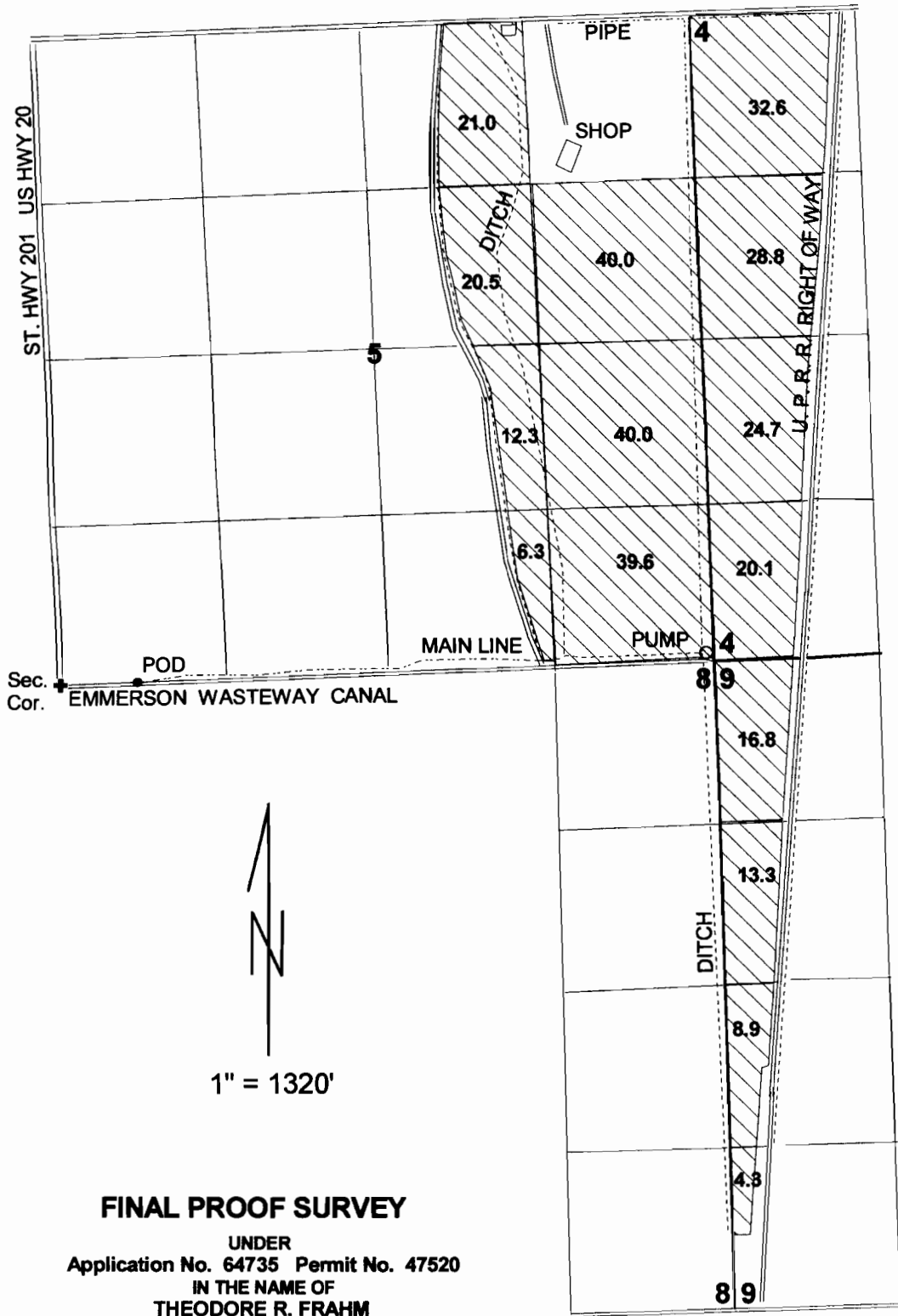


T. 19 S., R. 47 E., W. M.



FINAL PROOF SURVEY

UNDER
Application No. 64735 Permit No. 47520
IN THE NAME OF
THEODORE R. FRAHM
Surveyed: 4-09-2003 by: J. Miller

April 15, 2003

A # 64735 P # 47520

On April 9, 2003, I conducted the final proof survey for this permit.

I met with Theodore R. Frahm at his farm and he showed me the diversion from the Emerson Waterway and showed me the lands irrigated under this permit and explained the irrigation system

The diversion is at the location the application map identifies. At the diversion, in the Emerson Canal, there is a 4' screw down headwater that diverts water to the north side of the canal into a ditch that is 4' wide on the top, 3' wide on the bottom and the depth is 3 ½ feet with the high water line at 1' deep.

The water is ditched to the east ¾ of a mile to a pump station. The pump is a 18 Horse Power Honda Gas pump that sets on a wood platform above the ditch. The suction from the ditch is through 6" aluminum and the lift from the ditch to the pump is 5'.

