES DEPT.
SALAMANCA, OREGON

OK
26

BAUSTIAN Julie C * WRD

From: JARAMILLO Lisa J * WRD
Sent: Monday, January 13, 2020 10:50 AM
To: BAUSTIAN Julie C * WRD
Cc: STARNES Patrick K * WRD
Subject: FW: Pending Civil Litigation Affecting Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749 [IWOV-Worksite.FID2071379]
Attachments: LT OWRD Re McDonald Pending Litigation, 3.pdf

Hi Julie,

Please print copies of this email and the attached letter, and place copies of both in each of the following files:

- Claim SWR 170 (**NOTE:** This is a surface water registration claim);
- Certificate 83065 (Application S-61505);
- Certificate 83069 (Application S-57451);
- Permit G-17749 (Application G-11640); and
- Transfer T-13337

Please let me know if you have any questions.

Thank you,
Lisa

Lisa J. Jaramillo

Transfer and Conservation Section Manager
725 Summer Street NE, Suite A, Salem, OR 97301 | Phone 503-986-0880



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

From: Steve Shropshire <Steve.Shropshire@jordanramis.com>
Sent: Friday, January 10, 2020 5:19 PM
To: JARAMILLO Lisa J * WRD <Lisa.J.Jaramillo@oregon.gov>; Patrick.K.STARNES@state.or.us; FRENCH Dwight W * WRD <Dwight.W.French@oregon.gov>
Cc: Lisa Klonoski <Lisa.Klonoski@jordanramis.com>; Libby Wawro <Libby.Wawro@jordanramis.com>
Subject: RE: Pending Civil Litigation Affecting Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749 [IWOV-Worksite.FID2071379]

Lisa, Kelly, and Dwight:

In November 2018, my colleague Peter Mohr sent Lisa the attached letter notifying the Department of pending litigation involving the above-referenced water rights and the property to which they are appurtenant. As the letter explains, our clients assert an ownership interest in the appurtenant property and the water rights. That litigation is still ongoing.

I am writing because we've just become aware that Mr. MacDonald has filed a transfer application to amend Permit G-17749.

https://apps.wrd.state.or.us/apps/wr/wrinfo/wr_transfer_centric.aspx?transfer_char=T&transfer_nbr=13337 He took this action without consulting or otherwise coordinating with our clients. The permit in question has POAs and POUs on land that is subject to the ownership dispute and on land that undisputedly belongs to our clients. The changes proposed would remove the POU for fish culture from our clients' undisputed land and place it on the land that Mr. MacDonald claims he owns. It would also make changes to POAs located both on our clients' property and on the disputed property. In short, he is attempting to change the permit on lands he does not own and on lands where there is a pending ownership dispute.

While we anticipate filing a permit amendment application of our own in short order, the purpose of that amendment would simply be to conform the well locations in the permit to their actual locations, and to add replacement wells for a couple that have started to fail. This would be done in anticipation of completing the appropriation to the fullest possible extent by next October and then filing a claim of beneficial use.

We request that the Department place this letter in the file for each of the referenced water rights and that the Department decline to act on the MacDonald transfer application (or applications seeking to change the other appurtenant rights) until further notice. The parties have an upcoming February hearing in Lake County Circuit Court at which we anticipate this matter, among others, will be discussed.

Please contact me if you have any questions.

Best regards,
-Steve

STEVE SHROPSHIRE | Shareholder
Jordan Ramis PC | Attorneys at Law
Direct Bend: 541.647.2979 Direct Portland: 503.598.5583 Mobile: 503-522-8667

Bend OR | Portland OR | Vancouver WA
www.jordanramis.com

E-MAIL CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient or this message has been addressed to you in error, please notify the sender by reply e-mail and delete the message and any attachments. You are further notified that any use, dissemination, distribution, copying, or storage of this message or any attachment by anyone other than the intended recipient is strictly prohibited.



Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
Tel. (503) 598-7070
Fax (503) 598-7373
www.jordanramis.com

Peter D. Mohr
Admitted in Oregon, Washington and
Colorado
peter.mohr@jordanramis.com
Direct Dial: (503) 598-5529

November 8, 2018

VIA EMAIL AND CERTIFIED MAIL

Lisa J. Jaramillo
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301
lisa.jaramillo@oregon.gov

Re: **Pending Civil Litigation Affecting Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749**
Our File No. 54350-77015

Dear Lisa,

As we discussed yesterday, I am writing to confirm on behalf of our clients, Summer Lake Trout Farm, Inc., an Oregon corporation, Bernard Burkholder, as both an individual and in his capacity as a limited partner of Western Development Group, LP and as manager of Western Development Group GP, LLC, and Ethan Negus (collectively our "Clients"), that, among other property interests, title ownership to those vested and inchoate water rights identified in the Oregon Water Resource Department's (the "Department") records as Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749 (collectively, the "Water Rights") is in dispute between our Clients and specified individuals as further confirmed by our Clients' complaint which they recently filed in Case No. 18CV47457 in the Circuit Court of Lake County (the "*Complaint*"). Included within **Attachment A** to this letter are copies of each of the Water Rights. Included within **Attachment B** to this letter is: (1) a copy of the conformed title page of the Clients' *Complaint* filed in pending Case No. 18CV47457 in Lake County Circuit Court; and (2) a copy of the *Lis Pendens*, as recorded in the real property records of Lake County by our Clients' counsel out of Bend, which provides record notice of the real property interests including, but not limited to, the Water Rights, which are affected by the *Complaint*.

Among the individuals identified as defendants in the *Complaint* is Thomas A. MacDonald. The Thomas A. MacDonald identified as a defendant in the *Complaint* is the same Thomas A. MacDonald identified as the applicant and resulting recipient of record with respect to the Department's issuance of Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749. As a result of the *Complaint* and related pending action in Lake County Circuit Court, we provide this letter to confirm that no actions should be taken by the Department regarding the Water Rights without first consulting with either me or my colleague, Steve Shropshire. To the extent that any actions are taken by the Lake County Circuit Court relating to the ownership or any other aspect of the Water Rights, we will of course provide you with written notice of the same for the Department's


54350-77015 3255691.1

Lisa J. Jaramillo
November 8, 2018
Page 2

files. As we also discussed, with respect to the current status of Permit G-17749 and, more specifically, the remaining need to fully prove up such permit, our Clients have every intention to complete that process within the time period authorized to do so.

Thank you again for our discussion yesterday regarding the above. Should you have any comments or questions in the future about the pending litigation or any other matter affecting the Water Rights, please do not hesitate to contact me.

Sincerely,

JORDAN RAMIS PC

Peter D. Mohr

Attachments

cc: Patricia McCarty (via email only)
Dwight French (via email only)

Attachment A

RECEIVED

DEC 22 1992

WATER RESOURCES DEPT.
SALEM, OREGON

STATE OF OREGON
WATER RESOURCES DEPARTMENT

SURFACE WATER REGISTRATION STATEMENT
PRE-1909 VESTED WATER RIGHT CLAIM

1. Name of Registrant: Robert Olson
Mailing Address: P.O. Box 40
Summer Lake, Oregon 97640 Telephone No: (503) 943-3277

2. Source of water: Springs / Artesian Wells
Tributary to: Anna River

3. Purpose(s) for which water is used: Irrigation
(Irrigation, Stockwater, Domestic, Hydroelectric power, Industrial, Etc.)
If irrigation, total number of acres irrigated: 534.30

4. Priority Date
a) Date of first use: By 1901
b) Date water use development first initiated: July 16 1891
c) Name of party who initiated development: Arthur S. Phillips

5. Amount of water claimed: 13.36, in CFS or GPM
(Water put to beneficial use)

6. Location of place of use:
4, 5, 8, 9 Sections, Township 30 N/S, Range 17 E/W
_____ Sections, Township _____ N/S, Range _____ E/W:
(Attach additional pages if necessary)

7. Usual period of use: 4 / 1 to 9 / 30
month day month day

8. Remarks: See ATTACHED Information

9. Total fees submitted with claim: \$ 635.00

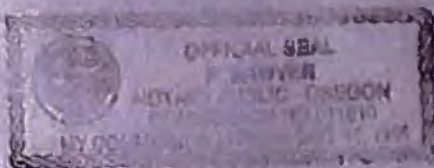
Notarized Statement Signed by Claimant.

STATE OF OREGON)
County of Lake) SS

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

Robert F. Olson
Signature of Claimant

Signed and attested before me this 21st day of December, 19 92



[Signature]
NOTARY PUBLIC for the State of Oregon
My commission expires: 12-18-95

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

Certified Water Right Examiner

Name: Darryl Anderson CWRE#: 005

Address: 618 South 1st St
P.O. Box 28 LaGrange, OR 97630

Telephone: 503 947 4407

Fax 947 2321

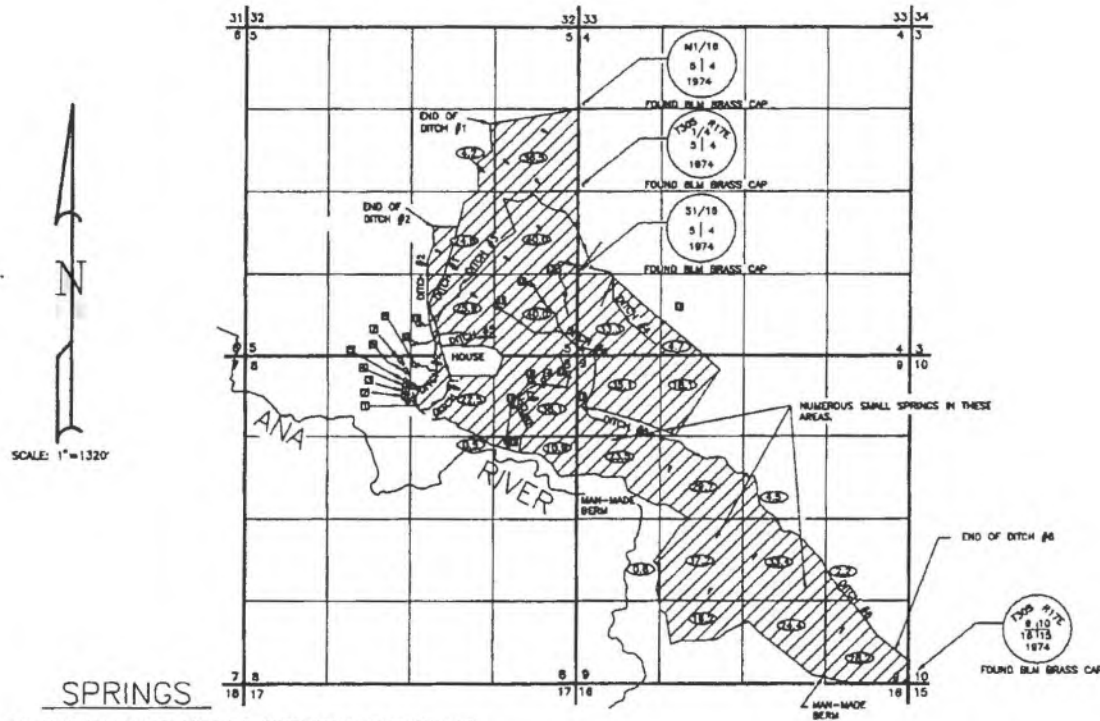
MAP TO ACCOMPANY SURFACE WATER REGISTRATION STATEMENT
PRE-1909 VESTED WATER RIGHT CLAIM

LOCATED IN SECTIONS 4,5,8 AND 9
TOWNSHIP 30 SOUTH RANGE 17 EAST

RECEIVED
AUG 8 1993
WATER RESOURCES DEPT.
SALISBURY OREGON

NOTES:

AREA SHOWN IS FLOOD IRRIGATED FROM THE EXISTING SPRINGS AND DITCHES AS INDICATED ON THE MAP. BUCKHORN SPRING AND THE FOUR ARTESIAN WELLS ARE DIVERTED THROUGH THE TROUT FARM THEN PUMPED BACK INTO DITCHES ONE AND TWO. THE OWNER INDICATED THAT PRIOR TO CONSTRUCTION OF THE TROUT FARM THESE SOURCES WERE DIVERTED DIRECTLY INTO DITCHES ONE AND TWO. SOURCE VOLUMES FOR SOURCES 1-4 WERE SUPPLIED BY THE OWNER. VOLUMES FOR THE OTHER SOURCES WERE ESTIMATED AT THE TIME OF OUR SURVEY, DEC. 15, 1992. MANY OTHER SMALLER SPRINGS HELP IRRIGATE THE PROPERTY AS INDICATED ON THE MAP. IRRIGATED AREAS WERE SURVEYED TO EXISTING CROP LINES (GRASS) AND VERIFIED USING AN ASCS PHOTOGRAPH 41037-378.



LEGEND

- SECTION LINE
- 1/4 SECTION LINE
- 1/16 SECTION LINE
- ▨ IRRIGATED AREA

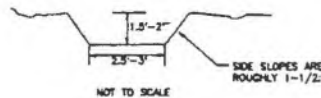
NOTE: PREPARATION OF THIS MAP IS FOR IDENTIFYING PROPOSED WATER RIGHTS ONLY. IT HAS NO INTENT TO PROVIDE LOCATIONS OR DIMENSIONS OF PROPERTY BOUNDARIES.

SPRINGS

DISTANCES ARE FROM THE SOUTH 1/16 CORNER BETWEEN SECTIONS 4 AND 5, T30S R17E

- 1 - BUCKHORN SPRING, APPROXIMATE FLOW, 4300 G.P.M., 1802' SOUTH AND 7815' WEST.
- 2 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1872' SOUTH AND 2753' WEST.
- 3 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1880' SOUTH AND 2746' WEST.
- 4 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1802' SOUTH AND 2729' WEST.
- 5 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1802' SOUTH AND 2774' WEST.
- 6 - SPRING, APPROXIMATE FLOW, 20 G.P.M., 1506' SOUTH AND 2716' WEST.
- 7 - SPRING, APPROXIMATE FLOW, 20 G.P.M., 1389' SOUTH AND 2803' WEST.
- 8 - SPRING, APPROXIMATE FLOW, 20 G.P.M., 1473' SOUTH AND 2583' WEST.
- 9 - SPRING, APPROXIMATE FLOW, 20 G.P.M., 1128' SOUTH AND 2810' WEST.
- 10 - SPRING, APPROXIMATE FLOW, 50 G.P.M., 822' SOUTH AND 2524' WEST.
- 11 - SPRING, APPROXIMATE FLOW, 20 G.P.M., 534' SOUTH AND 1286' WEST.
- 12 - SPRING, APPROXIMATE FLOW, 50 G.P.M., 2129' SOUTH AND 114' EAST.
- 13 - SPRING, APPROXIMATE FLOW, 5 G.P.M., 1814' SOUTH AND 133' WEST.
- 14 - SPRING, APPROXIMATE FLOW, 8 G.P.M., 1718' SOUTH AND 531' WEST.
- 15 - SPRING, APPROXIMATE FLOW, 5 G.P.M., 1736' SOUTH AND 740' WEST.
- 16 - SPRING, APPROXIMATE FLOW, 8 G.P.M., 2117' SOUTH AND 1033' WEST.
- 17 - SPRING, APPROXIMATE FLOW, 5 G.P.M., 2876' SOUTH AND 1113' WEST.

THE DITCHES THAT ARE NUMBERED ARE ALL OF THE SAME APPROXIMATE SIZE.



NOT TO SCALE

SIDE SLOPES ARE ROUGHLY 1-1/2:1

DITCH SLOPES

1	0.001 FT PER FT
2	0.001 FT PER FT
3	0.003 FT PER FT
4	0.010 FT PER FT
5	0.005 FT PER FT
6	0.001 FT PER FT
7	0.005 FT PER FT

DITCH SLOPES VARY ALONG COURSE OF DITCH SLOPES SHOWN ARE AN APPROXIMATE AVERAGE



PREPARED FOR:
ROBERT OLSON
P.O. BOX 40
SUMMER LAKE, OREGON 97640

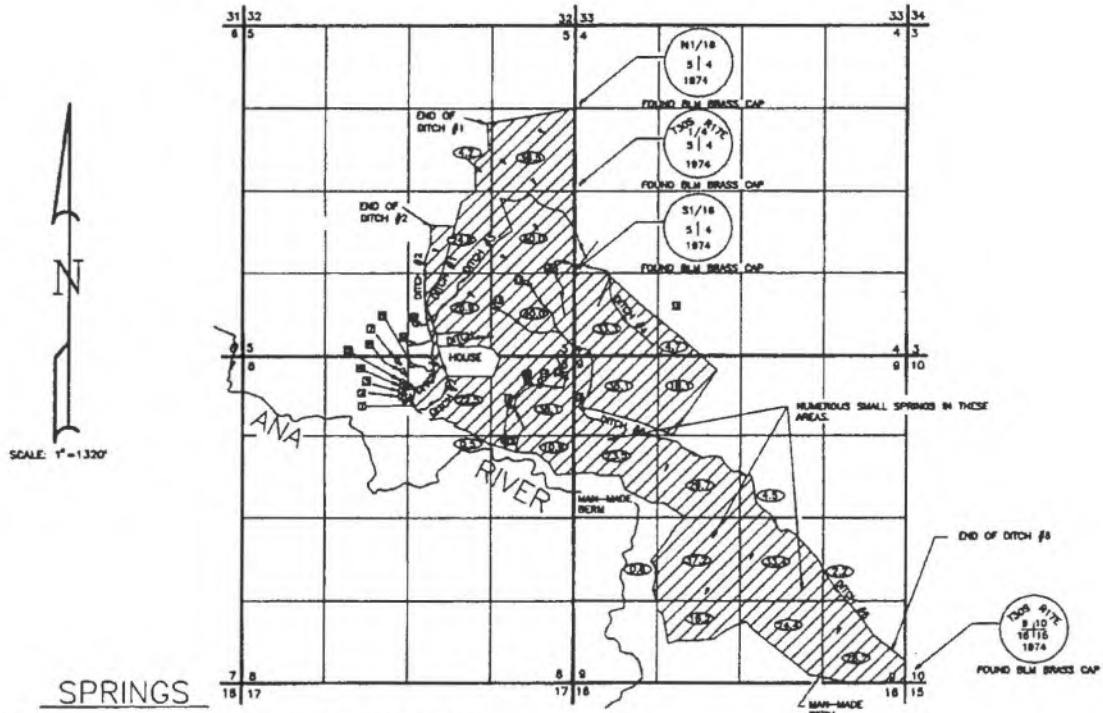
PREPARED BY:
ANDERSON ENGINEERING AND SURVEYING
818 SOUTH FIRST STREET
P.O. BOX 28
LAKEVIEW, OREGON 97630
(503) 847-4407 FAX 847-2321
DECEMBER 1992 SHEET 1 OF 1
REVISED ON AUGUST 8, 1993

MAP REVISED 8/29/93

SWR-170
 Super Super

MAP TO ACCOMPANY SURFACE WATER REGISTRATION STATEMENT
 PRE- 1909 VESTED WATER RIGHT CLAIM

LOCATED IN SECTIONS 4,5,8 AND 9
 TOWNSHIP 30 SOUTH RANGE 17 EAST



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NOTE: PREPARATION OF THIS MAP IS FOR IDENTIFYING PROPOSED WATER RIGHTS ONLY. IT HAS NO INTENT TO PROVIDE LOCATIONS OR DIMENSIONS OF PROPERTY BOUNDARIES.

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- 10 - SPRING, APPROXIMATE FLOW, 60 G.P.M. 822' SOUTH AND 2524' WEST.
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- 17 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 2878' SOUTH AND 1113' WEST.



PREPARED FOR:
ROBERT OLSON
 P.O. BOX 40
 SUMMER LAKE, OREGON 97640

PREPARED BY:
 ANDERSON ENGINEERING AND SURVEYING
 818 SOUTH FIRST STREET
 P.O. BOX 28
 LAKEVIEW, OREGON 97630
 (503) 947-4407 FAX 947-2321

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER for FISH CULTURE.

This right was perfected under Permit S-46063. The date of priority is APRIL 6, 1981. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.26 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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

Twp	Rng	Mer	Sec	Q-Q
30 S	17 E	WM	8	SW NE
30 S	17 E	WM	8	NE NW
30 S	17 E	WM	8	SE NW


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 of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

WITNESS the signature of the Water Resources Director, affixed JAN 26 2007


Phillip C. Ward, Director
Water Resources Department

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION of 570.5 ACRES.

This right was perfected under Permit S-43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.3 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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-FORTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. 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.

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

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	NW SW	2.60
30 S	17 E	WM	4	SW SW	21.20
30 S	17 E	WM	4	SE SW	0.50
30 S	17 E	WM	5	SW NE	8.50
30 S	17 E	WM	5	SE NE	22.80
30 S	17 E	WM	5	SE NW	9.60
30 S	17 E	WM	5	NE SW	0.50

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

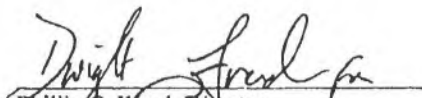
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	NE SE	37.60
30 S	17 E	WM	5	NW SE	36.80
30 S	17 E	WM	5	SW SE	29.60
30 S	17 E	WM	5	SE SE	35.80
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	30.00
30 S	17 E	WM	8	SW NE	8.80
30 S	17 E	WM	8	SE NE	19.40
30 S	17 E	WM	9	SW NE	1.60
30 S	17 E	WM	9	NE NW	10.80
30 S	17 E	WM	9	NW NW	39.50
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	27.30
30 S	17 E	WM	9	NE SW	40.00
30 S	17 E	WM	9	NW SW	15.60
30 S	17 E	WM	9	SW SW	5.40
30 S	17 E	WM	9	SE SW	9.60
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	40.00
30 S	17 E	WM	9	SE SE	17.00

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

JAN 26 2007

WITNESS the signature of the Water Resources Director, affixed _____.


