



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

**NOTE:** In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. S-74320

**NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE**

I, William E. Hull + Brian Hirsch, the holder of Permit No. ~~S-74320~~ 52780  
to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 1st day of Dec., 1996.

Remarks: \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of Dec., 1996.

William E. Hull  
(Signature of Applicant)

P.O. Box 510 - Merlin, Ore.  
(Address) 97532

*OK per DSW*

Application No. S-74320

**NOTICE OF COMPLETION OF CONSTRUCTION**

I, William E. Hull - Brian Hirsch, the holder of Permit No. S-52780  
to appropriate the public waters of the state of Oregon, completed the construction of the work thereon on the 25th day of Oct., 1996.

Remarks: \_\_\_\_\_  
If the works have less capacity than described in the permit, or you have definitely abandoned part of the

work, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of Dec., 1996.

William E. Hull  
(Signature of Applicant)

P.O. Box 510 - Merlin, Ore.  
(Address) 97532

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

*C data claimed 12-1-96*

*OK DSW 1/19/96*

Application No. S-74320

**NOTICE OF BEGINNING OF CONSTRUCTION**

I, William E. Hull - Brian Hirsch, the holder of Permit No. A 52780  
to appropriate the public waters of the state of Oregon, began the actual construction of the works described thereon on the 25th day of Oct., 1996.

Remarks: Put a catch (cement) basin and piped water to holding tanks (1400 gal.) Put submersible pump in tank to pump water to the houses.  
The appropriator must state the manner of beginning of construction, the amount of work completed and the type of equipment for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as authorized by your permit.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of Oct., 1996.

William E. Hull  
(Signature of Applicant)

P.O. Box 510 - Merlin, Ore.  
(Address) 97532

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

RECEIVED

DEC - 9 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

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DEC - 9 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

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DEC - 9 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

**Jerry Sauter**

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**From:** Brian [mailto:mailbh@gmail.com]  
**Sent:** Tuesday, November 08, 2011 8:33 AM  
**To:** Jerry Sauter  
**Subject:** QUESTIONS- Tax Lot 1000 - Water Permit #84533

Dear Jerry,

Mitch Lewis indicated that you are the best person to answer questions about our water permit and access to water on Tax Lot 1000 as our easement provides.

I would appreciate your prompt answers and information to these seven questions.

-----  
The Oregon Water Permit office and you have had the opportunity to read the FINDINGS OF FACT written by Judge Mickelson in December 1999 from the court case of Hirsch, et. al v. Kozak, et. al, Curry County Case No. 99CV0137 that clearly indicates Sally Hull and Brian Hirsch et.al. have had an easement since 1950 for access to all of Tax Lot 1000 and the right to collect water from the spring (which is the hillside) including the existing water collection boxes where we have taken water as in the past.

QUESTION 1: Does the Oregon Water Permit Department agree that Sally Hull and Brian Hirsch, et. al. have legal rights to collect water from the spring and the water collection boxes on Tax Lot 1000 as Judge Mickelson ordered?

-----  
Bill Hull filed the water permit application in 1994 in order to obtain from the State of Oregon a permit that would allow both Hull and Hirsch et.al. access to the spring and all the water collection boxes on the hillside as our easement allows. Fourteen years later, in 2008, a permit was issued by the Oregon Water Permit office and it was deficient in covering the areas for collection of water on Tax Lot 1000 as our easement allows as confirmed by Judge Mickelson in 1999.

QUESTION 2: Will the Oregon Water Permit Department allow Sally Hull and Brian Hirsch, collectively or individually, to obtain a modification of our water permit or obtain a new water permit that will confirm our right to collect water from the multiple water collection boxes and the complete spring on the hillside on Tax Lot 1000 as our easement provides?

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QUESTION 3: What are the Oregon law statutes which define that if water emanating from a spring on a property runs off the property in a defined channel, then the spring is a public water source and not a private water source?

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QUESTION 4: Can the Oregon Water Department assess from witness affidavits, historic photos and video documentation along with a current inspection that Tax Lot 1000 has a spring

11/8/2011

that has had and still has water that runs off the property in a defined channel and determine that the spring is a public water source according to Oregon law statutes?  
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QUESTION 5: Will you provide the Oregon laws, case laws and statutes that demonstrate that the information that an applicant puts on a water permit application has priority in determining if a water source is a public or private water source?

These laws, case laws and statutes would demonstrate that the information written on a water application by an applicant supersedes all Oregon Law Statutes and all historical and current facts regarding the water source that would prove the water source has had and to date still has water running off the property in a defined channel which would classify it as a public water source according to Oregon statutes from Question 3 above.  
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QUESTION 6: Will you provide a copy of the inspection report by the Oregon Water Permit office that confirmed that the spring on Tax Lot 1000 is a private water source?  
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QUESTION 7: Will the Oregon Water Department and your office provide expedited processing that will deliver the full remedies so that Sally Hull and Brian Hirsch, et.al., collectively or individually, can obtain an amended or new water permit that covers the whole hillside, including all the existing spring boxes, so that we can collect water from all of Tax Lot 1000 as covered by our legal written deeded easement?  
-----

Thank you in advance for answering these questions and emailing me the information requested related to the questions.

Respectfully,  
Brian Hirsch

On Fri, Nov 4, 2011 at 11:33 AM, Jerry Sauter <[jerry.k.sauter@state.or.us](mailto:jerry.k.sauter@state.or.us)> wrote:

Brian,

Your e-mail came through!

Jerry

**J.K. Sauter**

**Water Rights Program Analyst**

**Water Right Services Division**

725 Summer St. NE, Suite A

Salem, Oregon 97301

Ph. 503.986.0817

Fax 503.986.0901

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**From:** Brian [<mailto:mailbh@gmail.com>]  
**Sent:** Friday, November 04, 2011 11:23 AM  
**To:** Jerry Sauter  
**Subject:** TAX LOT 1000 COURT ORDER

Jerry,

Thanks for your help.

Brian Hirsch

011-506-8824-7780

## Jerry Sauter

---

**From:** Brian [mailto:mailbh@gmail.com]  
**Sent:** Monday, November 07, 2011 4:53 PM  
**To:** Jerry Sauter  
**Subject:** TAX LOT 1000 - Records

Jerry,

On our telephone conversation you indicated that if water from a spring runs off the property in a defined channel, then that water system is a public water source according to statutes in Oregon Law. Is this correct?

I have not seen any type of inspection report or documentation in the file for our Oregon water permit #84533 that confirms that the Oregon Water Office inspected the spring and water flow off of Tax Lot 1000 during our permit application processing.

Mitch Lewis indicated that he found no inspection done by John Drulet on Tax Lot 1000 nor has Mitch performed an inspection for the water the flows off of Tax Lot 1000.

Mitch recommended I contact you on this matter to see if anything exists in your office's files that is a physical inspection that confirms that the spring on Tax Lot 1000 is a private water system or public water system.

Can you please scan and email what you have that confirms that the spring on Tax Lot 1000 is a private water source.

I believe there was a misunderstanding by Bill Hull back in 1994 regarding the continuous water flow running off of Tax Lot 1000 and what was a "defined channel" for that water running off the property. It was not a river or creek! But, it was a slow stream of water.

The water from the spring's many outlets on the hillside on Tax Lot 1000 has continued to flow off the property since I have owned Tax Lot 900 since 1981 and continues to flow off Tax Lot 1000 to this very moment. It is a small amount of water in the summer months and a lot of water in other months. I will be sending confirmation of all this soon.

Again, please send me what you find in the Oregon Water Department's files that confirms that the spring on Tax Lot 1000 is a private water source.

Thanks in advance,  
Brian Hirsch

On Fri, Nov 4, 2011 at 11:33 AM, Jerry Sauter <[jerry.k.sauter@state.or.us](mailto:jerry.k.sauter@state.or.us)> wrote:

Brian,

11/8/2011

Your e-mail came through!

Jerry

**J.K. Sauter**

**Water Rights Program Analyst**

**Water Right Services Division**

725 Summer St. NE, Suite A

Salem, Oregon 97301

Ph. 503.986.0817

Fax 503.986.0901

---

**From:** Brian [<mailto:mailbh@gmail.com>]  
**Sent:** Friday, November 04, 2011 11:23 AM  
**To:** Jerry Sauter  
**Subject:** TAX LOT 1000 COURT ORDER

Jerry,

Thanks for your help.

Brian Hirsch

011-506-8824-7780

**Jerry Sauter**

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**From:** Brian [mailto:mailbh@gmail.com]  
**Sent:** Monday, November 07, 2011 9:45 AM  
**To:** Jerry Sauter  
**Subject:** Fwd: OSMAN EMAIL - TAX LOT 1000 -STOP Trespass

**RECEIVED**  
NOV 07 2011  
WATER RESOURCES DIVISION  
SALEM, OREGON

Jerry,

This is the email from Dana Osman stating my TRESPASS and THEFT of water.

Brian

----- Forwarded message -----

**From:** Dana Osman <dana@danaosman.com>  
**Date:** Fri, Oct 21, 2011 at 6:34 PM  
**Subject:** STOP Trespass  
**To:** Brian <mailbh@gmail.com>

Brian,

It has come to my attention that you are conducting work on my land that is outside the scope of your easement and Permitted water collection area. Collecting water beyond your permitted collection area is theft. You do not have my permission to go anywhere you want on my land, any time you want. Your additional intrusions onto my land, including observing what work I am having performed are trespass. Severe damage has been done to the aquifers. Cease and desist all further trespass on my land and theft of my water...!

Dana Osman

**Jerry Sauter**

---

**From:** Brian [mailto:mailbh@gmail.com]  
**Sent:** Monday, November 07, 2011 9:52 AM  
**To:** Jerry Sauter  
**Subject:** Fwd: OSMAN EMAIL - Private water system?

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NOV 07 2011

WATER RESOURCES DEPT  
SALEM OREGON

Jerry,

This email from the Osman's shows his intent to possibly cut off ALL water because he has a private water system, yet Oregon Statutes exist that if the water runs off a property into a clearly defined path, then it is a public water system, and the owner of the property must apply for a permit for use and all water collection and consumption from that public water source is determined by the WaterMaster and the permits issued. Right?

Brian

----- Forwarded message -----

**From:** Dana Osman <dana@danaosman.com>  
**Date:** Sun, Oct 23, 2011 at 2:20 PM  
**Subject:** Solutions  
**To:** Brian <mailbh@gmail.com>

Dear Brian,

First, I am sorry to hear the news on your parents and hope you get some more time with them. CJ and I both lost our last surviving parents, our mothers, about 2 years ago. You are lucky to have had your mom and dad for so long.

We may again be able to enjoy a friendship, but we must first be able to work together as neighbors. CJ and I are committed to acting as good neighbors and to work at establishing a long term solution on the water. Please understand that there are a couple of serious issues that do need to be resolved, but if we work together they can be.

One thing you may be unclear on is the source and limits of your water use. Sally sued us over who had what rights, to use what water. 90% of the case focused on this. Two and one half years and 10's of thousands of dollars were spent to determine this issue. The findings were very clear and recorded on the final order. Your water use is governed by your water permit. You both share one permitted point of diversion (POD) from which you may draw water. I recently paid to have that POD surveyed and marked again. Your permit allows a 10 foot radius around that point to collect water. Additionally, because the water in the spring area is designated as a private water source that I own, I do have the right to use it all if needed, as would any future owner.

This should answer your question of why I stated trespass and theft in my email yesterday. You do not have an easement to, or water use permit on our other spring, thus it is trespass and theft of our water, and you would be liable for any damage done. Also, to come onto our land just to watch work we are doing, or try to menace or photograph our help is trespass. Brian, I was blown away when my contractor showed me photos Friday, and described how you charged down the hill at him, stopping right in his face, menacing postures, your helper flipping him off... Doesn't that seem a bit like Kozak tactics????

The next and very serious issue is the damage that has been done to my aquifers. Sometime in July, someone sprayed herbicide around my spring area around the POD. My attorney issued a cease and

11/7/2011

desist letter immediately, but the damage had already been done. By killing the plants, the roots died and left the soil unsupported. Subsequent foot traffic broke down the soil and altered the aquifer underground. The result was that the flow of water at the POC dramatically decreased. I had a second pickup installed farther down the hill to try and retrieve some of the lost flow. That eventually failed, but not before loading my system with mud. Can you tell me who sprayed herbicide there?

You mentioned your intake pipe is pushed down. That is actually the superior position to take water. Your tank continues to overflow out of the leaks at the top connections, yet I have no water coming into my tank.

In early spring I located an alternate source of water near my tank. It is at a lower elevation and I could not capture it in my tank because of the elevation. Last week I bought a low profile tank. Friday it was delivered but when my contractor went to install the pickup, the source had suddenly stopped flowing. It was directly below where you and your helper were working on my other spring source Friday. It had been running very strong and without interruption since we first discovered it, and was still running strong 5 days ago. Now, no water, just another \$1000 of equipment and prep work sitting there without the ability to collect the water I desperately need. I do not know yet what work you were doing uphill from that water source, but the correlation between your working there, and the sudden end of the water flow says to me that the aquifer was altered in some way.

So, right now CJ and I are down to a couple hundred gallons of dirty water. Other than flushing our toilet, our water use is all from bottled water. On Monday or Tuesday, I will need to clean up the collection area at the POD and capture the water for my use, to flush my system out and refill my tanks. Your tank is currently full, and I will replace your intake when my tanks are full again, probably within a week. The Watermaster and my attorney are both fully advised on this.

I don't know how much of the above you were even aware of Brian. Gene and his kid caused serious and ongoing damage on our property and continually trespassed. I don't know when they left but am very happy to know they are gone and sorry to hear they took advantage of you and your property too.

Brian, I stated the things above, not to be challenging, threatening, accusatory, or anything else but a good neighbor trying to share facts with you, and help you to understand the position we are in now. CJ & I have always tried to treat others the way we would want to be treated. In this case as neighbors, we never interfered with or damaged anything relating to your and Sally's property or rights, and we never would. We wish to be treated the same way.

So, considering our current situation, the first thing we must address is redevelopment of the water source at the POD so we can all get water. I am looking for a qualified person to redevelop the water source, and do not want just anybody digging around there. Aquifers are easily disturbed, diverted and lost. Once a captivated flow is reestablished, we need to build a proper containment/distribution vessel. Until we can get the aquifers repaired, please don't to walk near the spring area, as further damage could easily be done to the aquifers. I don't have any idea yet of the cost to repair this damage, but will keep you advised.

The other issue that is probably a great concern to you is having no guaranteed apportionment of the water. If we, or any future owner of lot 1000 decides to use all of the water from the POD, your property would have none and no recourse. CJ and I offer a solution that will rectify that issue for you. If you and Sally are willing to move your water system tank and pump house to the edge of my land, behind your garage, we will grant each of your properties 1/4 share of the water from the POD. The system must be functional and highly reliable, so minimal interruptions, maintenance or repairs would be necessary. You would be able to easily access your system and with minimal intrusion onto our land.

We will not make this offer again, and both you and Sally must agree for it to be binding. We extend this offer for the next 10 days, and have our attorney provide a fully detailed agreement if you do wish to accept our offer.

Please let us know your thoughts, if you would like to move forward and work together as good neighbors, and gain a guaranteed water source and reliable system.

Thank you Brian.

Dana

11/7/2011

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NOV 07 2011  
OFFICE OF THE  
STATE COMPTROLLER

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NOV 04 2011

WATER RESOURCES JEP  
SALEM, OREGON

08 MAY 22 PM 3: 8



Certified True Copy Of The Original  
Dated This 14 Day Of Nov, 2011  
Trial Court Administrator  
By: *[Signature]*

IN THE CIRCUIT COURT OF OREGON FOR CURRY COUNTY

**ORDER ENTERED**  
*5/25/00*

BRIAN HIRSCH and JAY LASHLEE,  
Co-Trustees of the 25503 Cape View Loop  
Trust, and SALLY HULL,  
Plaintiffs,  
v.  
JAMES KOZAK and GERALD WILLS,  
Defendant.

Case No. 99 CV 0137

**FINAL JUDGMENT AND  
DECREE GRANTING  
INJUNCTION AND  
PRESCRIPTIVE EASEMENT**

This matter coming on before the Court on May 9 and 10, 2000 for trial to a jury on Plaintiffs' Third and Fourth Causes Of Action set forth in the Amended Complaint, Judge Richard Mickelson presiding, and Plaintiffs Hirsch and Hull being present in person and through their attorney of record Roger Gould, and Defendant Kozak being present in person and through his attorney of record William Flinn, and Defendant Wills being present in person and through his attorney of record Donald Johnson, and the parties having presented their evidence to the jury through testimony and exhibits, and the Court having instructed the jury on the law, and while the jury was deliberating the case the parties having settled the issues raised in the Third and Fourth Causes Of Action and having placed the settlement on the record, and the Court having issued an Interlocutory Decree Granting Injunction And Prescriptive Easement in this case on January 4, 2000 following trial to the Court on November 22, 1999.

IT IS THEREFORE ORDERED AND DECREED:

1. Plaintiffs possess valid and existing easement rights on their respective properties in Curry County, Tax Lots 800 and 900, to collect, store and transport water from Tax Lot 1000 to their respective properties, Tax Lots 800 and 900, for year round domestic use, according to the terms of said easements, record dated January 13, 1950.
2. Plaintiffs are allowed to reinstall a collection and transportation system on Tax Lot 1000 at its historic locations and size, or as close thereto as reasonably possible. To that end, Plaintiffs may bring equipment on to Tax Lot 1000 to do any work necessary to restore the spring to its condition prior to December, 1998. Plaintiffs may plant vegetation in the area of the spring and may repair the existing catch basins. Plaintiffs may run two pipes from the spring area to a holding tank no larger than 3500 gallons, said holding tank to be placed in the location of the plastic holding tank installed by Plaintiff Hirsch in 1982, or as close as practicable thereto.

//  
FINAL JUDGMENT AND DECREE-1

1 3. Plaintiffs may also reconstruct a pump house at the same location as the  
2 preexisting pump house, or as close as practicable thereto. Plaintiffs may reinstall the  
3 preexisting pump in the pump house. If the preexisting pump does not operate properly  
now, Plaintiffs may purchase and install a new pump which is no larger than the  
preexisting pump. Water lines may be installed from the pump house to Plaintiffs'  
properties, Tax Lots 800 and 900.

4 4. All labor shall be performed by licensed and bonded contractors and all  
5 systems installed will be constructed to comply with all current applicable codes and  
regulations.

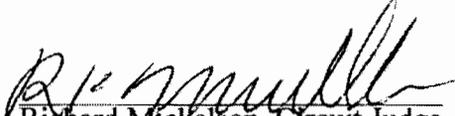
6 5. Defendant Kozak and all others acting for or through him are hereby enjoined  
7 from in any manner interfering with or hindering the Plaintiffs and the Plaintiffs' agents  
or contractors in the repair and restoration of the water collection, storage and  
transportation system and the replanting of vegetation on Tax Lot 1000.

8 6. Defendant Kozak and all others acting for or through him are hereby enjoined  
9 from in any manner interfering with Plaintiffs' easement rights to use water from the  
spring area of Tax Lot 1000 and from in any manner interfering with Plaintiffs' easement  
rights to collect, store and transport the water from Tax Lot 1000 to Tax Lots 800 and  
10 900 and to come upon Tax Lot 1000 to maintain and repair the collection, storage and  
transportation system on Tax Lot 1000.

11 7. Plaintiffs are hereby declared to possess a prescriptive easement on Tax Lot  
12 1000 to locate, use and maintain a water storage tank not to exceed 3500 gallons in size at  
a location on Tax Lot 1000 where a plastic water tank was installed by Plaintiff Hirsch in  
1982. This easement is appurtenant to Plaintiffs' properties Tax Lots 800 and 900.

13 8. Plaintiffs' Third and Fourth Causes Of Action are hereby dismissed with  
14 prejudice, and without costs to any party, as a result of the settlement of the issues raised  
in those Causes Of Action during the trial thereof as set forth above, which settlement  
was placed in the record of this case. The settlement and dismissal of the third and fourth  
causes of action are without prejudice to Defendant Kozak's right to appeal from any  
15 judgment or other appealable order entered in this action that adjudicates or otherwise  
affects the claims appearing in the first and second causes of action in both the original  
16 and the amended complaints filed herein.

17 Dated this 22 day of May, 2000.

  
Richard Mickelson, Circuit Judge

18  
19 Submitted By,

20 Roger Gould, OSB # 72104  
21 Attorney for Plaintiffs  
22 PO Box 29  
Coos Bay, Ore. 97420  
(541) 269-5566

23  
24  
25  
26 FINAL JUDGMENT AND DECREE-2



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WATER RESOURCES DEPT  
SALEM OREGON

**CIRCUIT COURT OF OREGON**

CURRY COUNTY COURTHOUSE  
P.O. BOX 810  
GOLD BEACH, OREGON 97444  
TELEPHONE (541) 247-4511

HUGH C. DOWNER, JR.  
CIRCUIT JUDGE

RICHARD K. MICKELSON  
CIRCUIT JUDGE

December 14, 1999

Mr. Roger Gould, P.C.  
Attorney at Law  
P.O. Box 29  
Coos Bay, OR 97420

Mr. John C. Babin  
Attorney at Law  
P.O. Box 1600  
Brookings, Oregon 97415

RE: Hirsch and Hull v. Kozak  
99CV0137

Dear Counsel:

The court tried the plaintiffs' First Cause of Action seeking Injunctive Relief and the Second Cause of Action seeking to establish a Prescriptive Easement. The Third Cause of Action for alleged property damage will be tried to a jury at a later time. The defendant on the day of trial sought to amend his Answer to allege affirmative defenses. This amendment was denied. Thus the case was defended on the general denial contained in the Answer.

Prior to deciding the equitable issues the court needs to make an evidentiary ruling on the video tape, being Plaintiffs' exhibit number 37. Defendant objects to its admission on the grounds of it being irrelevant and hearsay. The court will consider that portion of the tape when the plaintiffs were at the spring area until they are ordered off the property by the defendant. The description of where the tank was is relevant to the prescriptive easement issue. Mr. Hirsch was available for cross examination on this issue. The comments of Mr. Kozak are not hearsay. They are relevant on the injunction issue. The court will not consider the other portions of the tape.

I have reviewed the testimony presented, the exhibits received, and the final written arguments of counsel and would make the following

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WATER RESOURCES DEPT  
SALEM OREGON

**FINDINGS OF FACT**

Sally Hull is the owner of Tax Lot 800. Brian Hirsch and Jay Lashlee are the trustees of a trust that is the owner of Tax Lot 900. Mr. Kozak is the contract purchaser of Tax Lot 1000. In 1950 W.A. Raymond, Sr. and Rose Raymond conveyed to Virgil and Esther Hull the parcel that is now Tax Lot 800. At the same time the Raymonds conveyed what is now Tax Lot 900 to Hugh and Nina Brown. The Raymonds retained what is now Tax Lot 1000. Prior to this time all three lots had been one piece of land owned by the Raymonds. The deeds the Raymonds gave to the Hulls and Browns contained an easement over the grantors' entire property for a water system. The actual easement is set out in the plaintiffs' complaint. They had the right to lay a water line from the Raymond's property to theirs. They had the right to place a water tank on the Raymond's property eight feet to the north of the Raymond's catch tank. They further had the right to freely access the Raymond property to repair and maintain the pipe line. The easement for water purposes was to remain in effect "so long as said spring flows as it has in the past".

The Hulls and the Browns caused new water lines to be laid and a new storage tank was installed in approximately 1952 to replace the Raymond's old tank. An additional tank to be located to the north of the Raymond's catch tank was never installed. The water system continued to operate in the same manner from 1950 until sometime in the 1960s. At this time instead of running the water through the Lodge and then to the Hull and Brown property a line was run to a pump house on the Raymond property and from there to Tax Lots 800 and 900. The Lodge which was on Tax Lot 1000 was destroyed by a fire sometime in the mid 1970s. During the fire the redwood tank installed by the Browns and Hulls was damaged but continued to function. The tank failed in approximately 1982. It was replaced by a 3500 plastic tank. This tank was placed approximately half way between the location of the old redwood tank and the south line of Tax Lot 900. That tank was placed above ground and served as the storage tank for the water system until 1999. The water was ran through the pump house before it was transported to Tax Lots 800 and 900. This plastic tank was installed by Mr. Hirsch who at that time owned Tax Lot 900. He did not ask permission of Mr. Crandell who owned Tax Lot 1000 at that time to locate it in a different location than the old redwood tank.

The houses on Tax Lots 800 and 900 were used on a fairly regular basis as vacation homes or permanent residences from 1950 until the time of the trial. The water system installed on Tax Lot 1000 was maintained by the owners of all three lots up until the Lodge burned in approximately 1975. After that time no structure was on Tax Lot 1000 and the maintenance of the system was done solely by the plaintiffs or their predecessors.

In January, 1999 the defendant purchased Tax Lot 1000. In February, 1999 defendant without any notice to the plaintiffs removed the storage tank, pump, pump shack and water lines on Tax Lot 1000 that supplied water to the plaintiffs.

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NOV 04 2011

WATER RESOURCES DEPT  
SALEM OREGON

The Raymond easement speaks in terms of "the spring". However the parties' water system and their actions show that they all considered the location of the spring to be the hillside, not a single place where water come out the ground. Originally water was collected by three pipes from three separate areas on the ground that went into the storage tank. One pipe was ultimately discarded but at least two pipes collected water from the spring area until the defendant destroyed the system. I would specifically find that the spring referred to in the Raymond easement is the area where water was historically collected and then stored in a tank, not a specific spring which sprang from the earth.

The defendants were not around in 1950 when this system was installed. Further they were not able to present any witnesses who had knowledge of the system in the early years. The plaintiffs not only had witnesses who were intimately familiar with the system from its inception but who had also helped install and maintain the system. I found Mr. Jerry Hull to be a very credible witness even though he is the brother in law of one of the plaintiffs. Based on his testimony I find that the "catch tank" referred to in the easement is actually the old redwood tank. The redwood tank that burned in 1975 was placed in the location of the old tank. No new tank as contemplated in the easement was ever installed.