They have buried 6" steel mainline from the pump north a mile. They irrigate the east side of section 5 and the west side of section 4 with 12" perforated pipe lying on the north end of sections 4 and 5. There are openings on the perforated pipe every 2'. On the west side of the east side of section 5, there are two earth lined lateral ditch systems, a mile long on each side, that are used to flood irrigate the lands between the ditches. The ditches are 2 ¼ feet across the top, 1/5 feet across the bottom and 1.5 feet deep. Mr. Thayer is in the process of changing to concrete lined ditches. South from the pump, water is delivered through a ditch system that is one mile long and is on the west side of the irrigation shown on the application map in section 9. Irrigation is between the ditch and the old railroad track with lateral ditches to flood irrigate with.

The fall is ±5 inches in a ½ mile of horizontal distance. Mr. Brahm has a laser level that attaches to a piece of farm equipment he uses to set the grade of the fields. This is all computerized.

The property under this permit has been irrigated for many years. The agreement with the ditch company was signed in 1955 and this is the same year the application map was prepared by an engineer.

The irrigation and diversion point is in agreement with the application map with the exception of a tiny piece on the very south end of the application map and a couple of farm roads going through the fields.

The use is irrigation of row crops, onions, beets, sugar beets, corn and some wheat and grass hay.

Aerial 41045-378-282R shows most of the irrigation with the exception of about a ½ acre on the south end and the point of diversion and they are shown on an aerial that was downloaded from the GIS data with arc view.

A # 64735, P # 47520

Page 2

Mr. Thayer said the primary was under the Owyhee Ditch Company and they are petitioning lands under HB-3111 which is not completed. If these lands are covered under the ditch company, as Mr. Thayer indicated, then this permit would be supplemental.

Mr. Mike Blackaby, phone # 541-889-8693, is preparing the petition and maps for the ditch company. I called him and requested a copy of the ditch companies maps that include the lands under this permit.

Tie: SW Corner, Section 5, as the application map shows.

June Miller, FI

comments: a lot of this land on the east side as been reclaimed through good farm practices. The soil was high alicali soil and Mr. Thayer has it now that it can grow crops.

P 47520



STATE OF OREGON

County of MALHEUR

has this permit

PERMIT TO APPROPRIATE THE PUBLIC WATERS

This is to certify that I have examined APPLICATION 64735 and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE APPROPRIATE MINIMUM FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD and the following limitations and conditions:

This permit is issued to Theodore R. Frahm of Route 1, Box 745, Ontario, Oregon 97914, phone ~~889-6791~~, for the use of the waters of Emerson Wasteway, tributary Snake River

for the PURPOSE of irrigation

89-3813

that the PRIORITY OF THE RIGHT dates from January 14, 1983

and is limited to the amount of water which can be applied to beneficial use and shall not exceed 8.35 cubic feet per second

The POINT OF DIVERSION is to be LOCATED: North 89 degrees 32 minutes East 600 feet from the Southwest Corner of Section 5, being within the SW 1/4 SW 1/4 of Section 5, Township 19 South, Range 47 East, WM, in the County of Malheur.

A description of the PLACE OF USE under the permit, and to which such right is appurtenant, is as follows:

SEE NEXT PAGE

*June Miller - F.I. 4/9/03
41045-378-282C - Inspection Subd.*

Township 19 South, Range 47 East, WM	Section 4	NW 1/4 NW 1/4	32.1 acres
		SW 1/4 NW 1/4	28.6
		NW 1/4 SW 1/4	24.5
	Section 5	SW 1/4 SW 1/4	20.5
		NW 1/4 NE 1/4	23.6
		SW 1/4 NE 1/4	23.6
		SE 1/4 NE 1/4	40.0
		NE 1/4 SE 1/4	40.0
		NW 1/4 SE 1/4	13.6
		SW 1/4 SE 1/4	7.3
	Section 9	SE 1/4 SE 1/4	40.0
		NW 1/4 NW 1/4	16.4
		SW 1/4 NW 1/4	12.5
NW 1/4 SW 1/4		8.6	
		SW 1/4 SW 1/4	2.5

333.8

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 1/40 of one cubic foot per second per acre, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall also be limited to the water available at the proposed point of diversion, and shall not carry with it the right to compel the continuance of the waste water, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Actual construction work shall begin on or before July 15, 1984, and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 19 85.

Complete application of the water to the proposed use shall be made on or before October 1, 19 86.

Witness my hand this 15th day of July, 19 83.

DEPUTY /s/ CHRIS L. WHEELER
WATER RESOURCES DIRECTOR

This permit, when issued, is for the beneficial use of water. 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. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

X-Sender: douthism@mailhub.wrd.state.or.us
 X-Mailer: QUALCOMM Windows Eudora Version 5.2.0.9
 Date: Wed, 14 Jan 2004 14:28:42 -0800
 To: June.U.MILLER@wr.d.state.or.us
 From: Susan Douthit <Susan.M.DOOUTHIT@wr.d.state.or.us>
 Subject: Re: transfer 3876
 Cc: wiserror@wr.d.state.or.us
 X-Security: MIME headers sanitized on kettle.wrd.state.or.us
 See <http://www.impsec.org/email-tools/sanitizer-intro.html>
 for details. \$Revision: 1.133 \$Date: 2002-01-05 17:09:21-08

Hi June,

I've taken a look into this transfer and was able to find all 338 acres on the plat card. However, it wasn't easy. This transfer is actually off another transfer (T-3672) and also involves remaining right certificates 47186 and 48289. (Not to mention certificate 7046 and 48290 that are related to T-3672!)