 Phillip C. Ward, Director
 Water Resources Department

STATE OF OREGON

COUNTY OF LAKE

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

THOMAS A. MACDONALD
 PO BOX 87
 SUMMER LAKE, OR 97640

This superseding and correcting permit is issued to describe amendments for changes in the points of appropriation and an additional point of appropriation proposed under Permit Amendment Application T-11749 approved by Special Order Volume 103, Page 268 entered October 24, 2016, amendments for additional points of appropriation as described in T-10716 approved by Special Order Vol. 76, Page 833, entered December 10, 2008, and to describe all assignments and the extension of time for complete application of water approved October 30, 2016. This permit supersedes Permit G-11024 and G-17282.

to use the waters of NINE WELLS in the ANA RIVER BASIN for FISH CULTURE, IRRIGATION OF 50.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 569.6 ACRES.

The dates of priority for the uses are APRIL 7, 1987 for 10.0 CFS FOR FISH CULTURE AND 7.73 CFS FOR IRRIGATION AND JUNE 14, 1989 FOR 7.8 CFS FOR FISH CULTURE. The use is limited to not more than 17.80 CUBIC FEET PER SECOND, BEING 7.73 CFS FOR IRRIGATION AND 17.80 CFS FOR FISH CULTURE, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	17 E	WM	8	NE NW	WELL#1 - 390 FEET SOUTH AND 150 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#2 - 480 FEET SOUTH AND 190 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#3 - 525 FEET SOUTH AND 140 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#4 - 340 FEET SOUTH AND 145 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SE NW	WELL#5 - 3200 FEET NORTH AND 300 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SW SE	WELL#6 - 155 FEET NORTH AND 230 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#7 - 110 FEET SOUTH AND 280 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	NW SE	WELL#8 - 2070 FEET NORTH AND 100 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SE SW	WELL#9 - 1040 FEET NORTH AND 130 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8

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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. This right shall be limited to any deficiency in the available supply of any prior right existing for the same land.

At any time when the flow of Ana Springs is insufficient to furnish the amount of water required to satisfy existing rights with priority earlier than this permit, all ground water derived under this permit shall be delivered by the permittee into Ana River to the extent necessary to restore Ana River to its historic flow.

The permittee shall construct and maintain the necessary pipelines or ditches and install and maintain the necessary measuring devices so the provisions of the permit may be enforced by the proper state officer.

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

A description of the proposed place of use under the permit is as follows:

FISH CULTURE				
Twp	Rng	Mer	Sec	Q-Q
30 S	17 E	WM	8	SW NE
30 S	17 E	WM	8	NE NW
30 S	17 E	WM	8	SE NW

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	SE NW	20.30
30 S	17 E	WM	5	NE SW	28.40
30 S	17 E	WM	5	SE SW	1.40
Total					50.10

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	SW SW	30.00
30 S	17 E	WM	5	SW NE	40.00
30 S	17 E	WM	5	SE NE	40.00
30 S	17 E	WM	5	NE SE	40.00
30 S	17 E	WM	5	NW SE	39.10
30 S	17 E	WM	5	SW SE	30.00
30 S	17 E	WM	5	SE SE	40.00
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	33.00
30 S	17 E	WM	8	SW NE	11.00
30 S	17 E	WM	8	SE NE	31.00
30 S	17 E	WM	9	SW NE	2.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	9	NW NW	36.00
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	30.00
30 S	17 E	WM	9	NE SW	31.00
30 S	17 E	WM	9	NE SE	0.50
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	20.00
30 S	17 E	WM	9	SE SE	16.00
Total					569.60

Permit Amendment T-11749

At any time when the flow of Ana Springs is insufficient to furnish the amount of water required to satisfy existing rights with priority earlier than this permit, all ground water derived under this permit shall be delivered by the permittee into the Ana River to the extent necessary to restore Ana River to its historic flow. If the flow of Ana Springs is insufficient to furnish the amount of water required for existing rights with earlier priority dates and not all the ground water derived under this permit can be delivered into the Ana River, then all of the ground water derived under this permit shall be shut off.

The combined quantity of water diverted at the new points of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

The permittee shall construct and maintain the necessary pipelines or ditches and install and maintain the necessary measuring devices so the provisions of the permit may be enforced by the proper state officer.

Water shall be acquired from the same aquifer as the original points of appropriation.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

The Additional Point of Appropriation Well #9 and the new Point of Appropriation Well #5 shall obtain groundwater from the predominately volcanic/basalt unit below the predominately basin-fill unit and both wells shall have continuous casing and continuous seal from land surface through the basin-fill unit into the predominantly volcanic/basalt unit.

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID). The tag showing the Well ID shall be permanently attached to the well. If a well does not have a Well ID tag, the permittee shall apply for one from the Department and attach it to the well within 60 days of the date the permit is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

Water use measurement conditions:

- a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Original Permit Conditions

This project was considered and approved by the Water Resources Commission on March 30, 1990.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an airline and pressure gauge adequate to determine water level elevations in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn. Artesian wells must have control valves installed to regulate the flow of water.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the Department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Actual construction work was to begin on or before April 30, 1991, however, complete application of the water to the use was extended and shall be made on or before October 1, 2016. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

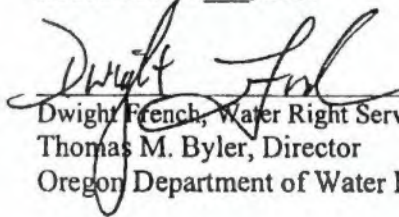
This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Issued March 17, 2017



Dwight French, Water Right Services Administrator for,
Thomas M. Byler, Director
Oregon Department of Water Resources

Attachment B

1
2 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
3 **FOR THE COUNTY OF LAKE**

4 SUMMER LAKE TROUT FARM, INC., an
5 Oregon corporation; BERNARD
6 BURKHOLDER, individually and in his
7 capacity as limited partner of WESTERN
8 DEVELOPMENT GROUP, LP and as manager
9 of WESTERN DEVELOPMENT GROUP GP,
10 LLC; and ETHAN NEGUS,

11 Plaintiffs,

12 v.

13 THOMAS A. MACDONALD; KAREN
14 MACDONALD; MEGAN MACDONALD; and
15 EDWARD MACDONALD,

16 Defendants,

17 And

18 WESTERN DEVELOPMENT GROUP, LP;
19 and WESTERN DEVELOPMENT GROUP
20 GP, LLC,

21 Nominal Defendants.

Case No.

**COMPLAINT (Declaratory Judgment;
Quiet Title; Trover, Conversion, Detinue;
Unjust Enrichment; Breach of Fiduciary
Duty; Financial Abuse; Specific
Performance)**

**CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION**

Amount Claimed: \$12 Million

Fee Authority: ORS 21.135(1), (2)(g)

22 For their complaint, plaintiffs Summer Lake Trout Farm, Inc. ("SLTF"); Ethan Negus
23 ("Negus"); and Bernard Burkholder, individually ("Burkholder"), and in his capacity as a limited
24 partner of Western Development Group, LP (the "Partnership") and as manager of Western
25 Development Group GP, LLC (the "General Partner") allege as follows:

26 **Venue**

1.

This case involves several claims seeking determinations concerning the ownership and
recovery of both real property and personal property located exclusively in Lake County,

AFTER RECORDING RETURN TO:

William F. Buchanan
Schmid Malone Buchanan LLC
937 N.W. Newport Avenue, Suite 220
Bend, Oregon 97703



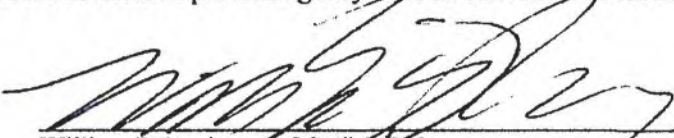
I, Stacie Geaney, County Clerk for Lake County, Oregon
certify that the instrument identified herein was
recorded in the Clerk records.
Stacie Geaney - County Clerk

NOTICE OF PENDENCY OF AN ACTION (LIS PENDENS)

Pursuant to ORS 93.740, the undersigned states:

1. Plaintiffs, Bernard Burkholder, individually, as a limited partner of Western Development Group, LP, a Texas limited partnership and Western Development Group GP, LLC, a Texas limited liability company; Summer Lake Trout Farm, Inc., an Oregon corporation; and Ethan Negus, individually, have filed an action in the Circuit Court for Lake County, State of Oregon, identified as Case No. 18CV47457.
2. The Defendants are Thomas A. MacDonald, Karen M. MacDonald, Megan MacDonald, and Edward MacDonald.
3. The object of the action in the complaint is to quiet title to, or declare ownership of, the real property described in Exhibit A; to establish a constructive trust in such property in favor of Western Development Group, LP; and/or to compel transfer of the property to Western Development Group, LP.
4. The description of the real property involved or affected is set forth in Exhibit A.
5. All persons should be advised that one or more parties claim an interest in the above-described real property and that the outcome of the above-referenced proceeding may have an effect on that claimed interest.

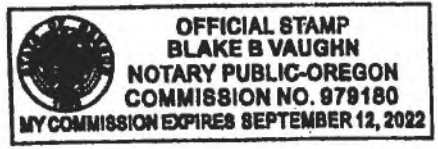
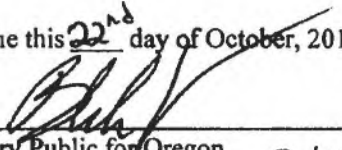
DATED this 22nd day of October, 2018.



William F. Buchanan, OSB# 93222
bill@schmidmalone.com
Schmid Malone Buchanan LLC
550 NW Franklin Avenue, Suite 378
Bend, Oregon 97701
p541 388 1107
f 541 388 7370
Of Attorneys for Plaintiff

STATE OF OREGON)
) ss.
County of Deschutes)

The foregoing instrument was acknowledged before me this 22nd day of October, 2018 by William F. Buchanan.

Notary Public for Oregon
My commission expires: 9/12/2022

EXHIBIT A – page 1

Parcel 1 Legal description:

Lot 2 in Block 3 of Ana River Subdivision No. 1, a subdivision in the NW1/4 of Section 6, Township 30 South, Range 17 East of the Willamette Meridian, Lake County, Oregon

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E06B000801; Tax Account No. 16840

Parcel 2 Legal description:

In the County of Lake, State of Oregon:

Lot 25, Block 3 of Ana River Subdivision No. 1, a subdivision in the NW1/4 of Section 6, Township 30 South, Range 17 East of the Willamette Meridian, Lake County, Oregon

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E06B000603; Tax Account No. 8933

Parcel 3 Legal description:

T.30S R.17E W.M.

Section 5: that portion of the SE ¼ NW1/4 lying West of County Road #4-16B

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E000001001; Tax Account No. 8522

Parcel 4 Legal description:

In the County of Lake, State of Oregon, as follows:

Township 30 South, Range 17 East of the Willamette Meridian,

Section 5: Beginning at the Northwest corner of the Southeast Quarter of Section 5, Township 30 South, Range 17 East of the Willamette Meridian; Thence East 200 feet; Thence South 400 feet; Thence West 200 feet; Thence North 400 feet to the point of beginning, EXCEPTING THEREFROM property conveyed to Lake County, a political subdivision of the State of Oregon, by deed recorded January 27, 1992, in Book 219 at Page 259, Deed Records, for road purposes.

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E000000700; Tax Account No. 8479 LAKE COUNTY RECORDING NO.

2018002083

Parcel 5 (Tax Map/Lot 30S17E000000600; Tax Account No. 8477) In the County of Lake, State of Oregon, as follows

**Township 30 South, Range 17 East of the Willamette Meridian
Section 4: SW¼ SW¼**

Section 5: That portion of the SE¼ NW¼ lying east of County Road 4-16B; that portion of the NE¼ SW¼ lying east of County Road 4-16B; that portion of the SW¼ SW¼ lying east of County Road 4-16B; that portion of the SE¼ SW¼ lying south and east of County Road 4-16B; S½ NE¼; N½ SE¼ EXCEPTING THEREFROM beginning at the Northwest corner of the SE¼ of said Section 5, thence East 200.00 feet, thence South 400.00 feet, thence West 200.00 feet, thence North 400.00 feet to the point of beginning, S½ SE¼.

Section 8: Beginning at the intersection of the west right-of-way line of County Road 4-16B and the north line of the NE¼ NW¼ said Section 8, thence S31°52'50"E a distance of 173.24 feet, more or less, to a 5/8" iron pin, thence along a 1244.12 foot radius curve to the left, the central angle of which is 26°58'44" a distance of 585.82 feet to a 5/8" iron pin, thence leaving said right-of-way line N73°11'23"E a distance of 243.04 feet to a 5/8" iron pin, thence N26°42'07"E a distance of 382.49 feet to a 5/8" iron pin, thence S54°03'09"E a distance of 343.14 feet to a 5/8" iron pin, thence S25°45'07"E a distance of 192.22 feet to a 5/8" iron pin, thence S17°12'45"W a distance of 126.80 feet to a 5/8" iron pin, thence N82°08'01"W a distance of 65.05 feet to a 5/8" iron pin, thence S01°54'03"E a distance of 279.53 feet to a 5/8" iron pin, thence S49°23'39"E a distance of 533.48 feet to a 5/8" iron pin, thence S50°01'04"E a distance of 102.66 feet to a 5/8" iron pin, thence S85°39'58"E a distance of 26.81 feet to a 5/8" iron pin, thence S45°38'45"E a distance of 210.58 feet to a 5/8" iron pin on the north bank of Ana River, thence S45°38'45"E to the center line of Ana River, thence Southeasterly along the center line of Ana River to a point on the east line of the SE¼ NE¼ said Section 8, thence Northerly along the east line of said Section 8 to the NE corner of the NE¼ NE¼, thence Westerly along the north line of said Section 8 to the point of beginning. EXCEPTING THEREFROM any portion lying within the county road right-of-way,

Section 9: NW¼ NW¼; that portion of the SW¼ NW¼ lying north and east of the center line of Ana Reservoir; SE¼ NW¼; SW¼ NE¼; NE¼ SW¼; NW¼ SE¼; S½ SE¼.

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

LAKE COUNTY RECORDING NO.

2018002083

57451

CLARK Gerald E * WRD

From: CLARK Gerald E * WRD
Sent: Thursday, January 10, 2019 3:13 PM
To: NASHEM William D * WRD
Cc: GORMAN Kyle G * WRD; MAYER Brian M * WRD; GIFFIN Jeremy T * WRD; JEFFERY Joel W * WRD; BYRD Kristopher R * WRD; JARAMILLO Lisa J * WRD
Subject: RE: Desert Springs WR help

Bill,

I have reviewed the information that you provided and discussed the situation with Lisa Jaramillo. Lisa received a call yesterday from Tom MacDonald regarding these same rights.

Lisa and I agree that the two rights for fish culture are cumulative. Neither certificate 83065 or permit G-17749 contain language that would tie the use under these rights together.

Permit G-17749 does provide a limit of the use that can occur under the permit based on the flow of Ana Springs. In addition, the permit allows for no more than 17.8 cfs, being 7.73 cfs for irrigation and 17.8 cfs for fish culture.

Mr. MacDonald indicated that he may want to modify the rights to make them consistent with the actual uses on the ground. It was recommended that he contact a Certified Water Right Examiner to review his rights and determine what steps and processes might be necessary in order to achieve his goals.

Ultimately, the call on how the rights work together on these lands and the potential regulatory scheme falls to the Watermaster.

Let me know if you have any additional questions.

Gerry

Gerry Clark

Program Analyst, Certificate Section
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-986-0811

From: NASHEM William D * WRD
Sent: Thursday, January 10, 2019 12:00 PM
To: CLARK Gerald E * WRD
Cc: GORMAN Kyle G * WRD; MAYER Brian M * WRD; GIFFIN Jeremy T * WRD; JEFFERY Joel W * WRD; BYRD Kristopher R * WRD
Subject: Desert Springs WR help

Good day Gerry:

Hope the New Year is off to a good start for you. I'm writing to see if you have time to decipher/interpret a couple water rights and a groundwater permit for/with me. I spent a day out at the site to try to understand the conditions on the ground with regards to the water use (POD/POAs/POUs). I met with Tom McDonald to go over the site and observe the wells and the POD at Buckhorn Spring. I am still making a matrix of well designations based on the permits/log/other reference materials in the file. Some wells have 3 different #s. Anyway, Certs. 83065 and 83069, combined with Permit G-17749, don't really reflect what is going on out on the ground out there. Additionally, there is an interpretation that all of these rights are cumulative, while I believe that portions of the water is the same water, but

used for different (consecutive) uses, i.e., fish culture, *then* irrigation (which is how the system is set up). There are also supplemental rights involved. Just to give you a feel of the situation, the Hatchery has never solely used the POD as a source of water—it has always been just a fraction of the water, with the bulk coming from the 4 artesian POAs drilled in the mid-80s. I am also including a letter from Tom McDonald's attorney with her interpretation of the rights, with which I'm not sure I agree. This site is kind of blowing up due to a spat between McDonald and his hatchery business partner. I've always had issues with the system out there with regards to leaky wells and unmetered use.

Thanks,

Bill

Bill Nashem, R.G., C.E.G.
Well Inspector and Assistant Watermaster
South Central Region
Oregon Water Resources Department
231 SW Scalehouse Loop, Suite 103
Bend, OR 97702
Office# 541.639.4109
Cell# 541.408.7923
william.d.nashem@oregon.gov

Laura A. Schroeder
Licensed in Oregon, Idaho,
Nevada and Washington

V. Scott Borison, Ph.D.
Certified Legal Manager

Darryl N. Cole
Office Manager



Lynn L. Stoyest
Licensed in Oregon and Nevada

Courtney D. Dulac
Licensed in Oregon and Nevada

Colm Moore
Licensed in Oregon and Nevada

Theresa A. Ure
Licensed in Nevada

Wyatt E. Rolfe
Licensed in Oregon and Nevada

December 19, 2007

Via Electronic Mail Only

Harry Seely
seely@waterexchange.com

RE: Desert Springs Trout Farm: Water Rights

Dear Mr. Seely:

This letter summarizes the current water rights appurtenant to land comprising Desert Springs Trout Farm in Summer Lake Oregon ("Desert Springs") for purposes of your appraisal.

Water Rights

There are currently two surface water certificates, a groundwater permit and a pre-1909 surface claim to water appurtenant to the MacDonald property. The surface source of water described in Certificates 83069 and 83065 is an unnamed stream that is a tributary of Ana River. Each right, permit and claim currently established is detailed below.

1. Pre-1909 Claim: SWR 170 claims 13.36 cfs for irrigation of 534.30 acres from the artesian wells, tributaries to the Ana River. The claim has a priority date of July 16, 1891. *M.A.C.*
2. Certificate 83069: Allows for 14.3 cfs from the surface waters of an unnamed stream, a tributary of Ana River, for irrigation of 570.5 acres with a priority date of use of May 24, 1978. *S. J. Ne*
3. Certificate 83065: Allows for 14.26 cfs from the surface waters of an unnamed stream, a tributary of Ana River, for fish culture with a priority date of use of April 6, 1981. *Water - in my name*
4. Permit G-11024: Permits appropriation of not more than 17.80 cfs from four wells for fish culture (17.8 cfs total), irrigation and supplemental irrigation (7.73 cfs total). The dates of priority are as follows: April 7, 1987 for 10.0 cfs for fish culture and 7.73 for irrigation and June 14, 1990 for 7.8 cfs for fish culture. *line*

Water Currently Available for Fish Culture

There is one certificate and one permit that allow a beneficial use of water for fish culture. Certificate 63065 was perfected for the diversion of 14.26 cfs for fish culture. Meanwhile, Permit G-11024 allows for the development of an appropriation for an additional

phone 503-281-4100

fax 503-281-4600

1915 NE 39th Avenue, P.O. Box 12527, Portland, Oregon 97212-0527

www.schroeder-law.com

PRN FORL PDR 0001

17.8 cfs for fish culture. The amounts allowed under Certificate 63065 and Permit G-11024 are cumulative. Thus the total available for fish culture use is 32.06 cfs.

Perfection of Permit G-11024

Permit G-11024 allows two authorized uses: fish culture and irrigation. The permit allows for the diversion of a total of 17.8 cfs. All of the allowed 17.8 cfs may be beneficially used for fish culture with two priority dates (10.0 cfs with a 1987 priority and 7.8 cfs with a 1989 priority). All the water appropriated is permitted for delivery first to the raceways for fish culture and then up to 7.73 cfs of this amount may be reused for irrigation of 50.1 acres and supplemental irrigation of 569.6 acres. This permit is in good standing with an extension for development expected by final order in mid January 2008.

The Fish Culture Use allowed in Certificate 83065 and G-11024 are additive

The fish culture use allowed in Certificate 83065 and Permit G-11024 are not overlapping uses. Unlike irrigation and other consumptive uses, non-consumptive uses may be "stacked" on each other without reducing the total amount of water available for beneficial use.

Correspondence in the water right file maintained by OWRD for Permit G-11024 support this legal conclusion as it reveals that Certificate 83065 and G-11024 were issued with the expectation and intention that there uses would be additive. In a letter dated April 12, 1989 from Wayne J. Overcash, a OWRD water rights specialist, Mr. Overcash specifically requests clarification from the applicant, Mr. Robert Olson, as to whether the water requested in G-11024 will be used in the same facilities as those described in the application for Certificate 83065 and whether the water requested is intended to additive to the amount already allowed. Mr. Olson responded by clarifying that the water from the well was to be used in the same facilities and the amount requested is in addition to the amount allowed from the stream¹. Thus, a total of 32.06 cfs are available for fish culture under Certificate 83065 and Permit G-11024.

