

# Application for a Permit to Use Surface Water



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem Oregon 97301-1266  
(503) 986-0900  
www.wrd.state.or.us

## SECTION 1: APPLICANT INFORMATION AND SIGNATURE

### Applicant Information

NAME THERESA CLIFF - DBA "BELL A LAND AND CATTLE CO.		PHONE (HM) 541-433-2556	
PHONE (WK)	CELL	FAX	
ADDRESS PO BOX 97			
CITY LAPINE	STATE OR	ZIP 97739	E-MAIL

### Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

### Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME DENNIS R. GLENER – DBA GLENER'S HYDRO TECH SERVICES		PHONE 541-548-4882	FAX 541-504-7728
ADDRESS 8664 SW SAND RIDGE RD			CELL 541-219-0806
CITY CROOKED RIVER RANCH	STATE OR	ZIP 97760	E-MAIL DJGLENER@MSN.COM

**RECEIVED**

Note: Attach multiple copies as needed

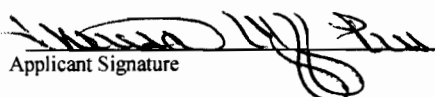
MAY 06 2010

### By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot use water legally until the Water Resources Department issues a permit.
- Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land-use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water-right holders to get water to which they are entitled.

WATER RESOURCES DEPT  
SALEM, OREGON

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

  
Applicant Signature

THERESA CLIFF - PRESIDENT  
Print Name and title if applicable

May 3, 2010  
Date

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Print Name and title if applicable

\_\_\_\_\_  
Date

App. No. <u>S-07600</u>	For Department Use Permit No. _____	Date _____
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**SECTION 2: PROPERTY OWNERSHIP**

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

X Yes

- There are no encumbrances.
- This land is encumbered by easements, rights of way, roads or other encumbrances.

No

- I have a recorded easement or written authorization permitting access.
- I do not currently have written authorization or easement permitting access.
- Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
- Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

NONE

**SECTION 3: SOURCE OF WATER**

**A. Proposed Source of Water**

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: THOMPSON VALLEY RESERVOIR Tributary to: SILVER CREEK TRIB SILVER LAKE

Source 2: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Source 3: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Source 4: \_\_\_\_\_ Tributary to: \_\_\_\_\_

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If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

ATTACHED

**B. Applications to Use Stored Water**

Do you, or will you, own the reservoir(s) described in item 3A above?

Yes.

X No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

X By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

**SECTION 4: WATER USE**

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):  
*(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)*

SOURCE	USE	PERIOD OF USE	AMOUNT
THOMPSON VALLEY RESERVOIR	SUPPLEMENTAL IRRIGATION	APRIL 1 THRU SEPTEMBER 30 ANNUALLY	330 <input type="checkbox"/> cfs <input type="checkbox"/> gpm X af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: \_\_\_\_\_ Acres                      Supplemental: 931.5 ACRES

List the Permit or Certificate number of the underlying primary water right(s): Hough v Porter decree

Findings of fact #3, #4, #6 and #7, copy of decree enclosed \_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 330

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- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: \_\_\_\_\_
- If the use is **mining**, describe what is being mined and the method(s) of extraction: \_\_\_\_\_  
\_\_\_\_\_

**SECTION 5: WATER MANAGEMENT**

**A. Diversion and Conveyance**

What equipment will you use to pump water from your source?

Pump (give horsepower and type): \_\_\_\_\_

X Other means (describe): Water will be transported via Silver Creek to existing diversion structures and open ditches for flood irrigation. System existing pre 1909.

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.  
Existing pre 1909.

**B. Application Method**

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)  
Flood irrigation

**C. Conservation**

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent adverse impact to public uses of affected surface waters.  
N/A

**SECTION 6: RESOURCE PROTECTION**

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

- Diversion will be screened to prevent uptake of fish and other aquatic life.  
Describe planned actions: N/A
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.  
Describe planned actions: N/A
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.  
Describe: N/A
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.  
Describe: N/A

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**SECTION 7: PROJECT SCHEDULE**

Date construction will begin: Done

Date construction will be completed: Done

Date beneficial water use will begin: Upon issuance of this permit

**SECTION 8: REMARKS**

Use this space to clarify any information you have provided in the application (*attach additional sheets if necessary*).

This application is submitted in conjunction with the applicants decreed water rights listed in the HOUGH v Porter decree and is supported by the enclosed Storage Contract with the Silver Lake Irrigation District. The source of water is stored under Certificate 49856 (copy enclosed).

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Oregon Water Resources Department  
725 Summer Street N.E. Suite A  
Salem, OR 97301-4172

Rec 4/29/2010  
RAB

March 30, 2010

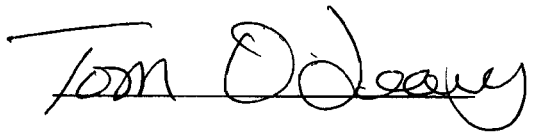
To Whom It May Concern,

Silver Lake Irrigation District is the owner and operator of Thompson Reservoir, the source of water for the enclosed application. By this letter, Silver Lake Irrigation District acknowledges that the applicant, Bell A Land and Cattle Company, has permission to store water pursuant to a Storage Contract in Thompson Reservoir. Silver Lake Irrigation District does not object to the enclosed application made by Bell A Land and Cattle Company.

Sincerely,



Tom O'Leary,



Manager  
{P0163379; 0791.00 CDD }

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SALEM, OREGON

S-87600

**AFTER RECORDING RETURN TO:**  
Schroeder Law Offices, PC  
P.O. Box 12527  
Portland, OR 97212

**STORAGE CONTRACT**

- A. **DATE:** This Storage Contract is dated April 4, 2007.
- B. **PARTIES:** The parties to this Storage Contract are Silver Lake Irrigation District, a quasi-municipal corporation of Lake County, Oregon (the District) and Theresa Cliff, dba Bell A. Land and Cattle Company (Cliff).
- C. **BACKGROUND:**
  - 1.0 This contract arises out of *Hough v. Porter*, 51 Ore. 318 (1909) and the decreed water rights established therein.
  - 2.0 The District and the decreed water right holders, of which Cliff is a successor in interest, negotiated for an agreement dated March 5, 1920, in which the District agreed to store water for the decreed water right holders. The agreement, attached hereto as Exhibit A, is null and void for lack of consideration and lack of proper execution.
  - 3.0 This Storage Contract is meant to provide an opportunity to store water already decreed to Cliff's lands from live flow. This Storage Contract is not intended to enlarge or increase the water use from that available to Cliff under the Decree.
- D. **NEW CONTRACT:** This document constitutes a new contract (supersedes the 1920 negotiations). As executed by the parties, it is intended to be an enforceable contract under the laws of Oregon and Terms and Conditions set forth below.
- E. **WATER RIGHTS:** The decreed water rights related to Cliff and the District, established in *Hough v. Porter*, 51 Ore. 318 presently exist as follows:

Bell A. Land and Cattle	100 inches/2.50 cfs
Bell A. Land and Cattle	100 inches/2.50 cfs
Bell A. Land and Cattle	100 inches/2.50 cfs
Bell A. Land and Cattle	40 inches/1.00 cfs
Bell A. Land and Cattle	200 inches/5.00 cfs
Bell A. Land and Cattle	80 inches/2.00 cfs
Bell A. Land and Cattle	80 inches/2.00 cfs
Bell A. Land and Cattle	100 inches/2.50 cfs
Bell A. Land and Cattle	50 inches/1.25 cfs
Bell A. Land and Cattle	160 inches/4.00 cfs
Bell A. Land and Cattle	80 inches/2.00 cfs
Bell A. Land and Cattle	50 inches/1.25 cfs
Bell A. Land and Cattle	4.50 cfs
- F. **CONSIDERATION:** This Storage Contract is supported by good and valuable consideration in the form of the parties' mutual agreements as set out herein.

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SALEM, OREGON

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G. CONDITIONS:

- 1.0 No later than May 1, 2007, Cliff shall make an application with Oregon Water Resources Department (OWRD) to store 330 acre feet in the District's Thompson Valley Reservoir. Such application shall be submitted to the District for review and counter-signature at least 14 days before submission to OWRD.
- 2.0 OWRD must issue a storage permit to Cliff within two years of this agreement. A reasonable request to the District, by Cliff in writing, to extend this condition will not be unreasonably withheld.
- 3.0 It is anticipated that the described receiving acres for storage water under the supplemental use permit issued by OWRD will be all or a portion of the acres decreed as set out above. Once OWRD issues a permit on the Cliff application to use and store water from Thompson Reservoir, it shall be attached hereto to document the receiving acres for District delivery of Cliff's Thompson storage waters.

H. AGREEMENT: Once the preceding conditions are satisfied, the District agrees to annually store 330 acre feet in Thompson Reservoir for use by Cliff under the terms set forth below.

I. TERMS:

1.0 The obligation of the District to store water will be determined by in flow to Thompson Reservoir. The water available for storage (in flow) shall be determined by measuring the in flow at Benny Creek, Squaw Creek, Guyer Creek, and West Fork Silver Creek. The accumulated measure of in flow of these four creeks will be determined by the District on April 1<sup>st</sup> of each year and will be measured on a regular basis thereafter. The District shall store and make available water based on the decreed in flow rates as follows:

1.1	Cliff/Bell A	8.5 cfs
1.2	Brown	3.0 cfs
1.3	Cliff/Bell A	2.5 cfs
1.4	Silver Lake Irrigation District	12.5 cfs

(Hereinafter referred to as "decreed in flow rate.")

The volume, measured by rate, of water flowing into Thompson Valley Reservoir will be allocated in the priority and at the rates described above.