I located 143 acres in section 28 from T-3876 and 11 acres in section 28 on remaining right cert 47186. In Section 29 the plat card list 139 acres from T-3876, 25 acres on cert 47186 and 20 acres on cert 48289.

~Susan

*5 3 47186 Malheur River down & stock
 143 36 AC
 1902*

At 02:55 PM 01/13/2004 -0800, you wrote:

Good Afternoon June,

T 175, R 47E

Just wanted to let you know that we haven't forgot about you. For some reason, I didn't receive your original message but received a copy of it today.

I've taken a brief look at the transfer involved and hope to resolve the problem that you pointed out in the next day or two.

Sorry for the delay in getting back to you.

*surveyed in area
 this past summer.*

~Susan

Susan Douthit
 Water Rights Specialist 2

Water Resources Department
 725 NE Summer Street, Suite A
 Salem, Oregon 97301-1271
 503-986-0858

Susan Douthit
 Water Rights Specialist 2

Water Resources Department
 725 NE Summer Street, Suite A
 Salem, Oregon 97301-1271
 503-986-0858

A# 64735. P# 47520

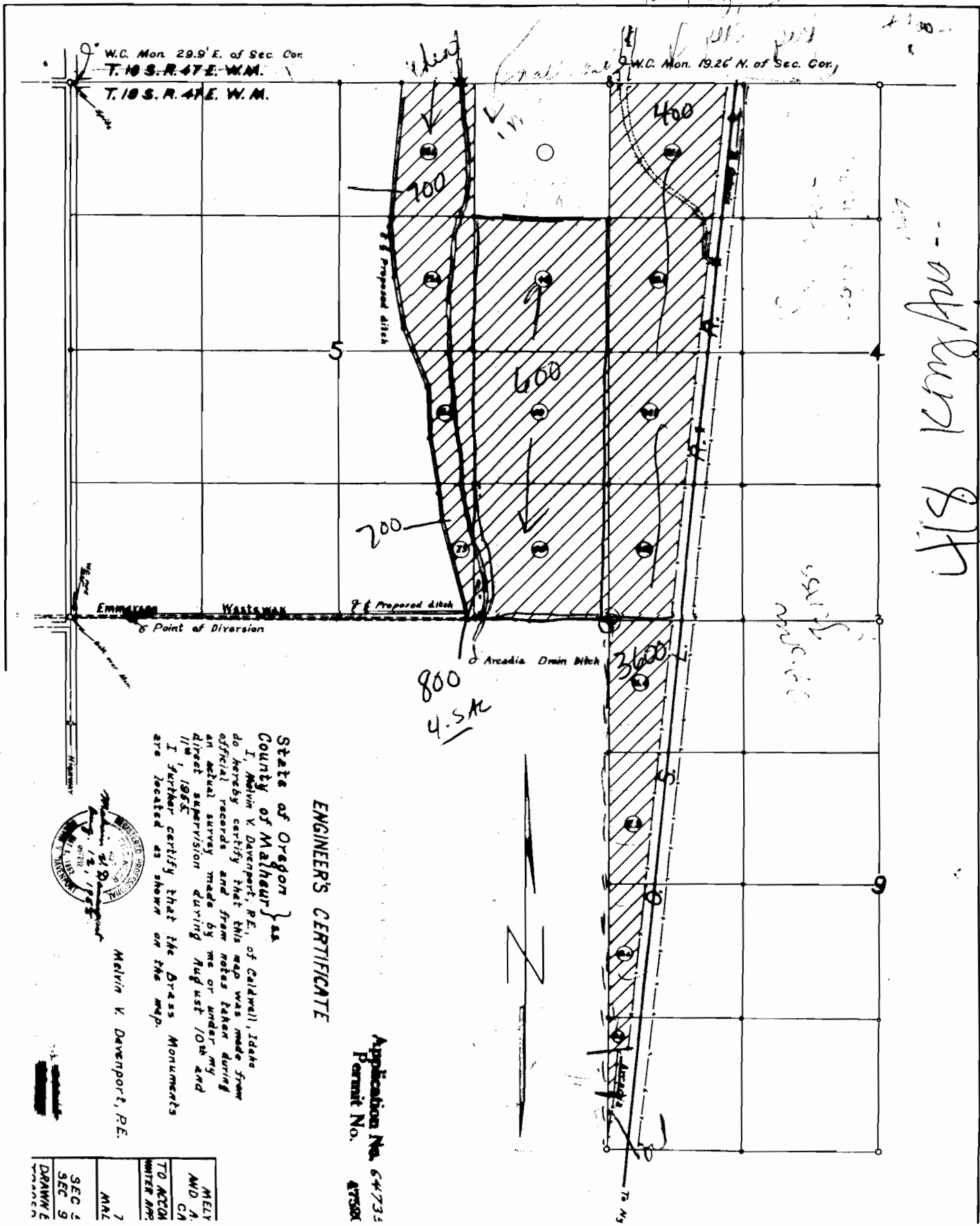
NW NE	21.0	
SW NE	20.5	
BE NE	40.0	
NE SE	40.0	
NW SE	12.3	
SW SE	6.3	
SE SE	<u>39.6</u>	
Section 5.		179.7