Water Currently Available for Irrigation Use

In addition to the water currently available for fish culture, water rights for irrigation are also presently available and appurtenant to the land comprising Desert Springs Trout Farm. These irrigation water rights may be transferred to another allowed beneficial use now or in the future.

Certificate 83069, Permit G-11024 and SWR 170 all allow a beneficial use for irrigation of certain acres and at varying rates. Certificate 83069 allows for irrigation of 570.5 acres in Sections 4, 5, 8, and 9 in Township 30 South, Range 17 East. Permit G-11024 allows for irrigation of 50.1 primary acres and 569.6 supplemental acres in Sections 4, 5, 8, and 9 in Township 30 South, Range 17 East. Finally, SWR 170 allows for irrigation of 543.30 acres in Sections 4, 5, 8 and 9. The place of use for irrigation, as described in the Certificate, Permit and Surface Right Registration, all overlap and are duplicative to some extent².

¹ See attached correspondence from the file for G-11024.

² See Attachment A, describing the place of use for Certificate 83069, Permit G-11024 and SWR 170.

Under Oregon water law, when two water rights describe the same place of use for irrigation or another consumptive use, one of the water rights must be designated as the "primary water right" and the other the "supplement water right". A supplemental right or permit is used in conjunction with a primary water right to make up a deficiency that may be experienced in the quantity or quality of the primary water right. However, the total amount of use is limited to that established in the primary rate by the acre feet limitation. For example, if the primary was issued for 3.0 acre feet and the supplemental for another 2.0 acre feet, the total limit is 3.0 acre feet not 5.0 acre feet. A supplemental water right can only be used when the primary water right proves insufficient to meet the allowed use and is limited by the primary duty and if the duty on the supplemental is less, then ultimately by the supplemental duty. In the example above while 3.0 acre feet might be used on the appurtenant property, only 2.0 acre feet can be applied from the supplemental source. The primary water right and supplemental water right can not be used at the same time.

Based on this scheme, Oregon water law also prevents a primary or supplemental right from being transferred or changed to a new use or place of use separately from its counterpart. Neither the place of use nor type of use of a primary or supplemental right can be made without also making the same change to the supplemental right. An attempt to transfer one right without the other is considered "water spreading" and will result in cancellation of the non-transferred right. For example, if any portion of SWR 170 is transferred, the corresponding portion of Certificate 83069 or G-11024 must also be transferred or will the non-transferred right will be cancelled.

The designation of a "primary" and "supplemental" right is usually made by OWRD. In the event OWRD fails to make the designation, the holder of the water rights is permitted to make the designation. In the case of the irrigation water rights appurtenant to Desert Springs Trout Farm, OWRD designated 569.6 acres under permit G-11024 as supplemental and 50.1 acres as primary. No designation was made for the overlapping acres in Certificate 83069 or SWR 170. Any designation made in the future should take into account factors related to priority and transferability.

SWR 170 may be designated a primary right

Though SWR is a non-adjudicated claim and is not a certificated water right, it may be designated as the primary right for those acres in which its place of use overlaps the place of use allowed in Certificate 83069. Designating SWR 170 as the primary right for those acres which it overlaps Certificate 83069 is advantageous because of its early priority date and the application of the laws related to its priority date.

SWR 170 is a claim for 13.36 cfs for irrigation. Prior to 1909, water could be used without first making an application to the state for permission to use the water. In order to regulate the water rights used prior to 1909 the Oregon legislature created rules and statutes for the adjudication of these rights. The adjudication process is used to make final determination of the extent of vested water rights and federal reserved water rights within a stream basin. In order to participate in adjudication, a person believing they had a pre-1909 or federal reserved right was required to make a claim for the rights. A claim is a completed statement and proof of claim concerning a pre-1909 vested water right. An un-adjudicated claim is a vested right.

Even though SWR 170 has not yet been adjudicated, its validity is not in question because its diligent development and reasonable use can be proven by the use and perfection of Certificate 83069 to the extent the two rights overlap and describe the same place of use. Proving the development and use of SWR 170 under Certificate 83069 is allowed because Certificate 83069 contains reservation language indicating that the applicant, by applying for the use under the certificate, did not intent to relinquish any claim for a vested (pre-1909) rights on any of the lands similarly described under the Certificate. The applicant effectively stated that his use under the application would be for the development and use of the same lands claimed acres under SWR 170. The development of the overlapping acres in SWR 170 can be proved by the certification and continued use of water delivery and use to the same acres described in Certificate 83069.

Thus, any acres perfected and certificated under Certificate 83069 which are described to the same as acres claimed under SWR 170³ can be said to have been developed under SWR 170 and be claimed as primary rights with a priority date of 1891. In addition, subject to development and continued use, any acres described under SWR 170 which do not describe the same place of use as acres perfected under Certificate 83069 may be designated as primary⁴. This extent of the overlap can only be completed upon a survey by a water rights examiner and additional research of the historical development of these identified acres. Finally, any acres already perfected under Certificate 83069, which do not overlap acres described and developed under SWR 170⁵ may be designated a primary acres with a priority date of 1978.

Water rights subject to transfer to a new use

Because the place of use described in each right overlaps, review of the extent of the overlap is necessary to determine which rights are subject to transfer. In order to determine the number of irrigated acres under Certificate 83069, Permit G-11024 and SWR 170 subject to transfer, a careful review of the extent of the overlapping water rights must be undertaken.

In total, Certificate 83069 and SWR 170 describe an identical place of use on 459.9 acres. SWR 170 describes 74.4 acres that do not overlap any acres in Certificate 83069 and Certificate 83069 describes 110.6 acres that are not described in SWR 170. The acres described in G-11024 are already described as supplemental rights for the most part⁶.

At a minimum, there are currently 570.5 acres of irrigation use that may be transferred to another use under SWR 170 and Certificate 83069. Potentially, an additional 74.4 acres under SWR 170 may also be transferred to another use, but only after adjudication of the claim.

In summary, if additional fish use or another use was desired, 570.5 acres at 3.0 acre foot/per acre duty could be transferred. If the duty allowed for the season of use for irrigation

³ A total of 459.9 acres

⁴ A total of 74.4 acres.

⁵ A total of 110.6 acres

⁶ See Attached Table B-2 describing the total acres available for transfer from irrigation under each claim, certificate and permit.

(now from March 1 to October 31⁷) were shaped to a year round rate, there is potential for another 2.36 cfs for fish use or another beneficial use⁸. Given the location and competition in the area for water, we do not believe that a transfer from irrigation to another use would be challenged. The limiting factor would be the ability to find this volume of water and its ability to be used beneficially for the purpose transferred.

New Appropriations

The Summer Lake Subbasin is classified for the following beneficial uses: agriculture, domestic, fish life, groundwater recharge, industrial instream, irrigation, mining, municipal, pollution abatement, power, recreation, and stockwater. The basin is not closed to further appropriations for any of these allowed uses. The hydrology study currently underway will help determine the maximum annual yield in the area surrounding the farm and determine the amount of water available for appropriation. Once the amount available is determined, Mr. MacDonald may apply for new and additional groundwater rights to develop the maximum use for aquaculture in the basin.

Whether other users could apply for and receive new water rights similar to those currently in use at Desert Springs Trout Farm will largely depend on the access and ability to find water in similar volumes and quality. These issues can only be determined by a study of the hydrology in the surrounding area.

Please contact me if you have any further questions regarding these water rights and uses.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.


Cortney D. Duke

CDD:dmc

Enclosures

cc: Tom MacDonald Via Electronic Mail: Desertsprings16@hotmail.com
Bernie Burkholder Via Electronic Mail: bburkholder@cableone.net

⁷ Because the Summer Lake Basin has not yet been adjudicated, the irrigation season is currently set by OWRD's default rules. The irrigation season may change when the basin is adjudicated.

⁸ When SWR 170 is adjudicated, an additional 74.4 acres and 0.30 cfs will be available for transfer

June 12, 1989

Water Resources Department
3850 Portland Road NE
Salem, Oregon 97310

RECEIVED

JUN 14 1989

Attention: Wayne J. Overcash

WATER RESOURCES DEPT.
SALEM, OREGON

Reference: File C-11640 for Robert F. Olson Desert Springs Trout Farm

1. Yes, I want to file on 17.8cfs for fish culture.
2. The water will go into Anna River, Then into Summer Lake.
3. By measuring the flow in a ditch before and after Development of wells.
4. Water from well will be used in same facilities. The amount requested is in addition of the amount allowed from the stream.

Robert F. Olson

Robert F. Olson

0056

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JUN 14 1989

WATER RESOURCES DEPT.
SALEM, OREGON

PHONE 378-3065

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310



Apr-11 12, 1989

Robert F. Olson
P.O. Box 40
Sumner Lake, OR 97640

REFERENCE: File 6-11640

This is to acknowledge your amended Application 6-11640 and two attachment sheets along with the four prints of the large supporting map and the smaller map prepared on tracing paper. The Application now describes the proposed use of 17.8 cubic feet per second from four wells, being 10.07 cfs for fish culture and 7.73 cfs for irrigation of 50.1 acres and supplemental irrigation of 569.6 acres.

According to the information noted in Item 3 and in the Comments section of the application, you intend to run all the water through the fish raceways and then use the water for irrigation purposes. If so, it appears that you intend to use all of the 17.8 cubic feet per second for fish culture instead of only the 10.07 presently noted under Item 1 of the application.

1- If you wish to file for the 17.8 cfs for fish culture, rather than return your application, I can send it for you upon receipt of your written authorization.

2- Also, according to information supplied in your application, after the water is run through the raceways, part of the water from the wells (7.73 cfs) will be used for irrigation and supplemental irrigation. It will be necessary for you to advise us of how and where the water not to be used for irrigation or not needed to supplement the prior irrigation right will be disposed of after being discharged from the raceways.

If the water is to be returned to a natural stream or the river, unless you have already, you will need to contact the State Department of Environmental Quality to determine any requirements, they may have for your development. They may be reached in Portland by telephone at 229-5325.

3- We will need a little more information on how you arrived at the amount of water requested. The basis used in determining the amount of water requested is needed.

4- According to our records, the existing Permit 46063 assigned to First Interstate Bank of Oregon, N.A. provided for the use of 14.26 cfs from an unnamed stream for fish culture in facilities in the vicinity of your development. Will water from the wells be used in the saw facilities? If so, is the amount requested from the wells in addition to the amount presently allowed from the stream?

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JUN 1 1989

WATER RESOURCES DEPT.
SALEM, OREGON

Robert F. Olson
April 12, 1989
Page 2


There is concern that the use of water from the wells as proposed by your application will effect the availability of surface water in streams or the Ana River. It may be necessary to place special conditions on a permit that may be issued approving your application. Upon completion of our review of your application, we will advise you of any special conditions that may be included prior to the issuance of a permit.

One of the provisions of a permit issued allowing the use of water from wells requires that the wells shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. Among these requirements, artesian wells must have a valve installed for controlling and/or stopping the flow of water. If you should have any questions regarding the standards for water wells, you may contact this office or Dennis Glender, the Watermaster for your area. Mr. Glender may be reached at his office in Lakeview by telephone at 947-2213.

Recently adopted administrative rules require that holders of a ground water right with a priority date earlier than December 20, 1988, submit the results of a pump test to the Water Resources Department on or before the next 10 year anniversary of the priority date. No tests will be required until January, 1990. The pump test must meet certain specifications as detailed in OAR 690-217. Informational brochures are currently being developed and will be mailed to you with your permit or as they become available.

I apologize for not bringing these matters to your attention in our earlier correspondence. If you should have any questions, please call or write and advise me of a telephone number and time you can be reached. We will continue to hold action on your application for a reasonable length of time pending your reply.

Sincerely,



WAYNE J. OVERCASH
Water Rights Specialist

WJO

cc: Dennis Glender, Watermaster District 12

0058

0000 APPROXIMATE FILE NO.

Attachment A

Township, Range, Section	Quarter/Quarter	Certificate 83069	Permit G-11024	SWR 170
T30S, R17E, Sec. 4				
	NWSW	2.6		some?
	SW SW	21.2	30.0 (S)	33.3
	SE SW	0.5		4.7
T30S, R17E, Sec. 5				
	SW NE	8.5	40 (S)	4.2
	SE NE	22.8	40 (S)	36.5
	SE NW	9.6	20.3 (P)	
	NE SW	0.5	28.4 (P)	
	SE SW		1.4(P)	
	NE SE	37.6	40.0 (S)	40
	NW SE	36.8	39.1(S)	24.8
	SW SE	29.6	30.0(S)	25.9
	SE SE	35.8	40.0 (S)	40
T30S, R17E, Sec. 8				
	NE NE	40	40 (S)	38.1
	NW NE	30	33.0 (S)	22.5
	SW NE	8.8	11.0 (S and F)	0.5
	SE NE	19.4	31.0 (S)	10.9
	NE NW		Fish	
	SE NW		Fish	
T30S, R17E, Sec. 9				
	SW NE	1.6	2.0 (S)	4.5
	NE NW	10.8		18.1
	NW NW	39.5	36.0(S)	35.1
	SW NW	32	32 (S)	23.5
	SE NW	27.3	30 (S)	29.7
	NW SW			0.6
	NE SW	40	31(S)	37.2
	NE SE		0.5 (S)	0.2(?)
	NW SW	15.6		0.6
	SW SW	5.4		
	SE SW	9.6		16.2
	NW SE	28	28 (S)	33.4
	SW SE	40	20 (S)	24.4
	SE SE	17	16 (S)	28.2

Attachment B

Water Right	Total cfs Allowed for Irrigation	Total cfs Allowed for Fish Culture
SWR 170 (1891)	13.36 cfs	0
Certificate 83069 (1978)	14.3 cfs	0
Certificate 83065 (1981)	0	14.26 cfs
Permit G-11024 (1987 and 1989)	7.73 cfs	17.8 cfs
TOTAL		32.06 cfs

Water Right	Total Acres of Irrigation	Total Acres Available for Transfer from Irrigation to a New Use	Total rate available for Transfer from Irrigation to a New Use
SWR 170 (1891)	534.3	74.4	0.30 cfs
Certificate 83069 (1978)	570.5	110.6 with a priority date of 1978 459.9 with a priority date of 1891	2.36 cfs
Certificate 83065 (1981)	0	NA	NA
Permit G-11024 (1987 and 1989)	529.6 supplemental 50.1 primary	NA	NA
TOTAL		644.9	2.67 cfs



Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035

Tel. (503) 598-7070
Fax (503) 598-7373

www.jordanramis.com

Peter D. Mohr
Admitted in Oregon, Washington and
Colorado
peter.mohr@jordanramis.com
Direct Dial: (503) 598-5529

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NOV 13 2018

OWRD

November 8, 2018

VIA EMAIL AND CERTIFIED MAIL

Lisa J. Jaramillo
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301
lisa.jaramillo@oregon.gov

Re: **Pending Civil Litigation Affecting Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749**
Our File No. 54350-77015

Dear Lisa,

As we discussed yesterday, I am writing to confirm on behalf of our clients, Summer Lake Trout Farm, Inc., an Oregon corporation, Bernard Burkholder, as both an individual and in his capacity as a limited partner of Western Development Group, LP and as manager of Western Development Group GP, LLC, and Ethan Negus (collectively our "Clients"), that, among other property interests, title ownership to those vested and inchoate water rights identified in the Oregon Water Resource Department's (the "Department") records as Claim SWR 170, Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749 (collectively, the "Water Rights") is in dispute between our Clients and specified individuals as further confirmed by our Clients' complaint which they recently filed in Case No. 18CV47457 in the Circuit Court of Lake County (the "*Complaint*"). Included within **Attachment A** to this letter are copies of each of the Water Rights. Included within **Attachment B** to this letter is: (1) a copy of the conformed title page of the Clients' *Complaint* filed in pending Case No. 18CV47457 in Lake County Circuit Court; and (2) a copy of the *Lis Pendens*, as recorded in the real property records of Lake County by our Clients' counsel out of Bend, which provides record notice of the real property interests including, but not limited to, the Water Rights, which are affected by the *Complaint*.

Among the individuals identified as defendants in the *Complaint* is Thomas A. MacDonald. The Thomas A. MacDonald identified as a defendant in the *Complaint* is the same Thomas A. MacDonald identified as the applicant and resulting recipient of record with respect to the Department's issuance of Water Right Certificate 83065, Water Rights Certificate 83069, and Permit G-17749. As a result of the *Complaint* and related pending action in Lake County Circuit Court, we provide this letter to confirm that no actions should be taken by the Department regarding the Water Rights without first consulting with either me or my colleague, Steve Shropshire. To the extent that any actions are taken by the Lake County Circuit Court relating to the ownership or any other aspect of the Water Rights, we will of course provide you with written notice of the same for the Department's

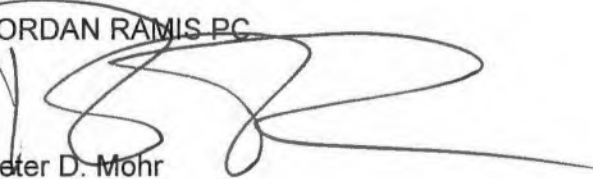
54350-77015 3255691.1

Lisa J. Jaramillo
November 8, 2018
Page 2

files. As we also discussed, with respect to the current status of Permit G-17749 and, more specifically, the remaining need to fully prove up such permit, our Clients have every intention to complete that process within the time period authorized to do so.

Thank you again for our discussion yesterday regarding the above. Should you have any comments or questions in the future about the pending litigation or any other matter affecting the Water Rights, please do not hesitate to contact me.

Sincerely,

JORDAN RAMIS PC

Peter D. Mohr

Attachments

cc: Patricia McCarty (via email only)
Dwight French (via email only)

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Attachment A

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DEC 22 1992

WATER RESOURCES DEPT.
SALEM, OREGON

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

**SURFACE WATER REGISTRATION STATEMENT
PRE-1909 VESTED WATER RIGHT CLAIM**

1. Name of Registrant: Robert Olson
Mailing Address: P.O. Box 40
Summer Lake, Oregon 97640 Telephone No: (503) 943-3277
2. Source of water: Springs / Artesian Wells
Tributary to: Anna River
3. Purpose(s) for which water is used: Irrigation
(Irrigation, Stockwater, Domestic, Hydroelectric power, Industrial, Etc.)
If irrigation, total number of acres irrigated: 584.30
4. Priority Date
a) Date of first use: By 1901
b) Date water use development first initiated: July 16 1891
c) Name of party who initiated development: Arthur S. Phillips
5. Amount of water claimed: 13.36, in CFS or GPM
(Water put to beneficial use)
6. Location of place of use:
4, 5, 8, 9 Sections, Township 30 N/S, Range 17 E/W.
_____ Sections, Township _____ N/S, Range _____ E/W.
(Attach additional pages if necessary)
7. Usual period of use: 4 / 1 to 9 / 30
month day month day

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8. Remarks: See Attached Information

9. Total fees submitted with claim: 635.⁰⁰/₁₀₀

Notarized Statement Signed by Claimant.

STATE OF OREGON)
County of WALKER) : SS

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

OWRD

Robert F. Olson
Signature of Claimant

Signed and attested before me this 21st day of December, 19 92



Darryl Anderson
NOTARY PUBLIC for the State of Oregon
My commission expires: 12-18-95

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

Certified Water Right Examiner

Name: Darryl Anderson CWRE#: 005

Address: 618 South 1st St
P.O. Box 28 Walker OR 97630

Telephone: 503 947 4407

Fax 947 2321

MAP TO ACCOMPANY SURFACE WATER REGISTRATION STATEMENT
PRE-1909 VESTED WATER RIGHT CLAIM

LOCATED IN SECTIONS 4,5,8 AND 9
TOWNSHIP 30 SOUTH RANGE 17 EAST

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AUG 24 1993
WATER RESOURCES DEPT.
SALEM, OREGON

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AUG 24 1993
WATER RESOURCES DEPT.
SALEM, OREGON

NOTES:

AREA SHOWN IS FLOOD IRRIGATED FROM THE EXISTING SPRINGS AND DITCHES AS INDICATED ON THE MAP. BUCKHORN SPRING AND THE FOUR ARTESIAN WELLS ARE DIVERTED THROUGH THE TROUT FARM THEN PUMPED BACK INTO DITCHES ONE AND TWO. THE OWNER INDICATED THAT PRIOR TO CONSTRUCTION OF THE TROUT FARM THESE SOURCES WERE DIVERTED DIRECTLY INTO DITCHES ONE AND TWO. SOURCE VOLUMES FOR SOURCES 1-4 WERE SUPPLIED BY THE OWNER. VOLUMES FOR THE OTHER SOURCES WERE ESTIMATED AT THE TIME OF OUR SURVEY, DEC. 15, 1992. MANY OTHER SMALLER SPRINGS HELP IRRIGATE THE PROPERTY AS INDICATED ON THE MAP. IRRIGATED AREAS WERE SURVEYED TO EXISTING CROP LINES (GRASS) AND VERIFIED USING AN ASCS PHOTOGRAPH 41037-378.