The defendant would have the court find that the easement is at an end because the spring no longer "flows as it has in the past". This is contrary to all the credible evidence presented by the plaintiffs. The spring had provided them water for domestic purposes on a year round basis since at least 1950. It was not being used as heavily as it had been in the past, but it was still providing sufficient water for full time domestic purposes until the defendant destroyed the system. That provision of the easement had not gone into effect at the time the defendant took his actions in early 1999.

### INJUNCTION

The plaintiffs have water rights from the defendant's land. The watermaster may be called upon to determine the priorities of the plaintiffs and the quantity of water they are allowed to withdraw, but the Raymond's had the legal power to transfer the water in the spring to the plaintiffs in 1950. Fitzstephens v. Watson, 218 Or 185, 196 (1959). The easement was still in effect and of record when the defendant purchased Tax Lot 1000 in 1999. The condition of the pipes, holding tank, pump house, and electrical wiring may have given him the right to demand improvements, but it certainly did not give him the right to unilaterally remove the system. The plaintiffs have carried their burden of proof. They are entitled to an injunction to allow them to reinstall the water system as it historically had existed under the easement. That previous historical location had been agreed to by the defendant's predecessors since the pump was installed in the early 1960s. As mentioned above the defendant has only filed a general denial in this case. If plaintiffs have carried their burden of proof then the system should be reinstalled in its historical location and manner. It need not be relocated to a spot that is more convenient for the defendant. That is not raised by his pleadings.

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NOV 04 2011

WATER RESOURCES DIVISION  
SALEM, OREGON

Therefore the plaintiffs are entitled to take water from the spring on the hillside of the defendant's property. They will have the right to bring in the equipment necessary to dig out the spring in an attempt to restore it to the condition that existed in December of 1998. They may run two pipes from the spring area to a holding tank no larger than 3500 gallons to be placed in the location where the plastic tank was installed by Mr. Hirsch in 1982. A new pump house can be located in the place where it existed prior to its removal. The pump can be reinstalled at that location. If the pump was damaged a new pump can be reinstalled but may not be any larger than the one it is replacing. Water lines from the pump house can traverse the defendant's property to serve Tax Lot 800 and 900. All of the above work is to be performed by licensed and bonded contractors to the applicable building and plumbing codes. The plaintiffs pursuant to their easement shall have reasonable access to Tax Lot 1000 to maintain and repair the new system. The defendant shall in no way hinder the installation of the new water system or the operation of the system once it is installed. The spring area for many years had natural vegetation that protected the water source. The defendant removed this natural vegetation along with the water system. The plaintiffs may replant natural vegetation in the area of the spring disturbed by the defendant.

It is within the equitable powers of the court to require the defendant to pay all the costs of the reinstallation of the water system and the natural vegetation. That will be the order of the court. Mr. Kozak did not come into the court with "clean hands". The photographs introduced by the defendant show a system that had been allowed to deteriorate to a certain degree. He could have demanded that it be repaired and brought up to current codes. He could have requested that the site be cleaned up and some of the old pipes removed. He could have even requested that the system be upgraded to serve all three parties. Instead he unilaterally tore out the system and denied the plaintiffs access to his land to maintain their deeded water system. Given those facts it is appropriate that he pay all the costs of reinstalling the new system, even though it will probably be a better system than the one that previously existed. If he wishes to share in the water produced by this new system he will have to negotiate that with the plaintiffs, or go through the water appropriations system.

#### PRESCRIPTIVE EASEMENT

The plaintiffs have been awarded all they requested in their first cause of action. However I believe it is appropriate to also render a decision and judgment on their second claim for relief. This cause of action only deals with the plastic tank. That tank replaced the redwood tank that had failed in 1982. The plastic tank was sited on the property in that same year but approximately eighty feet closer to the property line with Tax Lot 900. Mr. Hirsch did not request permission of the Crandells who owned Tax Lot 1000 at that time. The plastic tank then remained in that location until 1999 when the defendant removed it.

The basic requirements for obtaining a prescriptive easement are the same as those for obtaining title by adverse possession at common law. I do not believe that ORS 105.620 would apply to this situation. A prescriptive easement is based on use rather than possession. Sutherlin School

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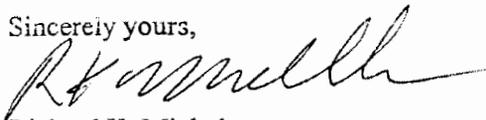
VALERIE RESOURCES JEF  
SALEM OREGON

District #130 v. Hererra, 120 Or App 86, 89-90, (1993). The use here was constant and continuous for over ten years. The plastic storage tank was placed on the property in 1982 and was utilized as a water storage tank until 1999. It provided water to Tax Lots 800 and 900 whenever anyone was in residence. The fact that the homes were only used as vacation homes during this time period does not defeat a claim for a prescriptive easement. The use was open and notorious. The tank sat out in the open for over ten years. Mr. Crandell would have seen it even if he was on the property only once during the ten years prescriptive period. The tank was used exclusively by the plaintiffs during the requisite time period. Unlike adverse possession, use for prescriptive purposes may be presumed from a showing of open, continuous, and uninterrupted use for the prescriptive period. Feldman v. Knapp, 196 Or 453, 470-472, (1952). The plaintiffs have made a showing that their use of the tank was open, continuous, and uninterrupted for a period of sixteen, plus years. At that point the defendant has the burden of disproving adversity by showing that the use was permissive, licensed, or otherwise not adverse. Mr. Kozak did not come into possession of the property until late 1998. By then the ten year period had already run. He did not present the testimony of Mr. Crandell his predecessor to disprove any of these elements. There was not any evidence presented by the defendant that the tank was located with the permission of Mr. Crandell, or with his acquiescence, or by some license he gave to the plaintiffs.

Therefore I find that the plaintiffs have carried their burden of proof to establish a prescriptive easement for the location of the plastic tank in the area shown in Exhibit No. 37. They are entitled to relocate a 3500 gallon tank on that site. If the site is no longer feasible because of the actions of the defendant then they may locate the tank as close of possible to the old site. The costs of reinstalling the tank shall be borne by the defendant. Likewise the cost of replacing the tank itself shall be borne by the defendant if it was damaged when he moved it.

I hope this opinion is clear enough for Mr. Gould to draft an injunction and prescriptive easement. If not he can address his questions to me in writing and I will clarify this opinion to ensure a clear injunction and easement can be filed with the Court and the County Clerk. Costs can not be determined until the conclusion of the jury trial. This portion of the judgment will go into effect as soon as I sign the order for an injunction and a prescriptive easement. A supplemental judgment will be necessary for the costs of reinstalling the water system.

Sincerely yours,



Richard K. Mickelson  
Circuit Court Judge

## Jerry Sauter

---

**From:** Mitch Lewis  
**Sent:** Thursday, November 03, 2011 10:12 AM  
**To:** Jerry Sauter  
**Subject:** FW: ORS

Dad,

I am forwarding this request on to you. I gave Mr. Hirsch your phone number and suggested he contact you. His request concerns some issues arising from past litigation, and an ongoing dispute with a neighbor.

ML

Thanks! Do you do windows?

Mitchell E. Lewis  
Watermaster District 19  
Oregon Water Resources Department  
541.396.1905  
541.396.1906 Fax

---

**From:** Brian [mailto:mailbh@gmail.com]  
**Sent:** Thursday, November 03, 2011 09:24  
**To:** Mitch Lewis  
**Subject:** Re: ORS

Dear Mitch,

Thank you for sending these statutes. This is the first time since our telephone conversation that I have had time to begin the review of these statutes.

I do need some additional information, if you would please be so kind to assist, or tell me how to get copies.

Related to the water permit certificate # 84533:

Would you please email to me:

1. The application filed by William Hull for the Hull/Hirsch certificate 84533,
2. A copy of certificate 84533 and all related addendums and supporting documents,
3. The survey that was made by Brian Flavin for this application and certificate 84533,
4. Please email the names, phone numbers, email addresses and mailing addresses of the heads of the Watermaster and water permit department in Salem.
5. Where can I find online all related Oregon water laws, past court decisions and related information for my research?

Also, I have a question. Does the Watermaster or Oregon water permit office make corrections or modifications to water permits if there is a Court order that shows deficiencies in the application or survey? If so, what is the procedure for making a correction or modification?

Thank you in advance for your support.

11/3/2011

Sincerely,  
Brian Hirsch

On Wed, Oct 19, 2011 at 1:23 PM, Mitch Lewis <[mitch.e.lewis@state.or.us](mailto:mitch.e.lewis@state.or.us)> wrote:  
Brian,

Attached are scanned copies of several state statutes.

ORS 537.130 describes water uses that require a permit, with the exception of other uses cited by statute.

ORS 537.141 describes water uses that do NOT require permits.

ORS 536.800 describes springs and who has the first right to the use of the water.

I have a pretty basic printer/scanner, and was not able to do more than scan individual pages. If you print these, you can put them in order via the page numbers at the bottom.

These are all copied from the 2009 Oregon Water Law publication, but I don't of any changes made since 2009.

Let me know if they don't come through in a readable fashion.

Mitch

Mitchell E. Lewis  
Watermaster District 19  
Oregon Water Resources Department  
[541.396.1905](tel:541.396.1905)  
[541.396.1906](tel:541.396.1906) Fax

NOTARY SEAL.

74320

NOTARY PUBLIC FOR OREGON  
My Commission Expires March 5, 1950  
Clats A. Walker, Co. Clerk.

Filed and Recorded this 12th day of January, 1950. Clats A. Walker, Co. Clerk.  
W. A. RAYMOND, SR., ET UX

**WARRANTY DEED**

VIRGIL E. HULL, ET UX

KNOW ALL MEN BY THESE PRESENTS: That W. A. RAYMOND, Sr., and ROSE RAYMOND, husband and wife, in consideration of the sum of Ten Dollars (\$10.00) to them paid, do hereby grant, bargain, sell and convey unto VIRGIL E. HULL and ESTHER M. HULL, husband and wife, or the survivors of either, in an estate in the entirety, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Curry and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point which is located 1740 feet South and 310 feet West of the Quarter section corner common to Section 7 and 10, in Township 10 South, Range 14 West of the Willamette Meridian, and being situated within the Southeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said highway South approximately 27°30' East, a distance of 300 feet to the true point of beginning of tract to be conveyed; thence North 27°30' East, 300 feet; thence South 27°30' East 110 feet; thence South 27°30' East, 300 feet to the East boundary line of Oregon Coast Highway right of way; thence North along said East boundary line 27°30' East, 110 feet, more or less, to the point of beginning. Together with tenements hereinafter described and the real interest therein by the Grantors which property is described as follows: Beginning at a point which is located 1740 feet South and 310 feet West of the Quarter section corner common to Sections 7 and 10, in Township 10 South, Range 14 West of the Willamette Meridian and being situated within the Southeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said Highway South approximately 27°30' East, 300 feet; thence North 27°30' East, 300 feet; thence South 27°30' East to a point which bears directly South of the point of beginning about 100 feet. All easements being as follows:

The 10' water table now in use on the above property retained by the Grantors, to the South line of the property described hereunder, together with free rights of ingress and egress to the Grantors, their heirs and assigns, in and upon and traversing the property retained by the Grantors for the purpose of repairing and maintaining said pipe line; an easement for water to be conveyed along said pipe line; said water to be used by the Grantors, their heirs and assigns, for domestic purposes, and said easement as long as long as the spring on the property retained by the Grantors flows as it has in the past. The right of the Grantors, their heirs and assigns, to construct at their own expense, a water storage tank on the property retained by the Grantors; said tank to be constructed eight (8) feet North of the

present catch tank of the Grantors and said tank to be constructed with the same water level as the present catch tank. New pipe line, if installed by the Grantee, is to be installed across the Grantors' property parallel to and as close as practicable to the pipe line to be presently installed by the Grantors to the South line of the Grantee's property.

The above covenants are subject to joint use of Hugh F. Brown and Hina L. Brown husband and wife, or their assigns, for the benefit of the land conveyed to Hugh E. Brown and Hina L. Brown on this 13th day of January, 1960. It SHALL AND SO HOLD the above described and granted premises unto the said Grantee, their heirs and assigns forever.

Page 50

And the Grantors do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances, and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part thereof, against the lawful claims and demands of all persons whatsoever.

WITNESS my hand and seal this 13th day of January, 1960.

E. A. Raymond, Sr. (REAL)  
Rosa Raymond (REAL)

EXHIBITARY STAMPS AFFIXED AND CANCELLED, \$8.00

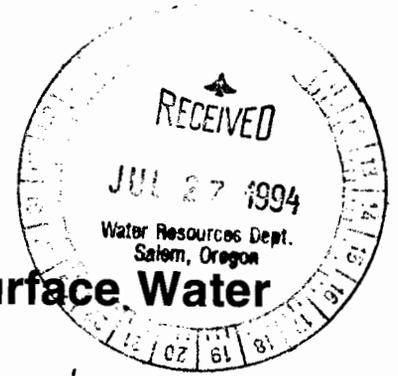
STATE OF OREGON }  
County of Curry } ss.

On this, the 13th day of January, 1960, personally came before me, a Notary Public in and for said county the within named E. A. Raymond, Sr. and Rosa Raymond, his wife, personally known to me to be the identical persons described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein stated.

Witness my hand and seal the day and year herein written.

NOTARY SEAL. Geo. E. Dickinson  
Notary Public for Oregon  
My Commission expires 7-7-63  
Filed and recorded this 13th day of January, 1960. Olga A. Walker, Co. Clerk.

Application No. 74320



State of Oregon  
WATER RESOURCES DEPARTMENT

**Application for a Permit to Appropriate Surface Water**

Applicant(s) William E. Hall - Brian Hirsch  
(Please print or type - use dark ink)

Mailing Address: P.O. Box 510 Merlin, Oregon 97532 474-2222

Brian Hirsch City Orange Calif. State 92613 Zip Daytime Phone No.  
P.O. Box 5269

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Spring,  
a tributary of none

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: .03 cubic feet per second, OR 15 gallons per minute. If water is to be used from more than one source, give the quantity of water from each:

3. **INTENDED USE(S) OF WATER:** domestic + 1/2 acre irrigation per domestic

If for more than one use, give the quantity of water from each source for each use;

If for **DOMESTIC** use, state the number of households to be supplied; 2 + 2 guest houses = 4

If for **MUNICIPAL OR QUASI-MUNICIPAL** use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.)

If for **MINING** use, state the nature (gold, silver, etc.) of the mines to be served;

If for **IRRIGATION**, or other land area use, state the **TOTAL** number of acres to be developed under each use;

Irrigation \_\_\_\_\_

Other (describe) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

Flow: by stream spring to 1200 gallon holding tank.  
2x2' concrete box & pipe line from spring to storage tank app. 100' 1" pipe

tank has a 1/2 horse pump for pressure to dwellings.

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WATER RESOURCES DIVISION  
SALEM, OREGON

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin in use  
Proposed date construction work will be completed in use  
Proposed date water use will be completed in use

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? no. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: This system has been in use for about 60 years. A total oversight by the land and water users did not know they needed a water right. The spring rises and does not leave the property. It has no defined channel or banks.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

William E. Hull  
Signature of Applicant

7-18-94  
Date

Brian Hirsch  
Signature of Co-Applicant, if any

7-18-94  
Date

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**JUL 27 1994**

WATER RESOURCES DEPT.  
SALEM, OREGON

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

\_\_\_\_\_, 19\_\_\_\_.

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

\_\_\_\_\_  
*Water Resources Director*

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

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 27th day of July, 1994, at 8:00 o'clock, A M.

APPLICATION NO: 74320

PERMIT NO: \_\_\_\_\_

## Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses In Addition to Classified Uses

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. **DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.**

Applicant's Name: William E. Hull  
 Address: P.O. Box 510  
 City: Marlin State: Or. Zip: 97532 Day Phone: 502-474-2222

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) 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.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
<del>78-14-7</del>				
76-8004	RR-5 Zone		✓	✓
900			✓	✓
1000		✓		

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used. Curry  
 The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within city limits. In this case, only the city planning agency must complete this form. Please request extra forms as needed.

### For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below. If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide 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): 3.081. Go to section b) on reverse side.  
Curry Co. Zoning Ord.
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

### Receipt for Request for Land Use Information

WRD Applicant Name: \_\_\_\_\_

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: \_\_\_\_\_

Staff Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_ Date of Information Request: \_\_\_\_\_



**Note to Applicant:** This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

**Note to Local Planning Officials:** Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: William E. Hull  
 Address: P.O. Box 510  
Merlin, Oregon 97532  
 Phone: 503-474-2227

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**JUL 27 1994**  
 WATER RESOURCES DEPT.  
 SALEM, OREGON

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- Irrigation (crop type, golf course, nursery or greenhouse): \_\_\_\_\_
- Livestock (type of livestock, feedlot, slaughterhouse): \_\_\_\_\_
- Residential (# units, single or multi-family, # lots if partition or subdivision): 2
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): \_\_\_\_\_
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): \_\_\_\_\_
- Institutional (i.e., school, library, etc.): \_\_\_\_\_
- Mining (aggregate, metal, open pit, placer, etc.): \_\_\_\_\_
- Recreation (park, campsite, pond, etc.): \_\_\_\_\_
- Fish and Wildlife (pond, hatchery, etc.): \_\_\_\_\_
- Hydropower (dam, reservoir, power generating or transmitting facilities): \_\_\_\_\_
- Other (Name and list key characteristics): \_\_\_\_\_

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: <u>unnamed spring</u>	_____ Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input type="checkbox"/> Ground Water	

S-74320

OWNERSHIP/EASEMENT FORM

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AUG - 7 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

1. Do you own all property related to this application?

YES /  NO  
(circle your answer)

If you answered "NO," please submit the names and addresses of the legal owners of all property related to this application that you do not own.

2. If you answered "NO" to question #1 above, do you have written authorization or an easement permitting access to the lands you do not own?

YES / NO / NOT APPLICABLE (I answered "YES" to #1.)  
(circle your answer)

I understand that if I do not own all property associated with this application, I may be required to submit a copy of my written authorization or easement for access before a permit can be issued.

SIGNATURE: Richard E. Drael TITLE: owner DATE: 8-5-96

\*\*\*\*\*

STATEMENT OF SEASONAL FLOW

The source of water is within the Meyers Creek Basin. The flow of water, in it's natural condition, does not flow into another water course during the months of \_\_\_\_\_ (month - month) of each year. The use of water from this spring will have no effect upon the availability of water for existing water rights during that period.

Application number: **S-74320**

Signature of water right applicant William E. Duff.

\*\*\*\*\*

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WATER RESOURCES DEPT.  
SALEM, OREGON

JAN 21 1999  
WATER RESOURCES DEPT.  
SALEM, OREGON

273824  
I.D. TAG NO.  
565-98  
Local File Number

OREGON DEPARTMENT OF HUMAN RESOURCES  
HEALTH DIVISION  
CENTER FOR HEALTH STATISTICS  
CERTIFICATE OF DEATH

136-

State File Number

1. DECEDENT'S NAME First: William Middle: Ellsworth Last: HULL			2 SEX Male	3 DATE OF DEATH (Month, Day, Year) Found August 1, 1998
4. SOCIAL SECURITY NUMBER 571-44-1589		5a. AGE Last Birthday (Years) 65	5b. Under 1 Year Mos. Days Hours Mins.	6. BIRTHPLACE (City and State or Foreign Country) Grants Pass, OR
7. DATE OF BIRTH (Month, Day, Year) November 3, 1932		8. PLACE OF DEATH (Check only one) <input type="checkbox"/> U.S. ARMED FORCES <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> HOSPITAL <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> OOA <input type="checkbox"/> QI/HER <input type="checkbox"/> Nursing Home <input type="checkbox"/> Decedent's Home <input checked="" type="checkbox"/> Other (Specify) Rural Road		
9a. FACILITY NAME (If not institution, give street and number) 1.7 miles up Rock Creek Road		9b. CITY, TOWN, OR LOCATION OF DEATH Wolf Creek		9c. COUNTY OF DEATH Josephine
10a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.) Lodge Owner		10b. KIND OF BUSINESS/INDUSTRY Self-employed		11. MARITAL STATUS - Married, Never Married, Widowed, Divorced (Specify) Married
12. SPOUSE (If Married, Widowed) Sally		13a. RESIDENCE - STATE Oregon		
13b. COUNTY Josephine		13c. CITY, TOWN OR LOCATION Sunny Valley		13d. STREET AND NUMBER 2001 Dog Creek Road
14. WAS DECEDENT OF HISPANIC ORIGIN? (Specify No or Yes - If yes, specify Cuban, Mexican, Puerto Rican, etc.) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Specify:		15. RACE American Indian, Black, White, etc. (Specify) White		16. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) College (1-4 or 5+) 4
17. FATHER - NAME first middle last Virgil Ellsworth Hull		18. MOTHER - NAME first middle maiden Esther Mae Harmelink		19. INFORMANT - NAME and relationship to decedent Sally A Hull (Wife)
20a. METHOD OF DISPOSITION <input type="checkbox"/> Mausoleum <input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		20b. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) Hull & Hull Crematory		20c. LOCATION - City or Town, State Grants Pass, OR
21a. SIGNATURE OF OREGON FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH Kendra Johnson		21b. OREGON LICENSE NO. (Of Licensee) 0331		22. NAME, ADDRESS AND ZIP OF FACILITY. Hull & Hull Funeral Directors 612 NW A St, Grants Pass OR 97526
23. DATE FILED (Month, Day, Year) August 6, 1998		24. REGISTRAR'S SIGNATURE Laverla J. Young		

27. TIME OF DEATH M <input type="checkbox"/> Yes <input type="checkbox"/> No		28. WAS MEDICAL EXAMINER NOTIFIED? <input type="checkbox"/> Yes <input type="checkbox"/> No	
29. To the best of my knowledge, death occurred at the time, date, place and due to the cause(s) and manner stated. (Signature) James N. Olson M.D.		31a. TIME OF DEATH Found 8:30 A.M.	
30. DATE SIGNED (Month, Day, Year) 8-3-98		31b. DATE PRONOUNCED DEAD (Month, Day, Year, Hour) Found 8-1-98 at 8:30 A.M.	
32. On the basis of examination and/or investigation, in my opinion death occurred at the time, date, place and due to the cause(s) and manner stated. (Signature) James N. Olson M.D.		33. DATE SIGNED (Month, Day, Year) 8-3-98	
34. NAME, TITLE, ADDRESS AND ZIP OF CERTIFIER/MEDICAL EXAMINER (Type or Print) James N Olson MD 1505 NW Washington Blvd Grants Pass OR 97526		35. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)	

PART I (a) Gunshot Wound to Head DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death Immediate
(b) DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death
(c) DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death
PART II OTHER SIGNIFICANT CONDITIONS - Conditions contributing to death but not resulting in the underlying cause given in PART I.		37. Did tobacco use contribute to the death? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
38. AUTOPSY <input type="checkbox"/> Yes <input type="checkbox"/> No		39. IF YES, were findings considered in determining cause of death? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
40. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Accident <input type="checkbox"/> Undetermined Manner <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Legal Intervention <input type="checkbox"/> Other		41a. DATE OF INJURY (Month, Day, Year) last seen 7-26-98
41b. TIME OF INJURY 2:00 P.M.		41c. INJURY AT WORK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
41d. PLACE OF INJURY - At home, farm, street, factory, office, building, etc. (Specify) US 97N Old rd		41e. DESCRIBE HOW INJURY OCCURRED medium caliber gunshot wound to head, type of weapon not known. Victim was abducted, Robbed and Murdered.
41f. LOCATION (Street and Number or Rural Route Number, City or Town, State, FPO# or Postoffice, COLM, etc.) M.P. 17 From Lower Grants Creek rd, Wolf Creek, OR.		

STATE OF OREGON, )  
) ss

ORIGINAL-VITAL STATISTICS (County of Marion.)

I certify that the within was received by me on the 21st day of Jan, 1999, at 8 o'clock A. m., and was recorded in the Miscellaneous Records, Vol. 8

THIS IS A TRUE AND EXACT REPRODUCTION OF THE DOCUMENT REGISTERED AT THE OFFICE OF THE JOSEPHINE COUNTY REGISTRAR. Page 352

AUG 06 1998

DATE ISSUED:

Water Resources Director  
Laverla J. Young  
COUNTY REGISTRAR  
JOSEPHINE COUNTY, OREGON

Dear Steve,

Here's a copy of  
Williams death certificate  
and a check for \$30 like  
you said to do.

I don't need the death  
certificate back.

Thanks for your help,

p.s.