- 2.0 The District shall not be obligated to store or deliver any water if the actual in flow is less than the decreed in flow rates.
- 3.0 Cliff must notify the District in writing no later than <sup>April</sup> May 1, 2007: (1) To exercise the storage right under this Storage Contract; and (2) To quantify the acre feet the District shall store (up to a maximum of 330 acre feet).
- 4.0 On April 1 of each year, the District shall measure the flow of Benny Creek, Squaw Creek, Guyer Creek and West Fork Silver Creek.
  - 4.1 On the same date, the District shall notify Cliff of the storage available from Benny Creek, Squaw Creek and Guyer Creek. The amount of storage may be equal but not exceed the amount requested under Term 6.0.
  - 4.2 Between April 1<sup>st</sup> and April 30<sup>th</sup> the District shall periodically measure the flow from West Silver Creek, whose water cannot be stored in Thompson Reservoir. If at any time



between April 1<sup>st</sup> and April 30<sup>th</sup> the District determines that flow of West Silver Creek is sufficient to satisfy the first 8.5 cfs and 2.5 cfs of live flow decreed to Cliff, the District will immediately notify Cliff. Cliff will be required to use the live flow from West Silver Creek to satisfy her right to the first 11 cfs of live flow. The total duty will be less that amount already stored. Water stored will continue to be stored until requested by Cliff under the remaining Terms of this Contract.

- 5.0 Cliff must use the requested water during the irrigation season beginning the last day of March and ending the first day of September.
- 6.0 Cliff must request water delivery in writing four (4) days before the District is obligated to release the water from storage in Thompson Reservoir.
- 7.0 Point of delivery by the District to Cliff under this Storage Contract is Diversion Dam. The District shall deduct from Cliff's annual storage allotment, determined on ~~April~~ <sup>May</sup>, that amount delivered to Diversion Dam as requested in writing plus an additional 20% for ditch loss or such other percentage loss as may later be determined by the District for its patrons.
- 8.0 This Storage Contract does not provide for carryover. Any water stored under this Storage Contract that remains in Thompson Reservoir after September 1 is forfeited to the District.
- 9.0 Cliff property located within the official boundaries of the District receiving water deliver from the District, will be assessed by the District. District assessments will include:
- (a) ~~Annual cost of District storage and Delivery charges as adopted by Resolution of the Board: and~~
  - (b) Repair and other capital contributions, as provided by ORS 545.381. Capital contributions shall be proportional to the volume water stored in Thompson Reservoir in any given season and shall be payable by Bell A prior to water delivery by the District. The District shall provide Bell A a written description of all costs prior to Bell A's obligation to pay repair and capital contributions as described in this paragraph.
- 10.0 Cliff will be subject to the rules and regulations of the District including those that currently provide that a patron of the District may pay their proportional share of repairs and capital expenses with "in kind" contributions.

J. **AMENDMENT:** Any amendment to this Storage Contract must be made in writing and executed by all the parties hereto except to the contacts in paragraph N. The District shall not unreasonably withhold its consent to amend this contract applied in conjunction with a transfer application made to OWRD by Cliff and upon an order granting the transfer from OWRD. No amendment to this Storage Contract shall be effective until duly recorded in the records of Lake County, Oregon.

K. **ASSIGNMENT AND TRANSFER:** Cliff shall not transfer or assign the rights under this Storage Contract without the prior, express, written consent of the District. The District shall not unreasonably withhold its consent to any proposed assignment or transfer to a subsequent owner of the Cliff property. This Storage Contract shall bind and inure to the benefit of not only the immediate parties hereto but also their respective permitted heirs, executors, administrators and successors in interest.

L. **LIABILITY:** The District shall not be liable for any act of God, State or Federal action, negligent or intentional acts of Cliff or a third party, or any other unintentional act of the District which renders water delivery to Cliff an impossibility.

M. **ATTORNEY FEES:** In the event of any litigation or other dispute resolution procedure, arising out of this Storage Contract, the prevailing party shall recover from the losing party, at resolution, trial and on appeal, the prevailing party's attorney fees and costs, including but not limited to expert fees and costs and the costs of any necessary depositions, in amount adjudged reasonable by the court.

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N. NOTICE: All non-emergency notice between Cliff and the District shall be delivered to the following individuals at the following mailing addresses. Emergency notice may be conducted by telephone to the following telephone numbers:

Theresa Cliff  
dba Bell A. Land and Cattle Co.  
P.O. Box 97  
LaPine, Oregon, 97739  
(541) 433-2556

Silver Lake Irrigation District  
c/o Tom O'Leary, Director  
P.O. Box 69  
Silver Lake, Oregon, 97638  
(541) 576-2568

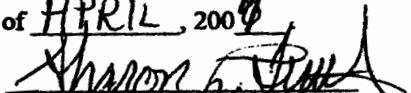
O. ENTIRE AGREEMENT: It is mutually understood that this Storage Contract as written covers all the agreement between the parties hereto and no representation or statements, verbal or written, have been made modifying, adding to or changing the terms herein.

  
Theresa Cliff

April 4 2007  
Date

Subscribed and Sworn to Before Me this 4<sup>th</sup> day of APRIL, 2007



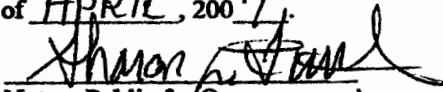
  
Notary Public for Oregon  
My Commission Expires: 3/18/08


  
Tom O'Leary, Director, Silver Lake ID Director

April 4 2007  
Date

Subscribed and Sworn to Before Me this 4<sup>th</sup> day of APRIL, 2007



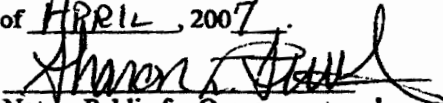
  
Notary Public for Oregon  
My Commission Expires: 3/18/08

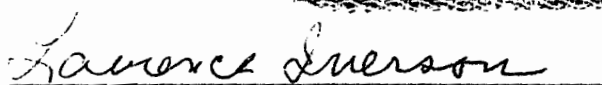
  
Dick Meham, Silver Lake ID Director

April 4 2007  
Date

Subscribed and Sworn to Before Me this 4<sup>th</sup> day of APRIL, 2007



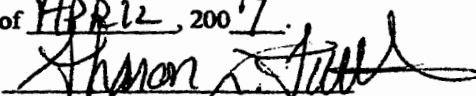
  
Notary Public for Oregon  
My Commission Expires: 3/18/08

  
Lawrence Iverson, Silver Lake ID Chairman

April 4 2007  
Date

Subscribed and Sworn to Before Me this 4<sup>th</sup> day of APRIL, 2007



  
Notary Public for Oregon  
My Commission Expires: 3/18/08

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SALEM, OREGON

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

SILVER LAKE IRRIGATION DISTRICT  
c/o LAWRENCE IVERSON

of Silver Lake, State of Oregon 97638, has made

proof to the satisfaction of the Water Resources Director, of a right to store the waters of Middle Fork Silver Creek (sometimes called Guyer Creek), West Fork Silver Creek, and Silver Creek, tributary Silver Lake (Dry), appropriated under Permit 11656, in East Thompson Valley Reservoir and Diversion Dam Reservoir

for the purposes of irrigation

under Reservoir Permit No. R-680, and that said right to store said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from October 11, 1915

that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 19,460 acre-feet, being 19,000 af in Thompson Valley Reservoir and 460 af in Diversion Dam Reservoir

The reservoir is located in

EAST THOMPSON VALLEY RESERVOIR

SE 1/4 SW 1/4  
Section 17

E 1/2 SW 1/4  
SE 1/4  
Section 19

SW 1/4 NE 1/4  
NW 1/4  
S 1/2  
Section 20

SW 1/4 SW 1/4  
Section 21

W 1/2 NE 1/4  
W 1/2  
Section 28

ALL  
Section 29

NE 1/4  
NE 1/4 NW 1/4  
N 1/2 SE 1/4  
SE 1/4 SE 1/4  
Section 30

SE 1/4 NE 1/4  
NE 1/4 SE 1/4  
Section 31

N 1/2  
SW 1/4  
W 1/2 SE 1/4  
Section 32

NW 1/4 NE 1/4  
N 1/2 NW 1/4  
SW 1/4 NW 1/4  
Section 33  
T30N, R14E, WM

W 1/2 NW 1/4  
NW 1/4 SW 1/4  
Section 4

NE 1/4  
N 1/2 NW 1/4  
N 1/2 SE 1/4  
Section 5  
T31S, R14E, WM

DIVERSION DAM RESERVOIR

SW 1/4 SW 1/4  
Section 4

NE 1/4  
NW 1/4 SE 1/4  
E 1/2 SE 1/4  
Section 5

W 1/2  
Section 9  
T29S, R14E, WM

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SALEM, OREGON

WITNESS the signature of the Water Resources Director, affixed

this date. March 18, 1981

*James E. Secor*  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 43, page 49856

S-87600

### For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Articles 1 and 2 LC 20
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)  
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

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Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

LAKE COUNTY HAS NO OBJECTIONS TO THE PROPOSAL. THIS APPROVAL IS FOR ASSESSMENT ACCOUNT NUMBERS 7811 AND 7816 (2814-100, 1500).

Name: Ken Gerscher Title: Planning Director  
 Signature: [Signature] Phone: 541.947.6232 Date: 18 JAN 2010  
 Government Entity: LAKE COUNTY, OREGON

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant Name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff Contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

5-8760



# Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Bell A Land and Cattle Co. Theresa Cliff - Owner  
First Last  
Mailing Address: PO Box 97  
LaPine Oregon 97739 Daytime Phone: 541-433-2556  
City State Zip

### A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:			Proposed Land Use:
28 S	14 E	2, 11, 12,		100, 1500	EFU	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Supplemental
		14 & 15	ACCOUNTS	7811, 7816		<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	Irrigation
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used:

Lake County

### B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
- Water-Right Transfer
- Exchange of Water
- Allocation of Conserved Water
- Limited Water Use License
- Permit Amendment of Ground Water Registration Modification

Source of water:  Reservoir/Pond  Ground Water  Surface Water (name): \_\_\_\_\_

Estimated quantity of water needed: 330 \_\_\_\_\_  cubic feet per second  gallons per minute  acre-feet

Intended use of water:  Irrigation  Commercial  Industrial  Domestic for \_\_\_\_\_ household(s)  
 Municipal  Quasi-municipal  Instream  Other \_\_\_\_\_

Briefly describe:

Stored water only as per storage agreement between Silver Lake Irrigation District and Theresa Cliff, owner Bell A Land and Cattle Co.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.