RECEIVED

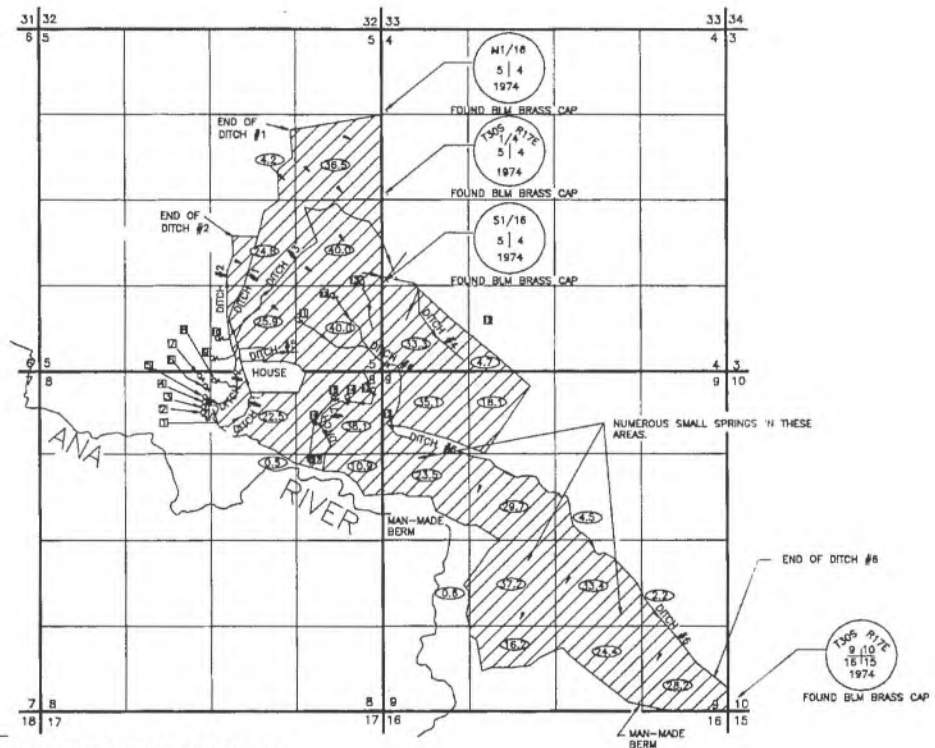
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LEGEND

- SECTION LINE
- 1/4 SECTION LINE
- 1/16 SECTION LINE
- ▨ IRRIGATED AREA

NOTE: PREPARATION OF THIS MAP IS FOR IDENTIFYING PROPOSED WATER RIGHTS ONLY. IT HAS NO INTENT TO PROVIDE LOCATIONS OR DIMENSIONS OF PROPERTY BOUNDARIES.

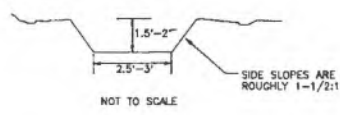


SPRINGS

DISTANCES ARE FROM THE SOUTH 1/16 CORNER BETWEEN SECTIONS 4 AND 5, T30S R17E

- 1 - BUCKHORN SPRING, APPROXIMATE FLOW, 4200 G.P.M. 1902' SOUTH AND 2615' WEST.
- 2 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1872' SOUTH AND 2753' WEST.
- 3 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1880' SOUTH AND 2748' WEST.
- 4 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M., 1802' SOUTH AND 2728' WEST.
- 5 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M. 1802' SOUTH AND 2724' WEST.
- 6 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1558' SOUTH AND 2718' WEST.
- 7 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1398' SOUTH AND 2803' WEST.
- 8 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1473' SOUTH AND 2583' WEST.
- 9 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1126' SOUTH AND 2810' WEST.
- 10 - SPRING, APPROXIMATE FLOW, 50 G.P.M. 822' SOUTH AND 2524' WEST.
- 11 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 534' SOUTH AND 1288' WEST.
- 12 - SPRING, APPROXIMATE FLOW, 50 G.P.M. 2129' SOUTH AND 114' EAST.
- 13 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1814' SOUTH AND 133' WEST.
- 14 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1718' SOUTH AND 531' WEST.
- 15 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1739' SOUTH AND 740' WEST.
- 16 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 2117' SOUTH AND 1033' WEST.
- 17 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 2678' SOUTH AND 1113' WEST.

THE DITCHES THAT ARE NUMBERED ARE ALL OF THE SAME APPROXIMATE SIZES



NOT TO SCALE

SIDE SLOPES ARE ROUGHLY 1-1/2:1

- DITCH SLOPES
- #1 0.001 FT PER FT
 - #2 0.001 FT PER FT
 - #3 0.003 FT PER FT
 - #4 0.010 FT PER FT
 - #5 0.005 FT PER FT
 - #6 0.001 FT PER FT
 - #7 0.005 FT PER FT

DITCH SLOPES VARY ALONG COURSE OF DITCH SLOPES SHOWN ARE AN APPROXIMATE AVERAGE



PREPARED FOR:
ROBERT OLSON
P.O. BOX 40
SUMMER LAKE, OREGON 97640

PREPARED BY:
ANDERSON ENGINEERING AND SURVEYING
618 SOUTH FIRST STREET
P.O. BOX 28
LAKEVIEW, OREGON 97630
(503) 947-4407 FAX 947-2321
DECEMBER 1992 SHEET 1 OF 1
REVISED ON AUGUST 6, 1993

MAP REVISED 8/6/93

SWR 170

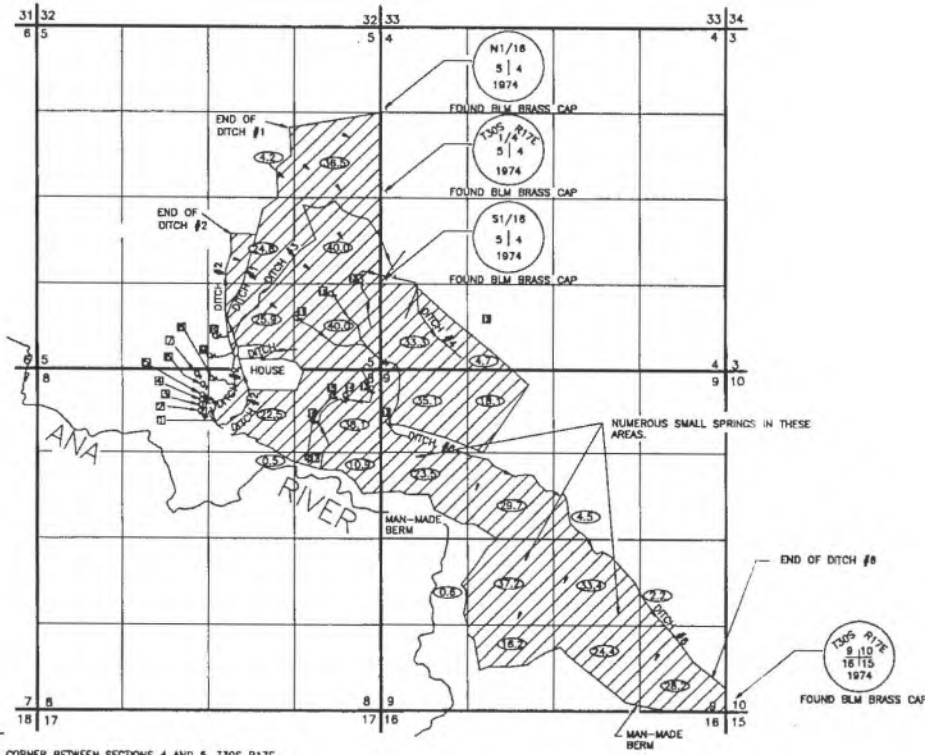
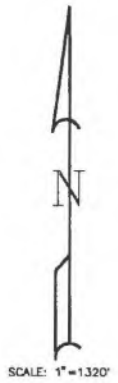
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MAP TO ACCOMPANY SURFACE WATER REGISTRATION STATEMENT PRE- 1909 VESTED WATER RIGHT CLAIM

LOCATED IN SECTIONS 4,5,8 AND 9 TOWNSHIP 30 SOUTH RANGE 17 EAST

NOTES:

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LEGEND

- SECTION LINE
- 1/4 SECTION LINE
- 1/16 SECTION LINE
- ▨ IRRIGATED AREA

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NOTE: PREPARATION OF THIS MAP IS FOR IDENTIFYING PROPOSED WATER RIGHTS ONLY. IT HAS NO INTENT TO PROVIDE LOCATIONS OR DIMENSIONS OF PROPERTY BOUNDARIES.

SPRINGS

DISTANCES ARE FROM THE SOUTH 1/16 CORNER BETWEEN SECTIONS 4 AND 5, T30S R17E

- 1 - BUCKHORN SPRING, APPROXIMATE FLOW, 4200 G.P.M. 1902' SOUTH AND 2815' WEST.
- 2 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M. 1972' SOUTH AND 2753' WEST.
- 3 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M. 1880' SOUTH AND 2746' WEST.
- 4 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M. 1802' SOUTH AND 2729' WEST.
- 5 - ARTESIAN WELL, APPROXIMATE FLOW, 2000 G.P.M. 1802' SOUTH AND 2724' WEST.
- 6 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1399' SOUTH AND 2803' WEST.
- 7 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1473' SOUTH AND 2883' WEST.
- 8 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 1128' SOUTH AND 2810' WEST.
- 9 - SPRING, APPROXIMATE FLOW, 50 G.P.M. 822' SOUTH AND 2524' WEST.
- 10 - SPRING, APPROXIMATE FLOW, 20 G.P.M. 534' SOUTH AND 1288' WEST.
- 11 - SPRING, APPROXIMATE FLOW, 50 G.P.M. 2129' SOUTH AND 1114' EAST.
- 12 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1814' SOUTH AND 133' WEST.
- 13 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1718' SOUTH AND 531' WEST.
- 14 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 1738' SOUTH AND 740' WEST.
- 15 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 2117' SOUTH AND 1033' WEST.
- 16 - SPRING, APPROXIMATE FLOW, 5 G.P.M. 2676' SOUTH AND 1113' WEST.



PREPARED FOR:
ROBERT OLSON
P.O. BOX 40
SUMMER LAKE, OREGON 97640

PREPARED BY:
ANDERSON ENGINEERING AND SURVEYING
618 SOUTH FIRST STREET
P.O. BOX 28
LAKEVIEW, OREGON 97630
(503) 947-4407 FAX 947-2321

DECEMBER 1992 SHEET 1 OF 1

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NOV 13 2018

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

OWRD

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER for FISH CULTURE.

This right was perfected under Permit S-46063. The date of priority is APRIL 6, 1981. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.26 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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

Twp	Rng	Mer	Sec	Q-Q
30 S	17 E	WM	8	SW NE
30 S	17 E	WM	8	NE NW
30 S	17 E	WM	8	SE NW

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 of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

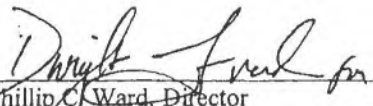
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

RECEIVED

JAN 13 2008

OWRI

WITNESS the signature of the Water Resources Director, affixed JAN 26 2007.


Phillip C. Ward, Director
Water Resources Department

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OWRD

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION of 570.5 ACRES.

This right was perfected under Permit S-43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.3 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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-FORTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. 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.

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

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	NW SW	2.60
30 S	17 E	WM	4	SW SW	21.20
30 S	17 E	WM	4	SE SW	0.50
30 S	17 E	WM	5	SW NE	8.50
30 S	17 E	WM	5	SE NE	22.80
30 S	17 E	WM	5	SE NW	9.60
30 S	17 E	WM	5	NE SW	0.50

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

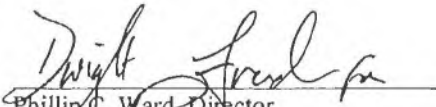
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	NE SE	37.60
30 S	17 E	WM	5	NW SE	36.80
30 S	17 E	WM	5	SW SE	29.60
30 S	17 E	WM	5	SE SE	35.80
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	30.00
30 S	17 E	WM	8	SW NE	8.80
30 S	17 E	WM	8	SE NE	19.40
30 S	17 E	WM	9	SW NE	1.60
30 S	17 E	WM	9	NE NW	10.80
30 S	17 E	WM	9	NW NW	39.50
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	27.30
30 S	17 E	WM	9	NE SW	40.00
30 S	17 E	WM	9	NW SW	15.60
30 S	17 E	WM	9	SW SW	5.40
30 S	17 E	WM	9	SE SW	9.60
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	40.00
30 S	17 E	WM	9	SE SE	17.00

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

JAN 26 2007

WITNESS the signature of the Water Resources Director, affixed _____.


 Phillip C. Ward, Director
 Water Resources Department

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2007

WATER

STATE OF OREGON

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COUNTY OF LAKE

NOV 13 2018

PERMIT TO APPROPRIATE THE PUBLIC WATERS

OWRD

THIS PERMIT IS HEREBY ISSUED TO

THOMAS A. MACDONALD
PO BOX 87
SUMMER LAKE, OR 97640

This superseding and correcting permit is issued to describe amendments for changes in the points of appropriation and an additional point of appropriation proposed under Permit Amendment Application T-11749 approved by Special Order Volume 103, Page 268 entered October 24, 2016, amendments for additional points of appropriation as described in T-10716 approved by Special Order Vol. 76, Page 833, entered December 10, 2008, and to describe all assignments and the extension of time for complete application of water approved October 30, 2016. This permit supersedes Permit G-11024 and G-17282.

to use the waters of NINE WELLS in the ANA RIVER BASIN for FISH CULTURE, IRRIGATION OF 50.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 569.6 ACRES.

The dates of priority for the uses are APRIL 7, 1987 for 10.0 CFS FOR FISH CULTURE AND 7.73 CFS FOR IRRIGATION AND JUNE 14, 1989 FOR 7.8 CFS FOR FISH CULTURE. The use is limited to not more than 17.80 CUBIC FEET PER SECOND, BEING 7.73 CFS FOR IRRIGATION AND 17.80 CFS FOR FISH CULTURE, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	17 E	WM	8	NE NW	WELL#1 - 390 FEET SOUTH AND 150 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#2 - 480 FEET SOUTH AND 190 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#3 - 525 FEET SOUTH AND 140 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#4 - 340 FEET SOUTH AND 145 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SE NW	WELL#5 - 3200 FEET NORTH AND 300 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SW SE	WELL#6 - 155 FEET NORTH AND 230 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	8	NE NW	WELL#7 - 110 FEET SOUTH AND 280 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	NW SE	WELL#8 - 2070 FEET NORTH AND 100 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 8
30 S	17 E	WM	5	SE SW	WELL#9 - 1040 FEET NORTH AND 130 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 8

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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. This right shall be limited to any deficiency in the available supply of any prior right existing for the same land.

At any time when the flow of Ana Springs is insufficient to furnish the amount of water required to satisfy existing rights with priority earlier than this permit, all ground water derived under this permit shall be delivered by the permittee into Ana River to the extent necessary to restore Ana River to its historic flow.

The permittee shall construct and maintain the necessary pipelines or ditches and install and maintain the necessary measuring devices so the provisions of the permit may be enforced by the proper state officer.

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

A description of the proposed place of use under the permit is as follows:

FISH CULTURE				
Twp	Rng	Mer	Sec	Q-Q
30 S	17 E	WM	8	SW NE
30 S	17 E	WM	8	NE NW
30 S	17 E	WM	8	SE NW

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	SE NW	20.30
30 S	17 E	WM	5	NE SW	28.40
30 S	17 E	WM	5	SE SW	1.40
Total					50.10

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	SW SW	30.00
30 S	17 E	WM	5	SW NE	40.00
30 S	17 E	WM	5	SE NE	40.00
30 S	17 E	WM	5	NE SE	40.00
30 S	17 E	WM	5	NW SE	39.10
30 S	17 E	WM	5	SW SE	30.00
30 S	17 E	WM	5	SE SE	40.00
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	33.00
30 S	17 E	WM	8	SW NE	11.00
30 S	17 E	WM	8	SE NE	31.00
30 S	17 E	WM	9	SW NE	2.00

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SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	9	NW NW	36.00
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	30.00
30 S	17 E	WM	9	NE SW	31.00
30 S	17 E	WM	9	NE SE	0.50
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	20.00
30 S	17 E	WM	9	SE SE	16.00
Total					569.60

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Permit Amendment T-11749

At any time when the flow of Ana Springs is insufficient to furnish the amount of water required to satisfy existing rights with priority earlier than this permit, all ground water derived under this permit shall be delivered by the permittee into the Ana River to the extent necessary to restore Ana River to its historic flow. If the flow of Ana Springs is insufficient to furnish the amount of water required for existing rights with earlier priority dates and not all the ground water derived under this permit can be delivered into the Ana River, then all of the ground water derived under this permit shall be shut off.

The combined quantity of water diverted at the new points of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

The permittee shall construct and maintain the necessary pipelines or ditches and install and maintain the necessary measuring devices so the provisions of the permit may be enforced by the proper state officer.

Water shall be acquired from the same aquifer as the original points of appropriation.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

The Additional Point of Appropriation Well #9 and the new Point of Appropriation Well #5 shall obtain groundwater from the predominately volcanic/basalt unit below the predominately basin-fill unit and both wells shall have continuous casing and continuous seal from land surface through the basin-fill unit into the predominantly volcanic/basalt unit.

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID). The tag showing the Well ID shall be permanently attached to the well. If a well does not have a Well ID tag, the permittee shall apply for one from the Department and attach it to the well within 60 days of the date the permit is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

Water use measurement conditions:

- a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Original Permit Conditions

This project was considered and approved by the Water Resources Commission on March 30, 1990.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an airline and pressure gauge adequate to determine water level elevations in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn. Artesian wells must have control valves installed to regulate the flow of water.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the Department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Actual construction work was to begin on or before April 30, 1991, however, complete application of the water to the use was extended and shall be made on or before October 1, 2016. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Issued March 17, 2017



Dwight French, Water Right Services Administrator for,
Thomas M. Byler, Director
Oregon Department of Water Resources

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Application G-11640/T-11749. jms
Basin 13

Water Resources Department
Volume 2 Ana River & Misc. Wells

PERMIT G-17749
District 12

Attachment B

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POWER

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LAKE**

SUMMER LAKE TROUT FARM, INC., an
Oregon corporation; BERNARD
BURKHOLDER, individually and in his
capacity as limited partner of WESTERN
DEVELOPMENT GROUP, LP and as manager
of WESTERN DEVELOPMENT GROUP GP,
LLC; and ETHAN NEGUS,

Plaintiffs,

v.

THOMAS A. MACDONALD; KAREN
MACDONALD; MEGAN MACDONALD; and
EDWARD MACDONALD,

Defendants,

And

WESTERN DEVELOPMENT GROUP, LP;
and WESTERN DEVELOPMENT GROUP
GP, LLC,

Nominal Defendants.

Case No.

**COMPLAINT (Declaratory Judgment;
Quiet Title; Trover, Conversion, Detinue;
Unjust Enrichment; Breach of Fiduciary
Duty; Financial Abuse; Specific
Performance)**

**CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION**

Amount Claimed: \$12 Million

Fee Authority: ORS 21.135(1), (2)(g)

For their complaint, plaintiffs Summer Lake Trout Farm, Inc. ("SLTF"); Ethan Negus
("Negus"); and Bernard Burkholder, individually ("Burkholder"), and in his capacity as a limited
partner of Western Development Group, LP (the "Partnership") and as manager of Western
Development Group GP, LLC (the "General Partner") allege as follows:

Venue

1.

This case involves several claims seeking determinations concerning the ownership and
recovery of both real property and personal property located exclusively in Lake County,



I, Stacie Geaney, County Clerk for Lake County, Oregon
certify that the instrument identified herein was
recorded in the Clerk records.

Stacie Geaney - County Clerk

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AFTER RECORDING RETURN TO:

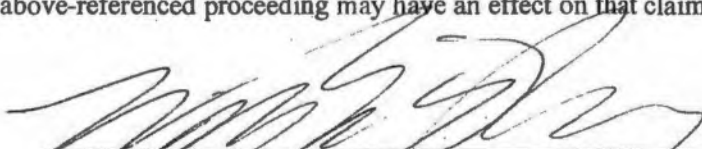
William F. Buchanan
Schmid Malone Buchanan LLC
937 N.W. Newport Avenue, Suite 220
Bend, Oregon 97703

NOTICE OF PENDENCY OF AN ACTION (LIS PENDENS)

Pursuant to ORS 93.740, the undersigned states:

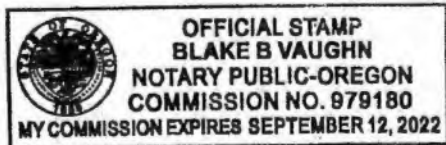
1. Plaintiffs, Bernard Burkholder, individually, as a limited partner of Western Development Group, LP, a Texas limited partnership and Western Development Group GP, LLC, a Texas limited liability company; Summer Lake Trout Farm, Inc., an Oregon corporation; and Ethan Negus, individually, have filed an action in the Circuit Court for Lake County, State of Oregon, identified as Case No. 18CV47457.
2. The Defendants are Thomas A. MacDonald, Karen M. MacDonald, Megan MacDonald, and Edward MacDonald.
3. The object of the action in the complaint is to quiet title to, or declare ownership of, the real property described in Exhibit A; to establish a constructive trust in such property in favor of Western Development Group, LP; and/or to compel transfer of the property to Western Development Group, LP.
4. The description of the real property involved or affected is set forth in Exhibit A.
5. All persons should be advised that one or more parties claim an interest in the above-described real property and that the outcome of the above-referenced proceeding may have an effect on that claimed interest.

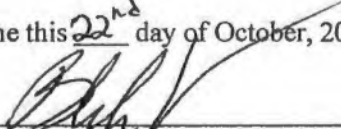
DATED this 22nd day of October, 2018.