NWNW	32.6	
SWNW	28.8	
NWSW	24.7	
SWSW	<u>20.1</u>	
Sect 4		106.2

NWNW	16.8	
SWNW	13.3	
N WSW	8.9	
SWSW	<u>4.3</u>	
		43.3

329.2 TOTAL ACRES

Belton



Hills Road 87914

478 King Ave.

State of Oregon }
 County of Malheur }
 I, Melvin V. Davenport, P.E., of Caldwell, Idaho
 do hereby certify that this map was made from
 official records and from notes taken during
 an actual survey made by me or under my
 direct supervision during August 10th and
 11th, 1967.
 I further certify that the Brass Monuments
 are located as shown on the map.

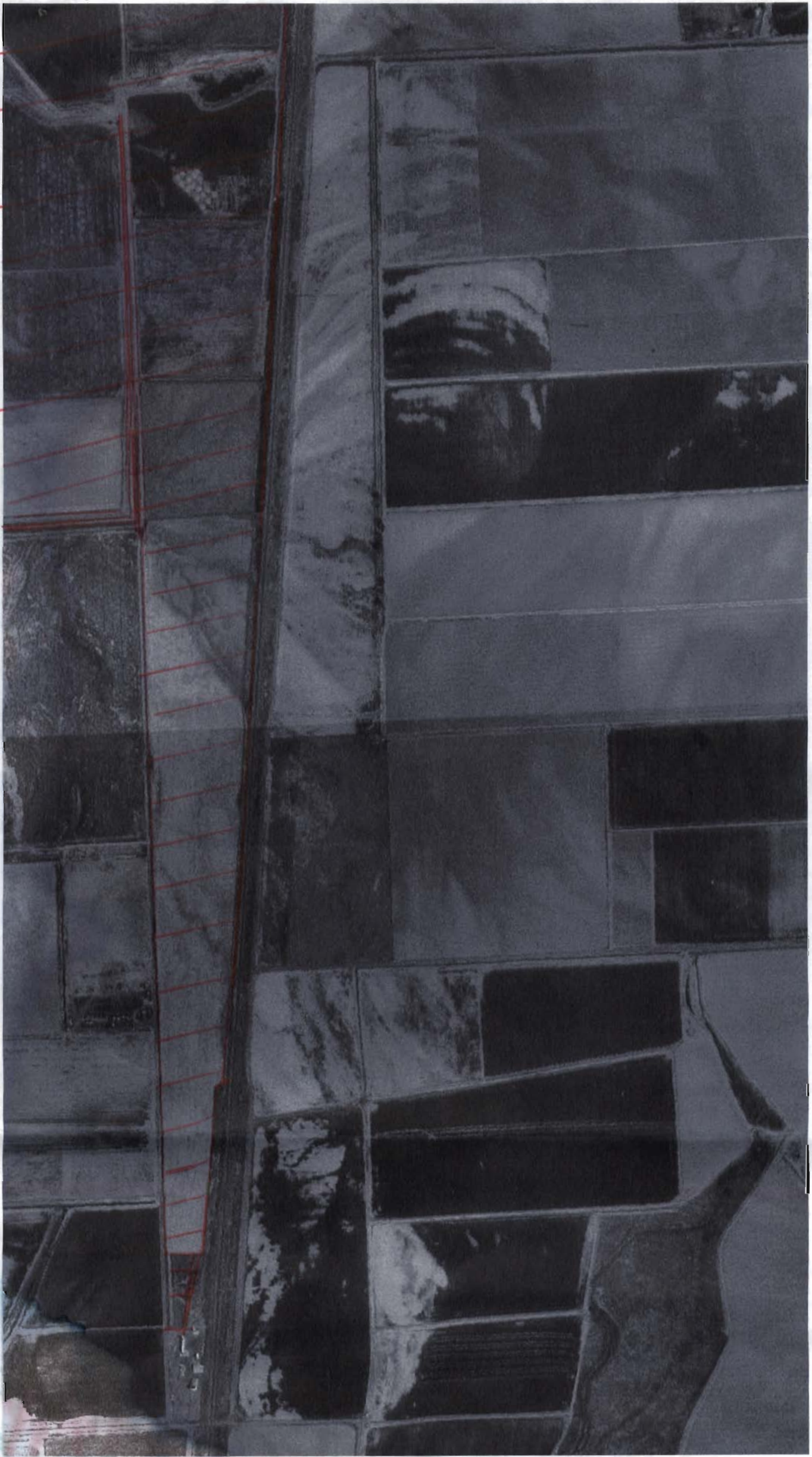


Melvin V. Davenport, P.E.