### Receipt for Request for Land Use Information

*W. J. ...*  
Planning Director

State of Oregon Water  
Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

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*Silver Creek, Lake Co. - Hearing on appeal from  
 (Copied from opinion delivered from Clerk of Supreme Court)  
 (Briefs submitted and printed for use in court)*

BE IT REMEMBERED, that at a regular term of the Supreme Court of the State of Oregon, begun and held at the court room in the City of Salem, on the first Monday the 1st day of March, 1909,

WHEREUPON on this Tuesday, the 10th day of August, 1909, the same being the Forty-seventh judicial day of said term, there were present:

- Hon. Frank A. Moore, Chief Justice,
- Hon. Robert Eakin, Associate Justice,
- Hon. Thome A. McBride, Associate Justice,
- Hon. Woodson T. Slater, Associate Justice,
- Hon. William R. King, Associate Justice, and
- J. C. Moreland, Clerk.

when the following proceedings were had:

Annie C. Hough, Mary J. Kittredge, Marion Conley,  
 W. H. Hayes, J. M. Hayes, John Hayes, A. C. Geyer  
 and W. H. McCall, Plaintiffs and Respondents

v.

S. A. D. Porter, C. D. Porter, Administrator, Daisy  
 Porter, Widow, and W. F. Porter, E. A. Porter and  
 Carl D. Porter, Minor Heirs, of S. A. D. Porter by  
 Daisy Porter, Guardian; P. G. Chrisman, John C.  
 Porter, and James C. Porter, his Guardian; F. M.  
 Chrisman, B. F. Lane, Jennie Lane, C. C. Jackson,  
 Occidental Land & Improvement Company, a Corpora-  
 tion, and Chewaucan Land & Cattle Company, a Corpo-  
 ration, its Grantee; P. W. Jones, C. E. McKune,  
 Mary C. Brown, and E. D. Lutz,  
 Defendants and Appellants

Appeal from  
 Lake County.

and  
 George Durand, L. Huesman, Morris Ranner, Lucinda  
 Egli, John Partin, Jr., George H. Small, L. P.  
 Klipple, Emil Egli, Henry Egli, Martie Ward, Ang-  
 eline West, Mary Small, James M. Martin, J. M.  
 Sherer, Lulu Corum LaBrie, Isa M. Corum, Jewell  
 D. Corum, Maude Small, Walter C. Buick, J. Hall,  
 Corinna Buick, C. D. Buick, E. K. Henderson, R.  
 E. Smith, J. A. Smith, J. C. Harrow, J. M. Small  
 and F. F. McCarty,  
 Defendants and Respondents.

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This cause having been heretofore tried, argued, and submitted to the court upon and concerning all the questions arising upon the transcript, record, and evidence, and then reserved for further consideration. And after an opinion by the court had been filed, a petition for rehearing by respondent Geo. H. Small, having been duly considered by the court, and the court having now duly considered all the said questions as well as the suggestions made by counsel <sup>in</sup> ~~for~~ their argument and briefs, and the said petitions for rehearing, finds that there is PARTIAL ERROR as alleged. It is, therefore, ordered, adjudged, and decreed by the court that the decree of the court below in this cause rendered and entered be, and the same is, in all things, except as is hereinafter affirmed, REVERSED AND SET ASIDE.

And the court having duly considered all the evidence herein, makes the following:

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FINDINGS OF FACT:

1- Silver Creek rises in Township 31 South, Range 14 East, on the slope immediately north of Sycan Marsh, in Lake County, and flows northerly for a distance of about 25 miles into a marsh formerly called Paulina Marsh, entering at a point near the corner of Section 2 in said township and range. The west branch of Silver Creek rises in Township 30 Range 14 East, and flows into the main channel near the northwest corner of Section 29 of the same range. Bridge Creek is a tributary to Silver Creek, and rises in the Yamsay Mountains, near the dividing line between Lake and Klamath Counties, and runs northeasterly, emptying into Island Branch near the center of Section 15, Township 28 South, Range 14 East; thence into Silver Creek. At a point near the southeast corner of the Southeast quarter of Section 15, in said tract named, township and range, the channels diverge, one from each side of the creek; the easterly divergence is known as Burnyard Branch, and the westerly divergence, as Island Branch, and flows northeasterly through Section 15, running to the main stream near the southwest corner of Section 11. At a point near the southeast corner of the Southwest quarter of the Southwest quarter of Section 11 there diverges what is known as the Conley Branch, being a channel similar to the other branches named. Each extends through the S. A. D. Porter lands on to the Conley lands.

2. The irrigation season in the vicinity of Silver Creek begins each year in April and usually ends in July. Prior to May 10th yearly there has been no shortage in the water supply, a large surplus remaining after all wants are supplied. In the use of the water prior to that date and in respect to any surplus thereafter, all are interested, and entitled to use the same in the order of their priorities and to the extent needed, in the ratio fixed as to such use after May 10th of each year, which dates, priorities, etc., after May 10th are as follows:-

3. The plaintiff, Annie C. Hough, is the owner in fee simple of the South half of the South half of Section Two (2), North half of the Northeast quarter and the Northeast quarter of the Northwest quarter of Section Eleven (11), and the Southwest quarter of the Southwest quarter of Section One (1), Township twenty-eight South, Range fourteen (14) East, containing 240 acres; and she and her grantors, on June 1, 1878, appropriated and diverted 100 inches, or two and one-half second feet of water from the main channel of Silver Creek upon 200 acres of said land for the irrigation thereof, and have ever since so diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was prior in time and superior in right to any appropriation by any of the parties of this suit, except that of the defendant John C. Porter, with which it was contemporaneous, and is equal in right.

4. That the defendant, John C. Porter, is the owner in fee simple of the North half of Section fourteen (14) township twenty-eight (28) South, Range fourteen (14) East,

containing 320 acres, and he and his grantors on June first, 1878, by means of dams and ditches, appropriated and diverted 100 inches, or two and one-half second-feet of water from Bunyard Branch of Silver Creek, and the Main Channel of Silver Creek, upon 240 acres of said land, for the irrigation thereof, and have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was prior in time and is superior in right to any appropriation by any of the parties to this suit except that of the plaintiff, Annie C. Hough, with which it was contemporaneous and is equal in right.

5. That the defendant, Lucinda Egli, is the owner in fee simple of the Southwest quarter of section twenty-eight (28), East half of Southeast quarter of section twenty-nine (29), South half of Northwest quarter, Northwest quarter of Southwest quarter, (and Northwest quarter of Southwest quarter) and Northwest quarter of Northwest quarter of Section thirty-three (33) township twenty-eight (28) South, Range fourteen (14) East, containing 400 acres, and she and her grantors on April thirtieth, 1880, appropriated and diverted 120 inches, or three second-feet of water from the main channel of Silver Creek upon 240 acres of said land for the irrigation thereof, and have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was prior in time and is superior in right to any appropriation by any of the parties to this suit except those of the plaintiff, Annie C. Hough and John C. Porter, above set forth, to each of which it was subsequent in time and is inferior in right.

6. That the plaintiff, Marion Conley, is the owner in fee simple of the West half of section twelve (12) township twenty-eight (28) South, Range fourteen (14) East, containing 320 acres, and he and his grantors on May 1, 1880, appropriated and diverted 100 inches, or two and one-half second feet of water from the Conley Branch of Silver Creek upon 240 acres of said land for the irrigation thereof, and have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to the appropriations of the plaintiff, Annie C. Hough, and the defendants, John C. Porter, and Lucinda Egli, above set forth, but prior in time and superior in right to the appropriations of all other parties to this suit.

7. That the defendant, George H. Small, is the owner in fee simple of the East half of section nine (9), South half and Northwest quarter of section ten (10), west half of Northwest quarter and west half of Southwest quarter, Northeast quarter of Southwest quarter, of Section eleven (11), west half of Northwest quarter, and South half of Section fifteen (15), North half of Northeast quarter and East half of Northwest quarter of Section twenty-two (22) township twenty-eight (28) South, Range fourteen (14) East, containing 1720 acres, and he on June thirtieth, 1882, appropriated and diverted forty (40) inches, or one second foot of water from the Island Branch of Silver Creek, upon 60 acres of said land, between said Island Branch and the main channel of Silver Creek, known as "The Island", for the irrigation thereof, and has ever since diverted and used said quan-

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tity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to each of the appropriations of the plaintiffs, Annie C. Hough, and Marion Conley, and of the defendants John C. Porter, and Lucinda Egli, above set forth, but prior in time and superior in right to any appropriations by any of the other parties to this suit. That the defendant, George H. Small on June first, 1884, appropriated and diverted 100 inches or two and one-half second feet of water from Island Branch of Silver Creek, and 50 inches or one and one-fourth second feet of water from Bridge Creek, a tributary of Silver Creek, through his two ditches leading out of said Island Branch, upon 300 acres of said land in said section fifteen (15) outside of said 60 acres in The Island above mentioned for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to each and all of the appropriations of the plaintiffs, Annie C. Hough, and Marion Conley, and the defendants, Lucinda Egli, John C. Porter, and George H. Small, above found and set forth, and the appropriation of the defendant S. A. D. Porter, hereinafter set forth, but prior in time and superior in right to any appropriation by any of the other parties to this suit.