Sally

This was to put my  
name on the water  
permit

STATE OF OREGON )

County of Marion. )

I certify that the within was  
received by me on the 21st day of

Jan., 1999, at 8 o'clock

A. m., and was recorded in the

Miscellaneous Record Book 8

Page 351

Sally Hull

POB 510

Merlin OR 97532

Water Resources Director

JAN 21 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

74320

Oregon

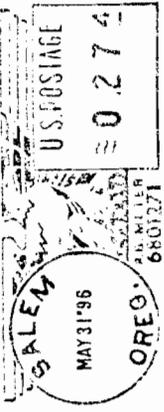
WATER RESOURCES  
DEPARTMENT

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210

CONSERVE WATER  
FOR  
OREGON'S FUTURE



FIRST CLASS

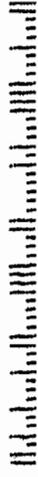


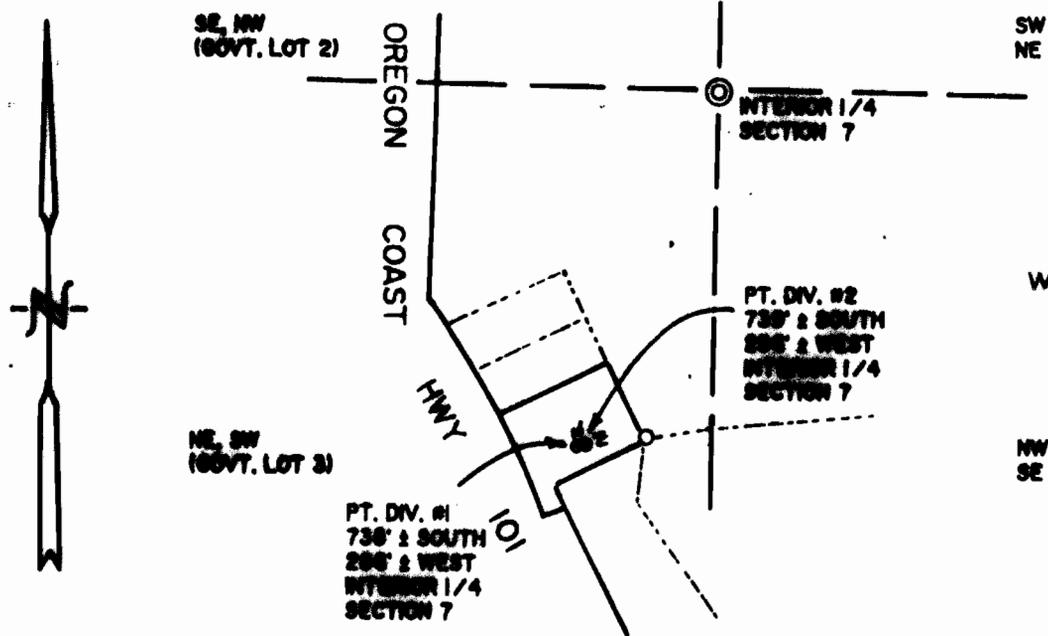
RECEIVED

JUN 10 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

~~FRANK C & CAROL A CRANDELL  
PO BOX 243  
FOSSIL OR 97830~~

74320





**RECEIVED**

NOV 26 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

THE PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE PROPOSED WATER RIGHT AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY LINES.

T. 38 S., R. 14 W., W.M.,  
SECTION 7

# FINAL PROOF SURVEY

UNDER

APPLICATION # S-74320

PERMIT # 52780

IN THE NAME OF

**WILLIAM P. HULL AND BRIAN HIRSCH**

SURVEYED NOVEMBER 3, 1997, BY BRYAN M. FLAVIN

SCALE 1" = 400'



**RECEIVED**

NOV 26 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

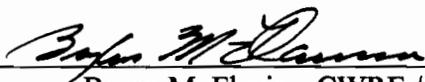
BRYAN FLAVIN LAND SURVEYING  
BRYAN M. FLAVIN - RLS/CWRE  
32053 SQUAW VALLEY ROAD  
GOLD BEACH, OREGON 97444  
541-247-6485  
OREGON DEPARTMENT OF WATER RESOURCES  
COMMERCE BUILDING  
158 12TH STREET NE  
SALEM, OREGON 97310-0210  
SUBJECT: FINAL CERTIFICATE  
FINAL PROOF SURVEY  
WILLIAM P. HULL AND BRIAN HIRSCH  
P. O. BOX 510  
MERLIN, OREGON 97532

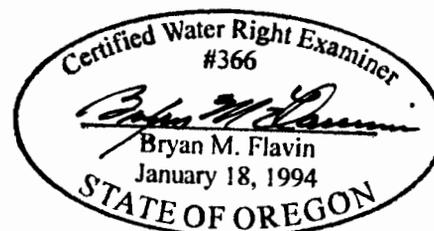
RE: APPLICATION #S-74320  
PERMIT #52780

The above referenced system was examined by me on November 3, 1997. The system consists of the following: diversion point #1 is a concrete dam constructed within the confines of the spring water source; the dam measures 3 feet in length and has an average depth of 4 feet; there is no cover or top to the structure; diversion point #2 is an onsite constructed concrete box 4 feet in depth and measuring 3 feet by 3 feet with a top, also within the confines of the spring; there is a 1 inch plastic pipe conveying water from diversion point #2 to diversion point #1; there is a 1 inch diameter pipe from diversion point #1 to a 1500 gallon round plastic storage tank; a 1/2 HP, 230 volt "Red Jacket" submersible pump is installed within the tank; a 1 inch plastic pipe leads from the tank to a standard pressure tank; a 3/4" plastic pipe leads from the tank to the dwellings. A static pressure reading taken at the pressure tank read 40 PSI at the time of the test.

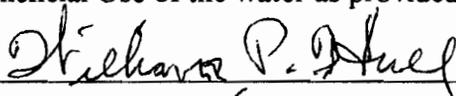
The point of diversion shown on the final proof map was physically located by field survey to accurately represent its position.

The facts contained in this report and the location of the point of diversion as shown on the final proof map, are correct as of the date of the final inspection and the date of this report.

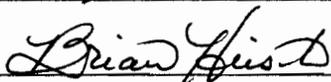
  
Bryan M. Flavin - CWRE #366



We, William P. Hull and Brian Hirsch, agree to the findings of the Certified Water Rights Examiner and hereby submit this site report to the Water Resources Department as to my claim of Beneficial Use of the water as provided under the terms and conditions of my permit #52780.



WILLIAM P. HULL



BRIAN HIRSCH



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**

North Mall Office Building

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

**Date Mailed: August 29, 2008**

## **NOTICE OF CERTIFICATE ISSUANCE**

The attached certificate confirms the water right established under the terms of a permit issued by this department. The water right is now appurtenant to the specific place where the use was established as described by the certificate. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

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

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

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

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

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

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

# Mailing List for Certificate

Scheduled Mailing Date:

**Application:** S-74320

**Permit:** 52780

**Certificate:** 84533

**Permit/Certificate Holder:**

SALLY HULL AND BRIAN HIRSCH ✓  
PO BOX 510  
MERLIN OR 97532

<p><b>Copies Mailed</b></p> <p><b>by:</b> <u>Diana Durbin</u> (STAFF)</p> <p><b>on:</b> <u>8-29-08</u> (DATE)</p>
---

**Copies of Final Certificate to be sent to:**

1. Watermaster District 19, Mitch E. Lewis ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Vault ✓
5. File ✓

**Other persons to receive copies: (include map):**

1. Bryan M. Flavin, CWRE ✓

STATE OF OREGON

COUNTY OF CURRY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SALLY HULL AND BRIAN HIRSCH  
PO BOX 510  
MERLIN OR 97532

confirms the right to use the waters of A SPRING, A TRIBUTARY OF PACIFIC OCEAN for DOMESTIC USE  
EXPANDED FOR FOUR HOUSEHOLDS.

This right was perfected under Permit 52780. The date of priority is JULY 27, 1994. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.020 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

Period of use is year round.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
38 S	14 W	WM	7	NE SW	3		738 FEET SOUTH & 286 FEET WEST FROM C1/4 CORNER, SECTION 7

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

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC
38 S	14 W	WM	7	NE SW	3	

Measurement, recording and reporting conditions:

- A. The Director may require the water user to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the water user to install a meter or other measuring device, the water user shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the water user to submit alternative measuring procedures for review and approval.

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

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

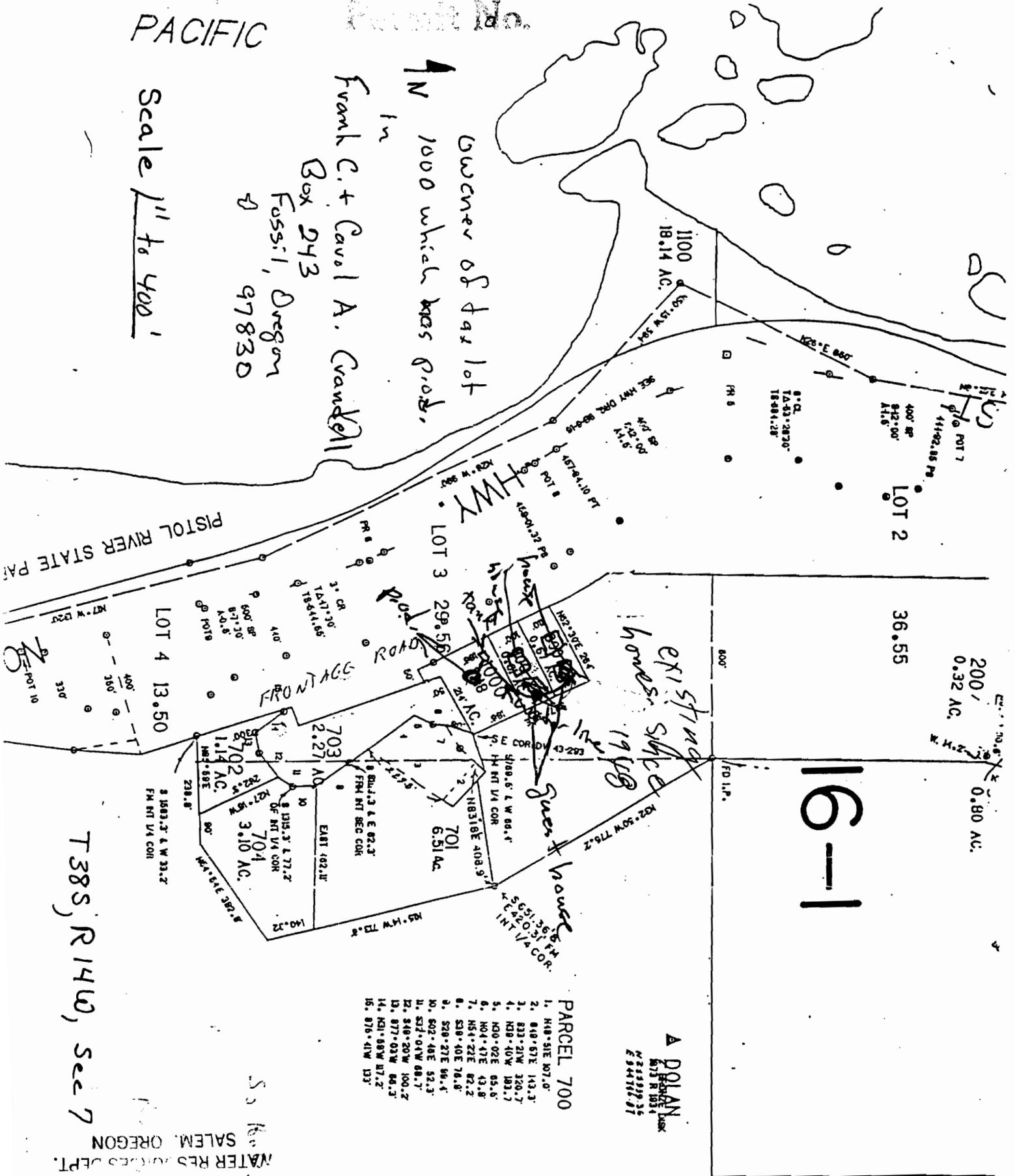
Application No. 74320  
 Permit No.

PACIFIC

Scale 1" to 400'

Frank C. + Carol A. Grandell  
 Box 243  
 Fossil, Oregon  
 97830

Owner of tax lot  
 1000 which has prob.



- PARCEL 700
1. N48°51'07.0"
  2. 848°57'E 143.3'
  3. 833°21'W 328.7'
  4. N38°40'W 183.7'
  5. N30°02'E 85.8'
  6. N04°47'E 43.8'
  7. N54°22'E 82.2'
  8. S38°40'E 76.8'
  9. S28°27'E 88.4'
  10. S02°46'E 52.3'
  11. S73°04'W 68.7'
  12. S48°20'W 100.2'
  13. 87°03'W 88.3'
  14. N21°58'W 87.2'
  15. 876°41'W 133'

▲ POLAN  
 ENGINEERS  
 613 N 10th  
 T385, R14W, S27  
 E344782.97

T385, R14W, S27

WATER RESOURCES DEPT.  
 SALEM, OREGON

JUL 27 1994

RECEIVED

Section

STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRIAN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR FOUR HOUSEHOLDS

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.; 700 FEET SOUTH AND 250 FEET WEST FROM THE C 1/4 OF SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW /14  
SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

Application S-74320 Water Resources Department

PERMIT 52780

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The use of water allowed herein may be made only at times when water from the Unnamed Spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

**STANDARD CONDITIONS**

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996

  
Martha O. Pagel, Director  
Water Resources Department

Application S-74320 Water Resources Department  
Basin 17 Volume 7, Basin 15 Misc.

PERMIT 52780  
District 19

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NOV 26 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

BRYAN FLAVIN LAND SURVEYING  
BRYAN M. FLAVIN - RLS/CWRE  
32053 SQUAW VALLEY ROAD  
GOLD BEACH, OREGON 97444  
541-247-6485

OREGON DEPARTMENT OF WATER RESOURCES  
COMMERCE BUILDING  
158 12TH STREET NE  
SALEM, OREGON 97310-0210

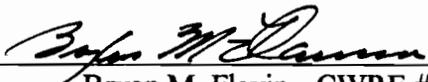
SUBJECT: FINAL CERTIFICATE  
FINAL PROOF SURVEY  
WILLIAM P. HULL AND BRIAN HIRSCH  
P. O. BOX 510  
MERLIN, OREGON 97532

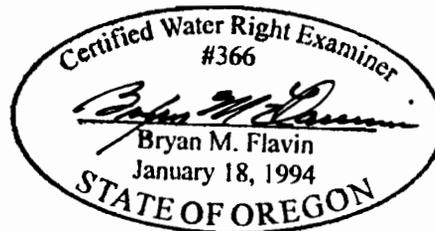
RE: APPLICATION #S-74320  
PERMIT #52780

The above referenced system was examined by me on November 3, 1997. The system consists of the following: diversion point #1 is a concrete dam constructed within the confines of the spring water source; the dam measures 3 feet in length and has an average depth of 4 feet; there is no cover or top to the structure; diversion point #2 is an onsite constructed concrete box 4 feet in depth and measuring 3 feet by 3 feet with a top, also within the confines of the spring; there is a 1 inch plastic pipe conveying water from diversion point #2 to diversion point #1; there is a 1 inch diameter pipe from diversion point #1 to a 1500 gallon round plastic storage tank; a 1/2 HP, 230 volt "Red Jacket" submersible pump is installed within the tank; a 1 inch plastic pipe leads from the tank to a standard pressure tank; a 3/4" plastic pipe leads from the tank to the dwellings. A static pressure reading taken at the pressure tank read 40 PSI at the time of the test.

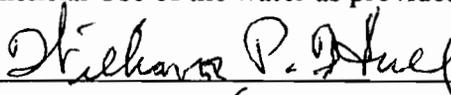
The point of diversion shown on the final proof map was physically located by field survey to accurately represent its position.

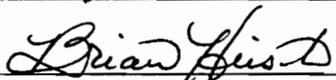
The facts contained in this report and the location of the point of diversion as shown on the final proof map, are correct as of the date of the final inspection and the date of this report.

  
Bryan M. Flavin - CWRE #366



We, William P. Hull and Brian Hirsch, agree to the findings of the Certified Water Rights Examiner and hereby submit this site report to the Water Resources Department as to my claim of Beneficial Use of the water as provided under the terms and conditions of my permit #52780.

  
WILLIAM P. HULL

  
BRIAN HIRSCH



# Oregon

John A. Kitzhaber, M.D., Governor

**RECEIVED**

FEB 01 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

**Department of Fish and Wildlife**

Gold Beach District Office

29907 Airport Way

PO Box 642

Gold Beach, OR 97444

(541) 247-7605

FAX (541) 247-2321



January 29, 1999

Dwight French  
Water Rights Division  
Water Resources Department  
158 12<sup>th</sup> St. NE  
Salem, OR 97310

RE: Sally Hall, Application # S - 74320  
Located T38S R14W Sec 7 TL 800

Dear Dwight:

I reviewed the above referenced application on January 28, 1999. The proposed POD is located on a small unnamed tributary of the Pacific Ocean. No fish are present in the unnamed tributary. Because fish are not present at the proposed POD the Oregon Department of Fish and Wildlife will not require fish screening.

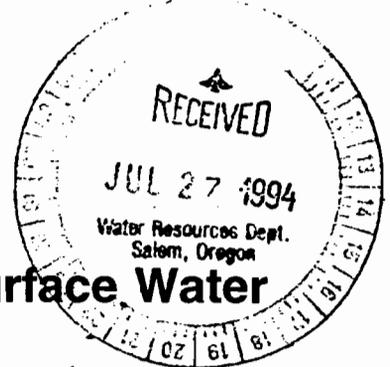
Please call if you have any questions.

Sincerely,

Todd Confer  
Assistant District Biologist  
South Coast District

c: Sally Hall  
P. O. Box 510  
Merlin, OR 97532  
541-474-2222

Application No. 74320



State of Oregon  
WATER RESOURCES DEPARTMENT

**Application for a Permit to Appropriate Surface Water**

Applicant(s) William E. Hall - Brian Hirsch  
(Please print or type - use dark ink)

Mailing Address: P.O. Box 510 Merlin, Oregon 97532 474-2222

Brian Hirsch <sup>City</sup> Orange Calif. <sup>State</sup> 92613 <sup>Zip</sup>                      <sup>Daytime Phone No.</sup>

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. SOURCE OF WATER for the proposed use: Spring,  
a tributary of none

2. TOTAL AMOUNT OF WATER to be applied to beneficial use: .03 cubic feet per second, OR 15 gallons per minute. If water is to be used from more than one source, give the quantity of water from each:

3. INTENDED USE(S) OF WATER: domestic + 1/2 acre irrigation per domestic

If for more than one use, give the quantity of water from each source for each use;

If for DOMESTIC use, state the number of households to be supplied; 2 + 2 guest houses = 4

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.)

If for MINING use, state the nature (gold, silver, etc.) of the mines to be served;

If for IRRIGATION, or other land area use, state the TOTAL number of acres to be developed under each use;

- Irrigation \_\_\_\_\_
- Other (describe) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

REMARKS: This system has been in use for about 60 years. A total oversight by the land and water users did not know they needed a water right. The spring rises and does not leave the property. It has no defined channel or banks.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

William E. Hull  
Signature of Applicant

7-18-94  
Date

Brian Firsch  
Signature of Co-Applicant, if any

7-18-94  
Date

4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

Gravity from spring to 1200 gallon holding tank.  
2x2' concrete box - pipe line from spring to  
storage tank app. 100' 1" pipe

tank has a 1/2 horse pump for pressure to dwellings.

**RECEIVED**

JUL 27 1994

WATER RESOURCES DIVISION  
SALEM, OREGON

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin in use

Proposed date construction work will be completed in use

Proposed date water use will be completed in use

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? no. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

**RECEIVED**

**JUL 27 1994**

WATER RESOURCES DIV.  
SALEM, OREGON

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

\_\_\_\_\_, 19\_\_\_\_.

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

\_\_\_\_\_  
*Water Resources Director*

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

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 27th day of July, 1994, at 8:00 o'clock, A M.

APPLICATION NO: 74320

PERMIT NO: \_\_\_\_\_

**RECEIVED**

JUN 24 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

700 FT S  
250 FT W

FROM CENTER  $\frac{1}{4}$   
LOCATED IN NE/SW  $\frac{1}{4}$   
OF SECTION 7

Goes w/ map

500  
10.00 AC.

1600  
157.20 AC.

678.8

697.4

16-1

**RECEIVED**

JUL 27 1994

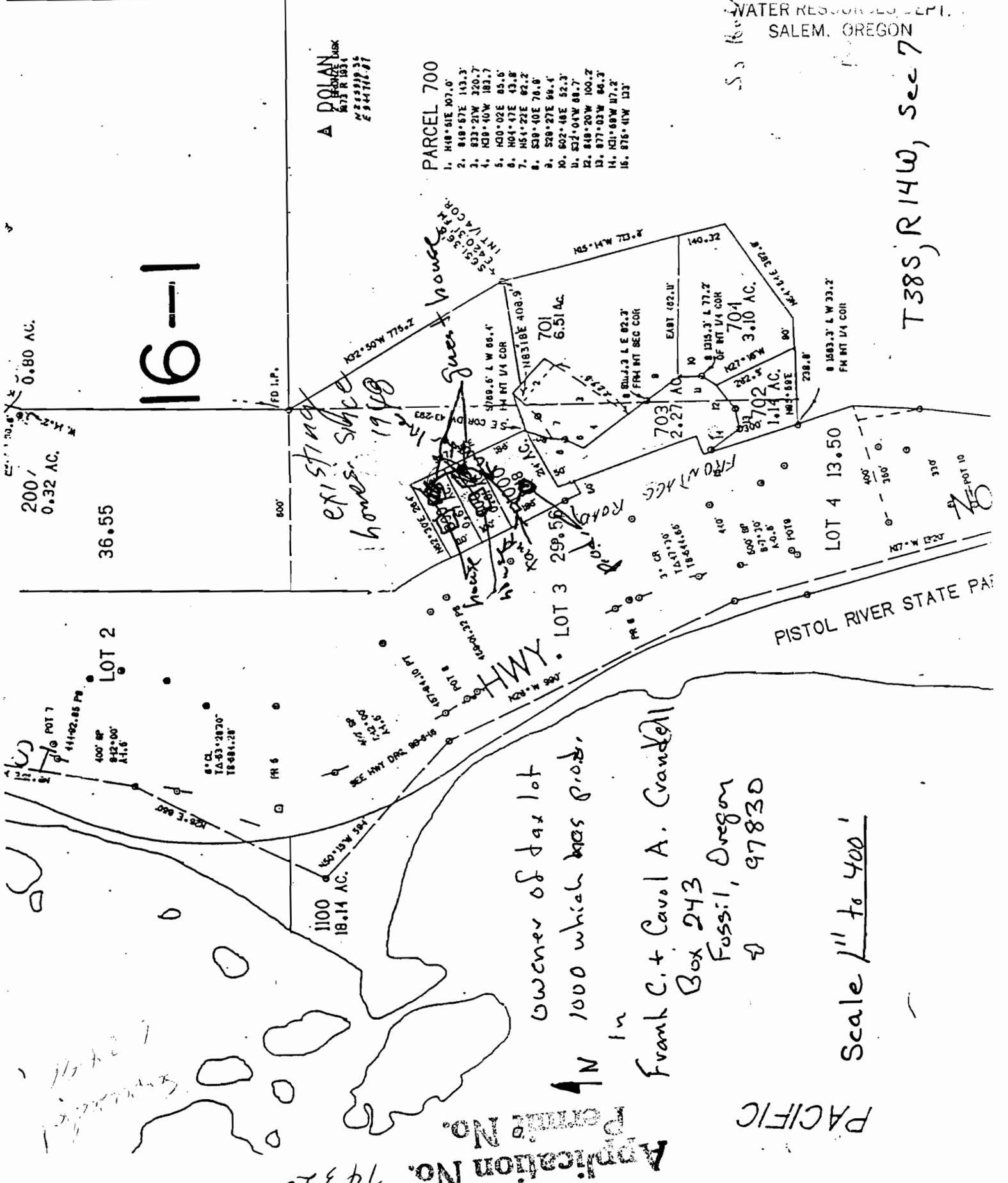
WATER RESOURCES DEPT.  
SALEM, OREGON

So. River Section 7

T38S, R14W, Sec 7

**A DOLAN**  
PLANNING  
673 R 193  
231 5117 31  
231 4116 21

- PARCEL 700**
1. N48°51'E 107.0'
  2. S48°57'E 143.3'
  3. S33°21'W 320.7'
  4. N38°40'W 183.7'
  5. N30°02'E 85.6'
  6. N04°47'E 43.8'
  7. N54°22'E 82.2'
  8. S38°40'E 76.6'
  9. S28°27'E 86.4'
  10. S02°46'E 52.3'
  11. S37°04'W 88.7'
  12. S48°20'W 100.2'
  13. S77°03'W 64.3'
  14. N31°58'W 17.2'
  15. S75°41'W 133'



Application No. 74320  
Permit No.

owner of tax lot  
1000 which was prob.

in  
Frank C. + Carol A. Crandall  
Box 243  
Fossil, Oregon  
97830

Scale 1" to 400'

PACIFIC



STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRIAN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR FOUR HOUSEHOLDS

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.; 700 FEET SOUTH AND 250 FEET WEST FROM THE C 1/4 OF SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW /14  
SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The use of water allowed herein may be made only at times when water from the Unnamed Spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

#### STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996



Martha O. Pagel, Director  
Water Resources Department

**RECEIVED**

FEB 25 1999

**RONALD S. YOCKIM**

*Attorney at Law*

WATER RESOURCES DEPT.  
SALEM, OREGON

548 S.E. Jackson  
Suite #7  
P.O. Box 2456  
Roseburg, Oregon 97470

(541) 957-5900  
FAX (541) 957-5923

February 24, 1999

Martha Pagel  
Water Resources Department  
158 12th Street, NE  
Salem, OR 97310

Re: Water Right Permit #52780, Application #S-74320

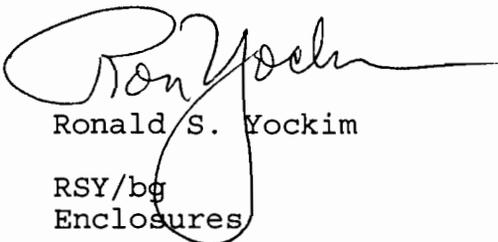
Dear Ms. Pagel:

I am writing on behalf of my clients Mr. and Mrs. Kozak who have requested that I review the water rights of Brian Hirsch and William E. Hull (S-74320) due to defects in the permit. We hereby request that this permit be canceled pursuant to ORS 537.139(1) in that when the permit was applied for in 1994 the existing law required that the landowner provide documentation of written authorization of an easement permitting access to land crossed by the proposed ditch, canal, or other work (ORS 537.140(1)(a)(e)). In this case, the applicant did not provide such evidence, nor is the system that the applicant is creating covered by any existing easement authority. Pursuant to ORS 537.139(1), we hereby request that this permit be canceled.