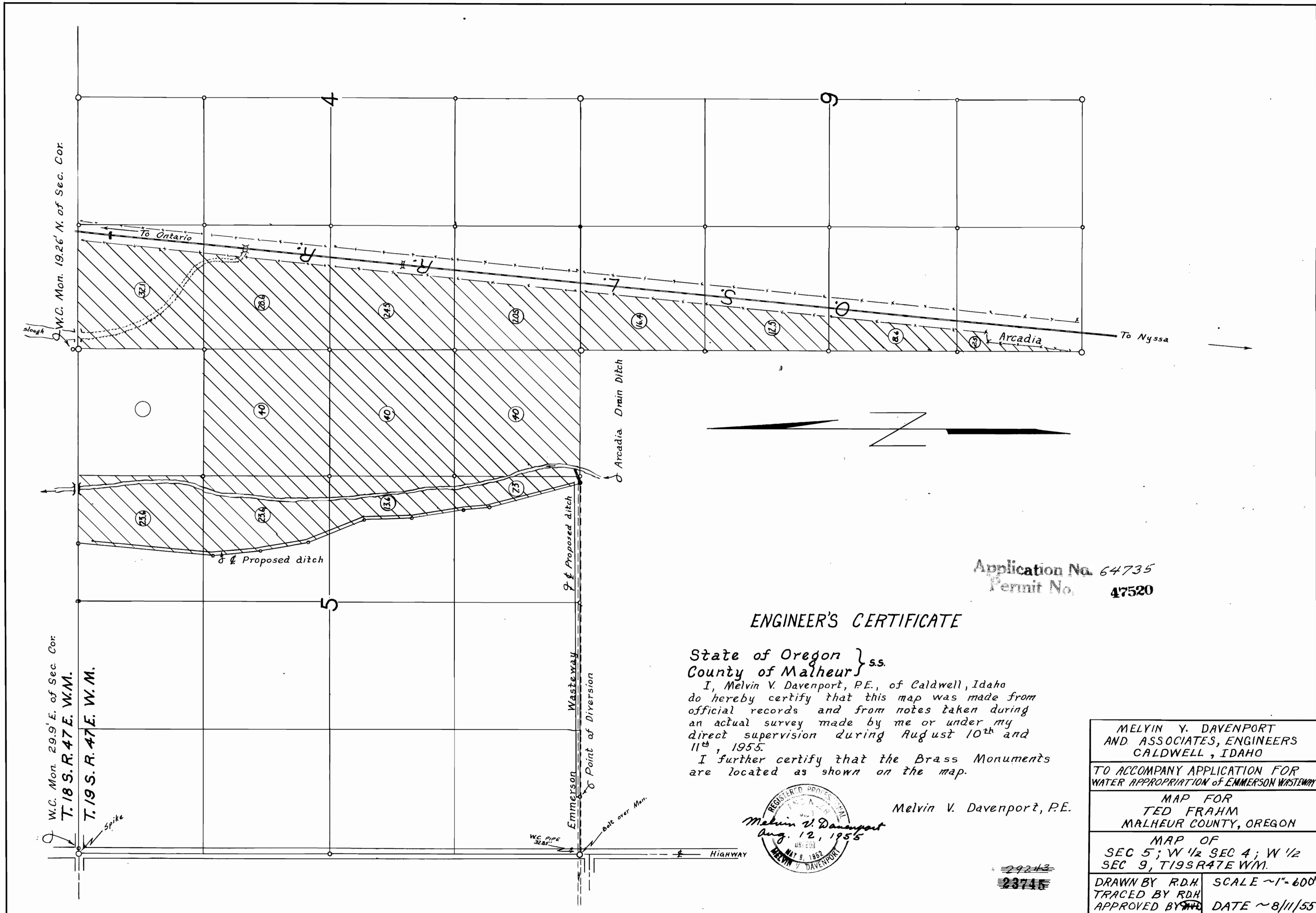
ENGINEER'S CERTIFICATE

Application No. 64735
 Permit No. 4750X

MELV	AMD A
CA	TO ACTION
UNITER APP	
7	MAL
SEC 5	
SEC 9	
DRAWING	
MAN	



1" = 660'



Application No. 64735
 Permit No. 47520

ENGINEER'S CERTIFICATE

State of Oregon } ss.
 County of Malheur }
 I, Melvin V. Davenport, P.E., of Caldwell, Idaho do hereby certify that this map was made from official records and from notes taken during an actual survey made by me or under my direct supervision during August 10th and 11th, 1955.
 I further certify that the Brass Monuments are located as shown on the map.

Melvin V. Davenport
 Aug. 12, 1955
 REGISTERED PROFESSIONAL ENGINEER
 MALHEUR COUNTY, OREGON
 MAY 9, 1953
 MELVIN V. DAVENPORT