 William F. Buchanan, OSB# 93222
bill@schmidmalone.com
 Schmid Malone Buchanan LLC
 550 NW Franklin Avenue, Suite 378
 Bend, Oregon 97701
 p541 388 1107
 f 541 388 7370
 Of Attorneys for Plaintiff

STATE OF OREGON)
) ss.
County of Deschutes)

The foregoing instrument was acknowledged before me this 22nd day of October, 2018 by William F. Buchanan.




Notary Public for Oregon
My commission expires: 9/12/2022

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NOV 13 2018

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EXHIBIT A – page 1

Parcel 1 Legal description:

Lot 2 in Block 3 of Ana River Subdivision No. 1, a subdivision in the NW1/4 of Section 6, Township 30 South, Range 17 East of the Willamette Meridian, Lake County, Oregon

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E06B000801; Tax Account No. 16840

Parcel 2 Legal description:

In the County of Lake, State of Oregon:

Lot 25, Block 3 of Ana River Subdivision No. 1, a subdivision in the NW1/4 of Section 6, Township 30 South, Range 17 East of the Willamette Meridian, Lake County, Oregon

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E06B000603; Tax Account No. 8933

Parcel 3 Legal description:

T.30S R.17E W.M.

Section 5: that portion of the SE ¼ NW1/4 lying West of County Road #4-16B

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E000001001; Tax Account No. 8522

Parcel 4 Legal description:

In the County of Lake, State of Oregon, as follows:

Township 30 South, Range 17 East of the Willamette Meridian,

Section 5: Beginning at the Northwest corner of the Southeast Quarter of Section 5, Township 30 South, Range 17 East of the Willamette Meridian; Thence East 200 feet; Thence South 400 feet; Thence West 200 feet; Thence North 400 feet to the point of beginning, EXCEPTING THEREFROM property conveyed to Lake County, a political subdivision of the State of Oregon, by deed recorded January 27, 1992, in Book 219 at Page 259, Deed Records, for road purposes.

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

Tax information: Tax Map/Lot No. 30S17E000000700; Tax Account No. 8479 LAKE COUNTY RECORDING NO.

2018002083

EXHIBIT A - page 2

Parcel 5 (Tax Map/Lot 30S17E000000600; Tax Account No. 8477) In the County of Lake, State of Oregon, as follows

**Township 30 South, Range 17 East of the Willamette Meridian
Section 4: SW¼ SW¼**

Section 5: That portion of the SE¼ NW¼ lying east of County Road 4-16B; that portion of the NE¼ SW¼ lying east of County Road 4-16B; that portion of the SW¼ SW¼ lying east of County Road 4-16B; that portion of the SE¼ SW¼ lying south and east of County Road 4-16B; S½ NE¼; N½ SE¼ EXCEPTING THEREFROM beginning at the Northwest corner of the SE¼ of said Section 5, thence East 200.00 feet, thence South 400.00 feet, thence West 200.00 feet, thence North 400.00 feet to the point of beginning, S½ SE¼.

Section 8: Beginning at the intersection of the west right-of-way line of County Road 4-16B and the north line of the NE¼ NW¼ said Section 8, thence S31°52'50"E a distance of 173.24 feet, more or less, to a 5/8" iron pin, thence along a 1244.12 foot radius curve to the left, the central angle of which is 26°58'44" a distance of 585.82 feet to a 5/8" iron pin, thence leaving said right-of-way line N73°11'23"E a distance of 243.04 feet to a 5/8" iron pin, thence N26°42'07"E a distance of 382.43 feet to a 5/8" iron pin, thence S54°03'09"E a distance of 343.14 feet to a 5/8" iron pin, thence S25°45'07"E a distance of 192.22 feet to a 5/8" iron pin, thence S17°12'45"W a distance of 126.80 feet to a 5/8" iron pin, thence N82°08'01"W a distance of 65.05 feet to a 5/8" iron pin, thence S01°54'03"E a distance of 279.53 feet to a 5/8" iron pin, thence S49°23'39"E a distance of 533.48 feet to a 5/8" iron pin, thence S50°01'04"E a distance of 102.66 feet to a 5/8" iron pin, thence S85°39'58"E a distance of 26.81 feet to a 5/8" iron pin, thence S45°38'45"E a distance of 210.58 feet to a 5/8" iron pin on the north bank of Ana River, thence S45°38'45"E to the center line of Ana River, thence Southeasterly along the center line of Ana River to a point on the east line of the SE¼ NE¼ said Section 8, thence Northerly along the east line of said Section 8 to the NE corner of the NE¼ NE¼, thence Westerly along the north line of said Section 8 to the point of beginning. EXCEPTING THEREFROM any portion lying within the county road right-of-way,

Section 9: NW¼ NW¼; that portion of the SW¼ NW¼ lying north and east of the center line of Ana Reservoir; SE¼ NW¼; SW¼ NE¼; NE¼ SW¼; NW¼ SE¼; S½ SE¼.

TOGETHER WITH all appurtenances to the above described property, and other interests associated therewith, including, but not limited to, all water and all inchoate and vested water rights.

LAKE COUNTY RECORDING NO.

2018002083

Water Rights Information Query Results

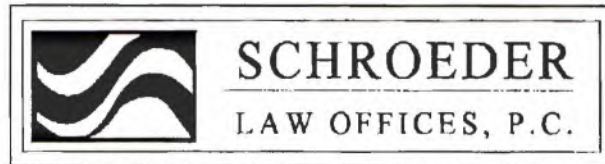
	Contacts	Application	Permit	Certificate	Claim	Decree	Transfers	Status
<u>Select</u>	NORTHWEST FARM CREDIT SERVICES FLCA/PCA ▶ PO BOX 148 KLAMATH FALLS, OR 97601 THOMAS MACDONALD ▶ PO BOX 87 SUMMER LAKE, OR 97640	S57451	S43260	83069				NC

[Help understanding and working with the Water Rights Information System](#)

Download: [Point of diversion data](#), [Place of use data](#), [Stakeholder data](#)

[Return to WRIS Query](#)

Laura A. Schroeder
Licensed in Oregon, Idaho,
Nevada and Washington
V. Scott Borison, Ph.D.
Certified Legal Manager
Daryl N. Cole
Office Manager



Lynn L. Steyaert
Licensed in Oregon and Nevada
Cortney D. Duke
Licensed in Oregon
Colm Moore
Licensed in Oregon and Nevada
Therese A. Ure
Licensed in Nevada
Wyatt E. Rolfe
Licensed in Oregon

June 8, 2007

VIA FACSIMILE & US MAIL

Oregon Water Resources Department
725 Summer Street N.E., Suite A
Salem, OR 97301-4172
ATTN: Kim Grigsby
Fax: (503) 986-0903

RE: Public Records Request

Dear Ms. Grigsby:

Our office makes the following request for public records under the INSPECTION OF PUBLIC RECORDS LAW, ORS 192.410 – 192.530. The requestor is willing to pay up to a maximum of \$100 in fees for the requested materials; however, please advise if the cost may exceed that amount. ORS 192.440(3). Otherwise, if there are any fees that occur during duplication of these materials, please enclose an invoice and our bookkeeper will pay upon receipt.

Please make the following files available for review and copying by our office on Tuesday June 12th, 2007: Applications S-57451, S-61505, and G-11640 and related files, if any, including partial cancellation, extension requests, or enforcement actions

Additionally, please make the Surface Water Registration Statement for a Pre-1909 Vested Water Right, filed by Robert Olson, available for review and copying. The claim was made in December of 1992 and development was initiated by Arthur S. Phillips. Please make this record, as well as all other Surface Water Registration Statements for Pre-1909 Vested Water Rights related to Summer Lake and Anna Creek available for review and copying.

Should you have any questions, please contact our office at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Tara J. Jackson, paralegal for
Laura A. Schroeder

TJJ: tjj

cc: Client

phone 503-281-4100

fax 503-281-4600

1915 NE 39th Avenue, P.O. Box 12527, Portland, Oregon 97212-0527
www.water-law.com



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

March 21, 2007

West Water Research
805 Broadway St., STE 415
Vancouver, WA 98660

Reference: Application 61505 Permit 46063
Application 57451 Permit 46063

Enclosed are copies of the above referenced files that you requested in your letter of March 15, 2007.

The total cost of this request is as follows:

1 hour @\$20.00	20.00
Copies – 1 st one @2.00	2.00
93 additional copies @.50 each	<u>46.50</u>
Total Cost	\$68.50

A refund check of \$16.50 will be sent to you in the near future.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

Connie Vance
Water Rights Section
Water Resources Department

Cc: file
WRD Fiscal



**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **86731**

INVOICE # _____

RECEIVED FROM: Westwater Research

BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: OTHER: (IDENTIFY) _____

1240418790

TOTAL REC'D \$ 85.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$ _____
OTHER: (IDENTIFY) \$ _____

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$ _____
0410 RESEARCH FEES \$ 85.00
0408 MISC REVENUE: (IDENTIFY) \$ _____
TC162 DEPOSIT LIAB. (IDENTIFY) \$ _____
0240 EXTENSION OF TIME \$ _____

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR	EXAM FEE	0219	LICENSE FEE
LANDOWNER'S PERMIT	\$	0220	\$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD # _____
0210 MONITORING WELLS \$ _____ CARD # _____
OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) \$ _____
0231 HYDRO LICENSE FEE (FW/WRD) \$ _____
HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION \$ _____

RECEIPT:

86731

DATED: 3/19/07 BY: Ken N. Bair



West Coast Office

Bank of America Financial Center
805 Broadway St., STE 415
Vancouver, WA 98660
Tel: (360) 695-5233
Fax: (360) 695-6105

Idaho Office

280 N. 8th St., STE 205
Boise, ID 83702
Tel: (208) 433-0255
Fax: (208) 433-5596

East Coast Office

457 Cider Mill Road
Cornwall, VT 05753
Tel: (802) 462-3483
Fax: (802) 462-3217

March 15, 2007

Oregon Water Resources Department
Water Rights Research
725 Summer Street NE, Suite A
Salem, OR 97301

Dear Water Rights Research Team:

WestWater Research would like to obtain a copy of the FULL water right files for water right application #61505 and water right application #57451.

Along with this request I have enclosed a check in the amount of \$85.00.

Please contact myself or Harry Seely if you require any further information prior to process this request.

Sincerely,

Tami Christensen

Tami Christensen
Office Manager
360.695.5233
christensen@waterexchange.com



www.waterexchange.com

RECEIVED
MAR 19 2007
WATER RESOURCES DEPT
SALEM, OREGON

FIELD FORM

To: RALPH

ASSIGNED, See Misc. Rec., Vol. _____

By deed
Page _____

SUTTERFIELD 43260

6/2/97

Application No. 57451

Permit No. _____

STATE OF OREGON WATER RESOURCES DEPARTMENT

RECEIVED

Application for Permit to Appropriate Surface Water

MAY 24 1978

WATER RESOURCES DEPT.

SALEM, OREGON

I, Carlon Cattle Company

(Name of Applicant)

of Box 896

(Mailing Address)

Summer Lake

(City)

State of Oregon

97640
(Zip Code)

Phone No. 943-3948

do hereby

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is An unnamed stream

a tributary of Ana River

2. The point of diversion is to be located 780 ft. S and 170 ft. EW

(N. or S.)

(E. or W.)

from the N 1/4 corner of Section 8

(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

being within the NW 1/4 of the NE 1/4 of

Sec. 8 Twp. 30S R. 17E, W. M., in the county of Lake

(N. or S.)

(E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

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	
30S	17E	4																	
		5			40°	40°									40°	40°	30°	40°	
		8	40°	33°	11°	31°													
		9			2°				36°	32°	30°	31°			0°	5°	28°	20°	16°

Final Proofed
5-29-97 RMS. ET.

5705

4. The amount of water which the applicant intends to apply to beneficial use is 14.26
cubic feet per second for irrigation and 1 cfs for stock during
Non-irrigation Season
(If water is to be used from more than one source, give quantity from each)

5. The use to which the water is to be applied is Irrigation and stock
water

6.

DESCRIPTION OF WORKS

Include dimensions and type of construction of diversion dam and headgate, length and dimensions of supply ditch or pipeline, size and type of pump and motor, type of irrigation system to adequately describe the proposed distribution system.

Open ditches previously constructed -
Will install 1320 ft. mainline (size to be
determined) and two 1/4 mile wheel-lines.
Size and type of pump to be determined.

If for domestic use state number of families to be supplied

7. Construction work will begin on or before June 1, 1979 (sprinkled Portion)

8. Construction work will be completed on or before Oct 1, 1980

9. The water will be completely applied to the proposed use on or before Oct 1, 1982

Application No. 57451

Permit No. 43260

RECEIVED

Remarks: Submitting this application does not
relinquish any claim for a vested right
on any of the lands covered.

Need stock water for 500 head of cattle and
have requested 1 cfs to prevent freezing in
ditches.

THIS APPLICATION PREPARED BY:
Howard Daggett
FROM INFORMATION FURNISHED BY
THE APPLICANT.

x Evan Carlson
Carlson Cathb S.
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..... correction

In order to retain its priority, this application must be returned to the Water Resources Director with
corrections on or before October 2 19..... 78.....

WITNESS my hand this 2nd day of August 1978.....

James E. Sexson Water Resources Director

By

RECEIVED

AUG 7 1978

WATER RESOURCES DEPT.
SALEM, OREGON

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the
24th day of May, 1978, at 8:00 o'clock
A.M.

Application No. 57451

Permit No. 43260

Permit to Appropriate the Public Waters of the State of Oregon

This is to certify that I have examined the foregoing application and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD 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 14.3 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 an unnamed stream.

The use to which this water is to be applied is irrigation and stock, being 14.3 for irrigation and 1.0 for stock during the non-irrigation season.

If for irrigation, this appropriation shall be limited to 1/40th 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 3 acre feet per acre for each acre irrigated during the irrigation season of each year,

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

The priority date of this permit is May 24, 1978

Actual construction work shall begin on or before August 16, 1979 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1980

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

WITNESS my hand this 16th day of August, 1978

James E. Sisson
Water Resources Director

PARTIAL ASSIGNED

Carlton Cattle Co.

Application No. 57451

Permit No. 43260

Certificate No. _____

Stream Index, Page No. 13 - 13

FEES PAID		
Date	Amount	Receipt No.
5-24-78	207.30	3124
FEES REFUNDED		
Date	Amount	Check No.

Cert. Fee

FEES REFUNDED

Date Amount Check No.

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
7-23-87	1 st Interstate Bank of Oregon, NA	SPECIAL ASSETS DEPT. T-18 P.O. Box 3131, Portland, OR 97208	By DEED	

REMARKS

CARD FOR B. OCT 23 1980

CARD FOR C. OCT 26 1981

Card for A AUG 22 1979

CONSTRUCTION

for beginning AUG 16 1979

for completion OCT 1 1980

extended to _____

for application of water OCT 1 1981

extended to _____

PROSECUTION OF WORK

"A" filed ~~SEP 12 1979~~ 8-30-79

"B" filed _____

"C" filed April 19, 1982

FINAL PROOF

mailed _____

received _____

certificate issued _____

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION of 570.5 ACRES.

This right was perfected under Permit S-43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.3 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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-FORTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. 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.

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

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	NW SW	2.60
30 S	17 E	WM	4	SW SW	21.20
30 S	17 E	WM	4	SE SW	0.50
30 S	17 E	WM	5	SW NE	8.50
30 S	17 E	WM	5	SE NE	22.80
30 S	17 E	WM	5	SE NW	9.60
30 S	17 E	WM	5	NE SW	0.50

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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	NE SE	37.60
30 S	17 E	WM	5	NW SE	36.80
30 S	17 E	WM	5	SW SE	29.60
30 S	17 E	WM	5	SE SE	35.80
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	30.00
30 S	17 E	WM	8	SW NE	8.80
30 S	17 E	WM	8	SE NE	19.40
30 S	17 E	WM	9	SW NE	1.60
30 S	17 E	WM	9	NE NW	10.80
30 S	17 E	WM	9	NW NW	39.50
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	27.30
30 S	17 E	WM	9	NE SW	40.00
30 S	17 E	WM	9	NW SW	15.60
30 S	17 E	WM	9	SW SW	5.40
30 S	17 E	WM	9	SE SW	9.60
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	40.00
30 S	17 E	WM	9	SE SE	17.00

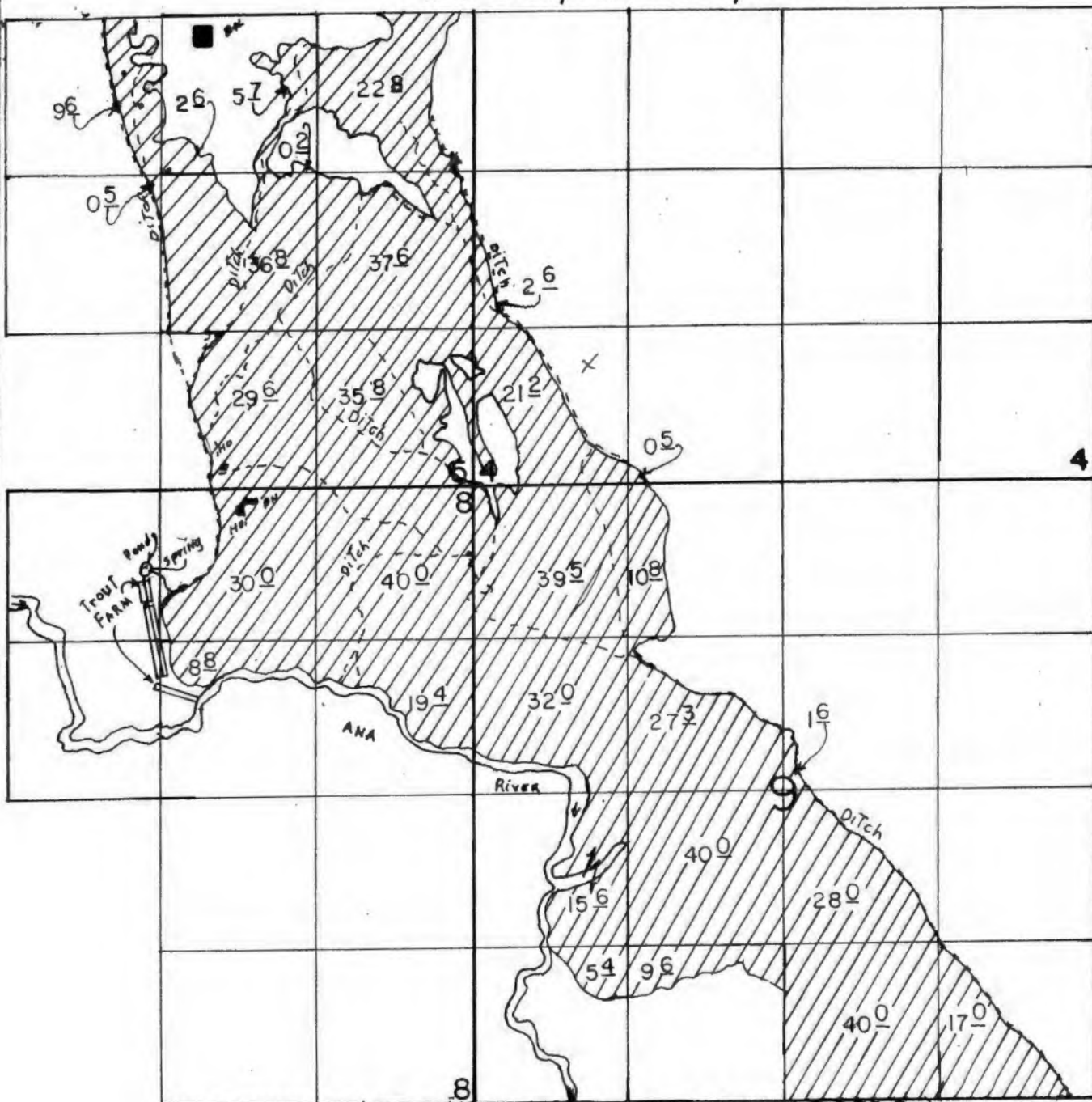
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

JAN 26 2007

WITNESS the signature of the Water Resources Director, affixed _____.


 Phillip C. Ward, Director
 Water Resources Department

T.30S.,R.17E.,W.M.



DIV.PT. LOC: 780' S & 170' W FROM THE N1/4, COR. OF SEC 8.

SCALE: 1" = 1320'

FINAL PROOF SURVEY
UNDER

61505 46063 - TROUT FARM
Application No. 57451. **Permit No.** 43260... - IRRIGATION
IN NAME OF
FIRST INTERSTATE BANK OF OREGON &
EUAN CARLON, DBA CARLON CATTLE CO.

Surveyed MAY 29 1997, **by** R.M. SUTTERFIELD

570 3/



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: January 26, 2007

NOTICE OF CERTIFICATE ISSUANCE

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

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

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

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

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

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

If you have any questions please contact Gerry Clark at 503-986-0811

Mailing List for Certificate Scheduled Mailing Date:

Application: S-57451

Permit: S-43260

Certificate: 83069

Permit/Certificate Holder:

THOMAS A MACDONALD ✓
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT ✓
SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

Copies Mailed
by: <u>Connie Jones</u> (STAFF)
on: <u>JAN 26 2007</u> (DATE)

Copies of Final Certificate to be sent to:

- 1. Watermaster District 12, David M Poe ✓
- 2. Data Center (include copy of map) ✓
- 3. Water Availability ✓
- 4. Vault ✓
File ✓

Other persons to receive copies: (include map):

- 1.

T.30S.,R.17E.,W.M.



DIV.PT. LOC. 780 S & 170 W FROM THE N1/4, COR. OF SEC 8.