8. That the defendants, W. F. Porter, E. A. Porter, and Cara D. Porter, minor heirs of the defendant S. A. D. Porter, deceased, pending this suit, and together with Daisy Porter, widow of said deceased and guardian of said minor heirs, and C. D. Porter, administrator of the estate of said deceased, substituted, are the owners of the Southeast quarter, south half of Northeast quarter, and South half of Southwest quarter of Section Eleven (11), township twenty-eight (28), South, Range fourteen (14) East, containing 320 acres, and said defendant S. A. D. Porter on May first, 1883, appropriated and diverted by means of dams and ditches one hundred inches or two and one-half second feet of water from the main channel of Silver Creek upon 240 acres of said land for the irrigation thereof, and he and his said heirs and their said guardian, and said administrator of his estate have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to each of the appropriations of the plaintiffs, Annie C. Hough, and Marion Conley, and the defendants, John C. Porter, and Lucinda Egli, and the first appropriation of the defendant George H. Small on June thirtieth, 1882, of 40 inches or one second foot of water for the irrigation of the 60 acres contained in The Island, above set forth, but prior in time and superior in right to the second appropriation of the defendant, George H. Small on June first, 1884, of 100 inches or two and one-half second feet of water from Island Branch of Silver Creek, and 50 inches or one and one-fourth second feet of water from Bridge Creek for irrigation of 300 acres in Section fifteen (15) township twenty-eight (28) South, Range fourteen (14) East, above set forth, and to any other appropriation by any of the other parties to this suit. Neither the defendant, S. A. D. Porter, nor any one acting for him in the year 1895, or at any other time

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wrongfully constructed any dam or headgate in the channel of Silver Creek, above the lands of the plaintiffs or elsewhere, nor at any time wrongfully maintained any dam or headgate in the channel of Silver Creek, nor at any time, by means of said dam or headgate, or otherwise, illegally or wrongfully diverted all or any of the waters of Silver Creek away from the lands of the plaintiffs, or any of them, nor threatened so to do, but lawfully and rightfully constructed the dam and headgate alleged in the amended complaint, and diverted by means thereof no more than 100 inches or two and one-half second feet of water from Silver Creek for the necessary and proper irrigation of his said land above described, to which he was legally and justly entitled; and the proximate cause of the damage, if any therefrom suffered by any of the plaintiffs was the result of diversions made by others on that stream and not by S. A. D. Porter; and the preliminary injunction issued in this suit at the instance of Annie C. Hough, the original plaintiff herein, was wrongful and without sufficient cause.

10. That the defendant, Walter C. Buick, is the owner in fee simple of the Southwest quarter of Section fourteen (14) township twenty-eight (28) South, Range fourteen (14) East, containing 160 acres; the defendant Corinna Buick, the owner in fee simple of the Southeast quarter of section fourteen (14) township twenty-eight (28) South, Range fourteen East, containing 160 acres; the defendants, Lulu Corum LaBrie, Isa M. Corum, and Jewell D. Corum, the owners in fee simple of the west half and north half of Northeast quarter of section thirteen (13) and North half of Northeast quarter of section twenty-four (24) Township twenty-eight (28) South, Range fourteen (14) East, containing 480 acres, and the defendant J. M. Small, the owner in fee simple of the south half of Northeast quarter and Southeast quarter of section thirteen (13), Southeast quarter of Northeast quarter of section twenty-four (24), township twenty-eight (28) South, Range fourteen (14) east, and Southwest quarter of section eighteen (18) and Northwest quarter of section nineteen (19), Township twenty-eight (28) South, Range fifteen (15) East, containing 680 acres, and they and their grantors on March first, 1885, appropriated and diverted by means of a certain ditch or canal, known as the Buick, Corum and Small ditch, 300 inches, or seven and one-half second-feet of water (measured at the intake of ditch last mentioned) from the main channel of Silver Creek at a point in section twenty-one (21) in said township and range, to and upon 420 acres of said lands about four miles distant, for the irrigation thereof, and have ever since diverted and used the same, which at the points of application amounts to about 270 inches, or six and three-fourths second feet of said water, a portion of which is sometimes used and applied through what is known as Bunyard Branches, in the necessary and proper irrigation of said land as follows: the defendants, Walter C. Buick and Corinna Buick, 90 inches or two and one-fourth second feet of said water on 140 acres of their said land; the defendants, Lulu Corum LaBrie, Isa M. Corum and Jewell D. Corum, 90 inches or two and one-fourth second feet of said water on 140 acres of their said land; and the defendant, J. M. Small, 90 inches, or two and one-fourth second feet of said water on 140 acres of his said land, which appropriation was

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subsequent in time and inferior in right to each and all of the appropriations found and set forth above, but was prior in time and is superior in right to any appropriation by any of the other parties to this suit. The water when used through any other conduits than that of the Buick, Corum and Small ditch, incurs a greater loss before reaching its place of use, by reason of which, if the same or any part thereof shall at any time be diverted by other methods than through the said ditch and laterals leading therefrom, one "inch" of water shall be deducted from the supply awarded for each acre irrigated in such other manner so that in the aggregate the water passing the intake of the original ditch, including what may be used through it, shall not at any one time exceed 300 inches, when needed by others whose rights are involved herein.

11. That the defendant, P. G. Chrisman, is the owner in fee simple of the west half of Southeast quarter and East half of Southwest quarter of section twenty-two (22) township twenty-eight (28) South, Range fourteen (14) East, containing 160 acres less about twenty (20) acres occupied by the townsite of Silver Lake, and the defendant John C. Porter is the owner in fee simple of the Northeast quarter of section twenty-three (23) and South half of Northwest quarter of Section twenty-four (24), township twenty-eight (28) South, Range fourteen (14) East, containing 240 acres, and they and their grantors on September first, 1885, appropriated and diverted by means of a certain ditch, known as the West, Porter and Martin ditch, 200 inches, or five second-feet of water from the main channel of Silver Creek, at a point near the center of section twenty-one (21) in said township and range, to and upon 300 acres of said lands for the irrigation thereof, and have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to each and all of the appropriations found and set forth above, but was prior in time and is superior in right to any appropriation by any of the other parties to this suit.

12. That the defendant, C. C. Jackson, is the owner in fee simple of the Northeast quarter of section twelve (12), township twenty-eight (28) South, Range fourteen (14) East, containing 160 acres, and he on June first, 1886, appropriated and diverted by means of dams and ditches 80 inches, or two second feet of water from Conley Branch of Silver Creek upon said 160 acres of land for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation of said land, which appropriation was subsequent in time and inferior in right to each and all of the appropriations above found and set forth, but was prior in time and is superior in right to any appropriation by any of the other parties to this suit.

13. That the plaintiff, W. H. McCall, is the owner in fee simple of the east half of the east half of section three (3) township twenty-eight (28) south, Range fourteen (14) east, containing 160.04 acres of land, and he on April first, 1887, appropriated and diverted by means of dams and ditches, 80 inches, or two second feet of water from a high or overflow channel leading from Silver Creek to and upon his said land for the ir-

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rigation thereof, and has ever since diverted and used said quantity of water, when flowing in said channel for the necessary and proper irrigation of said land, which appropriation was subsequent in time and inferior in right to each and all the appropriations above found and set forth; and as to 80 inches for the irrigation of not to exceed 120 acres, he is prior in time, after May 10th of each year to all the other parties which may be hereinafter named; and prior to May 10th of each year he is entitled to use the waters of any of the streams above his premises, in common with all others interested therein.

14. That the defendant, B. F. Lane, is the owner in fee simple of the Northeast quarter, East half, and Lots one (1) and two (2) of the northwest quarter of section eighteen (18), township twenty-eight (28) South, Range fifteen (15) east, containing 319.96 acres, and he on May thirtieth, 1888, appropriated and diverted by means of dams and ditches 90 inches, or two and one-fourth second feet of water from Bunyard Branch of Silver Creek upon 160 acres of said land for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation of said land, which appropriation was subsequent in time and inferior in right to each and all the appropriations above found and set forth, but was prior in time and is superior in right to any appropriation by any of the other parties to this suit.

15. That the defendant, The Occidental Land & Improvement Company, is the owner in fee simple of the South half of the North half, and south half of section sixteen (16), North half of south half, and south half of southwest quarter of section twenty-one (21), west half of northwest quarter of section twenty-one (21), south half of northeast quarter, northwest quarter of southeast quarter and northeast quarter of southwest quarter of section twenty (20) township twenty-eight (28) south, Range fourteen (14) east, containing 1320 acres, and designated in the pleadings of this suit ("Tract No. 1") and the North half and North half of South half of section two (2), township twenty-eight (28) South range fourteen (14) east, and the south half of south half, northeast quarter of southeast quarter, and east half of northeast quarter of section thirty-five (35) southeast quarter of southeast quarter of section thirty-four (34) and south half of southeast quarter of section twenty-six (26) township twenty-seven (27) south, Range fourteen (14) east, containing 880 acres of land and likewise designated as "Tract No. 2", and it and its grantors on May first, 1889, appropriated and diverted by means of dams and ditches 80 inches, or two second feet of water from the main channel of Silver Creek and from Bridge Creek, one of its tributaries, upon 120 acres of said land in said section sixteen (16) for the irrigation thereof, and it and its grantors have ever since diverted and used said quantity of water for the necessary and proper irrigation thereof, which appropriation was subsequent in time and inferior in right to each and all of the ap-

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appropriations above found and set forth, but was prior in time and superior in right to any appropriation by way of the other parties to this suit.

16. That the defendant, George Durand, is the owner in fee simple of the south-  
of southwest quarter  
east quarter of section eighteen (18) north half of northwest quarter, southwest quarter  
of northwest quarter, southwest quarter and southeast quarter of section nineteen (19),  
northeast quarter, and east half of northwest quarter of section thirty (30), township  
thirty (30) South, Range fourteen (14) east, containing 640 acres, and he on April first,  
1890, appropriated and diverted by means of dams and ditches 160 inches, or four second  
feet of water from the main channel of Silver Creek upon 480 acres of said land for the  
irrigation thereof, and has ever since diverted and used said quantity of water for the  
necessary and proper irrigation thereof, which appropriation was subsequent in time and in-  
ferior in right to each and all the appropriations above found and set forth, and was  
prior in time and is superior in right to any appropriations by any of the other parties  
to this suit.