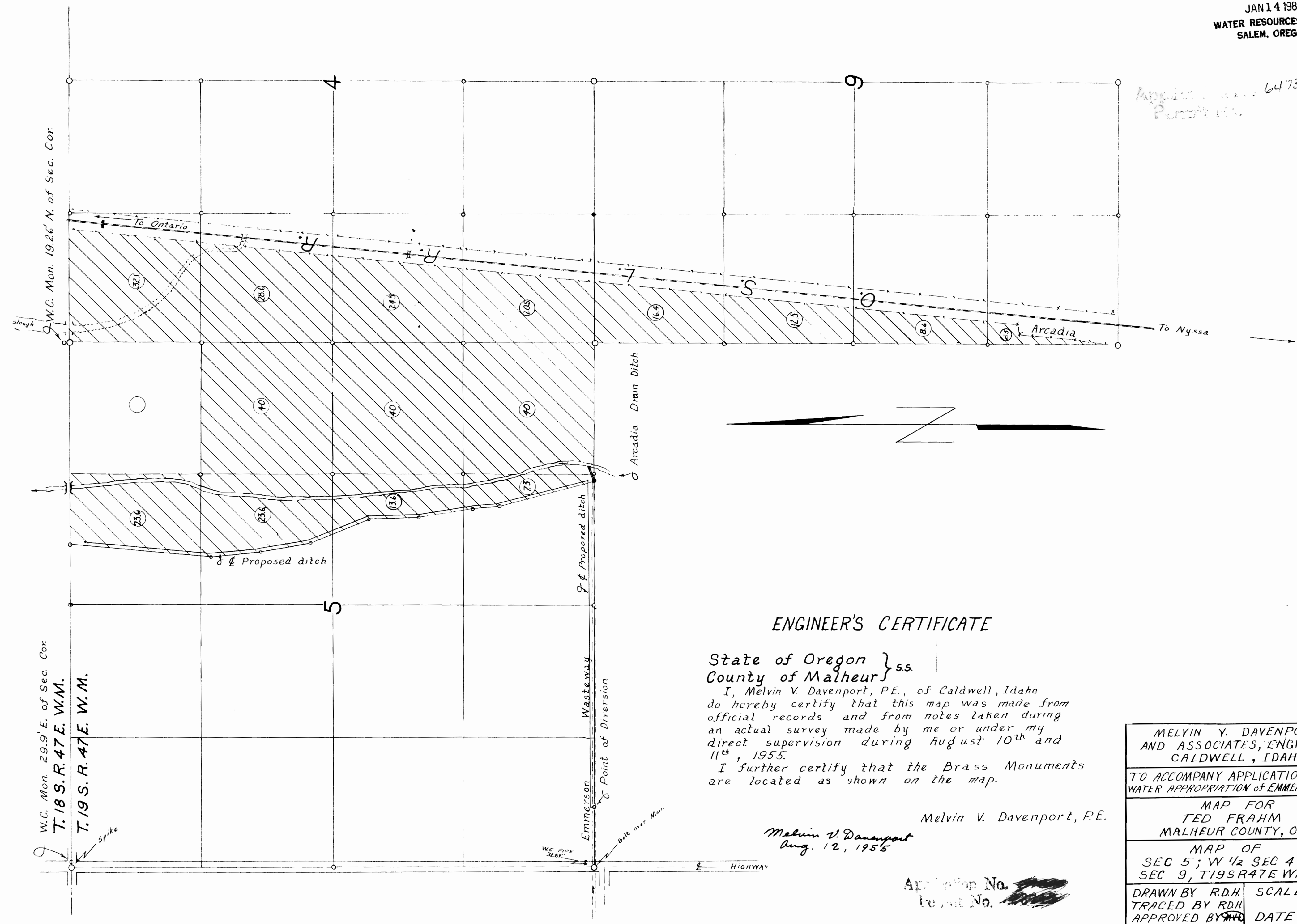
Melvin V. Davenport, P.E.

MELVIN V. DAVENPORT AND ASSOCIATES, ENGINEERS CALDWELL, IDAHO	
TO ACCOMPANY APPLICATION FOR WATER APPROPRIATION OF EMMERSON WASTEWAY	
MAP FOR TED FRAHM MALHEUR COUNTY, OREGON	
MAP OF SEC 5; W 1/2 SEC 4; W 1/2 SEC 9, T19S R47E WM.	
DRAWN BY RDH	SCALE ~1"=600'
TRACED BY RDH	DATE ~8/11/55
APPROVED BY [Signature]	

~~29243~~
~~23745~~

RECEIVED
 JAN 14 1983
 WATER RESOURCES DEPT.
 SALEM, OREGON

*Application No. 64735
 Permit No.*



ENGINEER'S CERTIFICATE

State of Oregon } ss.
 County of Malheur }

I, Melvin V. Davenport, P.E., of Caldwell, Idaho do hereby certify that this map was made from official records and from notes taken during an actual survey made by me or under my direct supervision during August 10th and 11th, 1955.

I further certify that the Brass Monuments are located as shown on the map.

Melvin V. Davenport, P.E.