We are enclosing for your review and consideration a map depicting the current location of the facilities, existing easements and operations.

If you have any questions on this matter, please don't hesitate to contact me.

Sincerely,



Ronald S. Yockim

RSY/bg  
Enclosures

cc: Mr. and Mrs. Jim Kozak  
Kip Lombard  
John Drolet

**RECEIVED**

JUL 10 1996

10 July 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Sir -

I have a comment regarding file # 574320 in the name of Mr. William Hull.

Since the spring is not public water, and this is agreed on by both the applicant and myself (the land owner), I have the following concerns:

1. I use the water and wish to make sure that the applicant realizes this.
2. For ease of mind, I wish the permit to be conditioned to the extent that I retain access to the water currently used and for a future dwelling.
3. I also wish the applicant to be subject to any of my water use now.

*Frank C. Crandell*  
 Frank C. Crandell  
 land owner

P.O. Box 307  
 Union, OR 97883  
 wk: 541-567-8658

This is  
 not a  
 protest.  
 A.S.  
 a 7/10/96



## STATE OF OREGON

## INTEROFFICE MEMO

**RECEIVED**

TO: Alan J. Cook  
SW Regional Manager

FROM: John P. Drolet *JPD*  
Watermaster, District 19

SUBJECT: Hirsch Complaint (Hirsch/Hull Spring)  
Pistol River Area, Curry County

DATE: 02-22-99

FEB 26 1999

File # S-74320  
Prmt # 52780WATER RESOURCES DEPT  
SALEM, OREGON

This office has received a complaint from Brian Hirsch expressing concern regarding the interruption of his home's water supply, a spring located on an adjoining property owned by Jim Kozak. The above referenced permit is for domestic use by Hirsch and Hull with the source identified as a spring.

**I. PARTICIPANTS**

Brian Hirsch, complainant, permittee (represented by Kip Lombard)  
Sally Hull, permittee  
Jim Kozak, landowner of permit source (represented by Ron Yokum)

**II. OVERVIEW**

The source of water for the Hirsch and Hull properties is located on adjacent property owned by Jim Kozak (see attached 02-12-99 dated Riley Smith [a CWRE] map). Mr. Kozak contests both the validity of the Hirsch/Hull permit and the adequacy of any existing easement that would allow access to the source. Mr. Kozak believes that the Hirsch/Hull permit is no longer valid because the source applied for in the permit has not been used or developed by the permittees. Mr. Kozak has removed whatever electrical lines, pumps, holding tanks, pressure tanks, and pipelines from his property that had been used to convey water to the Hirsch and Hull properties.

**III. SOURCE**

One point of contention is the authorized source--the spring location.

The application map is inadequate for water use regulation. The permittees' final proof map, prepared by CWRE, Bryan Flavin, identifies 2 springs and does not indicate which spring is the authorized source (emphasis, singular).

Perhaps the most useful map to accompany this memo is the 02-12-99 Riley Smith map prepared for Mr. Kozak with my handwritten annotations. It compliments the Flavin map and additionally locates other details pertinent to this discussion. Using the Smith map as a reference, the sources might be

described as:

A. 3' Concrete Ring with Water at Ground Level It appears that water from this development may have served the Hirsch/Hull homes at some time in the past. There remains an old, rusted, 1" diameter metal pipe leading from the development to the south line of the Hirsch property. I do not believe that this was the source applied for in the Hirsch/Hull permit.

B. Concrete and Brick Lined Spring This spring development has deteriorated over the years and is no longer functional as a POD in that the brick bottom has failed, causing the development to no longer retain water.

C. Dugout Spring Area This development appears to be about the same age as the "concrete and brick lined spring", but it does show signs of recent use and maintenance. It could have been used as a source for the Hirsch/Hull permit.

D. Location of Spring as Identified on Application Map Smith has transposed the distances shown on the Hirsch/Hull application map (700'S, 250'W) onto a previously prepared map as a point of reference. This applied for location is approximately 40' north of the upper spring (Spring C, Dugout Spring Area, Riley Smith map) on the Flavin map.

#### IV. EASEMENTS

The easement claimed by the permittees (copy attached) is dated 1950 and may logically be associated with whatever spring in use at that time. Wording includes, "said easement to last so long as the spring on the property...flows as it has in the past" and as a point of easement beginning, "from the pipeline lying between two (2) tanks now in use ... to the South line of the property".

#### V. CONCLUSIONS

##### **A. Source**

The applicants appear to have been imprecise in locating the source on their application map. The 02-12-99 Riley Smith map identifies the location specified on the application map; but that exact location appears never to have been used as a POD.

The applicants, Hirsch and Hull, maintain that the POD that they applied for was one that had traditionally been in use and

that that use preceded the permit application date. That source could have been developments A, B, or C described above. Spring C, the dugout spring area, is the likely source for the permit.

**B. Easements**

1. It is not clear that the spring in use in 1950 and referenced in that easement is the same spring applied for by the applicants 44 years later in 1994, or,
2. that the easement even extends to the then existing source, and not just to the storage tanks more specifically referred to in the easement language.

**C. Validity of Permit**

The validity of the permit has been questioned by Mr. Kozak based on appropriation from a source different from that applied for. The Department has traditionally allowed some leeway in reconciling differences between an applicant drawn application map and the final proof map prepared by a CWRE. Conversations with both applicants indicates that spring C was applied for, was in use at the time of the application, and has been in continuous use since then up until the time that the pipeline and other appurtenances were removed by Mr. Kozak.

Mr. Kozak, however is quite adamant in contending that water use from spring C has only taken place within the last year to year and a half.

**D. Penalties**

Should the permeates conclusively demonstrate both validity of the permit and legal easement to the permitted source, Mr. Kozak would be in violation of **CRS 540.740** by not allowing access to and use of water from the spring.

**VI. RECOMMENDATIONS**

A. Require the applicants attest by affidavit to the permit source.

B. Require that the applicants demonstrate that a valid easement exists to access the permitted source.

At your earliest convenience, please let me know how you would like me to proceed.

CF: Dwight French (for files), Hirsch, Hull, Kozak

**LIMITED SURVEY  
OF SOME VISIBLE SURFACE FEATURES  
FOR: LINDA & JIM KOZAK**

**RECEIVED**

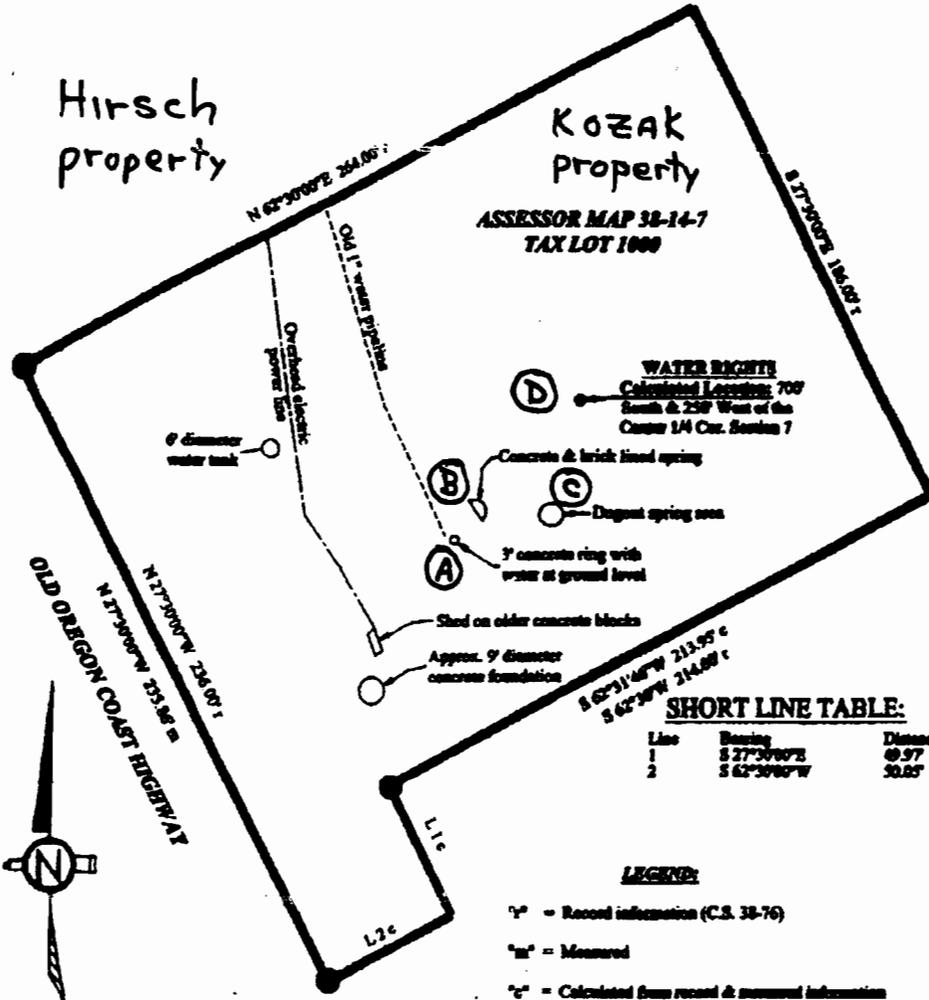
FEB 26 1999

WATER RESOURCES DEPT  
SALEM, OREGON

THE PURPOSE OF THIS LIMITED SURVEY WAS TO LOCATE THE FEATURES SHOWN. IRON RODS, APPARENTLY SET BY JOHN THOMP PER HIS SURVEY NO. 38-76 DATED APRIL, 1979, WERE FOUND AND HELD FOR THIS WORK. A PROPERTY SURVEY WAS NOT PERFORMED. REILY SMITH DID NOT MAKE A SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, WATER RIGHTS, OR ANY OTHER FACT THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE. ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON OR ADJACENT TO THE SITE WERE NOT LOCATED. ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS LIMITED SURVEY. A TOPCON GTS 3-B TOTAL STATION WITH DATA COLLECTOR WAS USED FOR THE FIELD WORK.

**REVISED FEB. 12, 1999:**

TO SHOW WATER RIGHTS CALL FROM THE INTERIOR 1/4 CORNER. THIS LOCATION IS BASED ON HOWARD NEWHOUSE'S C.S. 38-54 (38-147) DATED SEPT. 30, 1976, C.S. 38-48 AND C.S. 38-76. I BELIEVE IT IS MOST LIKELY THAT THE NEWHOUSE MAP WAS USED FOR CONTROL SINCE THIS INFORMATION APPEARS ON THE COUNTY ASSESSOR MAP.



Scale: 1" = 50'  
NOT TO SCALE

**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*R. H. Smith*

**OREGON**  
JAN. 21, 1992  
REILY H. SMITH  
2542

EXPIRES: JUNE 30, 2000

**Reily Smith**

**Land Surveying**  
P. O. Box 7276 Brookings, OR. 97415  
Ph: (541) 469-2826 Fax: (541) 469-7507

Job # 99-10A	Clients: <b>Linda &amp; Jim Kozak</b> 25477 Cape View Loop Gold Beach, OR. 97444
Date: Feb. 12, 1999	
Drawn: R. H. Smith	
File: Kozak2.dwg	

RECEIVED

AUG - 7 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

S-74320

Dear Jerry,

I talked with you on Aug. 2, 1996 about sending you a copy of the deed giving me water line, tank, etc. across the property where the spring is at.

Here is a copy of the Deed of Trust saying about the water easements etc. It states where the original deed is recorded etc.

If this is not enough let me know and I will get a copy of the original deed of 1950.

Thanks very much.

Sincerely

Bill Sharp

P.S. You have a copy of the original deed but I know it wasn't very clear.

**CERTIFIED MAIL**  
**Return Receipt Requested**

WATER  
RESOURCES  
DEPARTMENT

July 26, 1996

WILLIAM P HULL  
PO BOX 510  
MERLIN OREGON 97532

RE: Application File # S-74320

Dear Mr Hull,

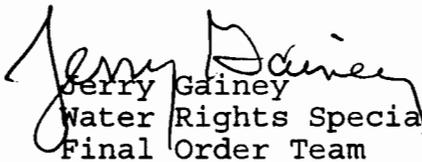
The Department is currently reviewing your application for a permit. To complete your application the following information is requested:

- ▶ Your application indicates you may not own all lands crossed by your proposed water works. Please complete and return the enclosed OWNERSHIP/EASEMENT FORM.

Please submit these items by **AUGUST 26, 1996**. If we do not receive the items requested above by this date, we will reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 458.

Sincerely,

  
Jerry Gainey  
Water Rights Specialist  
Final Order Team

Enclosures



Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

Application # S-74320

APR 22 1936

RECEIVED  
WATER BOARD UNDER DEPT.  
SALEM, OREGON

4-16-96

Dear Sirs:

This spring does not run into any other water source. It flows directly into the ocean if it ever gets there. Only in big storms does it get to the sand.

I understand they call the area the Meyer Creek drainage, but we are at least a 1/2 mile from Meyers Creek and about 1 mile north of Pistol River. The point the spring is on can't get to either's actual drainage.

I hope this explains the location of the spring. It does not interfere with any type fish habitat.

Sincerely

William E. Dues

PFO CHECKLIST

Application #: 574320

i7 Basin: S. Coast WAB: \_\_\_\_\_  
Township 38.5 Range 14W Section 7 1/4 1/4 \_\_\_\_\_

P.N. - 2113196

- A1. Public Interest Screen Criteria No
- 1. Is the file complete by the Completeness Checklist? Yes
- \* 2. Fees or other shortcomings (items needed before a permit and/or FO can be issued) Fees
- \* 3. Check file for indicators that the process should not continue until a later date (ie - protest, letter to file indicating hold, or other) None  
Map - 1/4 1/4 Section & POD coordinates
- 4. A groundwater review has been evaluated for substantial interference with surface water (convert old gw conditions to the 7 series and add to the PFO, if necessary)
  - a. Is second groundwater review necessary? (objection) V.7 Basins
  - b. Is HB 1033 review complete? Misc.
- 5. Is the source withdrawn or limited? - State Engineer, Legislative (ORS 538), etc. No
- 6. Is the Proposed Use located in or above a Scenic Waterway? No
- 7. Is the proposed use located in a TMDL Basin? (Tualatin, Yamhill, Pudding) No
- 8. Is the use allowed or limited by the Basin Program? Allowed
- NA 9. If source is groundwater, is the well located in a groundwater limited area? (If applicable, include map with POD)
- 10. Water Availability Data has been verified (50% before July 17, 1992; 80% live flow & 50% storage after July 17, 1992) Spring - see letter (4-22-96) & application
- 11. Rate \_\_\_\_\_ Duty \_\_\_\_\_ Irrigation Season \_\_\_\_\_
- 12. Period of Allowed Use Year Round - Spring does not flow into another water body
- NA 13. Is use from a B.O.R. project and if so, is a signed contract in the file?
- NA 14. Division 33 has been addressed - if applicable (Above Bonn after July 17, 1992 & Below Bonn after April 8, 1994 or June 3, 1994)
- 15. Have conflicts been identified, verified and/or addressed? None identified by I.R.
- 16. Is the use Small (<0.1cfs, <9.2AF), Medium (>0.1 or <1.5cfs, >9.2 or <100AF) or Large (>1.5 cfs, >100 AF)? 0.02 cfs requested 0.03 cfs allowed
- 17. Check TR/IR for permit conditions not included in the Draft Permit attached to the PFO
- 18. Fill out Accuracy Checklist 354B
- 19. Spell Check
- 20. Documents used in determination are attached and highlighted (+) See I.R. info packet
- \* 21. Fill out PFO CC List (a.k.a. the Check-Off Sheet) - don't forget to check for other property owners.
  - a. Does Ken Stahr need to be on the CC list (Rate, Duty and Period of Allowed Use changes) Yes →
- 22. Final PFO report hard copy check (format, margins, etc.)
- 23. Final PFO has been saved to m:\t\pfo\done\week#\application #

Name: Laura Smedaker Date: 5-7-96 LKS

# MEMO

**To:** Steve Brown  
**From:** Sue DeHaas  
**Subject:** Special Message  
**Date:** October 13, 1998

**RECEIVED**

OCT 16 1998

WATER RESOURCES DEPT.  
SALEM, OREGON



Here is the follow up on the two proposed correction certificates. It appears that in the drafting of the maps I made an error measuring the coordinates. When you measure with the correct scale we have the correct dimensions. The mylar maps need to be corrected also from the main files. Thanks for your support! Also a recent survey of May 26, 1998 establishes the spring to be on tax lot 701. This spring is shared by the following permits: 42542, 48338, 48074, & 51705.

A G E N D A

WALKER SPRING DISPUTE  
(Pistol River area of Curry County)

6 October 1998

RECEIVED

OCT 16 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

- I. Introductions
- II. Review Agenda (additions or deletions)
- III. Groundrules
  - A. courtesy to other participants
  - B. meeting to begin and end on time (what time will mtg end?)
  - C. note taking by OWRD staff--Sue deHaas
  - D. review and discussion at end of meeting

- IV. Background
  - A. water rights--general
    - 1. water use from a spring
    - 2. priority date
    - 3. rate of water and beneficial use - 1/2 gpm.
    - 4. summary--protection afforded by a water right
    - 5. water rights (statute) vs. water use agreements contained w/in deeds (civil enforcement) well vs spr. us.
  - B. historic water use from the spring--Neil Murry Walker
  - C. existing rights for the Walker Spring
    - 1. Walker (Kozak) 1977
    - 2. Johnson 1983
    - 3. Algozer 1983

- V. Other Issues
  - A. Definitions:
    - 1. Spring
      - a. non-exempt - FLOWS OFF
      - b. exempt - NO FLOW
    - 2. Well
  - B. Interference between a well and spring
  - C. Exempt uses from a well--domestic
  - C. Transfers of place of use, process:
    - 1. application (fees, CWRE, processing time)
    - 2. no use until transfer approved by OWRD
  - D. ~~Rotation agreement~~ between water users  
(manifold system that apportions available water equally among all water users regardless of priority date)
  - E. POD inconsistencies on water right certificates--deHaas
  - F. Sheriff's Office involvement--Lt. Mike Andall
  - G. Easements

ENFORCEMENT OF STATUTES

ENFORCEMENT → SPD  
MADE AWARE OF DUTIES

NEW REGULATION

VI. Review/Discussion

VII. Adjourn

RECOMMEND  
CORRECTION  
CERT ON  
PERMITS

WlkrSprl.D19 48338  
48074

**RECEIVED**

OCT 16 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Meeting of Tuesday, October 6, 1998  
Walker Spring dispute  
Gold Beach City Hall  
Gold Beach, Oregon

The meeting started at 1:50 PM.

Parties in attendance are as follows: John Drolet, Watermaster, Mike Andall, Curry Co. Sheriff Lieutenant, Pat Foley, Dist. Attorney, Sue DeHaas, Field surveyor-WRD, Dana Osman property owner of tax lot 703, Laura Johnson & John Rose property owners of tax lot 704, Linda & Jim Kozak property owners of tax lot 701, Harold Peck property owner of tax lot 707. Ms. Johnson & Mr. Rose also represented Mr. & Mrs. Algozer property of tax lot 702 who were not present. Mr. Osman recorded the meeting.

Matters were discussed as per Watermaster John Drolet's Agenda. The title of the meeting was "Water Rights 101".

After Mr. Drolet's Walker spring background and water right information was presented, Sue DeHaas explained the two water right certificates that needed correction certificates issued. The spring location is drafted incorrectly on permits 48074 (Johnson) and 48338 (Algozer).

Jim Kozak made some statements regarding his property where the "Walker spring" is located. He stated that he now had an attorney involved by the name of John Babin of Brookings. He's concerns involved trespass an access on his property to the spring.

Dana Osman asked questions regarding diversion requirements, transfer applications, equal rights to the spring, and / or rotation agreements for the shared spring.

Laura Johnson & John Rose presented a proposal for the equal sharing of the spring with a collection tank and storage tanks. They also stated cost should be shared and the Kozak's be compensated for costs.

Jim Kozak spoke again regarding his idea of a storage tank and spring collection system and surveyed easements to the spring. He also questioned the spring source and any interference with a well source.

Watermaster Drolet stated he may refer that matter to the regional Hydrogeologist for study.

Lt. Mike Andall summarized the situation and emphasized that "working together as a neighborhood group" was essential.

All parties agreed they needed to work out a plan for the shared spring and set up another meeting. The meeting was set for October 27, 1998.

Adjourned @ 3:16 PM.

X-Sender: jamesdbs@mailhub.wrd.state.or.us  
X-Mailer: QUALCOMM Windows Eudora Light Version 3.0.5 (32)  
Date: Mon, 12 Oct 1998 15:35:45 -0700  
To: Stephen.C.BROWN@wrd.state.or.us  
From: "Suzie James-DeHaas@Watermaster Distric #13" <Sue.B.JAMES-DEHAAS@powder.wrd.state.or.us>  
Subject: correction certs

File 66959 & File 66052 need a correction certificate for the spring coordinates. The maps appear to be drafted correctly when you measure with the correct scale! How we wrote the dimensions-I do not know. The mylars are in Salem. They just need the coordinates written rightly! The report and additional information is following this by mail.Thanks Steve.  
Attachment Converted: "M:\EUDORA\ATACHMNT\48074PC.wpd"

Attachment Converted: "M:\EUDORA\ATACHMNT\48338PC.wpd"

317 K-8 L-~~h~~  
541-482 8491  
Status S-74320  
52728 - HVSA  
Hirsch

321 Pin  
Dorothy Searnan  
1503-  
638 2725  
9/3/96  
Re WR's  
file 7304



RECEIVED

FEB 10 1999

WATER RESOURCES DEPT.  
SALEM, OREGON

ASSIGNMENT

I, Sally G. Hull, of P.O. Box 510 Merlin  
do hereby assign all of my interest in and to water right Application No. S-74320, Permit No.  
52780, as filed in the office of the Oregon Department of Water Resources, to

Sally G. Hull trustee <sup>of the</sup> Hull Family Trust

WITNESS my hand this 7<sup>th</sup> day of <sup>Feb</sup> ~~January~~, 1999.

Sally G. Hull  
(Signature of Assignor)

Sally G. Hull  
(Printed Name)

A true copy of the Permit No. 52780 is attached hereto as Exhibit "A" and by this reference incorporated herein.

Steve, the Lawyer says we should  
have the name Sally G. Hull of the  
Hull Family Trust on the permit  
so here it is

---

The completed assignment must be submitted to the Water Resources Department, Commerce Building, 158 12<sup>th</sup> Street NE, Salem, OR 97310-0210, together with a recording fee of \$25 for the first page and \$5 for each additional page.

Steve Brown said this was already  
done Feb

Sally Hall  
P.O. Box 510  
Merida, Ore. 97532

File No.  
S-74370

Commerce Building 1st St. & 1st Ave.  
158 12th St. N.E.  
Widener, Ore. 97310-0210

97310+0700





# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

January 27, 1999

SALLY HULL  
PO BOX 510  
MERLIN OR 97532

REFERENCE: File 74320 (Partial assignment)

The assignment of William Hull's interest in Permit 52780 to you has been recorded in the records of the Water Resources Department. Our records now reflect ownership in the names of Bryan Hirsch and Sally Hull.

Enclosed is our receipt number 27303 covering the recording fee of \$30 you submitted.

Sincerely,

DALLAS S. MILLER  
Water Rights Specialist

DSM;jh

Enclosure

cc: John Drolet, Watermaster  
Data Center, OWRD  
Bryan Flavin, CWRE

RECEIVED

JUN - 7 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

June 5, 1996

Dear Steven,

I received the papers on  
Water Right Application # S-74320  
and you needed some additional  
information required.

I hope this is what you  
need. I had the Curry County  
Surveyors office make a copy of  
the map and the other information  
you needed. They read the request  
and said this should take care of it.

Please let me know if you need  
more info. Thanks for your help.