SCALE 1" = 1320'

FINAL PROOF SURVEY

UNDER

Application No. 61505 46063 - TROUT FARM
57451 Permit No. 43260... - IRRIGATION

IN NAME OF
FIRST INTERSTATE BANK OF OREGON &
EUAN CARLON DBA CARLON CATTLE CO.

Surveyed MAY 29 1997, by R.M. SUTTERFIELD

570 S

STATE OF OREGON

COUNTY OF LAKE

PROPOSED

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION of 570.5 ACRES.

This right was perfected under Permit S-43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 14.3 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	17 E	WM	8	NE NW	780 FEET SOUTH AND 170 FEET WEST FROM N1/4 CORNER, SECTION 8

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-FORTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. 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.

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

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	4	NW SW	2.60
30 S	17 E	WM	4	SW SW	21.20
30 S	17 E	WM	4	SE SW	0.50
30 S	17 E	WM	5	SW NE	8.50
30 S	17 E	WM	5	SE NE	22.80
30 S	17 E	WM	5	SE NW	9.60
30 S	17 E	WM	5	NE SW	0.50

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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

83069

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	5	NE SE	37.60
30 S	17 E	WM	5	NW SE	36.80
30 S	17 E	WM	5	SW SE	29.60
30 S	17 E	WM	5	SE SE	35.80
30 S	17 E	WM	8	NE NE	40.00
30 S	17 E	WM	8	NW NE	30.00
30 S	17 E	WM	8	SW NE	8.80
30 S	17 E	WM	8	SE NE	19.40
30 S	17 E	WM	9	SW NE	1.60
30 S	17 E	WM	9	NE NW	10.80
30 S	17 E	WM	9	NW NW	39.50
30 S	17 E	WM	9	SW NW	32.00
30 S	17 E	WM	9	SE NW	27.30
30 S	17 E	WM	9	NE SW	40.00
30 S	17 E	WM	9	NW SW	15.60
30 S	17 E	WM	9	SW SW	5.40
30 S	17 E	WM	9	SE SW	9.60
30 S	17 E	WM	9	NW SE	28.00
30 S	17 E	WM	9	SW SE	40.00
30 S	17 E	WM	9	SE SE	17.00

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed _____.

PROPOSED

Phillip C. Ward, Director
Water Resources Department



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

MAILED: NOVEMBER 03, 2006

NOTICE

Reference: Permit S-43260 Application S-57451
Permit S-46063 Application S-61505

Enclosed are proposed certificates of water rights and maps which illustrate the location of the rights. The proposed certificates and maps represent the extent water was used within the terms of the permits based upon a survey and inspection.

If you do not agree with the proposed certificates or maps, Oregon Administrative Rule 690-330-010 (2) allows the permittee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificates.

If you agree with the proposed certificates and maps, no response to this notice is required. Sometime after the 60 day period, the recorded certificates of water right will be mailed to the permittee.

If you have any questions please contact Gerry Clark at 503-986-0811.

Sincerely,

Dwight French
Administrator
Water Rights Division

Mailing List for Certificate

Scheduled Mailing Date:

Application: S-57451

Permit: S-43260

Certificate: PROPOSED

Permit/Certificate Holder:

THOMAS A MACDONALD
PO BOX 87
SUMMER LAKE OR 97640

NORTHWEST FARM CREDIT
SERVICES FLCA/PCA
PO BOX 148
KLAMATH FALLS OR 97601

<p>Copies Mailed</p> <p>by: <i>Connie Vance</i> (STAFF)</p> <p>on: <i>11/03/2006</i> (DATE)</p>
--

Copies of Final Certificate to be sent to:

1. Watermaster District 12, David M Poe
2. Data Center (include copy of map)
3. Water Availability
4. Vault

Other persons to receive copies: (include map):

- 1.

T.30S.,R.17 E.,W.M.



DIV.PT. LOC. 780 S & 170 W FROM THE N1/4, COR. OF SEC 8.

SCALE: 1" = 1320'

FINAL PROOF SURVEY
UNDER

61505 46063 - TROUT FARM
Application No. 57451. Permit No. 43260... - IRRIGATION
IN NAME OF
FIRST INTERSTATE BANK OF OREGON &
EUAN CARLON, DBA CARLON CATTLE CO.

Surveyed MAY 29 19.97, **by** R.M. SUTTERFIELD

570 5

Application No. 57451

Permit No. 43260 WRIS

Permit to Appropriate the Public Waters of the State of Oregon

This is to certify that I have examined the foregoing application and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD 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 14.3 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 an unnamed stream

RECEIVED
STATE OF OREGON
DEPARTMENT OF
AGRICULTURE
DIVISION OF
WATER RESOURCES

The use to which this water is to be applied is irrigation and stock; being 14.3 for irrigation and 1.0 for stock during the non-irrigation season

If for irrigation, this appropriation shall be limited to 1/40th 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 3 acre feet per acre for each acre irrigated during the irrigation season of each year

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

The priority date of this permit is May 24, 1978

Actual construction work shall begin on or before August 16, 1979 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1980

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

WITNESS my hand this 16th day of August, 1978

James E. Larson
Water Resources Director

RHS

STATE OF OREGON

COUNTY OF LAKE

PROPOSED CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FIRST INTERSTATE BANK OF OREGON & EUAN CARLON D.B.A. CARLON CATTLE CO.
P.O. BOX 40
SUMMER LAKE, OREGON 97640

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION OF 570.5 ACRES.

This right was perfected under Permit 43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 14.3 CUBIC FEET PER SECOND, or its equivalent in time of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE 1/4 NW 1/4, SECTION 8, 780 FEET SOUTH AND 100 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 8, TOWNSHIP 30 S., R 17 E., W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre of land 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:

1/4 SW 1/4	2.6 ACRES
1/4 SW 1/4	21.2 ACRES
1/4 SW 1/4	0.5 ACRE
SECTION 4	
1/4 NE 1/4	8.5 ACRES
1/4 NE 1/4	22.8 ACRES
1/4 NW 1/4	9.6 ACRES
1/4 SW 1/4	0.5 ACRE
1/4 SE 1/4	37.6 ACRES
NW 1/4 SE 1/4	36.8 ACRES
SW 1/4 SE 1/4	29.6 ACRES
SE 1/4 SE 1/4	35.8 ACRES
SECTION 5	
NE 1/4 NE 1/4	40.0 ACRES
NW 1/4 NE 1/4	30.0 ACRES
SW 1/4 NE 1/4	8.8 ACRES
SE 1/4 NE 1/4	19.4 ACRES
SECTION 8	
SW 1/4 NW 1/4	32.0 ACRES
SE 1/4 NW 1/4	27.3 ACRES
NE 1/4 NW 1/4	10.8 ACRES
NW 1/4 NW 1/4	39.5 ACRES
SE 1/4 SW 1/4	9.6 ACRES
NE 1/4 SW 1/4	40.0 ACRES
NW 1/4 SW 1/4	15.6 ACRES
SW 1/4 SW 1/4	5.4 ACRES
NW 1/4 SE 1/4	28.0 ACRES
SW 1/4 SE 1/4	40.0 ACRES
SE 1/4 SE 1/4	17.0 ACRES

add 1.6 acres
SWNE
sec. 9

SECTION 9
TOWNSHIP 30 SOUTH., RANGE 17 EAST., W.M.

W farm
box 148
calls
17601
cross a meadow
box 87
near lake
17640

57451

Draft

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.

57451.RMS.

See file 61505

STATE OF OREGON

COUNTY OF LAKE

PROPOSED CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FIRST INTERSTATE BANK OF OREGON & EUAN CARLON D.B.A. CARLON CATTLE CO.
P.O. BOX 40
SUMMER LAKE, OREGON 97640

*hw farm
po box 148
K Falls
97601
Thomas a. macdonald
po box 87
summer lake
97640*

confirms the right to use the waters of UNNAMED STREAM, a tributary of ANA RIVER, for IRRIGATION OF 570.5 ACRES.

This right was perfected under Permit 43260. The date of priority is MAY 24, 1978. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 14.3 CUBIC FEET 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:

NE 1/4 NW 1/4, SECTION 8, 780 FEET SOUTH AND 170 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 8. T 30 S., R 17 E., W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 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:

NW 1/4 SW 1/4	2.6 ACRES
SW 1/4 SW 1/4	21.2 ACRES
SE 1/4 SW 1/4	0.5 ACRE
SECTION 4	
SW 1/4 NE 1/4	8.5 ACRES
SE 1/4 NE 1/4	22.8 ACRES
SE 1/4 NW 1/4	9.6 ACRES
NE 1/4 SW 1/4	0.5 ACRE
NE 1/4 SE 1/4	37.6 ACRES
NW 1/4 SE 1/4	36.8 ACRES
SW 1/4 SE 1/4	29.6 ACRES
SE 1/4 SE 1/4	35.8 ACRES
SECTION 5	
NE 1/4 NE 1/4	40.0 ACRES
NW 1/4 NE 1/4	30.0 ACRES
SW 1/4 NE 1/4	8.8 ACRES
SE 1/4 NE 1/4	19.4 ACRES
SECTION 8	
SW 1/4 NW 1/4	32.0 ACRES
SE 1/4 NW 1/4	27.3 ACRES
NE 1/4 NW 1/4	10.8 ACRES
NW 1/4 NW 1/4	39.5 ACRES
SE 1/4 SW 1/4	9.6 ACRES
NE 1/4 SW 1/4	40.0 ACRES
NW 1/4 SW 1/4	15.6 ACRES
SW 1/4 SW 1/4	5.4 ACRES
NW 1/4 SE 1/4	28.0 ACRES
SW 1/4 SE 1/4	40.0 ACRES
SE 1/4 SE 1/4	17.0 ACRES

*add 1.6 acres
SWNE
sec. 9*

SECTION 9
TOWNSHIP 30 SOUTH., RANGE 17 EAST., W.M.

57451

Draft

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.

57451.RMS.

Platcard Report

Township 30S Range 17E Section 4 of (4, 5, 8, 9)

	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				Govt Lot			
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
①	G11640 04/07/1987	G11024 -													30.0 IS (s)									
①	S57451 05/24/1978	S43260 -													30.0 IR									
	05/24/1978														LV									

Page:1

[Return to Platcard Query Screen](#)

Run Time: 1 seconds

Platcard Report

Township 30S Range 17E Section 5 of (4, 5, 8, 9)

	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				G L
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
①	G11640 04/07/1987	G11024 -											20.3 IR	28.4 IR			1.4 IR				
	04/07/1987						40.0 IS (s)	40.0 IS (s)									40.0 IS (s)	39.1 IS (s)	30.0 IS (s)	40.0 IS (s)	
①	S57451 05/24/1978	S43260 -					40.0 IR	40.0 IR									40.0 IR	40.0 IR	30.0 IR	40.0 IR	
	05/24/1978						LV	LV									LV	LV	LV	LV	

Page:1

[Return to Platcard Query Screen](#)

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Platcard Report

Township 30S Range 17E Section 8 of (4, 5, 8, 9)

App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				Gov Lot			
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
i G10414 11/08/1982	<u>G10433</u> -															WI	WI						
i G11640 04/07/1987	<u>G11024</u> -					FI		FI			FI												
04/07/1987				40.0 IS (s)	33.0 IS (s)	11.0 IS (s)	31.0 IS (s)																
i S57451 05/24/1978	<u>S43260</u> -			40.0 IR	33.0 IR	11.0 IR	31.0 IR																
05/24/1978				LV	LV	LV	LV																
i S61505 04/06/1981	<u>S46063</u> -				FI	FI		FI															

Page:1

[Return to Platcard Query Screen](#)

Run Time: 1 seconds

Platcard Report

Township 30S Range 17E Section 9 of (4, 5, 8, 9)

App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				Gov Lo		
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
① G11640 04/07/1987	<u>G11024</u> -					2.0 IS (s)				36.0 IS (s)	32.0 IS (s)	30.0 IS (s)	31.0 IS (s)					0.5 IS (s)	28.0 IS (s)	20.0 IS (s)	16.0 IS (s)	
① S57451 05/24/1978	<u>S43260</u> -					2.0 IR				36.0 IR	32.0 IR	30.0 IR	31.0 IR					0.5 IR	28.0 IR	20.0 IR	16.0 IR	
										LV	LV	LV	LV					LV	LV	LV	LV	

Page:1

[Return to Platcard Query Screen](#)

Run Time: 0 seconds

Application No. 57451

Permit No. 43260

STATE OF OREGON WATER RESOURCES DEPARTMENT
Application for Permit to Appropriate Surface Water

RECEIVED

MAY 24 1978

WATER RESOURCES DEPT.
SALEM, OREGON

I, Carlton Cattle Company

(Name of Applicant)

of Box 896

(Mailing Address)

Summer Lake

(City)

State of Oregon

(Zip Code)

Phone No. 943-3948

do hereby

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is An unnamed stream

....., a tributary of Ana River

2. The point of diversion is to be located 780 ft. S and 170 ft. E

(N. or S.)

(E. or W.)

from the N 1/4 corner of Section 8

(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

..... being within the NW 1/4 of the NE 1/4 of

Sec. 8 Tp. 30S R. 17E, W. M., in the county of Lake

(N. or S.)

(E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

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
<u>30S</u>	<u>17E</u>	<u>4</u>											<u>30°</u>					
		<u>5</u>			<u>40°</u>	<u>40°</u>									<u>40°</u>	<u>40°</u>	<u>30°</u>	<u>40°</u>
		<u>8</u>	<u>40°</u>	<u>33°</u>	<u>11°</u>	<u>31°</u>												
		<u>9</u>			<u>2°</u>		<u>36°</u>	<u>32°</u>	<u>30°</u>	<u>31°</u>					<u>0°</u>	<u>28°</u>	<u>20°</u>	<u>16°</u>

WRIS

4. The amount of water which the applicant intends to apply to beneficial use is 14.26
cubic feet per second for irrigation and 1 cfs for stock during
Non-irrigation Season
(If water is to be used from more than one source, give quantity from each)

5. The use to which the water is to be applied is Irrigation and stock
water

6.

DESCRIPTION OF WORKS

Include dimensions and type of construction of diversion dam and headgate, length and dimensions of supply ditch or pipeline, size and type of pump and motor, type of irrigation system to adequately describe the proposed distribution system.

Open ditches previously constructed -
Will install 1320 ft mainline (size to be
determined) and two 1/4 mile wheel-lines.
Size and type of pump to be determined.

If for domestic use state number of families to be supplied

7. Construction work will begin on or before June 1, 1979 (sprinkled Portion)

8. Construction work will be completed on or before Oct 1, 1980

9. The water will be completely applied to the proposed use on or before Oct 1, 1982

Application No. 57451

Permit No. 43260

RECEIVED

Remarks: Submitting this application does not
relinquish any claim for a vested right
on any of the lands covered.

Need stock water for 500 head of cattle and
have requested 1 cfs to prevent freezing in
ditches.

THIS APPLICATION PREPARED BY
Howard Daggett
FROM INFORMATION FURNISHED BY
THE APPLICANT.

x Loa Carlson
Signature of Applicant
Carlson Lett b.

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

In order to retain its priority, this application must be returned to the Water Resources Director with
corrections on or before October 2, 19 78

WITNESS my hand this 2nd day of August, 19 78

James E. Sexson Water Resources Director

By

RECEIVED

AUG 7 1978

WATER RESOURCES DEPT.
SALEM, OREGON

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the
24th day of May, 19 78, at 8:00 o'clock
A.M.

Application No. 57951

Permit No. 43260

8:55:00



Oregon

Theodore R. Kulongoski, Governor

April 2, 2003

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

Northwest Farm Credit Services FLCA/PCA
P.O. Box 148
Klamath Falls, Oregon 97601

Reference: Application S-57451, Permit S-43260
Application S-61505, Permit S-46063
Application G-11640, Permit G-11024

The assignments on the above referenced water rights have been recorded in the records of the Water Resources Department. A description of the assignments is as follows;

- 1) Application S-57451, Permit S-43260 has been assigned by deed as proof of ownership from Carlon Cattle Co. to Northwest Farm Credit Services FLCA/PCA and Thomas A. MacDonald.
- 2) Application S-61505, Permit S-46063 has been assigned by deed as proof of ownership from Evan Carlon DBA Carlon Cattle Co., and 1st Interstate Bank of Oregon, to Northwest Farm Credit Services FLCA/PCA and Thomas A. MacDonald.
- 3) Application G-11640, Permit G-11024 has been assigned from Key Bank of Oregon: Agriculture Banking Center, to Thomas A. MacDonald, thus allowing assignment from Thomas A. MacDonald to Northwest Farm Credit Services FLCA/PCA and Thomas A. MacDonald.

Our records have been changed accordingly and the original requests are enclosed. Receipt number 59067 covering partial recording fees of \$50.00 is also enclosed, and receipt number 56676 covering the remainder of the recording fees of \$55.00 has been sent to Desert Springs Trout Farm.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure

cc: Watermaster 12
Thomas A. MacDonald with receipt 56676
Key Bank of Oregon
Data Center, OWRD
Julie Forsgren

REQUEST FOR ASSIGNMENT

BY PROOF OF OWNERSHIP (IF PERMIT HOLDER IS NOT AVAILABLE)

Northwest Farm Credit Services FLCA/PCA and Thomas A. MacDonald
 (Name of Party Requesting Assignment)

P.O. Box 87 Summer Lake OR 97640 541-943-3104
 P.O. Box 148 Klamath Falls OR 97601 541-850-7500
 (mailing address) (City) (State) (Zip) (Phone #)

RECEIVED

MAR 28 2003

WATER RESOURCES DEPT.
 SALEM, OREGON

CHECK ONE

XXXXX..hereby request assignment in and to application/permit;

• • ...hereby request assignment in and to a portion of application/permit;
 (You must include a map showing the portion of the application/permit to be assigned.)

• • ...I have attached proof of ownership that may include but not be limited to: a copy of the deed to the land, a copy of a land sales contract, a court order or decree, documentation of survivorship of property held jointly;
 (Remember to include \$5 for each additional page.)

Application # S57451, Permit # S43260;

-OR-

GR Statement # _____, GR Certificate of Registration # _____

Carlton Cattle Co.
 (Name of Permit Holder of Record)

Box 896 Summer Lake OR 97640 (last known address)
 (mailing address) (City) (State) (Zip) (Phone #)

NOTE: If there are other owners of the property described in this Application, Permit or Certificate of Ground Water Registration, you must provide a list of all other owners' names and mailing addresses and attach it to this form.

I hereby certify that I have notified all other owners of the property described in this Application, Permit or Certificate of Registration of this request for assignment.

Witness my hand this 24 day of March, 2003.

Party Requesting Assignment Thomas A. MacDonald

Party Requesting Assignment Eldred Sorensen Farm Credit Services

DO NOT WRITE IN THIS BOX

- This certifies assignment and record change at Oregon Water Resources Department effective 8:00a.m. on date of receipt at Salem, Oregon.
 - Fee receipt # 56676 & 59067
 - For Director by Jerry Sauter, Program Analyst in Water Rights Division [Signature]

The completed "Request for Assignment" form must be submitted to the Department along with the appropriate recording fees:

- • \$25 for the first page, and
- • \$5 for each additional page.
 [as required by ORS 536.050(1)(d)]

*Ok. REC/6W
 BY [Signature]
 S. 4/2/2003*

WATER RESOURCES DEPARTMENT
 158 12TH STREET NE
 SALEM, OREGON 97301-4172

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **59067**

158 12TH ST. N.E.
 SALEM, OR 97301-4172
 378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: Farm Credit Services APPLICATION _____
 BY: _____ PERMIT See
 CASH: CHECK # 44004504 OTHER: (IDENTIFY) _____ TRANSFER below
 TOTAL REC'D \$ 50.00

0401 TREASURY 0417 WRD MISC CASH ACCT

0407	COPIES		\$
_____	OTHER: (IDENTIFY)	_____	\$
_____	OTHER: (IDENTIFY)	_____	\$

0427 WRD OPERATING ACCT

MISCELLANEOUS		<u>G 11640</u>	<u>17.00</u>	
0407	COPY & TAPE FEES	<u>S 57451</u>	<u>17.00</u>	\$
0410	RESEARCH FEES	<u>S 61505</u>	<u>16.00</u>	\$
0408	MISC REVENUE: (IDENTIFY)	<u>Assignment</u>		\$ <u>50.00</u>
TC162	DEPOSIT LIAB. (IDENTIFY)			\$
0240	EXTENSION OF TIME			\$
WATER RIGHTS:		EXAM FEE		RECORD FEE
0201	SURFACE WATER	\$	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		
WELL CONSTRUCTION		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219	\$
	LANDOWNER'S PERMIT		0220	\$
_____	OTHER (IDENTIFY)			

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	
0210	MONITORING WELLS	\$	
_____	OTHER (IDENTIFY)		

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		\$
0231	HYDRO LICENSE FEE (FW/WRD)		\$
_____	HYDRO APPLICATION		\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
 OBJ. CODE _____ VENDOR # _____
 DESCRIPTION _____ \$ _____

RECEIPT: **59067**

DATED: 4/1/03

BY: [Signature]



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

January 29, 2003

Ethan Negus and Thomas MacDonald
P. O. Box 40
Summer Lake, Oregon 97640

Reference: Application S-57451, Permit S-43260
Application S-61505, Permit S-46063

Gentlemen:

In response to our telephone conversation of this morning, We need to have proof that Thomas MacDonald owns all the land covered under these two permits. The deed mentions Bernie Burkholder as to an undivided 13% interest. Did Thomas MacDonald acquire sole title to the land or are there other owners?.

I am enclosing an assignment form to use for assignment when the permit holder of record is not available to sign. This will allow us to assign by deed as proof of ownership. You can assign both water right permits on this one form. Thomas MacDonald will need to sign the form.