*Melvin V. Davenport
 Aug. 12, 1955*

Application No. _____
 Permit No. _____

MELVIN Y. DAVENPORT AND ASSOCIATES, ENGINEERS CALDWELL, IDAHO	
TO ACCOMPANY APPLICATION FOR WATER APPROPRIATION OF EMMERSON WASTEWAY	
MAP FOR TED FRAHM MALHEUR COUNTY, OREGON	
MAP OF SEC 5; W 1/2 SEC 4; W 1/2 SEC 9, T19S R47E WM.	
DRAWN BY R.D.H. TRACED BY R.D.H. APPROVED BY <i>[Signature]</i>	SCALE ~1"=600' DATE ~8/11/55

RECEIVED

JAN 14 1983

WATER RESOURCES DEPT.
SALEM, OREGON

1 MEMORANDUM OF AGREEMENT GRANTING PERMISSION TO DIVERT
2 WATER FROM WASTE WAY

3 THIS MEMORANDUM made and entered into this 7th day of June,
4 1955, by and between the OWYHEE DITCH COMPANY, a corporation, party
5 of the first part and THEODORE R. FRAHM, party of the second part,

6 WITNESSETH:

7 THAT IN CONSIDERATION of the premises the said party of the
8 first part grants to the party of the second part the right to tap
9 that certain waste ditch owned and controlled by the first party
10 known as the Emison Waste Way and to withdraw from said waste way
11 not to exceed 350 miner's inches of water. The said point of diver-
12 sion to be on the South line of the second parties ranch in Malheur
13 County, Oregon at a point approximately 500 feet easterly from
14 the Ontario-Nyssa Highway.

15 The privilege of diverting water from said ditch shall be
16 under the following restrictions and conditions:

17 1. That the second party will build a concrete headgate in
18 said ditch bank with concrete abutments of sufficient size and
19 height to protect the ditch bank from eroding or from water running
20 around said structure and to a height equal to the present top
21 of the ditch bank and will insert in said opening a headgate of
22 sufficient height to contain the entire flow of said waste way
23 inside its banks.

24 2. That no dam or other obstruction shall be placed in the
25 bed of said waste way although the second party shall have the pri-
26 vilege of constructing a concrete apron or flooring in the bottom
27 of said waste way built so as to divert water into the headgate
28 but not to obstruct or cause any silting in said waste way.

29 3. That said second party shall convey the water so diverted
30 to his own irrigation system by pipes or other means of water
31 conveyance in such a manner as to not permit any erosion of the
32 area occupied by the said Emison Waste Way. That all such improve-
ments, changes and structures shall be built to the approval of the

1 officers of the first party.

2 4. That in the diversion and use of said water from the
3 first party's waste way the second party shall save the first party
4 ~~harassless~~ against the claims of any third person claiming to be
5 ~~injured~~ by reason of such diversion. It is understood and agreed
6 that the said second party may divert any part of the waste water
7 of said Emison Waste Way not exceeding 350 miner's inches but that
8 the first party is under no obligation to maintain a flow of such
9 ~~or any amount of water in said waste way~~ and nothing herein con-
10 tained shall entitle the second party to claim any of the water
11 appropriated by the Owyhee Ditch Company for the use and benefit
12 of its water users and stockholders.

13 5. This Memorandum may be used as evidence to present to the
14 State Engineer of the State of Oregon for the purpose of enabling
15 the said second party to enable the said second party to complete
16 an application for the appropriation of said waters.

17 IN WITNESS WHEREOF the parties have set their hands this
18 day and year first above written.

19 OWYHEE DITCH COMPANY

20 By R. E. Brooke Secretary
21 First Party
22 J. R. Freshman
23 Second Party

23 STATE OF OREGON)
24 County of Malheur) ss

25 I, R. E. Brooke, hereby certify that I am the regularly appoin-
26 ted, qualified and acting Secretary of the Owyhee Ditch Company a
27 corporation. That the foregoing document is a true and correct
28 recital of the agreement entered into between the parties thereto
29 on the date last above mentioned.

30 IN WITNESS WHEREOF, I have affixed my hand as Secretary and
31 attached the seal of said corporation.

32

R. E. Brooke

Application No. 64735
Permit No.

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for Permit to Appropriate Surface Water

RECEIVED
JAN 14 1983
WATER RESOURCES DEPT.
SALEM, OREGON

I, Theodore R. Frahm
(Name of Applicant)

of Route 1, Box 745, Ontario
(Mailing Address) (City)

State of Oregon, 97914 Phone No. 889-6791 do hereby
(Zip Code)

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

1. The source of the proposed appropriation is Emerson Wasteway
....., a tributary of Snake River

2. The point of diversion is to be located N. 89° 32' E. 600'
(N. or S.) and ft. (E. or W.)

from the SW corner of Section 5
(Public Land Survey Corner)

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

..... being within the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of
Sec. 5 Tp. 19 S. R. 47 E., W. M., in the county of Malheur
(N. or S.) (E. or W.)

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

Township	Range	Section	List $\frac{1}{4}$ $\frac{1}{4}$ of Section	List use and/or number of acres to be irrigated
19S	47 E	4	NW $\frac{1}{4}$ NW $\frac{1}{4}$	32.1
19S	47 E	4	SW $\frac{1}{4}$ NW $\frac{1}{4}$	28.6
19S	47 E	4	NW $\frac{1}{4}$ SW $\frac{1}{4}$	24.5
19S	47 E	4	SW $\frac{1}{4}$ SW $\frac{1}{4}$	20.5
19S	47 E	5	NW $\frac{1}{4}$ NE $\frac{1}{4}$	23.6
19S	47 E	5	SW $\frac{1}{4}$ NE $\frac{1}{4}$	23.6
19S	47 E	5	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
19S	47 E	5	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
19S	47 E	5	NW $\frac{1}{4}$ SE $\frac{1}{4}$	13.6
19S	47 E	5	SW $\frac{1}{4}$ SE $\frac{1}{4}$	7.3
19S	47 E	5	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
19S	47 E	9	NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.4
19S	47 E	9	SW $\frac{1}{4}$ NW $\frac{1}{4}$	12.5
19S	47 E	9	NW $\frac{1}{4}$ SW $\frac{1}{4}$	8.6
19S	47 E	9	SW $\frac{1}{4}$ SW $\frac{1}{4}$	2.5

47
37.7
37.7

4. The amount of water which the applicant intends to apply to beneficial use is 8.35 cfs

cubic feet per second.....