Sincerely,

William E. Lee

X = -124.408299 LONG

Y = 42 301736 LAT

**RECEIVED**

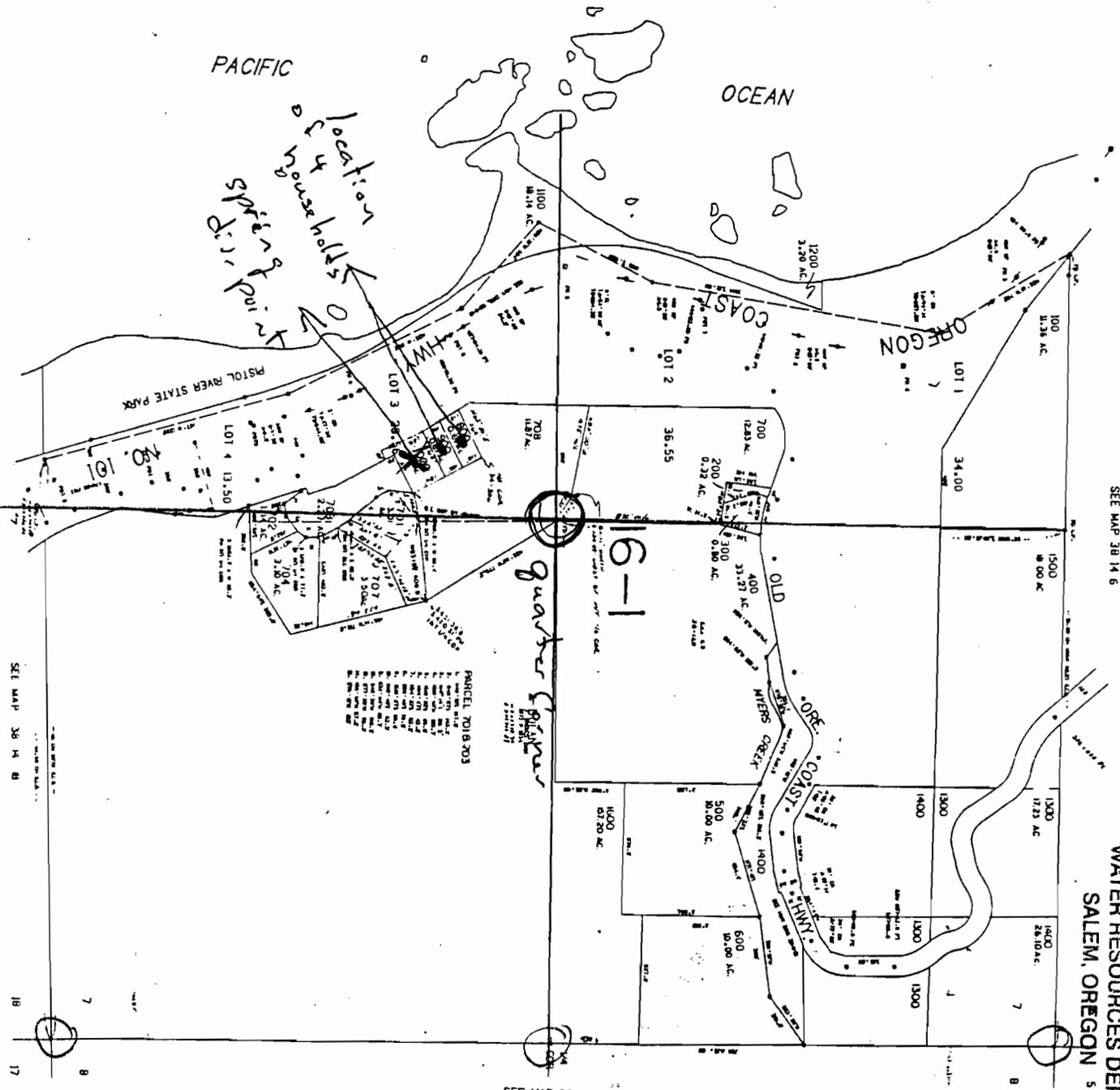
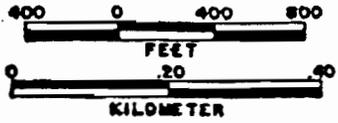
JUN - 7 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

Water Rights Application  
II S-74320

RECEIVED  
 APR 27 1993  
 DIVISION OF LAND MANAGEMENT  
 1500 NE OREGON ST. SALEM, OR 97331

SCALE 1:9600



SECTION 1, T.38S. R.14W. W.M.  
 JERRY COUNTY  
 1-400

SEE MAP 38 14 6

WATER RESOURCES DEPT.  
 SALEM, OREGON 5

RECEIVED  
 JUN - 7 1996

CANCELLED NOS  
 705  
 706

SEE MAP 38 14 8

SEE MAP 38 14 8

700-111-17

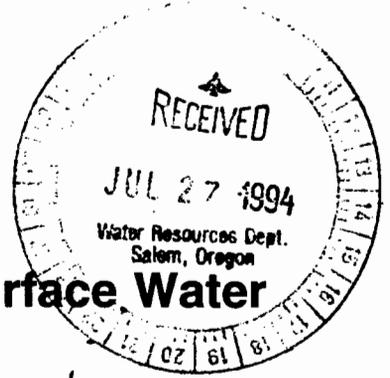
P.O. Box 510  
Medin, Ore.  
97532

74320

Water Resources Dept.  
Commerce Building  
158 12th. Street NE  
Salem, Oregon  
97310



Application No. 74320



State of Oregon  
WATER RESOURCES DEPARTMENT

**Application for a Permit to Appropriate Surface Water**

Applicant(s) William E. Hall - Brian Hirsch  
(Please print or type - use dark ink)

Mailing Address: P.O. Box 510 Merlin, Oregon 97532 474-2222

Brian Hirsch City Orange Calif. State 92613 Zip P.O. Box 5269 Daytime Phone No.

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. SOURCE OF WATER for the proposed use: Spring,  
a tributary of none

2. TOTAL AMOUNT OF WATER to be applied to beneficial use: .03 cubic feet per second, OR 15 gallons per minute. If water is to be used from more than one source, give the quantity of water from each:

3. INTENDED USE(s) OF WATER: domestic + 1/2 acre irrigation per domestic

If for more than one use, give the quantity of water from each source for each use;

If for DOMESTIC use, state the number of households to be supplied; 2 + 2 guest houses = 4

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.)

If for MINING use, state the nature (gold, silver, etc.) of the mines to be served;

If for IRRIGATION, or other land area use, state the TOTAL number of acres to be developed under each use;

- Irrigation \_\_\_\_\_
- Other (describe) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

REMARKS: This system has been in use for about 60 years. A total oversight by the land and water users did not know they needed a water right. The spring rises and does not leave the property. It has no defined channel or banks.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

William E. Hull  
Signature of Applicant

7-18-94  
Date

Brian Hirsch  
Signature of Co-Applicant, if any

7-18-94  
Date

4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

Gravity from spring to 1200 gallon holding tank.  
2x2' concrete box & pipe line from spring to  
storage tank app. 100' 1" pipe

Tank has a 1/2 horse pump for pressure to dwellings.

**RECEIVED**

JUL 27 1994

WATER RESOURCES DIV. CLT.  
SALEM, OREGON

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin in use

Proposed date construction work will be completed in use

Proposed date water use will be completed in use

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant       CWRE       Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? no. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

**RECEIVED**

**JUL 27 1994**

WATER RESOURCES DEPT.  
SALEM, OREGON

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

\_\_\_\_\_, 19\_\_.

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

\_\_\_\_\_  
*Water Resources Director*

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

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 27th day of July, 1994, at 8:00 o'clock, A M.

APPLICATION NO: 74320

PERMIT NO: \_\_\_\_\_

**RECEIVED**

JUN 24 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

700 FTS

250 FT W

FROM CENTER  $\frac{1}{4}$

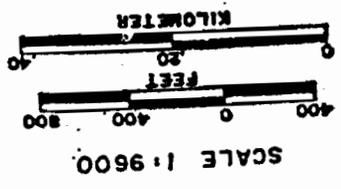
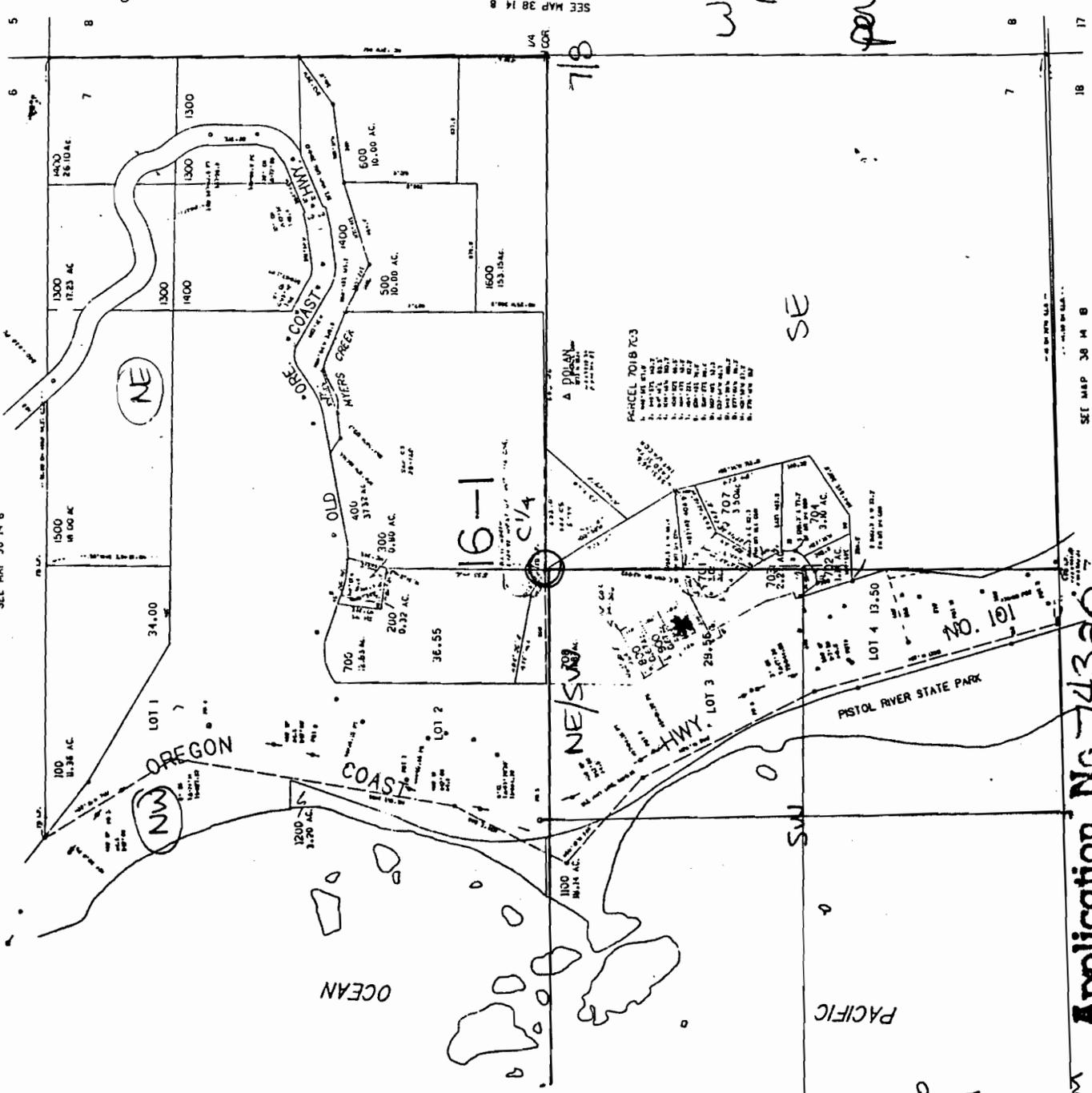
LOCATED IN NE/SW  $\frac{1}{4}$

OF SECTION 7

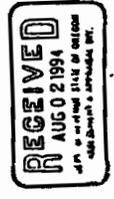
Goes w/map



Water Rights Application # S-74320 permit#



**RECEIVED**  
 JUN 24 1996  
 WATER RESOURCES DEPT.  
 SALEM, OREGON



Owner of 191 lot 1000  
 Frank Crandall  
 P.O. Box 300  
 Harper, Oregon  
 97906

**Application No. 74320**  
**Permit No. 52780**

SEE MAP 38 14 6

SEE MAP 38 14 8

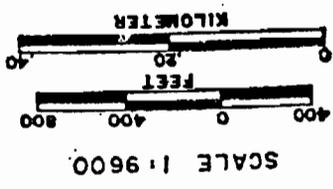
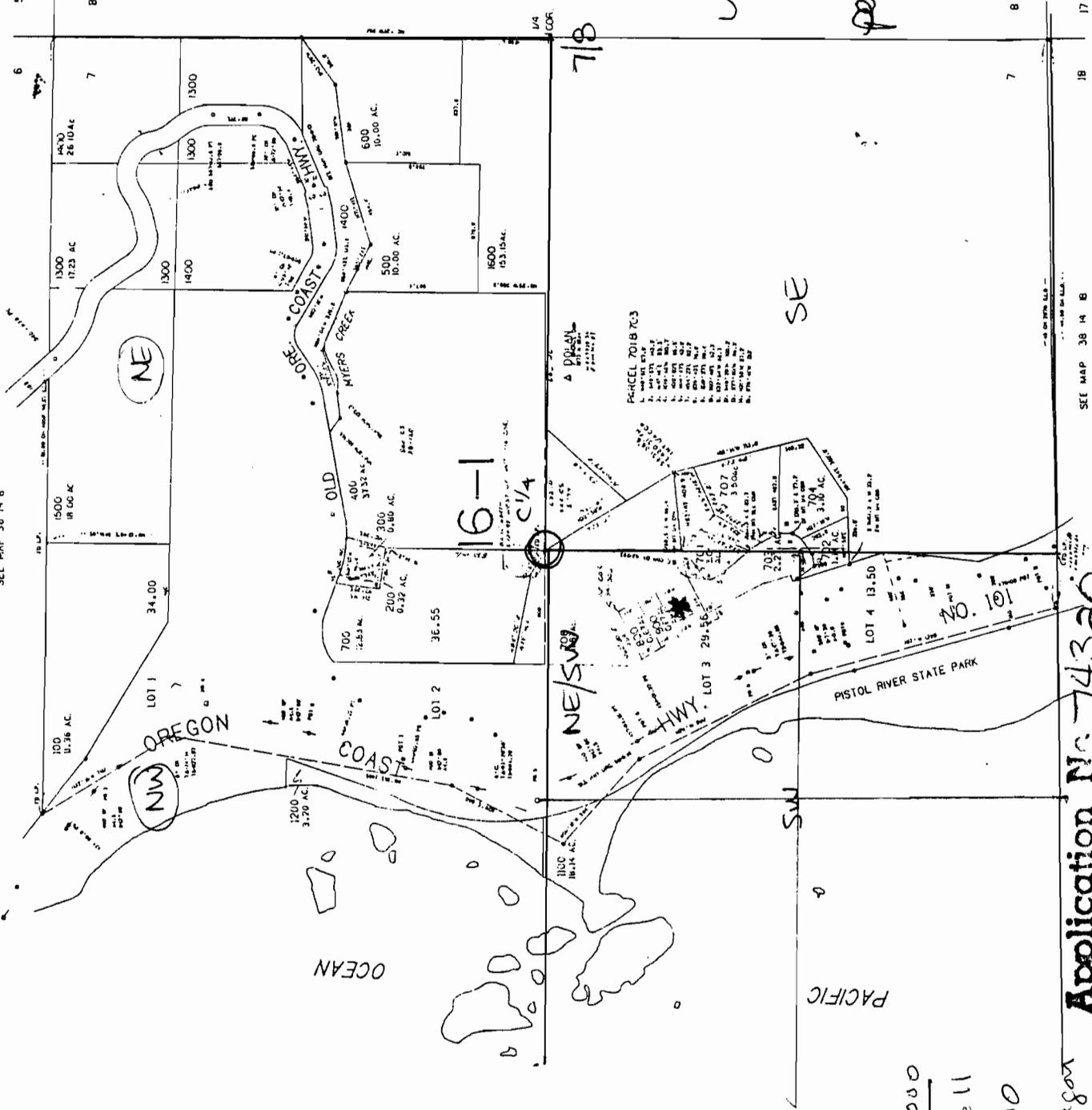
SEE MAP 38 14 8

CANCELLED NOS  
705  
706  
1601

38 ASSESSOR MAP  
38-14-7

CANCELLED NOS  
705  
706  
1601

Water Rights  
Application #  
S-74320  
permit #



**RECEIVED**  
 JUN 24 1996  
 WATER RESOURCES DEPT.  
 SALEM, OREGON

**RECEIVED**  
 AUG 02 1994  
 WATER RESOURCES DEPT.  
 SALEM, OREGON

Owner of 19 & lot 1000  
 Frank Crandell  
 P.O. Box 300  
 Harper, Oregon  
 97906

**Application No. 74320**  
**Permit No. 52780**

SEE MAP 36 14 8

SEE MAP 38 14 8

**RECEIVED**

JUN 24 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

700 FTS

250 FT W

FROM CENTER  $\frac{1}{4}$   
LOCATED IN NE/SW  $\frac{1}{4}$   
OF SECTION 7

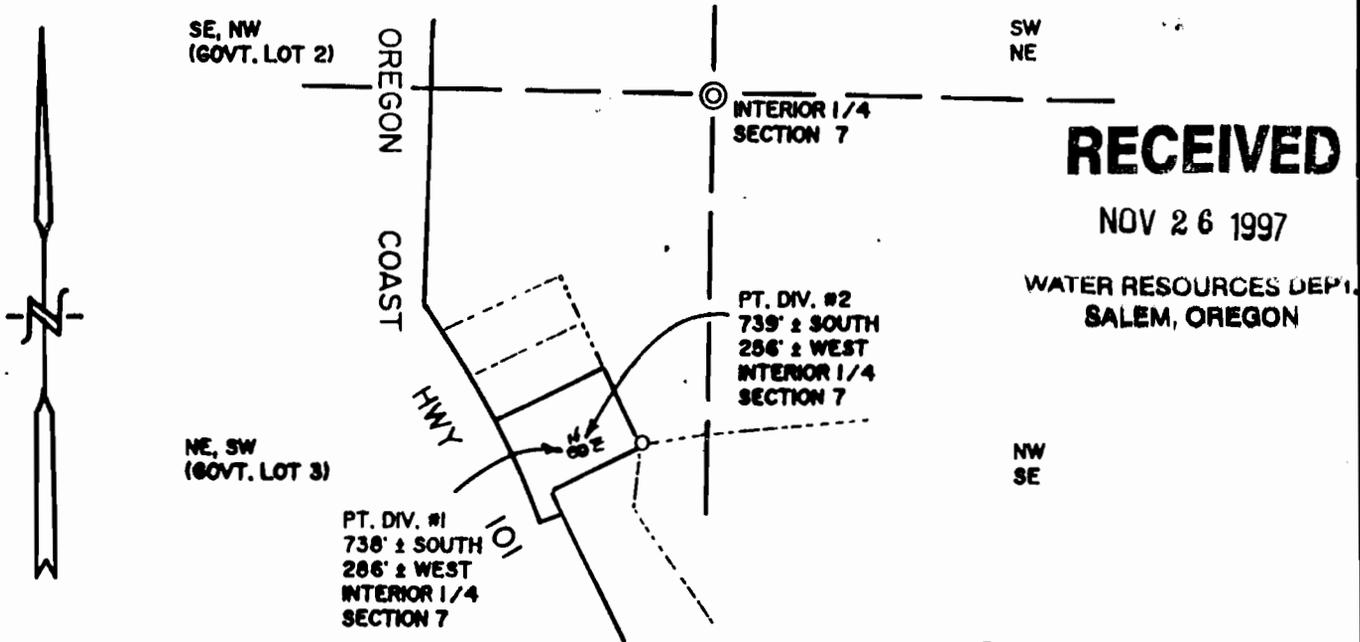
Dea: Lamm

I sure hope this is the info you needed. The  
WATER RESOURCES DEPT.  
SALEM, OREGON

JUN 24 1996

1100111

info is from Curry County Surveyors. I understood you  
to say you didn't need lot + long, of part of usage.  
If you need more info let me know and maybe you  
would have to give me a week extension of time to  
get it to you  
thanks  
William E. Oyer  
Phone 541-474-2222  
~~2222~~



**RECEIVED**

NOV 26 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

THE PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE PROPOSED WATER RIGHT AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY LINES.

T. 38 S., R. 14 W., W.M.,  
SECTION 7

# FINAL PROOF SURVEY

UNDER

APPLICATION # S-74320      PERMIT # 52780

IN THE NAME OF

WILLIAM P. HULL AND BRIAN HIRSCH

SURVEYED NOVEMBER 3, 1997, BY BRYAN M. FLAVIN

SCALE 1" = 400'







# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

December 3, 1997

WILLIAM P. HULL  
BRYAN HIRSCH  
PO BOX 510  
MERLIN, OR 97532

REFERENCE: File 74320

This will acknowledge that your claim of beneficial use and map in the name of WILLIAM P. HULL AND BRYAN HIRSCH were received on NOVEMBER 26, 1997. These will be reviewed in the future to insure they are complete and correct.

Please contact me if you have any questions.

Sincerely,

DON KNAUER  
Program Representative

DEK:tcb

cc: BRYAN M. FLAVIN, CWRE #366

**RECEIVED**

NOV 26 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Oregon Department of Water Resources

Re: Application # S-74320  
Permit # 52780

Dear sir or madam,

Please process this paperwork with the  
above referenced files.

Thank you,

Brian Hunt



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

September 15, 1997

WILLIAM HULL  
BRYAN HIRSCH  
PO BOX 510  
MERLIN OR 97532

REFERENCE: File 74320

This letter is in regard to your water use Permit 52780. As we pointed out to you in our letter of December 17, 1996, your claim of beneficial use must be received in this office by **December 9, 1997.**

Oregon Administrative Rule 690-14-190 states: The claim of beneficial use shall be submitted to the Department within one year after the use was reported..as being complete...Failure to comply with this section shall cause the Director to initiate permit cancellation proceedings as provided by ORS 537.260.

The claim consists of a site report and map of the developed use prepared by a Certified Water Rights Examiner, which accom[plishes] the requirements of a certificate of water right.

You are hereby notified that unl[ess] permit will be canceled without

If you have any questions, pleas[e] contact me.

Sincerely,

DALLAS MILLER  
Water Rights Specialist

DM:jh

cc: John Drolet, Watermaster

CERTIFIED - RETURN RECEIPT REQUESTED

Is your RETURN ADDRESS completed on the reverse side?	<b>SENDER:</b>		I also wish to receive the following services (for an extra fee):
	<ul style="list-style-type: none"> <li><input type="checkbox"/> Complete items 1 and/or 2 for additional services.</li> <li><input type="checkbox"/> Complete items 3, 4a, and 4b.</li> <li><input type="checkbox"/> Print your name and address on the reverse of this form so that we can return this card to you.</li> <li><input type="checkbox"/> Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li><input type="checkbox"/> Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li><input type="checkbox"/> The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		
	WILLIAM HULL BRYAN HIRSCH PO BOX 510 MERLIN OR 97532		4a. Article Number P56637
			4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name) 74320 DALLAS MILLER		7. Date of Delivery 9/22/97	8. Addressee's Address (Only if requested and fee is paid)
6. Signature: (Addressee or Agent) X <i>[Signature]</i>			

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

December 17, 1996

---

WATER  
RESOURCES  
DEPARTMENT

---

WILLIAM HULL  
BRYAN HIRSCH  
PO BOX 510  
MERLIN OR 97532

REFERENCE: File 74320

We have received your notice that complete application of water has been made under Permit 52780.

In order to obtain a certificate of water right, you are required by law to hire a Certified Water Right Examiner (CWRE) to conduct the final proof survey of the completed use. This must be done within one year after the use is reported as being complete or within one year after the beneficial use date allowed in the permit, whichever occurs first. Accordingly, the map and claim of beneficial use must be received in this office on or before **December 9, 1997**. A list of Certified Examiners is enclosed for your information.

The Department requires that the CWRE has a copy of the permit or transfer order to compile the claim of beneficial use. All permit conditions need to be addressed in the claim and map you submit.

Upon receipt of the map and claim of beneficial use, the information will be reviewed and a brief field inspection may be conducted by a representative of this office. Following that, a proposed certificate of water right will be mailed to you for review.

In the meantime, the permit you hold is valid evidence of your right to use the water.

If you have any questions, please contact the Water Rights Section at 378-3739, or toll-free within Oregon 1-800-624-3199.

Sincerely,

DALLAS MILLER  
Water Rights Specialist

DM:jh

enclosure

cc: John Drolet, Watermaster



---

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

RECEIVED

DEC - 9 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

Dec. 4, 1996

Dear Sirs:

I didn't notice in the line print at the bottom of the forms that I was to send the beginning of construction form when starting.

I'm sending all A-B+C forms all together to you. I'm sorry I didn't read better.

I think I have done every thing required of me to satisfy my water permit.

Also I'm not sure that I have paid all that's due. If not please let me know so I can send you the check.

Again I goofed. To old to read I guess.

Sincerely

William E. Hall

William E. Hall

P.O. Box 510

Merlin, Ore. 97532

541-474-2222

Application # S-74320

Permit # 52780

11-2

Application S-743320

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # S-743320 ✓

KEN STAHR ✓

WATERMASTER # 19 ✓

REGIONAL MANAGER: AL COOK ✓

ODF&W - Curry County: CURRY COUNTY ✓

ALSO MAIL TO CO-APPLICANT: BRIAN HIRSCH, PO BOX 5269, ORANGE, CA 92613 ✓  
DEQ ✓

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;  
(CHECK ONLY IF APPLICABLE) NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES  
POWER BUILDER UPDATER; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):  
KALMIOPSIS AUDUBON SOCIETY, PO BOX 1265, PORT ORFORD, OR 97465  
FRANK C. AND CAROL A. CRANDELL, PO BOX ~~243~~ ~~FOGSTL~~ OR ~~97850~~  
307, UNION OR 97803 ✓

CASEWORKER : LKS

# FO CHECKLIST

PFO TO FO CONVERSION

FILE # 74320

REVIEW DATE: 7/19/96

WEEK # 44

INITIALS: JS

In preparing the FO, you should check the following:

1.  Y /  N *F. Crandell landowner* Were comments or protests received in response to the PFO?
2.  Verify names and addresses on the PFO CC list. ALL commentors (regardless of comment date), affected landowners, and those who paid the \$10 fee should be listed.
3.  *125* Verify payment of recording fees (circle the appropriate option)
  - (1) Issue FO w/permit if fees are paid -- Prepare refund request for excess fees, including standing fees if no protest is filed and no modifications are being made to the PFO
  - (2)  Issue FO w/o permit if fees are lacking
4. Y /  N Is the file lacking a signed oath of accuracy for the application?
5. Y /  N Has ODFW asked for self certification on screening condition?
6. Y /  N Is water use prohibited for one or more months of the normal use period?
7. Y /  N If #6 = "Y", is short season letter on file?
8.  Assign permit numbers to files with oath, fees, and no protests or other issues

*200  
125  
325*

DENIAL  FO w/o PERMIT  Route to: (circle one) *Need Statement From App. Declaring existence of WRITTEN Auth or EASEMENT*  
LARRY  CORY  FO & PERMIT  COMMENTS *USE CONTITION 6D*  
JERRY & JEREMY  DOUG  Initials \_\_\_\_\_

*MOD-*

9.  Y /  N Is further processing possible? If not state reason: *Need statement of economist*
10.  Notify applicant of additional information or fees required prior to permit issuance (SEND CERTIFIED LETTER & use standard wording from M:\T\FO\TOOLS if possible)

Modify FO as needed to:

11.  Respond to significant comments, issues, or disputes related to the proposed use of water (see notes, if any, listed above)
12.  Include or exclude permit conditions and management codes
13.  Correct PFO errors (such as POD or POU location (verify from map), Permit format)

Once FO document is completed:

14.  Save WordPerfect document in M:\T\FO\WEEK *47* & delete duplicates
15.  Print final draft of document and submit to team leader for review
16.  Y /  N Team leader review completed

7/10/46 Comments Request that Applicant's water use be subject to Crandall's current and future water use. In addition, the landowner has expressed a concern that the applicant should realize water is used by Crandall. 1 - USE Condition 6D in Standard Conf. 2 - Reservation of water for future use is allowed only for State agencies. 3 - USE Condition 6D in Standard Conf.