17. That the defendant, E. D. Lutz, is the owner in fee simple of the northeast  
quarter and east half of northwest quarter of section fifteen (15), and northwest quarter  
of section ten (10) township twenty-eight (28) south, Range fifteen (15) east, containing  
400 acres, and he on May thirty-first, 1890, appropriated and diverted by means of dams  
and ditches 100 inches or two and one-half second feet of water from Island Branch of  
Silver Creek upon 200 acres of said land in said section fifteen (15) for the irrigation  
thereof, and has ever since diverted and used said quantity of water for the necessary  
and proper irrigation of said 200 acres of land, which appropriation was subsequent in  
time and inferior in right to each and all of the appropriations above found and set forth  
but was prior in time and is superior in right to any other appropriation by any of the  
parties to this suit.

18. That the defendant, F. M. Chrisman, is the owner in fee simple of the south-  
east quarter of section twelve (12), township twenty-eight (28) south, Range fourteen (14)  
east, containing 160 acres, and he on May first, 1891, appropriated and diverted by means  
of dams and ditches 60 inches, or one and one-half second feet of water from Bunyard  
Branch of Silver Creek upon 100 acres of said land for the irrigation thereof, and has  
ever since diverted and used said quantity of water for the necessary and proper irriga-  
tion of said 100 acres of land, which appropriation was subsequent in time and inferior in  
right to each and all of the appropriations above found and set forth, but was prior in  
time and is superior in right to any other appropriation by any of the parties to this  
suit.

19. That the defendant, Mary C. Brown, is the owner in fee simple of the south-  
east quarter of section thirty-one (31) township twenty-seven (27) south, range fifteen  
(15) east, containing 160 acres, and she on May first, 1893, appropriated and diverted by  
means of dams and ditches, 50 inches, or one and one fourth second feet of water from  
the main channel of Silver Creek upon said land, for the irrigation thereof, and has ever

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since diverted and used said quantity of water for the necessary and proper irrigation of said land, which appropriation was subsequent in time and inferior in right to each and all of the appropriations above found and set forth, but was prior in time and is superior in right to any other appropriation by any of the parties to this suit.

20. That the plaintiff, Mary J. Kittredge, is the owner in fee simple of section thirty-six (36), township twenty-seven (27) south, range fourteen (14) east, containing 640 acres, and she on May first, 1894, appropriated and diverted by means of dams and ditches, 160 inches, or four second feet of water from the main channel of Silver Creek upon 480 acres of said land for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation of said 480 acres of land, which appropriation was subsequent in time and inferior in right to each and all of the appropriations above found and set forth, but was prior in time and is superior in right to any other appropriation by any of the parties to this suit.

21. That the defendant, P. W. Jones, is the owner in fee simple of the east half of northwest quarter, southeast quarter of southwest quarter and lots 3 and 4 of section thirty-one (31) township twenty-seven (27) south, Range fifteen (15) east, containing 324.57 acres, and he on June thirtieth, 1894, appropriated and diverted, by means of dams and ditches, 80 inches, or two second feet of water from the main channel of Silver Creek upon 160 acres of said land for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation of said 160 acres of land, which appropriation was subsequent in time and inferior in right to each and all of the appropriations above found and set forth, but was prior in time and is superior in right to any other appropriation by any of the parties to this suit.

22. That the defendant, C. E. McCune, is the owner in fee simple of the Northeast quarter of section thirty-one (31), township twenty-seven (27), South, Range fifteen (15) east, containing 160 acres, and he on May thirty-first, 1896, appropriated and diverted, by means of dams and ditches, 50 inches, or one and one-fourth second feet of water from the main channel of Silver Creek upon 100 acres of said land for the irrigation thereof, and has ever since diverted and used said quantity of water for the necessary and proper irrigation of said 100 acres of land, which appropriation was subsequent in time and inferior in right to each and all of the appropriations above found and set forth, but was prior in time and is superior in right to any other appropriation by any of the parties to this suit.

23. E. K. Henderson is the owner of certain lands in the vicinity of those whose rights are involved, the character of which is not established, nor does it appear that his interests are in any manner involved; and owing to insufficiency of proof respecting his interests, no findings can be made in reference thereto.

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As CONCLUSIONS OF LAW the court finds:

1. No decree affecting the rights of W. H. Hayes, J. M. Hayes, John Hayes, and A. C. Geyer, should be entered, they having been dismissed in the court below.
2. The defendants in the court below, J. Heusman, Morris Ranner, John Partin, Jr., J. P. Klippel, Emil Egli, Henry Egli, Martie Ward, Angeline West, J. A. Smith, Mary Small, James M. Martin, James M. Sherer, Maud Small, J. Hall, C. D. Buick, R. E. Smith, J. C. Harrow, and F. F. McCarty, having been adjudged of being in default, a decree should be entered that they have no rights to any of the waters of said creek until after the needs of the other parties herein to the extent herein determined are supplied.
3. The parties hereto have no riparian rights in any of the streams mentioned in the findings of fact, except for domestic purposes and including the watering of a reasonable number of stock, the ascertainment of the quantity required, and manner of using of which will be left for determination by the trial court in manner indicated in the opinion of this court.
4. The parties named in the findings of fact are entitled to a decree establishing their respective rights to the use of water from the streams involved, in harmony with the findings of fact.
5. Neither party should recover costs in the court below, but the heirs of S. A. D. Porter, deceased, and J. C. Porter should have judgment against Geo. H. Small for their costs and disbursements in this court.

DECREE.

Based upon the said findings of fact and conclusions of law, and upon the whole record in this cause, it is, therefore, ordered, adjudged, and decreed by the court that the defendants in the court below, J. Huesman, Morris Ranner, John Partin, Jr., J. P. Klippel, Emil Egli, Henry Egli, Martie Ward, Angeline West, J. A. Smith, Mary Small, James M. Martin, J. M. Sherer, Maude Small, J. Hall, C. D. Buick, R. E. Smith, J. C. Harrow, and F. F. McCarty, have no rights whatever to any of the waters of said stream described in the findings of fact until after the needs of the other parties hereinafter named are supplied, to the extent hereinafter designated.

\* That Anna C. Hough is the owner of the land described in finding of fact #3 and is entitled to 100 inches, or  $2\frac{1}{2}$  second feet of water from the main channel of Silver Creek, to be used upon her 200 acres of land for the irrigation thereof, equal in right and time to those of John C. Porter, and prior to any of the other parties to this suit.

\* That John C. Porter is the owner of the land described in finding of fact #4, and is entitled to 100 inches, or  $2\frac{1}{2}$  second-feet of water from the Sun-yard Branch of Silver Creek for the irrigation of his said <sup>240 ac</sup> lands, equal in right and time to those of Anna C. Hough, and prior to that of any of the other parties to this suit.

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WATER RESOURCES DEPT  
SALEM OREGON

That Lucinda Egli is the owner of the land described in finding of fact #5, and is entitled to 120 inches, or 3 second feet of water from the main channel of Silver Creek for irrigation upon her said lands of 240 acres, and that her appropriation and right to the use thereof is superior in right to the appropriation of any of the other parties to this suit except those of Anna C. Hough and John C. Porter.

\* That Marion Conley is the owner of the land described in finding of fact #6, and is entitled to 100 inches, or  $2\frac{1}{2}$  second feet of water from the Conley Branch of Silver Creek for the irrigation of 240 acres of his said land; and his right thereto is superior to that of any of the other parties hereto save and except those of Anna C. Hough, John C. Porter, and Lucinda Egli.

\* That Geo. H. Small is the owner of the lands described in finding of fact #7, and is entitled to use 40 inches, or 1 second foot of water from the Island Branch of Silver Creek, upon 60 acres of said land lying between said Island Branch and the main channel, known as "The Island", for the irrigation thereof, which appropriation is superior to that of any of the other parties to this suit, save and except those of Anna C. Hough, Marion Conley, John C. Porter, and Lucinda Egli, and that he is also entitled to 100 inches, or  $2\frac{1}{2}$  second feet of water from Island Branch from Silver Creek, and 50 inches, or  $1\frac{1}{2}$  second feet of water from Bridge Creek, through his two ditches, leading out of Island Branch upon his 300 acres in Section 15, over and above the said 60 acres of the Island above mentioned, for the irrigation thereof; and that his right thereto is superior to that of any of the other parties hereto, save and except that of Anna C. Hough, Marion Conley, Lucinda Egli, and John C. Porter, and the rights of the heirs of S. A. D. Porter, deceased as hereinafter set forth.

That W. F. Porter, E. A. Porter, and Carl D. Porter, minor heirs of the said S. A. D. Porter, who is deceased pending this suit, together with Daisy Porter, his widow, and G. D. Porter, administrator of the said decedent, substituted, are the owners of the land described in finding of fact No. 8, and are entitled to 100 inches, or  $2\frac{1}{2}$  second feet of water from the main channel of Silver Creek, for the irrigation of 240 acres of said land; and that the same is superior in right to that of any of the other parties to this suit, save and except Anna C. Hough, Marion Conley, John C. Porter, Lucinda Egli, and the appropriation of the defendant, Geo. H. Small, of 40 inches, or 1 second foot of water, for the irrigation of 60 acres, contained on the Island, as above set forth.