(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

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.

The point of diversion is a concrete with an open ditch that irrigates all of the permit area by gravity. Permit No. 23745 was for the same irrigated area and was canceled for lack of completion. All land listed is now irrigated.

If for domestic use state number of families to be supplied

7. Construction work will begin on or before Completed

8. Construction work will be completed on or before Completed

9. The water will be completely applied to the proposed use on or before Completed

Application No. 64735

Permit No. 64735

Remarks: Attached to this permit is an agreement between the Owyhee Ditch Company and Theodore R. Frahm granting permission to divert water from Emerson Wasteway dated June 7, 1955.

This permit, when issued, is for the beneficial use of water. 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. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Theodore R. Frahm
Signature of Applicant

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

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

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

Water Resources Director

By

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 14th day of January, 1983, at 8:00 o'clock A.M.

Application No. 64735

Permit No.....

Application No. 64735

Permit No.

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 8.35 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 Emerson Wasteway

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

If for irrigation, this appropriation shall be limited to 40 of one cubic foot per second or its equivalent for each acre irrigated ± 4

and shall also be limited to the water available at the proposed point of diversion, and shall not carry with it the right to interfere in continuance of the waste water,

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 January 17, 1963

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

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

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

[Handwritten initials]

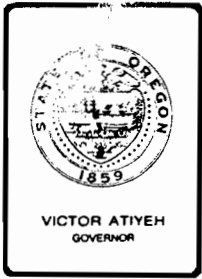
August 12, 1983

Theodore R. Frahm
Route 1, Box 746
Ontario, OR 97914

Dear Mr. Frahm:

64735

47520



Water Resources Department
MILL CREEK OFFICE PARK

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

PHONE 378-3066 or
1-800-452-7813
(message line)

February 15, 1983

Theodore R. Frahm
Route 1, Box 745
Ontario, OR 97914

Dear Mr. Frahm:

REFERENCE: File 64735

We received a telephone call from Bill Blackaby, Secretary of the Ontario-Nyssa Irrigation District in which he advised that the project described in your Application 64735 is outside of the boundaries of their district.

Therefore, all we need now ~~is~~ to complete the processing of your application is the additional \$4.00 recording fee. Upon receipt of the additional fee, your application will be placed with the group to be considered for approval.

Sincerely,

Wayne J. Overcash
Senior Water Rights Examiner

*Receipt 37987
mailed March 1, 1983
WJ*

378-3066
or
1-800-452-7813
(message line)

January 31, 1983

Theodore R. Frahm
Route 1, Box 745
Ontario, OR 97914

Dear Mr. Frahm:

REFERENCE: Files 64735 and 29243

Your Application 64735 describing the proposed use of 8.35 cubic feet per second of water from Emerson Waste Way for the irrigation of 333.8 acres, together with the print of the map which supported your earlier Permit 23745 and the copy of the agreement between you and the Owyhee Ditch Company, has been reviewed.

The map prepared on linen which supported your earlier Permit 23645 will suffice for your supporting map providing it correctly represents your proposed project.

Our records indicate that your project is located within the Ontario-Nyssa Irrigation District. Therefore, before your application can be considered for approval, we will need an excerpt from one of their meetings advising that they have no objection to your proposed source and use of water.

Your application, as prepared, requires the examination fee of \$40 and permit recording fees in the amount of \$344 for a total of \$384. To date, \$380 has been credited to your file. Therefore, an additional \$4 is needed to complete the fees.

Further action on your application will be withheld for a reasonable length of time pending receipt of the excerpt from the irrigation district and the additional recording fee.

Sincerely,

WAYNE J. OVERCASH
Senior Water Rights Examiner

WJC:wpc

4767B

378-3066
or
1-800-452-7813
(message line)

January 25, 1983

Theodore R. Frahm
Route 1, Box 745
Ontario, OR 97914

Dear Mr. Frahm:

REFERENCE: File 64735

We have received your application for use of water for irrigation purposes along with the supporting data and fees. Our Receipt 34431 is enclosed. Your application has been filed and assigned number 64735.

Applications which are received in proper form for a permit, including maps, supporting data and fees, will be considered for approval shortly after the mandatory 30-day waiting period. Applications which are defective, conflict with existing rights or require additional information will be reviewed in detail and will be returned for completion or correction within 45 days.

If your application is approved, the project described in the application will be subject to the Water Policy Review Board's Basin Program statements, existing minimum flows and demands of prior rights during periods of low water.

Sincerely,

RALPH H. JACKSON, Supervisor
Application/Permit Section

RHJ:wpc
enclosures

0003/X
4673B