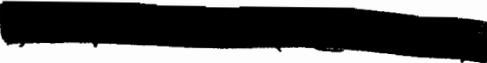
7-2-96  
Brian Hirsch  
~~Bill Hull~~

S-74320

PO Box 5269  
Orange, CA 92663-5269

co applicant w/ Bill Hull

He wants to be sent a copy  
of the final order + permit  
when complete.

 Please send  
copies to the above listed  
address for Brian Hirsch.

Laura Swadlow

6/28/96

S-74320

10:41

Bill Hull - left message for  
541-474-2222 me

2:20

Confirmed that we received  
the map and everything  
appears to be ok - next  
step is FO & permit unless  
protested or other issue  
comes up.

~~4:25~~ 6/19/96

Mr Hull

Laura Suedaker  
(notes)

S-74320

541-474-2222

Does the <sup>revised</sup> map I sent in  
meet ~~your~~ <sup>the</sup> requirements?

I will call back.

11:10 - Mr. Hull

Map does not meet the  
requirements

Needs to show coordinates  
of POD - i.e. number of  
feet South & West from  
Center  $\frac{1}{4}$  corner Section

Needs to show  $\frac{1}{4}$  ~~to~~  $\frac{1}{4}$   
Sections

\* He will send a new map.

I also asked for current  
landowner & address for  
tax lot 1000 (POD). Notice  
sent to Frank & Carol Crandall  
returned, forwarding address  
expired

\* He will get correct address  
& call me w/ this info. He will

also write the address  
on the new map.

Applicant is  
Sending another  
revised map  
& corrected  
address for  
owner of Lot  
1000

## CERTIFIED MAIL Return Receipt Requested

WATER  
RESOURCES  
DEPARTMENT

May 14, 1996

BRIAN HIRSCH  
P.O. BOX 5269  
ORANGE, CALIFORNIA 92613

RE: Application File # S-74320

Dear BRIAN HIRSCH:

On **MAY 14, 1996**, a Proposed Final Order was sent from the Department requesting additional information necessary to complete your application for water use. This item must be received:

- ▶ A revised application map showing the location of the place of use to the nearest quarter quarter sections and the coordinates, from a recognized public land survey corner, of the proposed point of diversion.

Please submit these items by **JUNE 28, 1996**. If we do not receive the items requested above by this date, we may reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

I have enclosed a copy of the section highlighted.

Should you have any question above, or if you need to request 624-3199, extension 331.

Sincerely,

*Laura K. Snedaker*  
Laura K. Snedaker  
Senior Water Rights Examiner

Enclosure

Is your RETURN ADDRESS completed on the reverse side?	<b>SENDER:</b>		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
	<ul style="list-style-type: none"> <li>Complete items 1 and/or 2 for additional services.</li> <li>Complete items 3, 4a, and 4b.</li> <li>Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		
3. Article Addressed to:		4a. Article Number	
Brian Hirsch P.O. Box 5269 Orange, CA 92613		P56287	
S-74320		4b. Service Type	
5. Received By: (Print Name)		<input type="checkbox"/> Registered <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	<input checked="" type="checkbox"/> Certified <input type="checkbox"/> Insured <input type="checkbox"/> COD
6. Signature: (Addressee or Agent)		7. Date of Delivery	
X <i>[Signature]</i>		8. Addressee's Address (Only if requested and fee is paid)	

Thank you for using Return Receipt Service.



Q

Staff-Water Rights Division

DATE: May 3, 1976

FROM: Larry W. Jebousek  
Administrator

SUBJECT: Applications and Permits

There seems to have been some confusion in the past as to the quantity of water to be allowed domestic use in the issuance of permits.

To establish some criteria the following will be used:

0.01 cfs for 1 or 2 house domestic including 1/2 acre lawn and garden

[REDACTED]

0.03 cfs for 6 to 10 house domestic including 1/2 acre lawn and garden

0.005 cfs for 1 house domestic

0.01 cfs for up to 10 house domestic

If an applicant wishes to state the quantity of water requested in gallons per minute or gallons per day, the permit will be issued accordingly.

Domestic use, generally, is considered to be in-house use but may include up to 1/2 acre of lawn and garden if it is an integral part of the domestic system and is so stated on the application. You should always explain to the applicant the difference in the wording of "domestic including ....." and "domestic and irrigation." When lawn and garden is included within the domestic, the irrigation use must stop if the in-house use stops. This is most common when a group system or a well replaces the original domestic source.

Also, stock water applications for more than the minimum quantity allowable, 0.005 cfs, should have enough information on the distribution system and the number of stock to determine the quantity needed.

Just a reminder when discussing exempted ground water uses with the public, that the 15,000 gallons per day for domestic is more than sufficient for a 20 to 30 home subdivision. However, the 1/2 acre of lawn and non-commercial garden exemption is one per well and not for each dwelling.

LWJ:cjw

Dear Dorothy Peterson,

Here's a copy of the court ruling on my water right case. You may want to call Mr. Roger Gould my attorney if you have any questions where he told me we don't even need a water permit with our easement. He showed us a case he just won over John Drolet (the water master) where John said a water permit was needed. That was in 1999 (March). He told me. It was identical to mine.

Here are copies of our trial you may find helpful.

If there are any questions call me 474-2222

Sorry I took so long getting these to you,

Sally Hull  
P.O. Box 510  
Merlin Ore 97532

LOMBARD, KNUDSEN & HOLTEY, LLP

copy

Ben "Kip" Lombard, Jr.  
Kurt H. Knudsen  
Jud Holtey

Attorneys at Law  
622 Siskiyou Blvd.  
Post Office Box 1090  
Ashland, OR 97520

Telephone: (541)482-8491  
Fax: (541)488-3239  
email: ben\_lombard@class.orednet.org

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\* Also Admitted to Practice in California

NOV 26 2001

WATER RESOURCES DEPT. January 20, 1999  
SALEM, OREGON

VIA FAX AND REGULAR MAIL

Brian Hirsch  
1403 North Lake Ave. #14  
Pasadena, CA 91104

Brian Hirsch  
is on the same water  
system as I am, we share.

RE: Hull and Hirsch Water Rights Permit

Dear Brian:

I have reviewed the easement language in your deeds. I have also spoken with Steve Brown at the Water Resources Department and have received from him other portions of your file.

You do have a permit, issued September 11, 1996. That permit provides that construction work was to have commenced within one year of the date of the permit and was to have been completed on or before October 1, 1998. Of course, since this was an existing system, work was "commenced" on time. Your Certified Water Rights Examiner (CWRE) did his final proof survey on November 3, 1997, and submitted his report to the Department November 26, 1997, well before the permit completion date.

Steve Brown told me he advised Mrs. Hull in a telephone conversation (I forgot to get the date) of three items he needed:

(1) He needed assignments of the permits to the owners in whose names the certificates were to be issued. I have drafted the form for those assignments, but have left out some of the information. Specifically, you and Mrs. Hull should put in the proper designation of your respective trusts. Typically, this is "\_\_\_\_\_, Trustee(s) of the (Name of trust) Trust, DTD \_\_\_\_\_, 199\_\_". You may complete these assignments and forward them directly to Steve Brown at the Department with your fees enclosed.

ask JDE  
what to put on it

(2) The Permit has a requirement that a fish screen and fishway be installed. This is boilerplate and was not based upon an examination of the premises by the Department. My understanding is that the spring does not flow into a defined waterway and that there are no fish to be screened out of the diversion. You need to call the local district fish biologist of the Oregon Department of Fish and Wildlife, have him or her go out and confirm there is no need for a screen or fishway, and confirm this in

HAVE  
Brian  
call Steve  
ask Steve  
call Steve Brown & see if Todd can fe  
Biologist wrote him ... done?

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JAN 27 2001

writing to Steve Brown.

WATER RESOURCES DEPT.  
SALEM, OREGON

(3) Brown needs some corrections on the Final Proof Survey map. You should have Bryan Flavin speak directly with Steve Brown on what is needed. For one thing, Flavin shows two points of diversion from the spring. The permit application was for only one point of diversion. While there are two spring boxes in the system, I understand they are connected and there is really only one point of diversion from the spring, the upper box. Brown also told me that Kozak was complaining to him that you had developed a different spring from that which you identified in your application. Is there more than one spring on this property? My understanding is that you did not develop any new springs, that this was and is the same spring that was developed 60+ years ago, and Kozak is simply blowing smoke rings. Anyway, these are things Flavin can discuss directly with Brown and satisfy for Brown.

Brown also raised a question whether all four domestic hookups had been established. Unless you can show four separate residences, he is inclined to issue a certificate for only two residences, including outbuildings (e.g. apartments over garages). I recall your saying that Mrs. Hull had not established a second residence yet. It is probably too late now to do that since the permit said construction had to have been completed by last October 1.

Once these requests have been attended to, I understand Brown will issue the certificate. He agreed with me that Kozak's complaints could only be resolved in a court of law — they are essentially easement and right-of-way issues.

The easement language in the deeds is certainly definite, although it lacks some specificity as to location. References to then existing tanks, etc. is of little help today. However, a system was obviously constructed between the parcels after the deeds and I believe a court would say that the location of the easement is where it was then constructed and used for many years after construction. You do have a fair amount of latitude under the law of easements to repair and replace. As to the location of your water storage tank, the deed says 8' north of the "present catch tank". If the old concrete pad is the site of the old catch tank, then the deed is pretty definite as to that location or relocation for the new tank. If you want to claim some other location where you had your replacement tank, you would have to rely on a prescriptive easement theory for the location of the newer facilities.

The watermaster does have the right to prohibit interference with the existing spring and spring works. ORS 540.740 provides:

"Whenever any appropriation of water has the lawful right of way for the storage, diversion, or carriage of water, no person shall place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient

2001-10-15  
4-11-02  
Flavin  
+ 25 poolies

access thereto."

A violation of this provision is punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in the county jail for up to six months! This is a very outdated statute, but it is a reminder now and then.

At this point, I need to know what you want me to do. Do you want me to write Mr. Kozak a letter and tell him to keep his hands off? Or you can do this yourself armed with my opinion and with the statute. I can follow up with John Droulet and ask him to write a letter. Let me know.

Sincerely,



Ben Lombard, Jr.

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WATER RESOURCES DEPT.  
SALEM, OREGON

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STATE OF OREGON

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NOV 2 6 2001

COUNTY OF CURRY

WATER RESOURCES DEPT. PERMIT TO APPROPRIATE THE PUBLIC WATERS  
SALEM, OREGON

THIS PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRIAN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR FOUR HOUSEHOLDS

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.; 700 FEET SOUTH AND 250 FEET WEST FROM THE C 1/4 OF SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW /14  
SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

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NOV 26 2001

PAGE 2

- B. The Director may require the permittee to maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The use of water allowed herein may be made only at times when water from the Unnamed Spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

#### STANDARD CONDITIONS

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

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

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

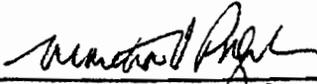
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

copy

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996

  
\_\_\_\_\_  
Martha O. Pagel, Director  
Water Resources Department

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WATER RESOURCES DEPT.  
SALEM, OREGON

copy

**ROGER GOULD, P.C.**  
ATTORNEY AT LAW  
243 W. COMMERCIAL AVE.  
P.O. BOX 29  
COOS BAY, OREGON  
97420

Roger Gould, OSB #72104

Denise Gould, Legal Asst.

Phone: (541) 269-5566  
Fax: (541) 269-0670  
E-mail: [rwgould@gtc.net](mailto:rwgould@gtc.net)

December 15, 1999

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NOV 26 2001  
WATER RESOURCES DEPT.  
SALEM, OREGON

Sally Hull  
PO Box 510  
Merlin, Ore. 97532

Re: Hirsch and Hull v. Kozak

Dear Sally,

Enclosed is a copy of Judge Mickelson's opinion. We Win!!! I'll now prepare an Order for the Judge's signature setting forth his ruling. If you have any questions, give me a call.

Very truly yours,



COPY

**FINDINGS OF FACT**

Sally Hull is the owner of Tax Lot 800. Brian Hirsch and Jay Lashlee are the trustees of a trust that is the owner of Tax Lot 900. Mr. Kozak is the contract purchaser of Tax Lot 1000. In 1950 W.A. Raymond, Sr. and Rose Raymond conveyed to Virgil and Esther Hull the parcel that is now Tax Lot 800. At the same time the Raymonds conveyed what is now Tax Lot 900 to Hugh and Nina Brown. The Raymonds retained what is now Tax Lot 1000. Prior to this time all three lots had been one piece of land owned by the Raymonds. The deeds the Raymonds gave to the Hulls and Browns contained an easement over the grantors' entire property for a water system. The actual easement is set out in the plaintiffs' complaint. They had the right to lay a water line from the Raymond's property to theirs. They had the right to place a water tank on the Raymond's property eight feet to the north of the Raymond's catch tank. They further had the right to freely access the Raymond property to repair and maintain the pipe line. The easement for water purposes was to remain in effect "so long as said spring flows as it has in the past".

The Hulls and the Browns caused new water lines to be laid and a new storage tank was installed in approximately 1952 to replace the Raymond's old tank. An additional tank to be located to the north of the Raymond's catch tank was never installed. The water system continued to operate in the same manner from 1950 until sometime in the 1960s. At this time instead of running the water through the Lodge and then to the Hull and Brown property a line was run to a pump house on the Raymond property and from there to Tax Lots 800 and 900. The Lodge which was on Tax Lot 1000 was destroyed by a fire sometime in the mid 1970s. During the fire the redwood tank installed by the Browns and Hulls was damaged but continued to function. The tank failed in approximately 1982. It was replaced by a 3500 plastic tank. This tank was placed approximately half way between the location of the old redwood tank and the south line of Tax Lot 900. That tank was placed above ground and served as the storage tank for the water system until 1999. The water was ran through the pump house before it was transported to Tax Lots 800 and 900. This plastic tank was installed by Mr. Hirsch who at that time owned Tax Lot 900. He did not ask permission of Mr. Crandell who owned Tax Lot 1000 at that time to locate it in a different location than the old redwood tank.

The houses on Tax Lots 800 and 900 were used on a fairly regular basis as vacation homes or permanent residences from 1950 until the time of the trial. The water system installed on Tax Lot 1000 was maintained by the owners of all three lots up until the Lodge burned in approximately 1975. After that time no structure was on Tax Lot 1000 and the maintenance of the system was done solely by the plaintiffs or their predecessors.

In January, 1999 the defendant purchased Tax Lot 1000. In February, 1999 defendant without any notice to the plaintiffs removed the storage tank, pump, pump shack and water lines on Tax Lot 1000 that supplied water to the plaintiffs.

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SALEM, OREGON

COPY

The Raymond easement speaks in terms of "the spring". However the parties' water system and their actions show that they all considered the location of the spring to be the hillside, not a single place where water come out the ground. Originally water was collected by three pipes from three separate areas on the ground that went into the storage tank. One pipe was ultimately discarded but at least two pipes collected water from the spring area until the defendant destroyed the system. I would specifically find that the spring referred to in the Raymond easement is the area where water was historically collected and then stored in a tank, not a specific spring which sprang from the earth.

The defendants were not around in 1950 when this system was installed. Further they were not able to present any witnesses who had knowledge of the system in the early years. The plaintiffs not only had witnesses who were intimately familiar with the system from its inception but who had also helped install and maintain the system. I found Mr. Jerry Hull to be a very credible witness even though he is the brother in law of one of the plaintiffs. Based on his testimony I find that the "catch tank" referred to in the easement is actually the old redwood tank. The redwood tank that burned in 1975 was placed in the location of the old tank. No new tank as contemplated in the easement was ever installed.

The defendant would have the court find that the easement is at an end because the spring no longer "flows as it has in the past". This is contrary to all the credible evidence presented by the plaintiffs. The spring had provided them water for domestic purposes on a year round basis since at least 1950. It was not being used as heavily as it had been in the past, but it was still providing sufficient water for full time domestic purposes until the defendant destroyed the system. That provision of the easement had not gone into effect at the time the defendant took his actions in early 1999.

**INJUNCTION**

The plaintiffs have water rights from the defendant's land. The watermaster may be called upon to determine the priorities of the plaintiffs and the quantity of water they are allowed to withdraw, but the Raymond's had the legal power to transfer the water in the spring to the plaintiffs in 1950. Fitzstephens v. Watson, 218 Or 185, 196 (1959). The easement was still in effect and of record when the defendant purchased Tax Lot 1000 in 1999. The condition of the pipes, holding tank, pump house, and electrical wiring may have given him the right to demand improvements, but it certainly did not give him the right to unilaterally remove the system. The plaintiffs have carried their burden of proof. They are entitled to an injunction to allow them to reinstall the water system as it historically had existed under the easement. That previous historical location had been agreed to by the defendant's predecessors since the pump was installed in the early 1960s. As mentioned above the defendant has only filed a general denial in this case. If plaintiffs have carried their burden of proof then the system should be reinstalled in its historical location and manner. It need not be relocated to a spot that is more convenient for the defendant. That is not raised by his pleadings.

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WATER RESOURCES DEPT.  
SALEM, OREGON

COPY

Therefore the plaintiffs are entitled to take water from the spring on the hillside of the defendant's property. They will have the right to bring in the equipment necessary to dig out the spring in an attempt to restore it to the condition that existed in December of 1998. They may run two pipes from the spring area to a holding tank no larger than 3500 gallons to be placed in the location where the plastic tank was installed by Mr. Hirsch in 1982. A new pump house can be located in the place where it existed prior to its removal. The pump can be reinstalled at that location. If the pump was damaged a new pump can be reinstalled but may not be any larger than the one it is replacing. Water lines from the pump house can traverse the defendant's property to serve Tax Lot 800 and 900. All of the above work is to be performed by licensed and bonded contractors to the applicable building and plumbing codes. The plaintiffs pursuant to their easement shall have reasonable access to Tax Lot 1000 to maintain and repair the new system. The defendant shall in no way hinder the installation of the new water system or the operation of the system once it is installed. The spring area for many years had natural vegetation that protected the water source. The defendant removed this natural vegetation along with the water system. The plaintiffs may replant natural vegetation in the area of the spring disturbed by the defendant.

It is within the equitable powers of the court to require the defendant to pay all the costs of the reinstallation of the water system and the natural vegetation. That will be the order of the court. Mr. Kozak did not come into the court with "clean hands". The photographs introduced by the defendant show a system that had been allowed to deteriorate to a certain degree. He could have demanded that it be repaired and brought up to current codes. He could have requested that the site be cleaned up and some of the old pipes removed. He could have even requested that the system be upgraded to serve all three parties. Instead he unilaterally tore out the system and denied the plaintiffs access to his land to maintain their deeded water system. Given those facts it is appropriate that he pay all the costs of reinstalling the new system, even though it will probably be a better system than the one that previously existed. If he wishes to share in the water produced by this new system he will have to negotiate that with the plaintiffs, or go through the water appropriations system.

### **PRESCRIPTIVE EASEMENT**

The plaintiffs have been awarded all they requested in their first cause of action. However I believe it is appropriate to also render a decision and judgment on their second claim for relief. This cause of action only deals with the plastic tank. That tank replaced the redwood tank that had failed in 1982. The plastic tank was sited on the property in that same year but approximately eighty feet closer to the property line with Tax Lot 900. Mr. Hirsch did not request permission of the Crandells who owned Tax Lot 1000 at that time. The plastic tank then remained in that location until 1999 when the defendant removed it.

The basic requirements for obtaining a prescriptive easement are the same as those for obtaining title by adverse possession at common law. I do not believe that ORS 105.620 would apply to this situation. A prescriptive easement is based on use rather than possession. Sutherlin School

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WATER RESOURCES DEPT.  
SALEM, OREGON

COPY

District #130 v. Hererra, 120 Or App 86, 89-90, (1993). The use here was constant and continuous for over ten years. The plastic storage tank was placed on the property in 1982 and was utilized as a water storage tank until 1999. It provided water to Tax Lots 800 and 900 whenever anyone was in residence. The fact that the homes were only used as vacation homes during this time period does not defeat a claim for a prescriptive easement. The use was open and notorious. The tank sat out in the open for over ten years. Mr. Crandell would have seen it even if he was on the property only once during the ten years prescriptive period. The tank was used exclusively by the plaintiffs during the requisite time period. Unlike adverse possession, use for prescriptive purposes may be presumed from a showing of open, continuous, and uninterrupted use for the prescriptive period. Feldman v. Knapp, 196 Or 453, 470-472, (1952). The plaintiffs have made a showing that their use of the tank was open, continuous, and uninterrupted for a period of sixteen, plus years. At that point the defendant has the burden of disproving adversity by showing that the use was permissive, licensed, or otherwise not adverse. Mr. Kozak did not come into possession of the property until late 1998. By then the ten year period had already run. He did not present the testimony of Mr. Crandell his predecessor to disprove any of these elements. There was not any evidence presented by the defendant that the tank was located with the permission of Mr. Crandell, or with his acquiescence, or by some license he gave to the plaintiffs.

Therefore I find that the plaintiffs have carried their burden of proof to establish a prescriptive easement for the location of the plastic tank in the area shown in Exhibit No. 37. They are entitled to relocate a 3500 gallon tank on that site. If the site is no longer feasible because of the actions of the defendant then they may locate the tank as close of possible to the old site. The costs of reinstalling the tank shall be borne by the defendant. Likewise the cost of replacing the tank itself shall be borne by the defendant if it was damaged when he moved it.

I hope this opinion is clear enough for Mr. Gould to draft an injunction and prescriptive easement. If not he can address his questions to me in writing and I will clarify this opinion to ensure a clear injunction and easement can be filed with the Court and the County Clerk. Costs can not be determined until the conclusion of the jury trial. This portion of the judgment will go into effect as soon as I sign the order for an injunction and a prescriptive easement. A supplemental judgment will be necessary for the costs of reinstalling the water system.

Sincerely yours,



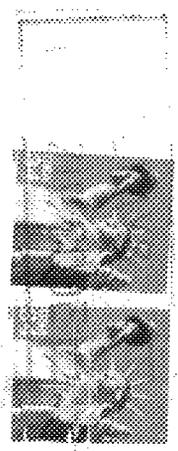
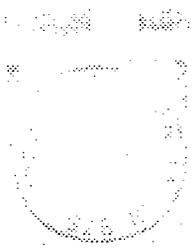
Richard K. Mickelson  
Circuit Court Judge

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NOV 26 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

Ms. Sally Hall  
PO Box 510  
Merlin, OR 97532



Water Resources Dept.  
Commerce Building  
158 12th St N.E.  
Salem, Ore. 97310-0010

741320 SR

97301+4172

Complete  
7/24/95

### COMPLETENESS DETERMINATION CHECKLIST

Application #	Review Date	Reviewer Initials
5 - 74320	7/24/95	MWM

A checkmark (✓) indicates that the item is incomplete or defective.

- 1. Examination fees. *Need recording fee \$125*
- 2. Name and address of the applicant, and title if applicable. -
- 3. Source of water.
- 4. Use of water.
- 5. Amount of water.
- 6. Location & description of delivery system.
- 7. Name(s) and address(es) of the owners of any lands involved, but not owned by the applicant.
- 8. A statement declaring the existence of written authorization or easement permitting access to lands involved, but not owned by the applicant.
- 9. Proposed dates of beginning and completion of construction, and complete application of water.
- 10. If for **municipal use**, the present population to be served and expected future water requirements.
- 11. If for **mining use**, the type of mines and methods of supplying & utilizing the water.
- 12. If for a **reservoir**:
  - The height of the dam and the storage capacity.
  - The area submerged and the maximum depth.
  - The construction method (earthfill, concrete, flashboard, etc.).
  - A description of the outlet conduit and spillway.
- 13. If for **groundwater**, the horizontal distance from the well to the nearest surface water source (if within one mile), and the difference in land surface elevation between them.
- 14. If the application was made under **HB 2107**:
  - Name and address of each adjacent property owner and verification that each owner has been mailed a copy of the completed notice.
  - A description of the proposed water used and related project, the condition it will address, and the benefits that are expected to result from the project.
  - The number of reservoirs per application is appropriate as per OAR 690-11-049 (3)(b)
- 15. An oath that the application information is true and correct.
- 16. The signature of the applicant(s).
- 17. A satisfactory map of the proposed POD & POU.
- 18. A Land Use Information Form or receipt signed by appropriate planning official.

Application No. ~~74320~~  
Permit No.

COMMENT FORM

SEP 2 1994  
WATER RESOURCES DEPARTMENT  
SALEM, OREGON

Please list below the Application Number of the water use application(s) that are of interest to you. When the technical evaluation is completed a report of the technical review of these applications will be delivered to you.

Application #s 74320 \_\_\_\_\_

Send to: **Kalmiopsis Audubon Society** \_\_\_\_\_  
P.O. Box 1265 \_\_\_\_\_  
Port Orford, OR 97465 \_\_\_\_\_

Please include specific comments or concerns. Use additional sheets if necessary.

location?

Return to:  
Oregon Water Resources Department  
158 12th ST NE  
Salem, Oregon 97310

This Comment corresponds to the AUG/ 3/1994 Public Notice.