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SALEM, OREGON



That Walter C. Buick, Lulu Corum LaBrie, Isa M. Corum, and Jewel D. Corum, and J. M. Small, are the owners of the lands describing in find<sup>ing</sup> of fact No. 10 herein, and are entitled to 300 inches, or 7½ second feet of water, measured at the intake of the ditch or canal known as the Buick-Corum-Small Ditch, at a point in section 21, township 28 south, range 15 east, for the irrigation of their said lands, as follows: to wit- 270 inches, or 6 ¾ second feet of said water, a portion of which is sometimes used and applied through what is known as Bunyard Branches in the necessary and proper irrigation of said lands as follows: Walter C. Buick and Corinna Buick, 90 inches or 2¼ second feet, on 140 acres of their lands; Lulu Corum LaBrie, Isa M. Corum, and Jewel D. Corum, 90 inches or 2¼ second feet on 140 acres of their said lands; J. M. Small, 90 inches or 2¼ second feet on his said lands, The water when used through any other conduits than that of the Buick-Corum-Small Ditch incurs a greater loss before reaching its place of use, by reason of which if the same or any part thereof shall be used by other methods than through the said ditches and laterals leading therefrom, no greater quantity of water shall be used than in the aggregate shall amount to 300 inches, measured under six-inch pressure at the intake of said ditch.

That F. G. Chrisman and John C. Porter are the owners of the lands described in finding of fact No. 11 and are entitled to 200 inches , or 5 second feet of water from the main channel of Silver Creek at a point near the center of section 21, township 28 south, range 14 east, taken through a certain ditch known as the West-Porter-Martin Ditch, for the irrigation of<sup>300 inches</sup> their said lands, and that their rights are superior to all those except Anna C. Hough and John C. Porter, as set forth in the first part of this decree, upon his said lands described in finding of fact No. 4. also Lucinda Egli, Marion Conley, Geo. H. Small, the heirs of S. A. D. Porter, Walter C. Buick, Lulu Corum LaBrie, Isa M. Corum, Jewel D. Corum, and J. M. Small.

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SALEM, OREGON

That C. C. Jackson is the owner of the lands described in finding of fact No. 12 and is entitled to 80 inches, or 2 second feet of water from the Conley Branch of Silver Creek, upon 160 acres of his said land, for the irrigation thereof, which rights are inferior to those of all the parties hereinbefore in this decree mentioned, and superior to those of all the other parties hereinafter in this decree mentioned.

That W. H. McCall is the owner of the land described in finding of fact No. 13, and is entitled to 80 inches or 2 second feet of water from the high or overflow channel leading from Silver Creek to or upon <sup>120 acres</sup> his said lands for the irrigation thereof, and that his rights are inferior to those of all the parties hereto in this decree heretofore mentioned, and superior to those of all the parties hereinafter mentioned.

That B. F. Lane is the owner of the land described in finding of fact No. 14, and is entitled to 90 inches, or  $2\frac{1}{2}$  second feet of water from the Bunyard Branch of Silver Creek, for the irrigation of the 160 acres of his said lands, and that his rights are inferior to those of all the parties hereto in this decree heretofore mentioned, and superior to those of all the parties hereinafter mentioned.

That the Occidental Land & Improvement Co. is the owner of the lands described in findings of fact No. 15, and is entitled not to exceed in all 80 inches, or 2 second feet of water from the main channel of Silver Creek or from Bridge Creek, one of its tributaries, for the irrigation of 120 acres of its said land in section 16, and that said right is inferior to those of all the parties hereto in this decree heretofore mentioned, and superior to the rights of all the parties hereinafter mentioned.

That Geo. Durand is the owner of the land described in finding of fact No. 16, and is entitled to 160 inches, or 4 second feet of water from the main channel of Silver Creek for the irrigation of 480 acres of his said lands, and that said rights are inferior to those of all the parties heretofore in this decree mentioned, and superior to those of all the parties in this decree hereinafter mentioned.

That E. D. Lutz is the owner of the land described in finding of fact No. 17, and that he is entitled to 100 inches, or  $2\frac{1}{2}$  second feet of water from the Island Branch of Silver Creek for the irrigation of his 205 acres of said land in section 15, and that said right is inferior to each and all of the parties heretofore in this decree mentioned, and superior to the rights of all the parties in this decree hereinafter mentioned.

That F. M. Chrisman is the owner of the lands described in finding of fact No. 18, and is entitled to 60 inches, or  $1\frac{1}{2}$  second feet of water from Bunyard Branch of Silver Creek, upon 100 acres of his said land for the irrigation thereof, and that said rights are inferior to the rights of all the parties herein in this decree heretofore mentioned, and superior to the rights of all the parties hereinafter mentioned.

That Mary C. Brown is the owner of the land described in finding of fact No. 19, and is entitled to 50 acres of land, or  $1\frac{1}{2}$  second foot of water from the main channel of Silver Creek for the irrigation of her said land, and that her rights are inferior to those

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WATER RESOURCES DEPT  
SALEM, OREGON

of all the parties herein in this decree heretofore mentioned, and superior to those of all the parties hereinafter in this decree mentioned.

That Mary J. Kittredge is the owner of the land described in finding of fact No. 20, and is entitled to 160 inches, or 4 second feet of water from the main channel of Silver Creek upon 480 acres of said land for the irrigation thereof, and that said rights are inferior to those of all the parties herein in this decree heretofore mentioned, and superior to those of all the parties hereinafter in this decree mentioned.

That P. W. Jones is the owner of the land described in finding of fact No. 21, and is entitled to 80 inches, or 2 second feet of water from the main channel of Silver Creek upon 160 acres of his said land for the irrigation thereof, and that his rights are inferior to those of all the parties herein in this decree heretofore mentioned, and superior to those of all the parties hereinafter in this decree mentioned.

That C. E. McKune is the owner of the lands described in finding of fact No. 22, and is entitled to 50 inches, or  $1\frac{1}{4}$  second feet of water from the main channel of Silver Creek upon 100 acres of his said land for the irrigation thereof, but that his said rights thereto are inferior to those of all the other parties in this decree.

And it is further ordered, adjudged, and decreed that each of the parties to this suit is hereby forever enjoined from interfering with the rights of any of the other parties as in this decree set forth; and all those whose rights are herein adjudicated are forever enjoined from using more of the water of Silver Creek than as hereinbefore provided, at all times when such use will interfere with any of the rights of any of the parties to this suit, as herein decreed and set forth.

And it is further ordered that in case it shall appear to the court below that these findings and decree are incomplete and do not set forth the rights of the parties hereto as announced in the opinion of the court in this decree, said court shall have the right to enter such supplemental decree or decrees as shall correctly set forth the rights of such parties, not inconsistent with the said opinion.

And it is further ordered that the heirs of S. A. D. Porter, with John C. Porter, recover off and from Geo. H. Small their costs and disbursements in this court, taxed at \$450.00.

And it is further ordered that this cause be remanded to the court below from which this appeal was taken, with directions to enter a decree in accordance herewith.

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SALEM, OREGON

SILVER CREEK - Lake County.

1967/50

488 KNOW ALL MEN BY THESE PRESENTS, That LESTON LINEBAUGH and ANNA L. LINEBAUGH

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by BELL-A LAND & CATTLE CO., an Oregon Corporation

hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Lake and State of Oregon, described as follows, to-wit:

Township 28 South, Range 14 East of the Willamette Meridian

Sec. 11: S1/4NW1/4, N1/4SW1/4

X 14: N1/4
23: NE1/4
24: S1/4NW1/4

being approximately 720 acres.

TOGETHER with all range permits, including, but not limited to, BLM, Forest Service, and Sellers' interest in Association Field at Antelope Flat;

TOGETHER with all water rights appurtenant thereto on Silver Creek and storage rights.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 132,000.00

In construing this deed and where the context so requires, the singular includes the plural.

WITNESS grantor's hand this 17 day of April, 19 72.

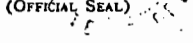
Leston Linebaugh
Anna L. Linebaugh

STATE OF OREGON, County of ) ss. April 17, 19 72

Personally appeared the above named Leston Linebaugh and Anna L. Linebaugh

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Notary Public for Oregon My commission expires 1-2-74



NOTE—The sentences between the symbols ( ), if not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.

WARRANTY DEED

STATE OF OREGON, ) ss. County of Clatsop

I certify that the within instrument was received for record on the 8 day of December, 19 72, at 11:00 o'clock A.M., and recorded in book 178 on page 488. Record of Deeds of said County.

Witness my hand and seal of County attixed.



Nancy Hammalup County Clerk Title. By Karen O'Connell Deputy

AFTER RECORDING RETURN TO CAMERON CLIFF Box 97 LAPE, OR 97739

No.

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WATER RESOURCES DEPT SALEM, OREGON

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WATER RESOURCES DEPT SALEM, OREGON

S-87600

32  
M0272214

EXHIBIT "A"

DESCRIPTION

The following described property situate in Lake County, Oregon:

Township 26 South, Range 14 East of the Willamette Meridian:

Section 25: S½  
Section 36: W½SW½

Township 26 South, Range 15 East of the Willamette Meridian:

Section 31: Commencing at the Southwest corner of Lot 2 of Section 31, Township 26 South, Range 15 East of the Willamette Meridian, and thence running North along and upon the West boundary line of said Section 31, 209 feet; thence at right angles East 209 feet; thence South 209 feet more or less to the South boundary line of said Section 31; thence West 209 feet to the point of beginning.

Township 27 South, Range 14 East of the Willamette Meridian:

Section 1: Lot 1, SE¼NE¼, NE¼SE¼  
Section 3: S¼SE¼  
Section 7: Lots 1 and 2  
Section 10: E¼NE¼, SE¼ and SW¼NW¼ EXCEPTING a parcel for road purposes located in the SW¼NW¼ of Section 10, Township 27 South, Range 14 East of Willamette Meridian, being more particularly described as follows:

Beginning at the Northeast corner of the SW¼NW¼ of Section 10, Township 27 South, Range 14 East of the Willamette Meridian; thence N. 89°21'08" W. 42.17 feet along the North line of said SW¼NW¼; thence S. 44°00'00" E. 59.30 feet to a point on the East line of said SW¼NW¼; thence N. 01°19'19" E. 42.19 feet along said East line to the point of beginning.