As soon as we determine the ownership issue, we can proceed with the assignment.

Thank you for your assistance and patience in this matter.

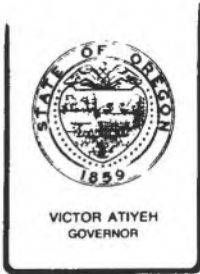
Sincerely,

Jerry Sauter
Water Rights Program Analyst

enc: assignment forms

cc: Watermaster 12

File



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3739

August 19 1987

First Interstate Bank of Oregon, NA
Special Assets Department T-18
P.O. Box 3131
Portland, OR 97208

REFERENCE: Files G-8231, G-8232, 57451, 61505

The partial assignment, by Sheriff's Deed, of permits G-7846, G-7847, 43260, and 46063 to you have been recorded in the office of the Water Resources Department. Our receipts 52482 and 52912 covering the filing fee of \$50 are enclosed.

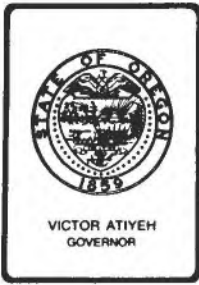
We have also assigned the entire permit G-7846 and all of permit G-7847 except sections 19 and 30, T28S, R16E, WM to Martin L. Pernoll, MD. Our receipt 52279 covering the \$10 assignment recording fee is also enclosed along with the original assignment.

The portions not involved in the assignment are still under the name of Carlon Cattle Company,

Please note. Although permit G-7847 allowed use of water for the irrigation of nearly 440 acres, Mr. Carlon advised us in 1981 that only 160 acres had been irrigated. Under the terms of the permit, water was to have been used to the fullest extent intended by October 1, 1980; therefore, permit G-7847 is valid only for the 160 acres irrigated within the terms of the permit.

Sincerely,

Thomas E. Shook
Water Right Specialist



Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-8508

June 19, 1987

First Interstate Bank
PO Box 3131
Portland, OR 97208

REFERENCE: Files G-8231, G-8232, 57451, 61505

Here are the map prints for Carlon Cattle Company Permits.

Sincerely,

Corinna Ehrmantraut
Corinna Ehrmantraut
Secretary
Survey/Certificate Section

Enclosures



First Interstate Bank
of Oregon, N. A.
Law Department
1300 S.W. Fifth Avenue
P. O. Box 3131
Portland, OR 97208
503 225-2339

General Counsel
Ellen C. Bachman
Anne Pendergrass Hill
James F. Light, Jr.
Gary W. Lindberg
Charles I. McGinnis
Lynn T. Nagasako
Lee C. Nusich
James L. Young, Jr.
Associate General Counsel

August 6, 1986

Mr. Bruce Estes
Water Resources Director
3850 Portland Road, N. E.
Salem, OR 97310

Re: Water Right Permits -
G-6891, G-7846, G-7847, #43260, #46063

Dear Mr. Estes:

This will confirm our telephone conversation of Tuesday, August 5, 1986 wherein I informed you that First Interstate Bank of Oregon purchased certain real property at a Sheriff's sale in Lake County Oregon on July 11, 1986. The above-listed water permits pertain to the usage of water on the various parcels of property that the Bank purchased on July 11. I understand that these permits may not have yet been proved up and that it may be necessary for the Bank to take further action to insure that it does not lose its rights to have these permits finally proved and issued to First Interstate Bank. You agreed to let the Bank know what further action must be taken in regard to this matter.

I think it would be best if you make direct contact with Mr. Don Michael of the Bank's Agribusiness Department as to what needs to be done if anything in regard to these permits. Mr. Michael's phone number is 225-3746 and his address is First Interstate Bank of Oregon, N.A., Agribusiness Department, T-12, P. O. Box 3131, Portland, Oregon 97208.

I have enclosed four copies of this letter so that a letter can be placed in each separate water permit file. Please let me know if there is anything further that either Mr. Michael or myself can do at this point to insure that the rights in the water permits can be retained.

Very truly yours,



Lee C. Nusich

LCN/blm
Enclosures

cc: Don Michael
Martin Hansen



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 578-8508

or

1-800-452-7813

(message line)

May 5, 1982

Carlen Cattle Company
Box 896
Summer Lake, Oregon 97640

REFERENCE: File 57451

Thank you for sending us the notice of complete application of water to beneficial use for the project described in your Permit 43260.

We will mark our records to show that you will not be using the sprinklers on the project. We were really interested in whether or not you had adequate facilities to take control of the water at the unnamed stream and convey it to the place of use for irrigation purposes prior to October 1, 1980. I noticed a statement you made in Item 6 of your application for the permit that there were existing ditches for the project. Unless you advise us differently, we will use this information as statement to the effect the water system was complete prior to October 1, 1980.

The next time our field representative is in the area, our usual field inspection of the project will be made. Any lands found not irrigated will automatically be eliminated from the permit. In the meantime, the permit serves as valid evidence of the water right in question as long as water is used.

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TESawpc
0509B

COPY



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 378-8508

OR
1-800-452-7813
(message line)

March 25, 1982

RECEIVED

APR 8 1982

**WATER RESOURCES DEPT
SALEM, OREGON**

Carlton Cattle Company
Box 896
Summer Lake, OR 97640

REFERENCE: File 57451

We are unable to withhold action indefinitely on your file. Will you please advise us as to the progress being made toward completing the Notice of Completion of Construction statement for your project described in Permit 43260 and when we can expect to receive the form?

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TES:wpc
0004B

Thomas E. Shook
Dear Sir,
I am sorry for the delay on this matter. Everything has been completed excepting the petition to be sprinkled. We do not plan to do anything on this at this time. Also mail me the forms to be completed as I have none



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 378-8508

or
1-800-452-7813
(message line)

March 25, 1982

Carlton Cattle Company
Box 896
Summer Lake, OR 97640

REFERENCE: File 57451

We are unable to withhold action indefinitely on your file. Will you please advise us as to the progress being made toward completing the Notice of Completion of Construction statement for your project described in Permit 43260 and when we can expect to receive the form?

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TESwpc
0004B

COPY

378-8508
or
1-800-452-7813
(message line)

January 6, 1982

Carlton Cattle Company
Box 896
Summer Lake, OR 97640

REFERENCE: File 57451

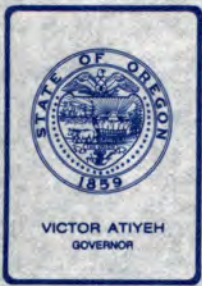
We have your Notice of Completion of Construction for the project described in your Permit 43260.

Adequate irrigation equipment for the project was to have been in possession by October 1, 1980. Since you have stated the system was not completed until October 1, 1981, it will be necessary for you to submit an application requesting an extension of time limits. A form for this purpose is enclosed.

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TES:wpc
enclosure
8948A



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 378-8500
or
1-800-452-7813
(message line)

November 12, 1981

Carlton Cattle Company
Box 896
Summer Lake, OR 97640

REFERENCE: File 57451

Your Notice of Complete Application of Water to a Beneficial Use for the project described in your Permit 43260 has been received.

Under the terms of your permit an adequate water system for stock use as well as for irrigation was to have been completed on or before October 1, 1979. To date, we have not received your report of such completion. A form for reporting is enclosed.

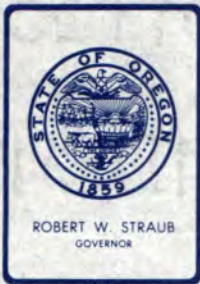
Upon receipt of a satisfactory report, we will accept your notice of use of water and set your file up for the usual survey.

Sincerely,

THOMAS E. SHOOK
Senior Water Rights Examiner

TESwpc
enclosures
7817A

COPY



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 378-8508

November 23, 1979

57451

Carlton Cattle Co.
Box 896
Summer Lake, Oregon 97640

Dear Sir,

Thank you for your check in the amount of \$10.00. We also have a request to extend the time limits of permit 43260. Under the terms of your permit, adequate irrigation equipment for 570.5 acres and facilities for stock use are to be in your possession by October 1, 1980. Your request is premature. A one year extension of time limit can be granted only by the record holder showing due diligence towards completing the project within the terms of the permit, therefore, you should submit your request next fall if you do not complete the construction of your water systems.

Your check No. 4114 is enclosed along with the extension application.

Sincerely,

THOMAS E. SHOOK
Water Rights Engineer

TES:kas

Enc.

COPY

August 23, 1978

Carlton Cattle Company
Box 896
Summer Lake, Oregon 97640

57451

43260

RECEIVED

MAY 24 1978

WATER RESOURCES DEPT.
SALEM, OREGON

Application No. 57451

DESCRIPTION OF SPRING

- 1. Is spring on property of applicant? yes
- 2. If not, give name and address of legal owner. _____
- 3. Have you secured consent of owner to appropriate water from this spring and for construction of pipeline or other works? _____
- 4. If you do not have such consent, do you expect to secure right of way through condemnation? _____
- 5. What is the maximum flow from spring? 15 cfs ~~(Gallons per minute or~~
cubic feet per second)

What is the minimum flow? 13 cfs

Is flow measured or estimated? estimated

- 6. Does the stream flowing from spring form a well defined natural channel? yes
- 7. Does the water flow off the lands on which it first arises? yes
- 8. Give the name of the stream or other body of water into which water from the spring flows. Ana River
- 9. If the water from the spring sinks or evaporates before reaching other water, give distance water flows from spring before vanishing.

10. Remarks This spring has been used on this ranch for many years

x Carlton Peeth by Evan Carlton
Signature of Applicant



WATER RESOURCES DEPARTMENT

HOWARD DAGGETT
Watermaster Dist. 12

RECEIVED
AUG 7 1978
WATER RESOURCES DEPT.
SALEM, OREGON

LAKE COUNTY COURTHOUSE

513 CENTER STREET • LAKEVIEW, OR • 97630 • Phone 947-2213
August 4, 1978

ROBERT W. STRAUB
GOVERNOR

JAMES E. SEXSON
Director

WATER POLICY REVIEW
BOARD

EMERY N. CASTLE
Chairman
Corvallis

CHAPIN D. CLARK
Vice Chairman
Eugene

GEORGE H. PROCTOR
Klamath Falls

ANN W. SQUIER
Portland

RICHARD ROY
Portland

JAMES HILL
Arch Cape

JEAN FROST
Portland

WATER RESOURCES DEPARTMENT
Mill Creek Offices Park
555 13th Street N.E.
Salem, OR 97310

Attn: Mr. Ralph H. Jackson, Water Rights Engineer

Dear Ralph,

I am returning the corrected application No. 57451 in the name of Carlon Cattle Company.

As we discussed by phone yesterday the point of diversion is properly described on the application therefore the distances should be the same on the map.

Very truly yours,

HOWARD DAGGETT
Watermaster Dist. 12

HD/crw

Copies: Retained
: Carlon Cattle Co.



Water Resources Department

MILL CREEK OFFICE PARK

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

PHONE 378-3066

57451

August 2, 1978

Howard L. Daggett, Watermaster
District #12
513 Center Street
Lakeview, Oregon 97630

Dear Howard:

I am returning application No. 57451 in the name of Carlon Cattle Co. to you, since it is indicated on the application that you prepared it.

The proposed source of water is said in Item 1 to be "a spring;" however, the application map shows that the actual diversion occurs at some point down stream from the source. If this is the case, the source of water should be described as an unnamed stream, not a spring.

In addition, the coordinates which tie the diversion point to the government survey corner should be shown on the map and should be in agreement with the diversion given in Item 2.

The application has been endorsed so that in order to retain its priority date, it must be received in this office on or before October 2, 1978. This should provide sufficient time to reconcile the differences and put the map and application in agreement, at which time we can proceed with issuing a permit.

Very truly yours,

Ralph H. Jackson
Water Rights Engineer

RHJ:slk
Enclosure: Receipt No. 3124
cc: Carlon Cattle Co., Applicants

WV1075
MAY 4 1978

T.30S., R.17E., W.M.

RECEIVED
MAY 4 1978
WATER RESOURCES DEPT.
SALEM, OREGON

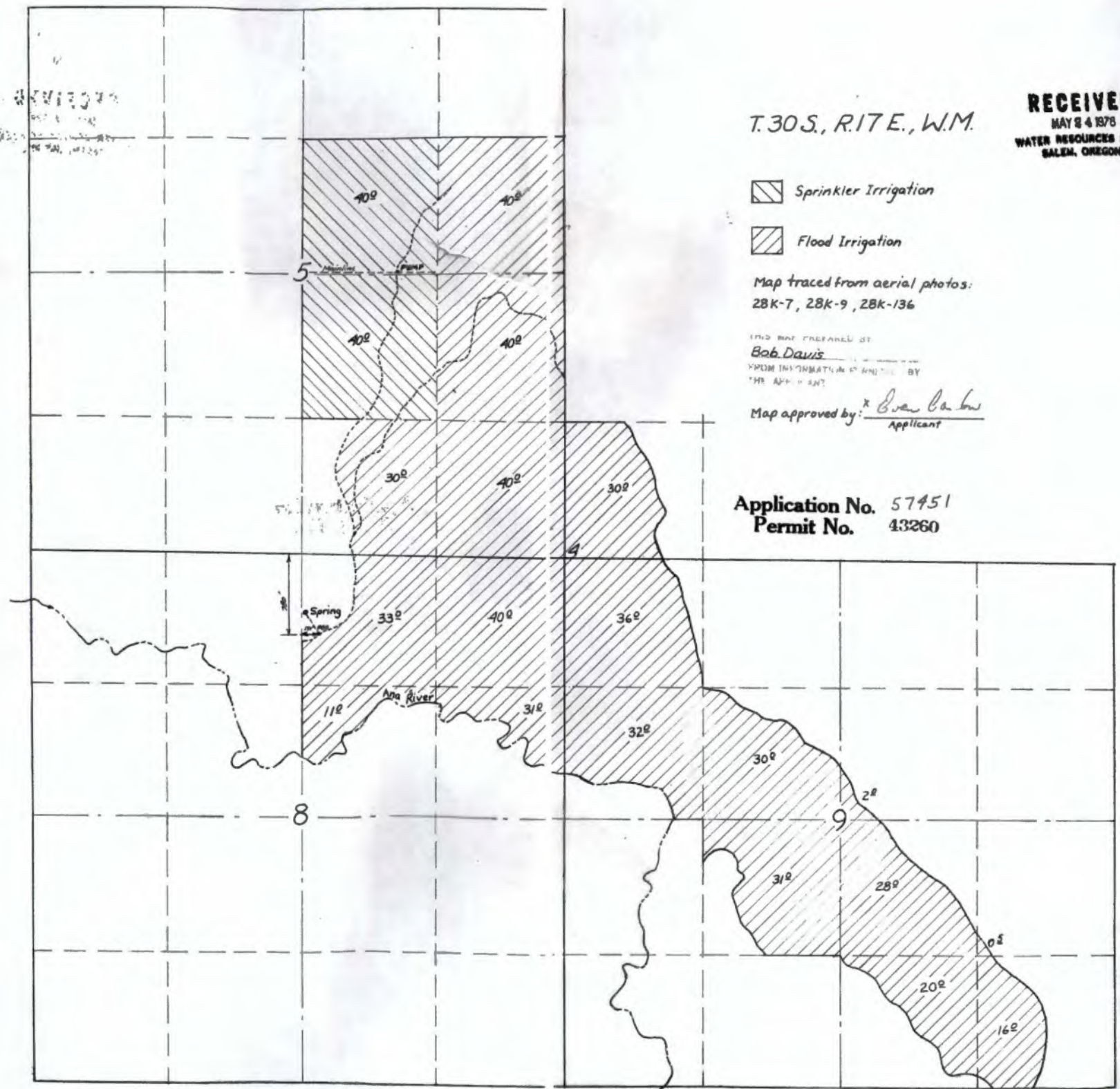
-  Sprinkler Irrigation
-  Flood Irrigation

Map traced from aerial photos:
28K-7, 28K-9, 28K-136

THIS MAP PREPARED BY
Bob Davis
FROM INFORMATION FURNISHED BY
THE APPLICANT

Map approved by: Evan Co. Inc.
Applicant

Application No. 57451
Permit No. 43260



*Straight to 50%
(to get to letter reduce
again - legal -> letter*

WATER RESOURCES DIV.
SALINA, MISSOURI

☐ Sprinkler Irrigation

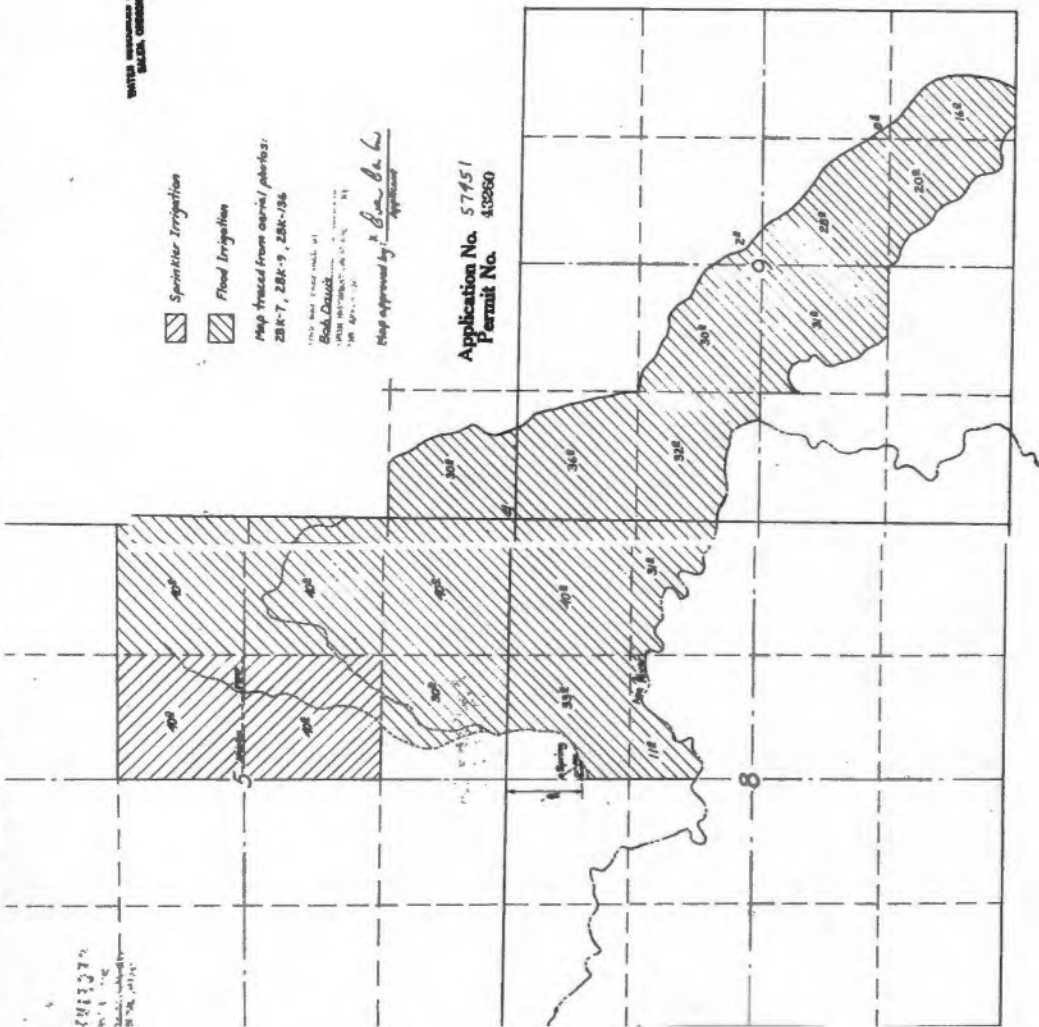
▨ Flood Irrigation

Map traced from aerial photos:
28K-7, 28K-9, 28K-10A

1954 and 1955 maps of
Soil Conservation
Service, Salina, Missouri


Map approved by *J. L. ...*
Applicant

Application No. 57451
Permit No. 43980



28137
S. L. ...
SALINA, MISSOURI

 Sprinkler Irrigation

 Flood Irrigation

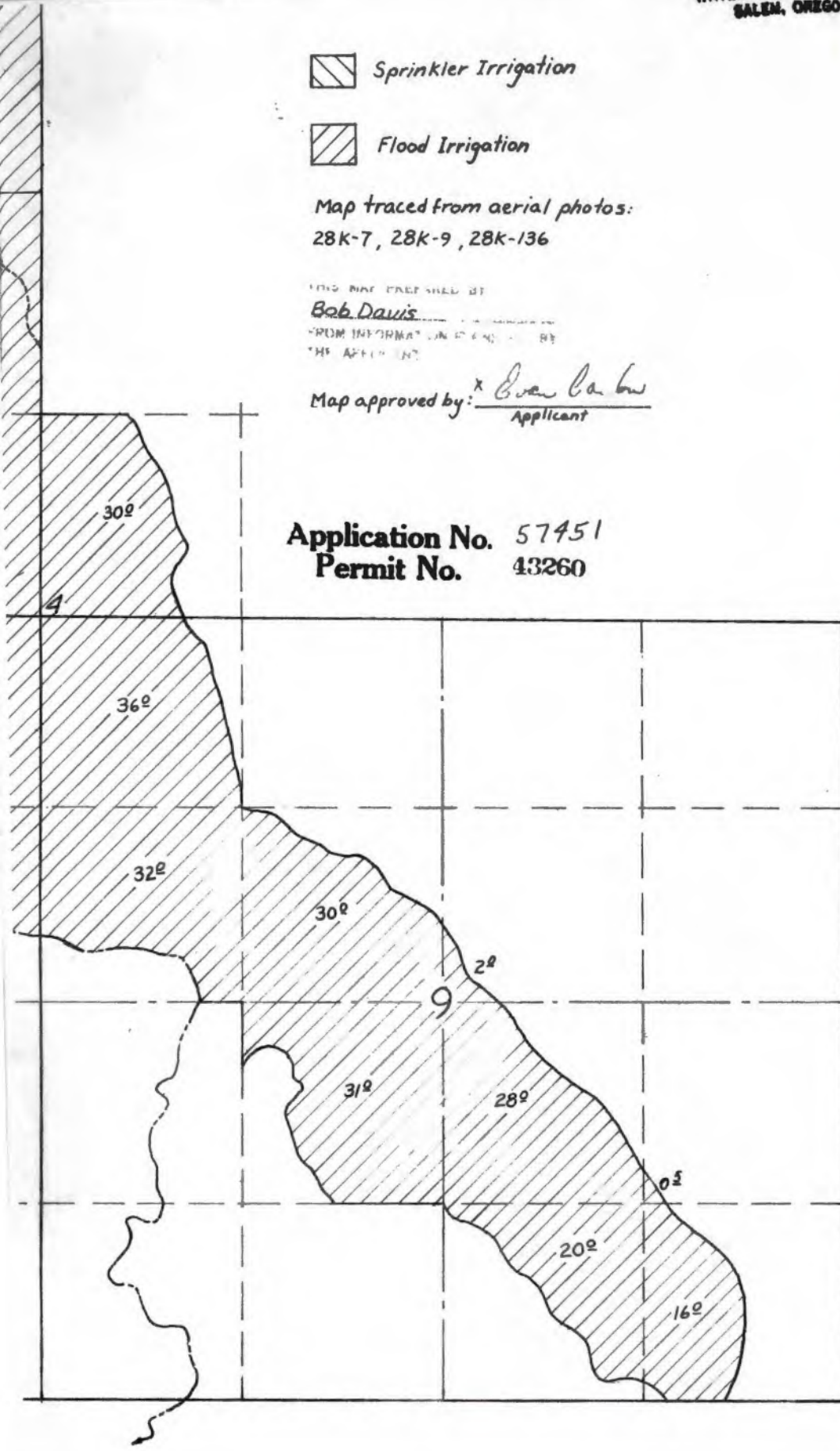
Map traced from aerial photos:
28K-7, 28K-9, 28K-136