RECEIVED

JUL 27 1994

WATER RESOURCES DEPT.  
SALEM, OREGON

July 28, 94

Dear Sirs

I sent my water right application  
in today the 25 July 94.

As a dummy would do I forgot  
to place the check in the envelope.

I'm sending the check in this  
cover and you will receive the  
application under separate cover.

The names on the application  
are William F. Hull - Brian Wirseh  
Please put the two together.  
Thanks very much.

Sincerely

William E. Duff

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

NOTARY SEAL.

P. J. Lesmeister  
Notary Public for Oregon  
My Commission Expires March 1950  
Oleta A. Walker, Co. Clerk.

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MAR 03 1999

Filed and recorded this 12th day of January, 1950.  
W. A. RAYMOND, SR., ET UX

DV34 Pg 506

WATER RESOURCES DEPT.  
SALEM, OREGON

TO WARRANTY DEED  
VIRGIL E. HULL, ET UX

KNOW ALL MEN BY THESE PRESENTS: That W. A. RAYMOND, Sr., and ROSE RAYMOND, husband and wife, in consideration of the sum of Ten Dollars (\$10.00) to them paid, do hereby grant, bargain, sell and convey unto VIRGIL E. HULL and ESTHER E. HULL, husband and wife, or the survivor of either, in an estate in the entirety, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Curry and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point which is located 1746 feet North and 319 feet West of the Quarter section corner common to Section 7 and 18, in Township 38 South, Range 14 West of the Willamette Meridian, and being situated within the Northeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said highway North approximately 27°30' West, a distance of 396 feet to the true point of beginning of tract to be conveyed; thence North 62°30' East, 264 feet; thence South 27°30' East 110 feet; thence South 62° 30' West, 264 feet to the East boundary line of Oregon Coast Highway right of way; thence North along said East boundary line 27°30' West, 110 feet, more or less, to the point of beginning;

Together with easements hereinafter described over the real property retained by the Grantors, which property is described as follows:

Begin at a point which is located 1746 feet North and 319 feet West of the Quarter section corner common to Sections 7 and 18, in Township 38 South, Range 14 West of the Willamette Meridian and being situated within the Northeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said Highway North approximately 27°30' West, 286 feet; thence North 62°32' East, 264 feet; thence South 27°30' East to a point which bears directly East of the point of beginning; thence West to the point of beginning.

Describes TL 1000 (Kozak)

Said easements being as follows:

A 1 inch pipe line to be installed forthwith by the Grantors from the pipeline lying between two (2) water tanks now in use on the above property retained by the Grantors, to the South line of the property conveyed hereunder, together with free right of ingress and egress in the Grantees, their heirs and assigns, in and upon and traversing the property retained by the Grantors for the purpose of repairing and maintaining said pipe line; An easement for water to be conveyed along said pipe line; said water to be used by the Grantees, their heirs and assigns, for domestic purposes, and said easement to last so long as the spring on the property retained by the Grantors flows as it has in the past. The right of the Grantees, their heirs and assigns, to construct at their own expense, a water storage tank on the property retained by the Grantors; said tank to be constructed eight (8) feet North of the present catch tank of the Grantors and said tank to be constructed with the same water level as the present catch tank.

What does this mean?

New pipe line, if installed by the Grantees, is to be installed across the Grantors' property parallel to and as close as practicable to the pipe line to be presently installed by the Grantors to the South line of the Grantees' property.

The above easements are subject to joint use of Hugh E. Brown and Nina L. Brown husband and wife, or their assigns, for the benefit of the land conveyed to Hugh E. Brown and Nina L. Brown on this same date.

TO HAVE AND TO HOLD the above described and granted premises unto the said Grantees, their heirs and assigns forever.

DV 34

RECEIVED

MAR 03 1999

WATER RESOURCES DEPT. SALEM, OREGON

And the Grantors do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances, and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

WITNESS our hands and seals this 13th day of January, 1950.

W. A. Raymond, Sr. (SEAL)

Rose Raymond (SEAL)

DOCUMENTARY STAMPS AFFIXED AND CANCELLED, \$2.20

STATE OF OREGON )  
County of Curry ) ss.

This easement is for pipeline kn ~~was~~ IN 1950  
WAS P.O.D IN 1994. SAME & pipeline kn SAME  
AS IN 1950?

On this, the 13th day of January, 1950, personally came before me, a Notary Public in and for said county the within named W. A. Raymond, Sr. and Rose Raymond, his wife, personally known to me to be the identical persons described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and seal the day and year herein written.

NOTARY SEAL.

Geo. R. Dickinson  
Notary Public for Oregon  
My Commission expires: 7-7-53

Filed and recorded this 15th day of January, 1950. Oleta A. Walker, Co. Clerk.

W. A. RAYMOND, SR., ET UX

TO WARRANTY DEED

HUGH E. BROWN, ET UX

KNOW ALL MEN BY THESE PRESENTS, That W. A. RAYMOND, Sr., and ROSE RAYMOND, husband and wife, in consideration of Ten Dollars (\$10.00) and other valuable considerations 00/00 Dollars, to them paid do hereby grant, bargain, sell and convey unto HUGH E. BROWN and NIHA L. BROWN, husband and wife, or the survivor of either, in an estate in the entirety, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Curry and State of Oregon, bounded and described as follows, to-wit: Beginning at a point which is located 1746 feet North and 319 feet West of the Quarter section corner common to Sections 7 and 18, Township 38 South, Range 14 West of the Willamette Meridian, and being situated within the Northeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence follow the East boundary line of said highway North approximately 27°30' West a distance of 286 feet to the true point of beginning of the tract to be conveyed; thence North 62°30' East 264 feet; thence South 27°30' East 100 feet; thence South 62°30' West 264 feet, to the East boundary line of the Oregon Coast Highway right of way; thence North along said East boundary line 27°30' West 100 feet, more or less, to the true point of beginning; Subject to easements for water pipe line and water and deed executed on the 13th day of January, 1950, by the Grantors to Virgil E. Hull and Esther M. Hull, husband and wife, and which deed is recorded in Vol. 34 at Page 506-7, Deed Records of Curry County, Oregon, together with the right to acquire water for domestic purposes from the spring on the land of the Grantors, so long as said spring flows as it has in the past; Together with the right of the joint use with Virgil E. Hull and Esther M. Hull, of the easement for the conveyance of water described in the above deed to Virgil E. Hull and Esther M. Hull, husband and wife, and their assigns.

To Have and to Hold the above described and granted premises unto the said grantees their heirs and assigns forever.

And the grantors do covenant that they are lawfully seized in fee simple of the above

W. A. RAYMOND, SR., ET UX

TO

WARRANTY DEED

DV 34  
Pg 506

VIRGIL E. HULL, ET UX

KNOW ALL MEN BY THESE PRESENTS: That W. A. RAYMOND, Sr., and ROSE RAYMOND, husband and wife, in consideration of the sum of Ten Dollars (\$10.00) to them paid, do hereby grant, bargain, sell and convey unto VIRGIL E. HULL and ESTHER M. HULL, husband and wife, or the survivor of either, in an estate in the entirety, all the following real property, with the tenements, hereditaments and appurtenances, situated in the County of Curry and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point which is located 1746 feet North and 319 feet West of the Quarter section corner common to Section 7 and 18, in Township 38 South, Range 14 West of the Willamette Meridian, and being situated within the Northeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said highway North approximately 27°30' West, a distance of 396 feet to the true point of beginning of tract to be conveyed; thence North 62°30' East, 264 feet; thence South 27°30' East 110 feet; thence South 62° 30' West, 264 feet to the East boundary line of Oregon Coast Highway right of way; thence North along said East boundary line 27°30' West, 110 feet, more or less, to the point of beginning;

Together with easements hereinafter described over the real property retained by the Grantors, which property is described as follows: Begin at a point which is located 1746 feet North and 319 feet West of the Quarter section corner common to Sections 7 and 18, in Township 38 South, Range 14 West of the Willamette Meridian and being situated within the Northeast Quarter of the Southwest Quarter of Section 7 and on the East boundary line of the Oregon Coast Highway right of way; thence following the East boundary line of said Highway North approximately 27°30' West, 286 feet; thence North 62°32' East, 264 feet; thence South 27°30' East to a point which bears directly East of the point of beginning; thence West to the point of beginning. Said easements being as follows:

A 1 inch pipe line to be installed forthwith by the Grantors from the pipeline lying between two (2) water tanks now in use on the above property retained by the Grantors, to the South line of the property conveyed hereunder, together with free right of ingress and egress in the Grantees, their heirs and assigns, in and upon and traversing the property retained by the Grantors for the purpose of repairing and maintaining said pipe line; An easement for water to be conveyed along said pipe line; said water to be used by the Grantees, their heirs and assigns, for domestic purposes, and said easement to last so long as the spring on the property retained by the Grantors flows as it has in the past. The right of the Grantees, their heirs and assigns, to construct at their own expense, a water storage tank on the property retained by the Grantors; said tank to be constructed eight (8) feet North of the present catch tank of the Grantors and said tank to be constructed with the same water level as the present catch tank.

New pipe line, if installed by the Grantees, is to be installed across the Grantors' property parallel to and as close as practicable to the pipe line to be presently installed by the Grantors to the South line of the Grantees' property.

The above easements are subject to joint use of Hugh E. Brown and Nina L. Brown husband and wife, or their assigns, for the benefit of the land conveyed to Hugh E. Brown and Nina L. Brown on this same date.

TO HAVE AND TO HOLD the above described and granted premises unto the said Grantees, their heirs and assigns forever.

TL  
800

Case  
TL  
900  
+  
1000

duu





RECEIVED

FEB 25 1999

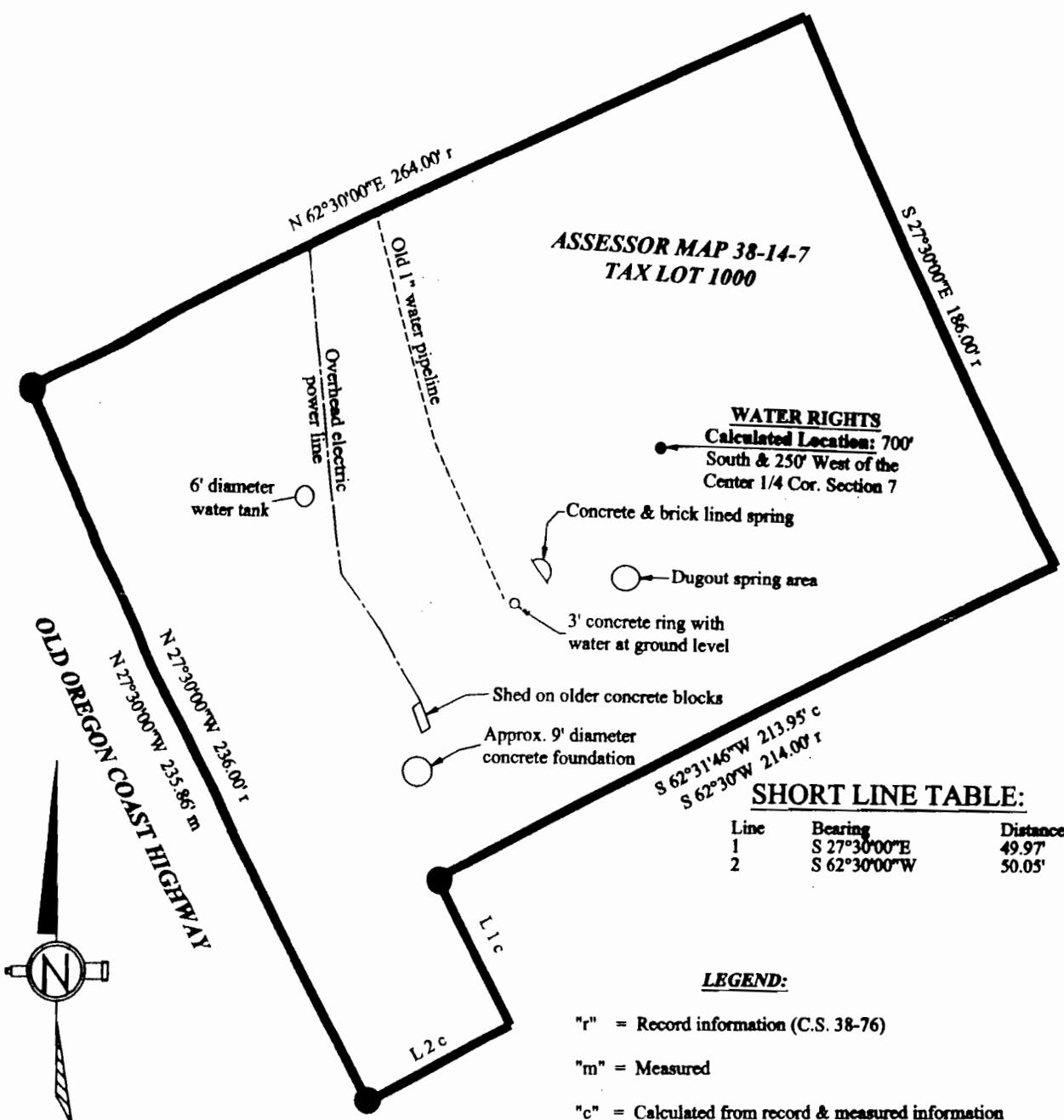
WATER RESOURCES DEPT.  
SALEM, OREGON

LIMITED SURVEY  
OF SOME VISIBLE SURFACE FEATURES  
FOR: LINDA & JIM KOZAK

THE PURPOSE OF THIS LIMITED SURVEY WAS TO LOCATE THE FEATURES SHOWN. IRON RODS, APPARENTLY SET BY JOHN THORP PER HIS SURVEY NO. 38-76 DATED APRIL, 1979, WERE FOUND AND HELD FOR THIS WORK. A PROPERTY SURVEY WAS NOT PERFORMED. REILY SMITH DID NOT MAKE A SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, WATER RIGHTS, OR ANY OTHER FACT THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE. ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON OR ADJACENT TO THE SITE WERE NOT LOCATED. ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS LIMITED SURVEY. A TOPCON GTS 3-B TOTAL STATION WITH DATA COLLECTOR WAS USED FOR THE FIELD WORK.

REVISED FEB. 12, 1999:

TO SHOW WATER RIGHTS CALL FROM THE INTERIOR 1/4 CORNER. THIS LOCATION IS BASED ON HOWARD NEWHOUSE'S C.S. 38-54 (38-147) DATED SEPT. 30, 1976, C.S. 38-48 AND C.S. 38-76. I BELIEVE IT IS MOST LIKELY THAT THE NEWHOUSE MAP WAS USED FOR CONTROL SINCE THIS INFORMATION APPEARS ON THE COUNTY ASSESSOR MAP.



SHORT LINE TABLE:

Line	Bearing	Distance
1	S 27°30'00"E	49.97
2	S 62°30'00"W	50.05'

LEGEND:

- "r" = Record information (C.S. 38-76)
- "m" = Measured
- "c" = Calculated from record & measured information
- = Found 5/8" iron rod per C.S. 38-76

Scale: 1" = 50'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Reily H. Smith*

OREGON  
JAN. 21, 1992  
REILY H. SMITH  
2542

EXPIRES: JUNE 30, 2000

Reily Smith

Land Surveying

P. O. Box 7276 Brookings, OR. 97415  
Ph: (541) 469-2826 Fax: (541) 469-7507

Job # 99-10A	Clients: Linda & Jim Kozak 25477 Cape View Loop Gold Beach, OR. 97444
Date: Feb. 12, 1999	
Drawn: R. H. Smith	
File: Kozak2.dwg	



MINIMUM APPLICATION REQUIREMENTS TO FILE:

**HB 2153 - existing, small, EXEMPT ponds**

\_\_\_\_\_  
(date & initials) NOTICE OF EXEMPT RESERVOIR form (or letter if prior to April 8, 1994).

\_\_\_\_\_ Appropriate map (see item 1 on form).

\_\_\_\_\_ Evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation).

\_\_\_\_\_ Items 2, 3, 4, 5, and 6 are completed.

\_\_\_\_\_ Signature (and title, if applicable)

**HB 2153 - non-exempt existing ponds (large, on-channel)**

Complete Minimum Requirements to File on reverse, except before routing to Data Center, change priority date to 1/1/1993. Also, confirm the following:

\_\_\_\_\_ Receipt of evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation)

**HB 2107 - wetland, stream restoration and storm water management**

Complete Minimum Requirements to File on reverse EXCEPT DO NOT ROUTE TO DATA CENTER, BUT DO ROUTE TO CAROL. Also confirm the following:

\_\_\_\_\_ Name/address of adjacent property owner within 1/4 mile

\_\_\_\_\_ Map with scale not less than 2 in.=1 mi.

\_\_\_\_\_ CWRE map if > 10 feet dam or > 9.2 AF

\_\_\_\_\_ Description of proposed use

\_\_\_\_\_ Condition addressed

\_\_\_\_\_ Resulting benefits

\_\_\_\_\_ Public notices (circle) #1 #2

INITIAL REVIEW CHECKLIST

APPLICATION # 5 74320  
WAB # 2900  
POU-WAB 2900

ITEMS HAVE BEEN VERIFIED ON COMPLETENESS CHECKLIST  
 BASIN NAME/NUMBER IS CORRECT

DETERMINATION OF WHETHER USE IS OR IS NOT ALLOWED BY...

BASIN PLAN  
 LEGISLATIVE WITHDRAWAL (ORS 538)  
 RULES  
 SCENIC WATERWAY (OTHER THAN WA ORS 390.826)  
 OTHER \_\_\_\_\_

WATER AVAILABILITY (WA) HAS BEEN CHECKED  
50 % BEFORE JULY 17, 1992; 80 % LIVE FLOW 50 % STORAGE  
AFTER JULY 17, 1992

INSTREAM WATER RIGHT EXEMPTIONS ARE DOCUMENTED ON WATER  
AVAILABILITY SHEETS

NO USE IS NOT FROM A BOR PROJECT OR A SIGNED CONTRACT IS IN  
THE FILE

N/A GROUND WATER REVIEW HAS BEEN EVALUATED FOR HYDRAULIC  
CONNECTION (USE WA DATABASE IF CONNECTED) AND REQUIRED  
CONDITIONS FROM THE REVIEW HAVE BEEN ADDED TO THE LETTER

DIVISION 33 HAS BEEN ADDRESSED...

N/A SEASON FOR DIRECT FLOW  
N/A WATER QUALITY PARAGRAPH  
N/A EFFICIENCY DESCRIPTION (BELOW BONN AND MORE THAN 1 CFS)

PLAT CARDS HAVE BEEN CHECKED AND A COPY OF THE MAP SHOWING  
THE CONFLICT HAS BEEN ATTACHED

N/A SEASON \_\_\_\_\_ (DECREE, BASIN PLAN, PERMIT, GENERIC)

N/A RATE & DUTY \_\_\_\_\_ (DECREE, BASIN PLAN, PERMIT, GENERIC)  
GROUND WATER ALWAYS GENERIC FOR RATE AND DUTY

ALL DOCUMENTS USED IN EVALUATION ARE ATTACHED AND  
HIGHLIGHTED AND PACKET IS STAPLED TOGETHER

SPELL CHECK HAS BEEN COMPLETED

WATERMASTER # 14

REGIONAL MANAGER (NW, SW NC, SC, E)

LETTER WAS SAVED FROM M:\T\IRWORK95 TO M:\T\IRSENT95

NAME G. A. DATE 1-24-96

OREGON WATER RESOURCES DEPARTMENT  
ADMINISTRATIVE RULES  
CHAPTER 690  
DIVISION 517  
SOUTH COAST BASIN PROGRAM

**Classifications**

690-517-001

(1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

(2) The waters of the following lakes are classified only for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

(a) Bradley Lake 4900

✓(b) Eel Lake 01010

✓(c) Garrison Lake 00

(3) All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

(4) Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

✓(a) Glenn Creek (tributary to the East Fork Millicoma River) 070142

✓(b) Brush Creek 2500

✓(5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in section (8). 161123470

✓(6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife. 0701310 to 0701312

✓ 3400

✓  
1601

(7) The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

(8) All other surface and ground water resources are hereby classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

(9) Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in sections (1) through (8) of OAR 690-517-001 and in 690-517-002 through 690-517-003.

(10) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

X

**Reservations**

690-517-002

Water in the amounts specified is reserved in the following streams for municipal use:

- ✓ (1) Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River
- ✓ (2) Winchuck River - one cfs, downstream from the confluence with Bear Creek

**Minimum Perennial Streamflows**

690-517-003

(1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

(2) The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

(3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

- (a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

WATER AVAILABILITY TABLE

Basin: SOUTH COAST Exceedance Level: 80  
 Water Availability Subbasin: 2900000000000000 (and Nested Subbasins)  
 Time: 13:07 Date: 01/24/1996

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	2900000000000000	NO	YES	YES	NO	NO	NO	YES	NO	NO	NO	NO	NO	YES

STREAM NAMES

Basin: SOUTH COAST  
 Water Availability Subbasin: 2900000000000000 (and Nested Subbasins)  
 Time: 13:07 Date: 01/24/1996

WAB #	Stream Name	Tributary to
2900000000000000	MYERS CR	PACIFIC OCEAN

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 2900000000000000  
 Basin: SOUTH COAST  
 Exceedance Level: 80  
 Time: 13:07 Date: 01/24/1996

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	2900000000000000	MYERS CR	NO	-2.6
2	2900000000000000	MYERS CR	YES	2.2
3	2900000000000000	MYERS CR	YES	0.3
4	2900000000000000	MYERS CR	NO	-8.5
5	2900000000000000	MYERS CR	NO	-1.8
6	2900000000000000	MYERS CR	NO	-3.7
7	2900000000000000	MYERS CR	YES	0.3
8	2900000000000000	MYERS CR	NO	-0.1
9	2900000000000000	MYERS CR	NO	-0.3
10	2900000000000000	MYERS CR	NO	-0.5
11	2900000000000000	MYERS CR	NO	-8.0
12	2900000000000000	MYERS CR	NO	-2.8
Stor	2900000000000000	MYERS CR	YES	6620.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: SOUTH COAST  
 Stream: MYERS CR > PACIFIC OCEAN  
 Water Availability Subbasin: 2900000000000000  
 Exceedance Level: 80  
 Time: 13:07

Date: 01/24/1996

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	17.40	0.00	17.40	0.00	17.40	20.00	-2.60
2	22.20	0.00	22.20	0.00	22.20	20.00	2.20
3	20.30	0.00	20.30	0.00	20.30	20.00	0.30
4	10.50	0.00	10.50	0.00	10.50	19.00	-8.50
5	5.06	0.03	5.03	0.00	5.03	6.79	-1.76
6	3.06	0.07	2.99	0.00	2.99	6.65	-3.66
7	2.45	0.11	2.34	0.00	2.34	2.00	0.34
8	2.03	0.09	1.94	0.00	1.94	2.00	-0.06
9	1.66	0.04	1.62	0.00	1.62	1.95	-0.33
10	1.54	0.01	1.53	0.00	1.53	2.00	-0.47
11	5.00	0.01	4.99	0.00	4.99	13.00	-8.01
12	17.20	0.00	17.20	0.00	17.20	20.00	-2.80
Stor	14600	21	14600	0	14600	7990	6620

DETAILED REPORT OF ISWRs

Basin: SOUTH COAST  
 Stream: MYERS CR > PACIFIC OCEAN  
 Water Availability Subbasin: 2900000000000000  
 Time: 13:07

Date: 01/24/1996

APP # :	73203A	0	0	0	0	RESULTANT
STATUS:	App.					
1	20.0	0.0	0.0	0.0	0.0	20.0 A
2	20.0	0.0	0.0	0.0	0.0	20.0 A
3	20.0	0.0	0.0	0.0	0.0	20.0 A
4	19.0	0.0	0.0	0.0	0.0	19.0 A
5	6.8	0.0	0.0	0.0	0.0	6.8 A
6	6.7	0.0	0.0	0.0	0.0	6.7 A
7	2.0	0.0	0.0	0.0	0.0	2.0 A
8	2.0	0.0	0.0	0.0	0.0	2.0 A
9	2.0	0.0	0.0	0.0	0.0	2.0 A
10	2.0	0.0	0.0	0.0	0.0	2.0 A
11	13.0	0.0	0.0	0.0	0.0	13.0 A
12	20.0	0.0	0.0	0.0	0.0	20.0 A

*Exempt Amon Cans & Livestock*



MEMO

TO: FILE 74320

FROM: JG

DATE: 7-22, 2008

RE: DETERMINATION OF PROOF

I've determined that a DRAFT / (FINAL) cert should be prepared and mailed to the permit holder consistent with:

- The Permit
- The COBU/FPS

*See notes on PC.*

As described in the permit but as clarified by the COBU/FPS

As described in the PERMIT COBU/FPS but as further specified below.

84533

STATE OF OREGON

COUNTY OF CURRY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SALLY HULL AND BRIAN HIRSCH  
PO BOX 510  
MERLIN OR 97532

confirms the right to use the waters of A SPRING, A TRIBUTARY OF PACIFIC OCEAN for DOMESTIC USE EXPANDED FOR FOUR HOUSEHOLDS.

This right was perfected under Permit 52780. The date of priority is JULY 27, 1994. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.020 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

Period of use is year round.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
38 S	14 W	WM	7	NE SW	3		700 FEET SOUTH & 250 FEET WEST FROM C1/4 CORNER, SECTION 7

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

<del>DOMESTIC EXPANDED</del>							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
38 S	14 W	WM	7	NE SW	3		0.00

Measurement, recording and reporting conditions:

- A. The Director may require the water user to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the water user to install a meter or other measuring device, the water user shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the water user to submit alternative measuring procedures for review and approval.