Section 11: S½  
Section 13: NE¼, SW¼, SW¼SE¼

Section 14: All

X Section 15: E¼, NW¼

Section 16: All

Section 21: N½

Section 22: E¼, E¼SW¼, SW¼SW¼ EXCEPTING a strip of land 60 feet wide for road purposes located in Section 27 and 22, Township 27 South, Range 14 East of the Willamette Meridian, the centerline of which is more particularly described as follows:

Beginning at a point on the existing centerline of County Road 5-13, said point of beginning bears S. 00°35'51" W. 2647.28 feet from the Northeast corner of Section 27; thence N. 00°35'51" E. 1420.10 feet; thence along a 572.96 foot radius curve to the left 405.98 feet; thence N. 40°00'00" W. 1125.21 feet to the North line of Section 27, said point bears N. 89°24'00" W. 870.13 feet from the Northeast corner of Section 27; thence N. 40°00'00" W. 2462.01 feet; thence along a 572.96 foot radius curve to the right 410.19 feet to the existing centerline of County Road 5-13. Being the termination point for



STATUTORY WARRANTY DEED  
089972 M0272213

LARRY D. OLSON and ELIZABETH L. OLSON

conveys and warrants to BELL A LAND AND CATTLE COMPANY, an Oregon corporation, Grantor,  
the following described real property free of liens and encumbrances, except as specifically set forth herein:  
AS SET FORTH ON EXHIBIT "A" ATTACHED

This property is free of liens and encumbrances, EXCEPT: AS SET FORTH ON EXHIBIT "B" ATTACHED

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$ 2,950,000.00 (Here comply with the requirements of ORS 93.030)

Dated this 09 day of April 19 97

*Larry D. Olson*  
LARRY D. OLSON

*Elizabeth L. Olson*  
ELIZABETH L. OLSON

STATE OF OREGON  
County of \_\_\_\_\_ } ss.

BE IT REMEMBERED, That on this 9 day of April 19 97, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named LARRY D. OLSON and ELIZABETH L. OLSON

known to me to be the identical individual s described in and who executed the within instrument and acknowledged to me that THEY executed the same freely and voluntarily.

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



*Cheryl J. Scott*  
Notary Public for Oregon.  
My Commission expires 6-9-97

Title Order No. L-70960  
Escrow No. 9720063

After recording return to:  
Klamath County COMPANY  
Title Company  
422 main st.  
K. Falls - OR 97601

Until a change is requested all tax statement shall be sent to the following address.  
BELL A LAND & CATTLE COMPANY  
BOX 97  
LAPINE, OR 97739  
Name, Address, Zip

THIS SPACE RESERVED FOR RECORDER'S USE

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WATER RESOURCES DEPT  
SALEM, OREGON

60414

QUITCLAIM DEED

Until a change is requested,  
all tax statements shall be  
sent to the following address:

P.O. Box 97  
LaPine, Oregon 97739

RUTH CLIFF and THERESA CLIFF, Co-Personal Representa-  
tives of the estate of Cameron Cliff, deceased, Grantor,  
release and quitclaim to BELL A. LAND AND CATTLE COMPANY, an  
Oregon corporation, Grantee, all right, title and interest in  
and to the following described real property:

Real property described as follow located in Lake  
County, State or Oregon, to-wit:

Parcel No. 1:

Township 24 South, Range 22 East of the Willamette  
Meridian,  
Section 16: S1/2.

*Went to map*  
Township 27 South, Range 15 East of the Willamette  
Meridian,  
Section 14: SE1/4 NW1/4, NE1/4 SW1/4, S1/2 SW1/4,  
SE1/4.  
*NO* Section 15: SE1/4 SW1/4, SE1/4.  
Section 19: SW1/4 NE1/4, E1/2 NW1/4, Government  
Lots 1, 2, 3 and 4, E1/2 SW1/4, N1/2  
SE1/4, SE1/4 SE1/4.  
Section 22: N1/2 NE1/4, NE1/4 NW1/4.  
Section 23: NE1/4, E1/2 NW1/4, NE1/4 SE1/4, W1/2  
SE1/4.  
Section 29: W1/2 SW1/4.  
Section 30: SW1/4 NE1/4, Government Lots 1 and 2,  
E1/2 NW1/4, NE1/4 SW1/4, SE1/4.  
✓ Section 31: E1/2.  
Section 32: NW1/4 NW1/4, SE1/4 NW1/4, E1/2 SW1/4.

Township 28 South, Range 14 East of the Willamette  
Meridian,

JOHNSON, MARCEAU, KARNOPP, PETERSEN & NASH  
ATTORNEYS  
835 N.W. BOND STREET  
BEND, OREGON 97701-2799

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SALEM, OREGON

S-87600

Section 1: Government Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, S1/2 NW1/4, S1/2 SW1/4, NE1/4 SE1/4, S1/2 SE1/4.  
Section 2: ✓ Government Lots 1, 2, 3, 4, 11 and 12.  
Section 9: ✓ NE1/4, NW1/4 SW1/4, S1/2 SW1/4, SE1/4.  
Section 10: All of Section.  
Section 11: ✓ N1/2 N1/2.  
Section 12: ✓ NE1/4, W1/2.  
Section 15: ✓ All of Section.  
Section 16: N1/2 NE1/4.  
Section 17: NE1/4 NE1/4.  
Section 22: ✓ NE1/4, E1/2 NW1/4 EXCEPTING THEREFROM the following described parcels of land: Beginning at the SW corner of the SE1/4 NW1/4 of said Section 22, thence running North 239 feet, thence East 627 feet, thence South 30 feet, thence East 209 feet, thence North 30 feet, thence East 1305 feet, thence South 239 feet, thence West to the point of beginning.

ALSO EXCEPTING therefrom: Beginning 30 feet North of the Southeast corner of the SE1/4 NE1/4 of said Section 22, thence running North 295 feet; thence West 295 feet; thence South 295 feet; thence East 295 feet to the place of beginning.

Township 28 South, Range 15 East of the Willamette Meridian,  
Section 5: Government Lot 3.  
Section 6: Government Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, E1/4 SW1/4, SW1/4 SE1/4. (Being all of Section.)  
Section 7: E1/2, E1/2 W1/2, Government Lots 1, 2, 3 and 4.  
Section 8: E1/2 W1/2, Government Lots 1, 2, 3 and 4.  
Section 17: Government Lots 1, 2, 3, 8 and 9.

This instrument does not guarantee that any particular use may be made of the property described in this instrument. Grantee should check with the appropriate city or county

Page 2. QUITCLAIM DEED

JOHNSON, MARCEAU, KARNOPP, PETERSEN & NASH  
ATTORNEYS  
835 N.W. BOND STREET  
BEND, OREGON 97701-2799

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WATER RESOURCES DEPT  
SALEM, OREGON



planning department to verify approved uses. Chapter 718, 1983 Oregon Laws.

The true consideration for this conveyance is to correct error in record title.

DATED this 31st day of October, 1985.

[Signature]  
THERESA CLIFF, Co-Personal Representative for the estate of Cameron Cliff

[Signature]  
RUTH CLIFF, Co-Personal Representative for the estate of Cameron Cliff

STATE OF OREGON )  
County of Deschutes ) SS.

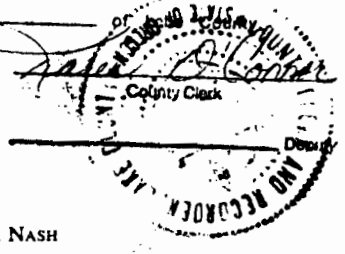
The foregoing instrument was acknowledged before me this 31st day of October, 1985, by THERESA CLIFF and RUTH CLIFF, Co-Personal Representatives for the estate of Cameron Cliff, deceased.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 4-29-87

STATE OF OREGON, )  
County of Lake, )

I hereby certify that the within instrument was received and filed for record on the 7 day of September 1985 at 1:35 o'clock P.M. and recorded in Book 202 on Page 173 Records of [Signature]



Page 3. QUITCLAIM DEED

JOHNSON, MARCEAU, KARNOPP, PETERSEN & NASH  
ATTORNEYS  
835 N.W. BOND STREET  
BEND, OREGON 97701-2799

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SALEM, OREGON

M7272216

Description continued--

Township 28 South, Range 14 East of the Willamette Meridian:

X Section 2: Lots 5, 6, 7, 8, 9, 10, 13, 14 and 15, S½NE¼, NW½NW¼, NW½SE¼, SW½NW¼  
 Section 3: Lots 1, 2, and 3, S½N½, S½  
 Section 4: Lots 2, 3, and 4, S½NW¼, N½SW¼, SW½SW¼  
 Section 5: All  
 Section 6: Lot 1, S½NE¼, SE¼, E½SW¼  
 Section 7: NE¼, NE½NW¼, E½SE¼  
 Section 8: All  
 Section 9: W½NW¼  
 Section 17: NE½NW¼, NW½NE¼

TOGETHER WITH ALL APPURTENANT WATER RIGHTS THERETO.

Account No. 2614-2300	Ref. No. 1049
Account No. 2614-2000	Ref. No. 1045
Account No. 2714-400	Ref. No. 16471
Account No. 2714-400	Ref. No. 2525
Account No. 2714-1500	Ref. No. 2536
Account No. 2714-10-500	Ref. No. 2530
Account No. 2714-600	Ref. No. 2527
Account No. 2714-100	Ref. No. 2517
Account No. 2615-5300	Ref. No. 1118
Account No. 2715-4800	Ref. No. 2591
Account No. 2715-1200	Ref. No. 2549
Account No. 2814-700	Ref. No. 7807
Account No. 2814-200	Ref. No. 7802
Account No. 2814-300	Ref. No. 7803

Description continued--

**M0272215**

this description, said point bears N. 48°41'05" W. 3443.79 feet from the Southeast corner of Section 22.

- Section 23: All  
 Section 24: All  
 Section 25: All  
 Section 26: All  
 Section 27: All EXCEPTING a strip of land 60 feet wide for road purposes located in Section 27 and 22, Township 27 South, Range 14 East of the Willamette Meridian, the centerline of which is more particularly described as follows:

Beginning at a point on the existing centerline of County Road 5-13, said point of beginning bears S. 00°35'51" W. 2647.28 feet from the Northeast corner of Section 27; thence N. 00°35'51" E. 1420.10 feet; thence along a 572.96 foot radius curve to the left 405.98 feet; thence N. 40°00'00" W. 1125.21 feet to the North line of Section 27, said point bears N. 89°24'00" W. 870.13 feet from the Northeast corner of Section 27; thence N. 40°00'00" W. 2462.01 feet; thence along a 572.96 foot radius curve to the right 410.19 feet to the existing centerline of County Road 5-13. Being the termination point for this description, said point bears N. 48°41'05" W. 3443.79 feet from the Southeast corner of Section 22.

- Section 28: E½E½  
 Section 30: Lots 2 and 3  
 Section 31: E½SE½  
 Section 32: NW¼NE¼, S¼NE¼, SE¼, S¼SW¼  
 Section 33: NE¼NE¼, S¼N¼, N¼SW¼, SW¼SW¼  
 Section 34: NE¼, NW¼, SE¼, N¼SW¼  
 Section 35: All  
 ✓ Section 36: All

Township 27 South, Range 15 East of the Willamette Meridian:

- Section 6: Lots 2, 3, 4, 5, 6, and 7, SW¼NE¼, E½SW¼, W½SE¼, SE¼NW¼  
 Section 7: Lots 1 and 2, E½NW¼  
 Section 30: Lots 3 and 4, SE¼SW¼  
 Section 31: Lots 1, 2 and 3, E½NW¼

(over)

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W0272218

14. Reservations, including the terms and provisions thereof, as contained in the patent from United States of America to Dan Schumacher and Mabel Schumacher, recorded December 6, 1956, in Volume 120 page 261, Deed records of Lake County, Oregon. (affects Sec. 6 T. 27 R. 15)

15. Reservations, including the terms and provisions thereof, as contained in Warranty Deed from Maude E. Kittredge, a widow and Jack L. Kittredge and Doris H. Kittredge, husband and wife to Dan D. Schumacher and Mabel A. Schumacher, husband and wife, dated January 5, 1951, recorded September 30, 1958, in Volume 123 page 170, Deed records of Lake County, Oregon. (affects T. 27 R. 14 and T. 27 R. 15)

16. Mineral Deed, including the terms and provisions thereof from Kern County Land Company, a California corporation to Kern County Land Company, a Delaware corporation, recorded September 14, 1967, in Volume 147 page 65, Deed records of Lake County, Oregon. (affects T. 27 R. 14 and T. 28 R. 14)

17. Mineral Deed, including the terms and provisions thereof, from KCL Corporation, a Delaware corporation to Kern County Land Company, a Delaware corporation, recorded August 15, 1969, in Volume 153 page 245, Deed records of Lake County, Oregon. (affects T. 27 R. 14 and T. 28 R. 14)

18. Oil and Gas Lease, including the terms and provisions thereof, from Jack L. Kittredge and Doris H. Kittredge to Eagle Oil and Gas Co., dated October 13, 1981, recorded January 22, 1982, in Volume 190 page 726, Deed records of Lake County, Oregon. (affects T. 27 R. 14)

By Assignment, including the terms and provisions thereof, Eagle Oil & Gas Co., assigns there interest to The Anschutz Corporation, a Kansas corporation, recorded June 1, 1992, in Volume 192 page 82, Deed records of Lake County, Oregon.

19. Easement, including the terms and provisions thereof, form Mabel Schumacher to Joseph P. Hunt and Gale G. Hunt, husband and wife, dated July 31, 1991, recorded August 1, 1991, in Volume 217 page 783, Deed records of Lake County, Oregon. (affects Sec. 3 T. 28 R. 14)

20. Mineral Deed, including the terms and provisions thereof, from Atlantic Richfield Company, a Delaware corporation to Cornerstone Oil Company, a California corporation, recorded December 11, 1995, in Volume 232 page 35, Deed records of Lake County, Oregon. (affects T. 27 R. 14; T. 28 R. 14)

21. Rights of the public in and to any portion of the herein described premises lying within the limits of any roads or highways.

22. Access to much of the land described herein appears to be over and or by way of Bureau of Land Management or United States Easement road and therefore is uninsurable. Assurances as to access should be obtained from the Bureau of Land Management or other controlling government agency. (affects Secs. 25, 26 T. 26 R. 14; Sec 31, T. 26 R. 14, and Secs 7 and 30 T. 27 R. 14)

23. Oregon Mortgage and Security Agreement, including the terms and provisions thereof, by and between Larry D. Olson and Elizabeth L. Olson, husband and wife, Mortgagors, and The Mutual Life Insurance Company of New York, a New York corporation, Mortgagee, dated January 24, 1997, recorded January 27, 1997, in Volume 107 page 502, and re-recorded February 18, 1997, in Volume 107 page 644, Mortgage records of Lake County, Oregon, to secure the payment of \$1,350,000.00

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State of Oregon  
County of Lake  
Recd 27  
File 2213

I hereby certify that the within instrument was received and filed for record on the 11 day of April 1997 at 10:35 o'clock A.M. and recorded on Page 31 in book 237 Records of 4000s of said County

Karen O'Connor  
County Clerk

By [Signature]

## EXHIBIT "B"

M0272217

## SUBJECT TO:

- 35
1. The assessment roll and the tax roll disclose that the within described premises were specially assessed as farm land. Taxes for the year 1996-97 and possibly prior years have been deferred pursuant to ORS 308.370 to 308.403. These, plus earned interest are due and payable when said reason for the deferment no longer exists.
  2. We are informed that a mobile home is situated upon teh herein described land. A policy of title insurance does not insue said mobile home or the title to the land. If this is so and the mobile home is to be insured as part of the realty, please advise us in writing that such insurance is desired with proof that the mobile home is de-titled. (Account No. 2714-400 Ref. No. 16471)
  3. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below any lakes or ponds.
  4. Reservations, including the terms and provisiosn thereof, as contianed in the Patent from United States of America to C. A. Cogswell, recorded August 7, 1903, in Volume 13 page 424, Deed records of Lake County, Oregon. (affects Sec. 6, T. 28 R. 14)
  5. Reservations, including the terms and provisions thereof, as contained in the Patent from United States of America to George L. Beckwith, recorded January 23, 1917, in Volume 53 page 197, Deed records of Lake County, Oregon. (affects Sec. 31, 32, T. 27 R. 14; Sec. 6, T. 28 R. 14)
  6. Reservations, including the terms and provisions thereof, as contained in the Patent from United States of America to Andrew V. Lane, recorded January 23, 1917, in volume 53 page 198, Deed records of Lake County, Oregon.
  7. Reservations, including the terms and provisions thereof, as contained in the patent from United States of America to John H. Studt, recorded Mrach 19, 1941, in volume 83 page 89, Deed records of Lake County, Oregon. (affects Sec. 1 T. 27 R. 14; Sec. 6, 7 T. 27 R. 15)
  8. Reservations, including the terms and provisions thereof, as contained in the Deed form Lake County, a municipal corporation and political subdivision of the the State of Oregon, first part and Dan Schumacher, dated May 7, 1941, recorded October 23, 1941, in Volume 85 page 161, Deed records of Lake County, Oregon, as follows: "reserving all the coal, oil, gas and other minerals on, in or under said land, and the right to take and remove the same." (affects Sec. 3 T. 27 R. 14)
  9. Reservations, including the terms and provisions thereof, as contained in deed from Lake County, a municipal corporation and political subdivision of the State of Oregon to Chewacan Land and Cattle Company, a corporation, dated August 4, 1943, recorded August 10, 1943, in Volume 89 page 447, Deed records of Lake County, Oregon, as follows: "reserving all the coal, oil, gas and other minerals, on, in or under said land, and the right to take and remove the same." (affects Secs. 10, 11, 13, 14, 15 and 21 T. 27 R. 14)
  10. Reservations, including the terms and provisions thereof, as contained in Deed from Lake County, a municipal corporation and political subdivision of the State of Oregon to Chewacan Land and Cattle Company, a corporation, dated September 1, 1943, recorded May 24, 1944, in Volume 91 page 384, Deed records of Lake County, Oregon. (affects Sec. 10, 30, T. 27 R. 14)
  11. Reservations, including the terms and provisions thereof, as contained in Deed from Lake County, a municipal corporation and political subdivision of the State of Oregon to Chewacan Land and Cattle Company, dated April 7, 1947, recorded May 19, 1947, in volume 100 page 389, Deed records of Lake County, Oregon. (SW 1/4 Sec. 11 T. 27 R. 14)
  12. Reservations, including the terms and provisions thereof, as contained in Deed from Lake County, a municipal corporation and political subdivisions of the State of Oregon to Daniel D. Schumacher and Mabel A. Schumacher, husband and wife, dated August 2, 1950, recorded August 2, 1950, in Volume 108 page 459, Deed records of Lake County, Oregon. (affects Sec. 36 T. 26 R. 14)
  13. Reservations, including the terms and provisions thereof, as contained in Deed from Lake County, a municipal corporation and political subdivision of the State of Oregon to Chewacan Land and Cattle Company, a corporation, dated February 23, 1952, recorded March 11, 1952, in Volume 112 page 9, Deed records of Lake County, Oregon. (affects Sec. 7 T. 27 R. 14)

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