THIS MAP PREPARED BY
Bob Davis
FROM INFORMATION OBTAINED BY
THE APPLICANT

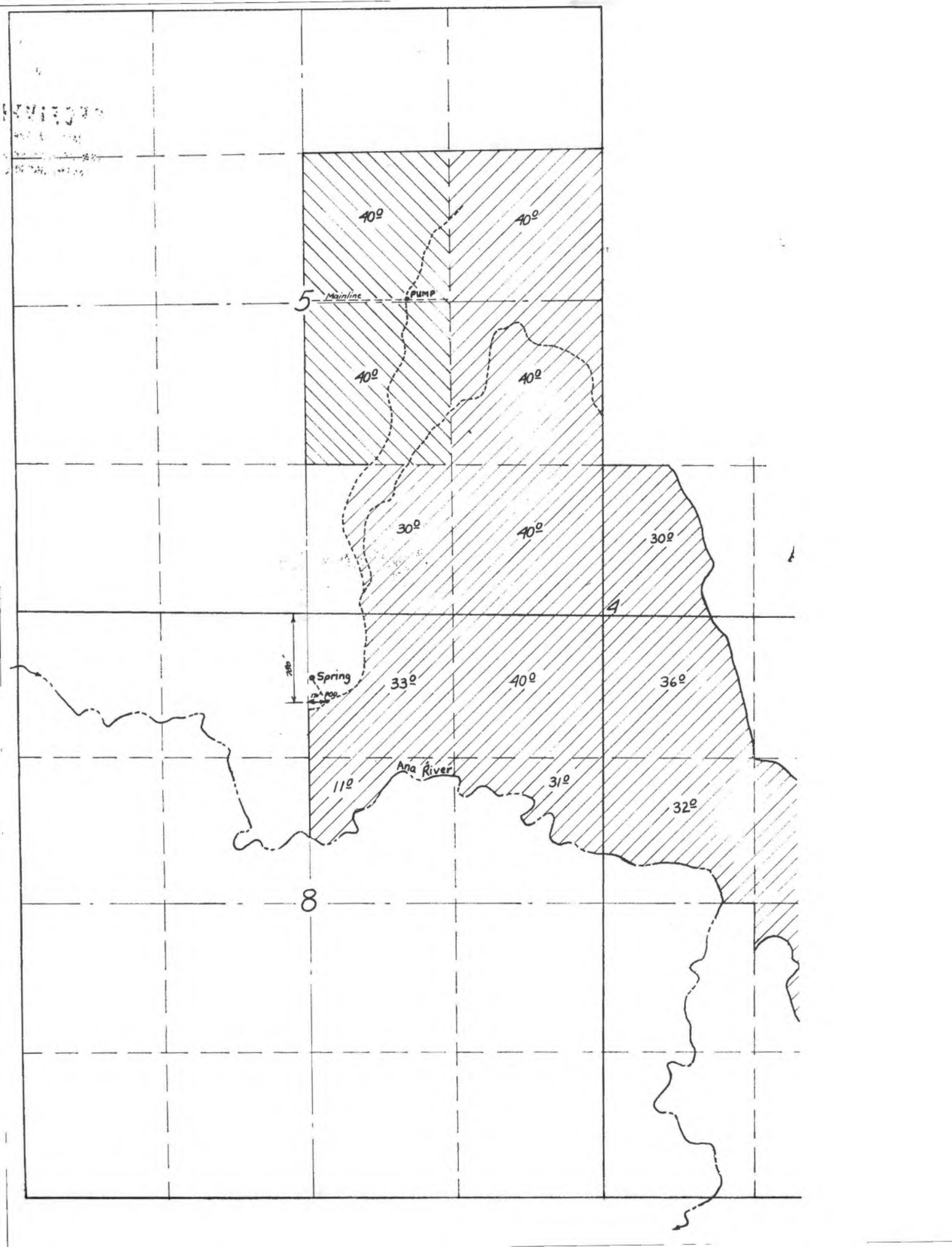
Map approved by: X Owen La bow
Applicant

64%
then
50%

Application No. 57451
Permit No. 43260



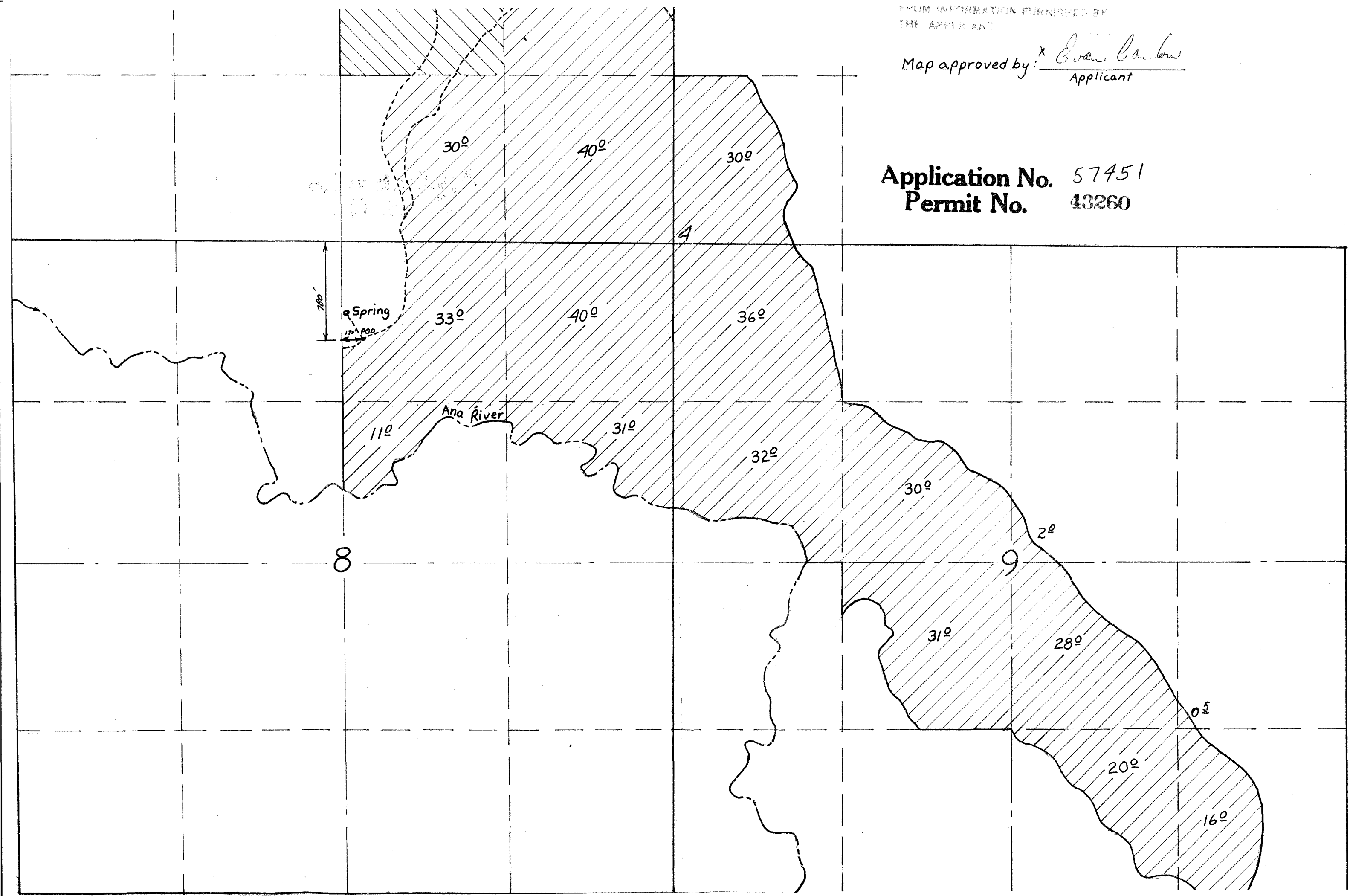
UNIVERSITY OF
MICHIGAN
LIBRARY



FROM INFORMATION FURNISHED BY THE APPLICANT

Map approved by: * Evan Carlow
Applicant


Application No. 57451
Permit No. 43260



RECEIVED
MAY 24 1978
WATER RESOURCES DEPT
SALEM, OREGON

T. 30 S., R. 17 E., W.M.

 Sprinkler Irrigation

 Flood Irrigation

Map traced from aerial photos:
28K-7, 28K-9, 28K-136

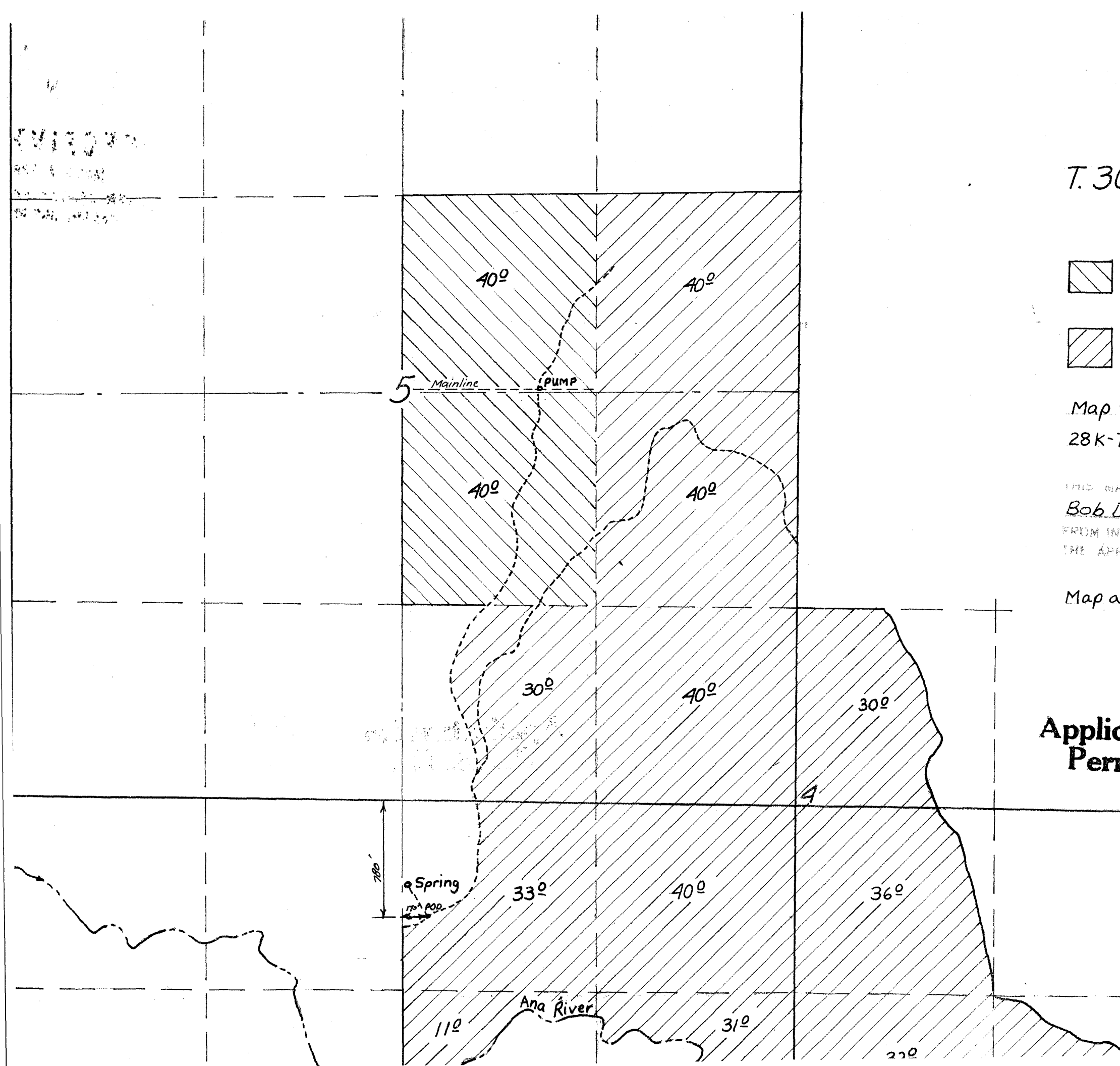
THIS MAP PREPARED BY:

Bob Davis

FROM INFORMATION FURNISHED BY
THE APPLICANT

Map approved by: * Evan Barber
Applicant

Application No. 57451
Permit No. 43260



NOTICE OF COMPLETION OF CONSTRUCTION

I, CARLOW CATTLE Co., the holder of Permit No. 43260

to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the 1 day of OCT, 1981

Remarks: Wheel Lines HAVE NOT BEEN INSTALLED, WITH DO SO AT ANOTHER TIME

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of NOV, 1981

Signature of Applicant: CARLOW CATTLE Co. by Evan Carlow Box 896 Summer Lake, Ore

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is completed.

DEC 23 1981 WATER RESOURCES DEPT. SALEM, OREGON

NOTICE OF BEGINNING OF CONSTRUCTION

I, CARLOW CATTLE Co., the holder of Permit No. 43260

to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 1 day of MAY, 1979

Remarks: 1/2 mile MAIN LINE 1-1/2 mile wheelLINE 1 50 H.P. CENTRIFUGAL PUMP PURCHASED. LAND cleared & PLOWED. HAVE crop in & ready MAY 1980. Above equip to be installed by MAY 1980

IN WITNESS WHEREOF, I have hereunto set my hand this 19 day of Aug, 1979

Signature of Applicant: CARLOW CATTLE Co. by Evan Carlow Box 896 Summer Lake, Ore

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is begun.

SP*35567-690

RECEIVED AUG 9 1979 WATER RESOURCES DEPT. SALEM, OREGON

OK CUT

IMPORTANT—This form is a notice to the Water Resources Director 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.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department 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 Water Resources Department, Salem, OR 97310, when all of the water has been applied.

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, CARLOW CATTLE Co., the holder of Permit No. 43260

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 1 day of OCT, 1981

Remarks:

IN WITNESS WHEREOF, I have hereunto set my hand this 1 day of OCT, 1981

Signature of Applicant: CARLOW CATTLE Co. by Evan Carlow Box 896 Summer Lake, Ore

RECEIVED OCT 30 1981 WATER RESOURCES DEPT. SALEM, OREGON

Sub

Application No. **57451**
Permit No. **43260**

May 24, 1978 **PARTIAL**

Name Carlton Cattle Co.

Address Box 896; Summer Lake, Oregon 97640

Assigned 1st Interstate Bank of Oregon, Special Assets Dept

Address P.O. Box 3131, Portland, OR 97208

Beginning construction AUG 16 1979


Completion of construction OCT 1 1980


Extended to

Complete application of water OCT 1 1981

Extended to

T. 30 S., R. 17 E., W.M.

 Sprinkler Irrigation

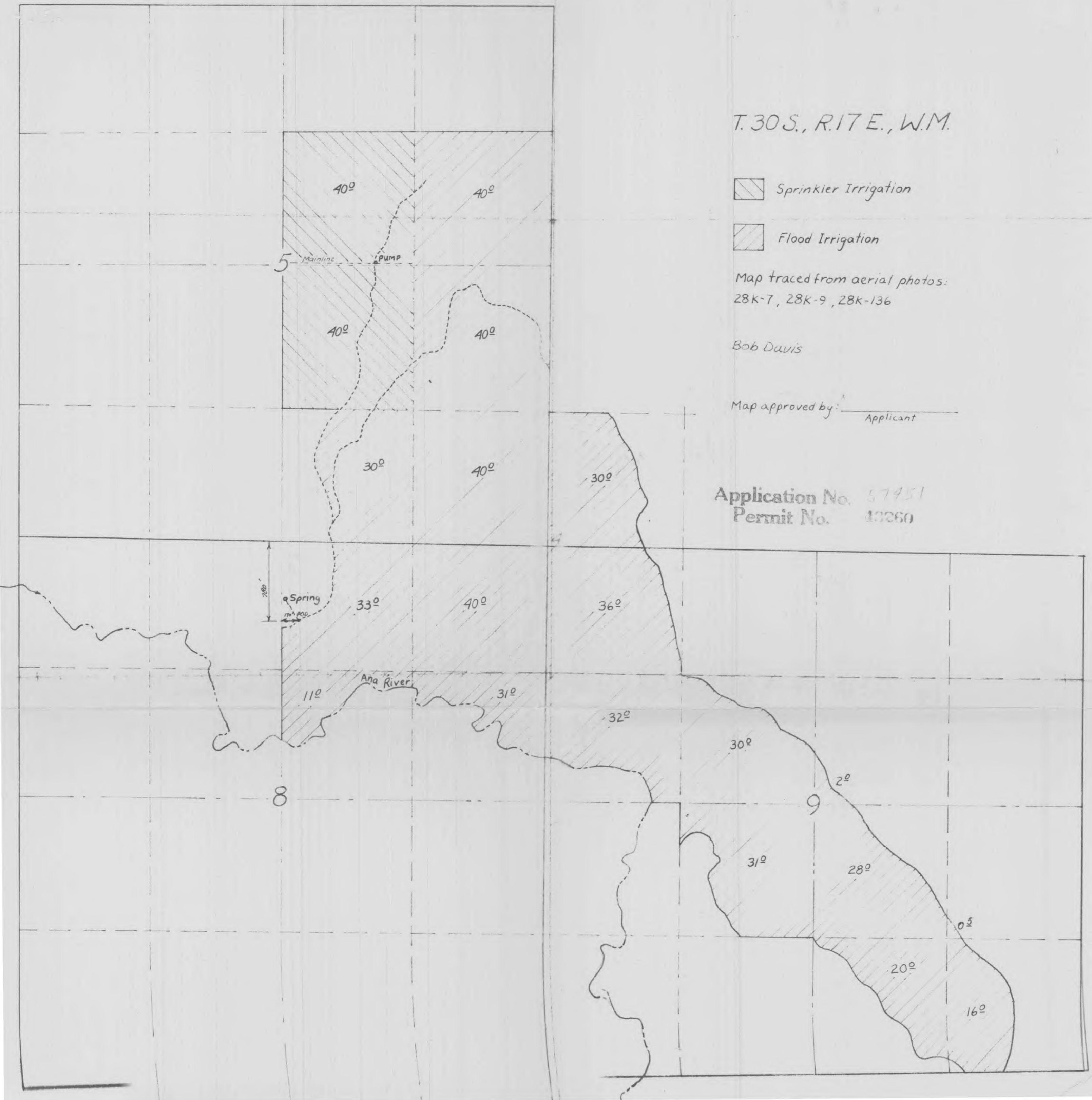
 Flood Irrigation

Map traced from aerial photos:
28K-7, 28K-9, 28K-136

Bob Davis


Map approved by: _____
Applicant

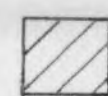
Application No. 57451
Permit No. 43360



RECEIVED
MAY 24 1978
WATER RESOURCES DEPT
SALEM, OREGON

T.30S., R.17E., W.M.

 Sprinkler Irrigation

 Flood Irrigation

Map traced from aerial photos:
28K-7, 28K-9, 28K-136

THIS MAP PREPARED BY:

Bob Davis

FROM INFORMATION FURNISHED BY
THE APPLICANT

Map approved by: * Evan Barber
Applicant

Application No. 57451
Permit No. 43260