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

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

ODFW  
4/1/99  
no →  
2/1/1999

B. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

~~The water user shall maintain and operate fish screening and by pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.~~

The use of water allowed herein may be made only at times when water from the unnamed spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Issued \_\_\_\_\_

Phillip C. Ward, Director  
Water Resources Department

Failure to \_\_\_\_\_

This right \_\_\_\_\_

By law \_\_\_\_\_

See  
Permit

# Mailing List for Certificate

Scheduled Mailing Date:

**Application:** S-74320

**Permit:** 52780

**Certificate:** \*\*\*\*\*

**Permit/Certificate Holder:**

SALLY HULL AND BRIAN HIRSCH  
PO BOX 510  
MERLIN OR 97532

<b>Copies Mailed</b>	
<b>by:</b> _____	(STAFF)
<b>on:</b> _____	(DATE)

**Copies of Final Certificate to be sent to:**

1. Watermaster District 19, Mitch E. Lewis
2. Data Center (include copy of map)
3. Water Availability
4. Vault
5. File

**Other persons to receive copies: (include map):**

1. Bryan M. Flavin, CWRE

OREGON WATER RESOURCES DEPARTMENT  
ADMINISTRATIVE RULES  
CHAPTER 690  
DIVISION 517  
SOUTH COAST BASIN PROGRAM

**Classifications**

690-517-001

- (1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.
- (2) The waters of the following lakes are classified only for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:
  - (a) Bradley Lake
  - (b) Eel Lake
  - (c) Garrison Lake
- (3) All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.
- (4) Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.
  - (a) Glenn Creek (tributary to the East Fork Millicoma River)
  - (b) Brush Creek
- (5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in section (8).
- (6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife.

(7) The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

[REDACTED] livestock, municipal, industrial, fire control, [REDACTED] cultural use, mining, power development, recreation, wildlife and fish life uses.

(9) Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in sections (1) through (8) of OAR 690-517-001 and in 690-517-002 through 690-517-003.

(10) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

### **Reservations**

690-517-002

Water in the amounts specified is reserved in the following streams for municipal use:

- (1) Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River
- (2) Winchuck River - one cfs, downstream from the confluence with Bear Creek

### **Minimum Perennial Streamflows**

690-517-003

- (1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.
- (2) The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.
- (3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:
  - (a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

- (b) The minimum perennial streamflow for the Coquille River Middle Fork above Bear Creek (4 cfs) is rescinded.
  - (c) The minimum perennial streamflow for the Sixes River above the U.S. Highway 101 crossing is reduced to 25 cfs during the period from August 1 to September 30.
  - (d) The minimum perennial streamflow for the South Fork Coquille River near Powers is reduced to 15 cfs during the period from June 16 to September 30.
- (4) For purposes of distributing water, minimum flows established in 1964 shall be considered part of and not in addition to revised minimum flow regimes.
- (5) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be made or granted by any state agency or public corporation of the state for the waters of the Coquille River and tributaries when flows are below the specified levels in Table 2. This limitation shall not apply to:
- (a) Domestic and livestock uses and irrigation of non-commercial gardens not exceeding 1/2 acre in area.
  - (b) Water legally released from storage.

#### **Storage**

690-517-004

- (1) All applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Water Policy Review Board prior to approval. During the review the Water Policy Review Board may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.
- (2) The following reservoir sites should be protected through the comprehensive planning process for possible future development or until alternative methods of meeting water needs have been developed:
- (a) West Fork of the Millicoma River, site 223.
  - (b) South Fork of Coquille River at Eden Ridge, site 430.
  - (c) North Fork Coquille River, site 146A.
  - (d) Rock Creek at Rasler Creek, site 201.
  - (e) Catching Creek, site 101.
  - (f) Fourmile Creek, site 158.
  - (g) North Fork Floras Creek at Okietown, site 435.
  - (h) North Fork Chetco River, site 239.
  - (i) Wheeler Creek, site 241.
  - (j) East Fork Winchuck River, site 243.

(k) Joe Ney Slough.

**Out-of-Basin Appropriations**

690-517-005

No out-of-basin diversion of South Coast Basin water shall be made or granted by any state agency or public corporation of the state without the prior approval of, and following a public hearing by, the Water Policy Review Board.

**Existing Rights**

690-517-006

Water rights and permits issued prior to the effective date of this program shall not be affected except as provided in OAR 690-517-003 and section (1) of OAR 690-517-004.

**NOTE:** The South Coast Basin is delineated on Water Resources Department Map, File 17.6, available from the Water Resources Department.

JANUARY 25, 1996

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WATER  
RESOURCES  
DEPARTMENT

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WILLIAM P HULL  
BRYAN HIRSCH  
PO BOX 510  
MERLIN, OREGON 97532

Reference: File S-74320

Dear Applicant:

**THIS IS NOT A PERMIT AND IS  
SUBJECT TO CHANGE AT NEXT PHASE OF PROCESS**

This letter is to inform you of the potential limitations to your proposed use of water and to describe some of your options. Based on the information you have supplied, the Water Resources Department has reached the following conclusions:

Initial Review Determinations:

1. Your application is complete and not defective.
2. The proposed use is not prohibited by law or rule.
3. The use of water for Domestic use including Irrigation of up to 1/2 acre lawn and non-commercial garden for each of 4 households **is allowed** under OAR 517, the South Coast Basin Program.
4. The use of 0.02 cubic foot per second from a Spring for Domestic use including irrigation of up to 1/2 acre lawn and non-commercial garden for 4 households **is not available** August 1 through January 31 and April 1 through June 30.

The use of 0.01 cfs from a Spring for Human Consumption only for each of 4 households is available August 1 through January 31 and April 1 through June 30.



---

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

If the enclosed "Statement of Seasonal Flow" form is completed and returned then the use of water from the Spring may be allowed for Domestic use including irrigation of up to 1/2 acre lawn and non-commercial garden for each of the 4 households during the periods when the Spring does not contribute to another water course.

#### Summary of Initial Determinations

The use of 0.02 cfs from a Spring for Domestic use including irrigation of up to 1/2 acre lawn and non-commercial garden for each of 4 households from February 1 through March 31 and during the month of July of each year may be allowed.

The use of 0.01 cfs from a Spring for Human Consumption only for each of 4 households may be allowed from August 1 through January 31 and April 1 through June 30 of each year.

Because of the Departments determination, your application can be moved to the next phase of the water rights application review process. However, due to #4 above your application will likely be limited as summarized above.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period, will be evaluated at the next phase of the process.

At this time, you must decide whether to proceed or to withdraw your application as described below.

#### Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **FEBRUARY 8, 1996**. For your convenience you may use the enclosed "STOP PROCESSING" form.

#### To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

**CERTIFIED MAIL**  
**Return Receipt Requested**

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WATER  
RESOURCES  
DEPARTMENT

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May 14, 1996

WILLIAM P. HULL  
P.O. BOX 510  
MERLIN, OREGON 97532

RE: Application File # S-74320

Dear WILLIAM P. HULL:

On **MAY 14, 1996**, a Proposed Final Order was sent from the Department requesting additional information necessary to complete your application for water use. This item must be received:

- ▶ A revised application map showing the location of the place of use to the nearest quarter quarter sections and the coordinates, from a recognized public land survey corner, of the proposed point of diversion.

Please submit these items by **JUNE 28, 1996**. If we do not receive the items requested above by this date, we may reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

I have enclosed a copy of the minimum application requirements with the appropriate section highlighted.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 331.

Sincerely,



Laura K. Snedaker  
Senior Water Rights Examiner

Enclosure



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Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

William P. Hull  
P.O. Box 510  
Merlin, OR 97532

4a. Article Number

P56286

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

7. Date of Delivery

6-5-96

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Bill Hull*

8. Addressee's Address (Only if requested and fee is paid)

If A Permit Is Issued It Will Likely Include The Following Conditions:

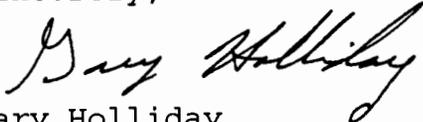
1. You may be required to measure the amount of water used and report that use annually.
2. You may be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. The priority date for this application is July 27, 1994.

WARNING: This initial review does not attempt to address various public interest issues such as sensitive or endangered fish species. These issues will be addressed as the Department reviews public comments and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

If you have any questions:

Feel free to call me at (503) 378-8455 ext. 454 or 1 (800) 624-3199 if you have any questions. Please have your application number available if you call.

Sincerely,



Gary Holliday  
Initial Reviewer

cc: Regional Manager, Watermaster, Water Availability  
Section  
enclosures: Flow Chart of Water Right Process  
Stop Processing Form

Fish District: Lower Rogue/South Coast

WAB #

Application # S-74320

Applicant Name W. Hull

Date: March 26, 1996

AREA

- Source Watershed
- Senior instream water right application to junior out-of-stream application
- No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y  N  
 Should the application be denied? Y N  
 Should the application be restricted? Y N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y  N  
 Should the application be denied? Y  N  
 Should the application be restricted?  N  Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

3. Domestic  
 Should domestic use be conditioned to human consumption? Y N  Based on water availability

4. Fish Screening and Passage
- A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).
  - B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).
  - C. No dam or obstruction without a fishway.

5. Miscellaneous
- A. Reservoir Filling \_\_\_\_\_
  - B. Water Quality Permits \_\_\_\_\_
  - C. Return Flow \_\_\_\_\_
  - D. Time Limited Water Right \_\_\_\_\_
  - E. Other \_\_\_\_\_

6. Measurement and Reporting
- A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)
  - B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)
  - C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)

FINDINGS

- Permit is proposed for denial prior to interagency team review for fishery concerns.
- Deny permit due to fishery concerns, except for
  - A. Domestic (which may be limited to human consumption, see above)
  - B. Livestock
  - C. Unless water is from storage
- Do not condition further due to fishery concerns.
- Condition permit due to fishery concerns listed above.



## PFO ACCURACY CHECKLIST

Application #: S-74320

1. X CHECK NAME(S)/COMPANY NAME
  - \* Assigned
  - \* Signature Name
  - \* Correct Name(s)/Company throughout PFO
  - \* Correct Address & Phone Number on Draft Permit
2. X CHECK SOURCE AND TRIBUTARY
  - \* Consistent throughout PFO and Draft Permit
3. X CHECK RATE OF USE
4. X CHECK PRIORITY DATE & TR/IR DATES
5. X CHECK POD IN DRAFT PERMIT
  - \* Check Map against permit
  - \* Check Township, Range and Section
6. X CHECK POU IN PFO AND DRAFT PERMIT
  - \* Check Map against both
  - \* If Acres on Application do not agree with Map, use Map info
  - \* Check Township, Range and Section
7. X ADD VOLUME NUMBER/NAME AT END OF DRAFT PERMIT
8. X COMPLETE READ THROUGH OF PFO
  - \* Sentence Structure
  - \* Punctuation
  - \* Spelling, etc.

Name:  
LKS

Laura Suedaker

Date:

5-7-96

Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number S-74320

**Proposed Final Order**

*Summary of Recommendation:* The Department recommends that the attached draft permit be issued with conditions.

*Additional Information Required:* The map submitted with the application does not identify the location of the 4 households to the nearest quarter quarter sections. The map also does not show the coordinates, from a recognized public land survey corner, of the proposed point of diversion. A revised application map needs to be submitted to the Department before a permit may be issued.

*Application History*

On July 27, 1994, WILLIAM P. HULL AND BRIAN HIRSCH submitted an application to the Department for the following water use permit:

- Amount of Water: 0.03 CUBIC FEET PER SECOND (CFS)
- Use of Water: DOMESTIC USE INCLUDING IRRIGATION LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED 1/2 ACRE IN AREA FOR FOUR HOUSEHOLDS
- Source of Water: A SPRING, A TRIBUTARY OF PACIFIC OCEAN
- Area of Proposed Use: Curry County within SECTION 7, TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.
- Water Delivery System: Water from the spring, by gravity flow, is diverted through approximately 100 feet of 1 inch pipe into a 1200 gallon holding tank. The storage tank has a 1/2 horsepower pump for to provide pressure on the water diverted to the dwellings.

On JANUARY 25, 1996, the Department mailed the applicant notice of its Initial Review, determining that use of 0.02 CFS for Domestic Use including irrigation of up to 1/2 acre lawn and non-commercial garden for each of the 4 households is available February 1 through March 31 and during the month of July. The use of 0.01 CFS for Human Consumption only for 4 households is allowable August 1 through January 31 and April 1 through June 30. The Initial Review further determined that the applicant may be able to use water from the Spring for Domestic Use during months when use is limited to Human Consumption if the applicant filled out and returned the "Statement of Seasonal Flow." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On FEBRUARY 13, 1996, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

Within 30 days of the Department's public notice, written comments were received from the applicants.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

#### *Findings of Fact*

The South Coast Basin Program allows the following uses: DOMESTIC USE INCLUDING IRRIGATION LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED 1/2 ACRE IN AREA FOR 4 HOUSEHOLDS.

Senior water rights exist on A SPRING, A TRIBUTARY OF PACIFIC OCEAN, or on downstream waters.

A SPRING, A TRIBUTARY OF PACIFIC OCEAN, is not within or above a State Scenic Waterway.

The applicant filled out and returned the "Statement of Seasonal Flow." According to the applicant water from the spring does not flow into another water course at any time during the year. Since the source of water for this application is a Spring which does not flow off the property in a well defined channel, water availability limitations do not apply. Water is available for further appropriation YEAR ROUND for Domestic Use Including Irrigation Lawn and Non-commercial Garden not to exceed 1/2 acre in area for 4 households.

The Department finds that no more than 0.02 CFS would be necessary for the proposed use. The amount of water requested, 0.03 CFS, shall be restricted to 0.02 CFS.

There is no evidence in the record of the presence of game fish at the described point of diversion.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The

interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

*Conclusions of Law*

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the South Coast Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with rules of the Water Resources Commission.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
  - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
  - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

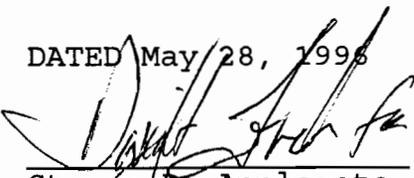
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

#### Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED May 28, 1996

  
Steven P. Applegate  
Administrator  
Water Rights Division

#### Protest Rights

Under the provisions of ORS 537.153(6) or 537.621(7), you have the right to submit a protest against this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050.
- If you are the applicant, a statement of whether or not you are requesting that a contested case hearing be held. If you do not request a hearing, the Department will presume that you do not wish for a hearing to be held.

Your protest must be received in the Water Resources Department no later than **July 12, 1996**.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period..

LKS

DRAFT

This is not a permit!!!

DRAFT

STATE OF OREGON

COUNTY OF CURRY

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRAIN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE FOR 4 HOUSEHOLDS EACH INCLUDING IRRIGATION LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED 1/2 ACRE IN AREA

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The

Application S-74320 Water Resources Department

PERMIT DRAFT

Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The use of water allowed herein may be made only at times when water from the Unnamed Spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

#### STANDARD CONDITIONS

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

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

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

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

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



Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number S-74320

**Final Order**

*Application History*

On July 27, 1994, WILLIAM P HULL AND BRYAN HIRSCH submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on May 28, 1996. The protest period closed July 12, 1996, and no protest was filed.

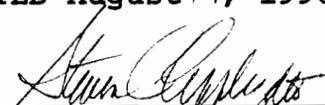
The proposed use would not impair or be detrimental to the public interest

**Order**

Upon payment of outstanding permit recording fees, Application S-74320 shall be approved as modified above and as conditioned in the attached draft permit.

Permit recording fees are required in the amount of \$125.00. Said fees are due and payable no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fees within 60 days from the date of this Final Order will result in the proposed rejection of Application S-74320.

DATED August 14, 1996

*for*   
Martha O. Pagel  
Director

*Appeal Rights*

Under the provisions of ORS 183.484, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.

STATE OF OREGON

COUNTY OF CURRY

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRAIN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR 4 HOUSEHOLDS

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.; 700 FEET SOUTH AND 250 FEET WEST FROM THE C 1/4 OF SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW /14  
SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The use of water allowed herein may be made only at times when water from the Unnamed Spring would not otherwise flow into the Pacific Ocean or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

#### STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

{DATE}

DRAFT

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Martha O. Pagel, Director  
Water Resources Department

STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WILLIAM P. HULL AND BRIAN HIRSCH  
P.O. BOX 510  
MERLIN, OREGON 97532

PHONE: (541) 474-2222

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-74320

SOURCE OF WATER: A SPRING, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR FOUR HOUSEHOLDS

MAXIMUM RATE/VOLUME ALLOWED: 0.02 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 27, 1994

POINT OF DIVERSION LOCATION: SECTION 7, T38S, R14W, W.M.; 700 FEET SOUTH AND 250 FEET WEST FROM THE C 1/4 OF SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW /14  
SECTION 7  
TOWNSHIP 38 SOUTH, RANGE 14 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

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

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

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued September 11, 1996



Martha O. Pagel, Director  
Water Resources Department

# Memo

11/8/01

From: Dorothy Pedersen

To: File S-74320, Permit 52780

Sally Hull (541) 474-2222 called to inquire about the status of the water right. She was under the impression that more documentation was required before the water right could be perfected. I was not able to locate the file, but saw from the "newc" database that final proof had been received in 1997 and that the file was waiting for review of final proof.

Ms. Hull suggested that she had documents from a court case regarding the water right that might be applicable, which she could copy and send. I told her to go ahead and send us the copies, and that if additional information was needed we would let her know.

A handwritten signature in cursive script that reads "Dorothy".

# Oregon Water Resources Department



State of Oregon  
**Water Resources Department**  
158 12th Street NE, Salem, OR 97310  
1(800)624-3199 • (503)378-8455  
www.wrd.state.or.us

**RECEIVED**  
1/19  
SD

## Fax Transmittal

TO: KIP LOMBARD

FAX: 541-488-3239 DATE: 1/19/1999 PAGES: 12

FROM: STEVE BROWN

COMMENTS: KIP,

Please note address on map for  
MR & MRS CRANDELL

Box 243 AND PO Box 300

Fossil OR HARPER OR

*Dallas -*  
~~1/19~~ *Send to*  
*Steve Brown ASA done.*  
*Jane*

### **Administrative Services**

- Accounting/Fiscal
- Personnel
- Water Development Loan Fund

### **Resource Management**

- Regional Liaisons

### **Field & Technical Services**

- Enforcement

### **Water Rights & Adjudications**

- Water Rights Information
- Adjudications
- Hydroelectric
- Certificates/Final Proofs
- Hearings/Contested Cases

### **Northwest Region**

- District 16 Watermaster
- Transfers

- Ground Water
- Information Services
- GIS/Mapping

FAX: **503-378-2496**

FAX: **503-378-8130**

FAX: **503-378-6203**

Brian Hirsch  
S-74320

S-74320

6-7-96

Contacted me regarding  
~~the~~ request for a revised  
map.

I described what we needed.

He will get this done +  
send it in.

Laura  
Smedaker

**MAP REVIEW**

- 1-source and trib
- 2-diversion point location
- 3-conveyances (pipes, ditch, etc.)
- 4-place of use *NOT ON MAP*
- 5-scale
- 6-township, range, section
- 7-north arrow
- 8-CWRE stamp
- 9-disclaimer
- 10-date survey was performed
- 11-P.O.B. of survey
- 12-dimensions and capacity of diversion system
- 13-"beneficial use" type title
- 14-"permanent-quality" paper

- REPORT**
- Fish Meter
  - 15-permit conditions
  - 16-type of use
  - 17-extent of use
  - Not included*
  - 18-rate and duty
  - 19-time limits (A,B,C and transfers)
  - 20-crop type
  - 21-system capacity (with computations)

74320

2/6/98

PEX

*review not complete  
ommissions require  
completion  
date 1/7/99 SB*

*FIN*

Application No. **74320**  
Permit No. **52780**

Name ... WILLIAM P HULL  
HIRSCH, BRYAN  
Address ... PO BOX 510  
MERLIN, OR 97532

Assigned .....  
Address .....

Beginning construction **SEP 11 1997**  
Completion of construction **OCT 01 1998**  
Extended to .....

Complete application of water **OCT 01 1999**  
Extended to .....

Form 111

Is your RETURN ADDRESS completed on the reverse side?	<b>SENDER:</b> <ul style="list-style-type: none"> <li>■ Complete items 1 and/or 2 for additional services.</li> <li>■ Complete items 3, 4a, and 4b.</li> <li>■ Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>■ Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>■ Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>■ The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none"> <li>1. <input type="checkbox"/> Addressee's Address</li> <li>2. <input type="checkbox"/> Restricted Delivery</li> </ul> Consult postmaster for fee.	
	3. Article Addressed to: William Hull PO Box 510 Merlin, OR 97532		4a. Article Number P56208	
			4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
	5. Received By: (Print Name) <i>Billy Shue</i>		7. Date of Delivery 8/2/98	
6. Signature: (Addressee or Agent) X <i>[Signature]</i>		8. Addressee's Address (Only if requested and fee is paid)		

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

RECEIPT # **27303**

158 12TH ST. N.E.  
SALEM, OR 97310-0210  
378-8455 / 378-8130 (FAX)

INVOICE # \_\_\_\_\_

RECEIVED FROM: Sally A. Hull  
BY: \_\_\_\_\_

APPLICATION	74320
PERMIT	52780
TRANSFER	

CASH:  CHECK: # 96-636 OTHER: (IDENTIFY)

**TOTAL REC'D \$ 30.00**

**0417 WRD MISC CASH ACCT**

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY)	\$
OTHER: (IDENTIFY)	\$

**REDUCTION OF EXPENSE**

CASH ACCT. \$  
VOUCHER #

**0427 WRD OPERATING ACCT**

<b>MISCELLANEOUS</b>		\$
0407 COPY & TAPE FEES		\$
0410 RESEARCH FEES		\$
0408 MISC REVENUE: (IDENTIFY)		\$ 30.00
TC165 DEPOSIT LIAB. (IDENTIFY)		\$

*PCA # 66111  
Assign*

<b>WATER RIGHTS:</b>	<b>EXAM FEE</b>		<b>RECORD FEE</b>
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$	0206	\$
<b>WELL CONSTRUCTION</b>	<b>EXAM FEE</b>		<b>LICENSE FEE</b>
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$
OTHER (IDENTIFY)			

**0437 WELL CONST. START FEE**

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

**0539 LOTTERY PROCEEDS**

1302 LOTTERY PROCEEDS	\$
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**0467 HYDRO ACTIVITY**

0233 POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HRDRO APPLICATION		\$

RECEIPT # **27303**

DATED: 1-21-99 BY: Roger Whight

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-File

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **114808**

158 12TH ST. N.E.  
 SALEM, OR 97310-0210  
 378-8455 / 378-8130 (FAX)

RECEIVED FROM: William E. Hall APPLICATION 79320  
 BY: \_\_\_\_\_ PERMIT \_\_\_\_\_  
 TRANSFER \_\_\_\_\_

CASH:  CHECK: # 96-636 OTHER: (IDENTIFY)   
 TOTAL REC'D \$ 200.-

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

842.010	ADJUDICATIONS	\$
831.087	PUBLICATIONS / MAPS	\$
830.650	PARKING FEES Name / month	\$
_____	OTHER: (IDENTIFY)	\$

**REDUCTION OF EXPENSE**

_____	CASH ACCT.	\$
_____	VOUCHER #	\$

**03-00-0 WRD OPERATING ACCT**

<b>MISCELLANEOUS:</b>			
840.001	COPY FEES	\$	
850.200	RESEARCH FEEDS	\$	
880.109	MISC REVENUE: (IDENTIFY)	\$	
520.000	OTHER (P-6) (IDENTIFY)	\$	
<b>WATER RIGHTS:</b>			
842.001	SURFACE WATER	EXAM FEE \$ <u>200.-</u>	842.002 RECORD FEE \$
842.003	GROUND WATER	\$	842.004 RECORD FEE \$
842.005	TRANSFER	\$	842.006 RECORD FEE \$
<b>WELL CONSTRUCTION</b>			
842.022	WELL DRILL CONSTRUCTOR	EXAM FEE \$	842.023 LICENSE FEE \$
_____	LANDOWNER'S PERMIT		842.024 LICENSE FEE \$
_____	OTHER (IDENTIFY)		

**06-00-0 WELL CONST START FEE**

842.013	WELL CONST START FEE	\$	CARD #	
_____	MONITORING WELLS	\$	CARD #	

**45-00-0 LOTTERY PROCEEDS**

864.000	LOTTERY PROCEEDS	\$
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**07-00-0 HYDRO ACTIVITY**

842.011	POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
842.115	HYDRO LICENSE FEE (FW/WRD)		\$
_____	HYDRO APPLICATION		\$

RECEIPT # **114808** DATED: 7-27-94 BY: Q. Bennett

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **6007**

158 12TH ST. N.E.  
 SALEM, OR 97310-0210  
 378-8455 / 378-8130 (FAX)

INVOICE # \_\_\_\_\_

RECEIVED FROM: William Hull  
 BY: \_\_\_\_\_

APPLICATION	74320
PERMIT	
TRANSFER	

CASH:  CHECK: # 96-636 OTHER: (IDENTIFY)

TOTAL REC'D \$ 125.00

**0417 WRD MISC CASH ACCT**

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY)	\$
OTHER: (IDENTIFY)	\$

**REDUCTION OF EXPENSE**

CASH ACCT.	\$
PCA AND OBJECT CLASS	VOUCHER #

**0427 WRD OPERATING ACCT**

MISCELLANEOUS			
0407	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)		\$
TC165	DEPOSIT LIAB. (IDENTIFY)		\$
WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$ -0-	0202 \$125.00
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	0206 \$
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$
	OTHER (IDENTIFY)		

**0437 WELL CONST. START FEE**

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

**0539 LOTTERY PROCEEDS**

1302	LOTTERY PROCEEDS	\$
------	------------------	----

**0467 HYDRO ACTIVITY LIC NUMBER**

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

RECEIPT # **6007**

DATED: 8-30-96 BY: C.R. Richards

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal