

of 15.0 acres of land with a date of priority of June 16, 1924. Said right is appurtenant to the south one-half of the following described tract:

Beginning on the South line of the D. L. C. of Reuben Lewis and wife, Notification No. 419, Claim No. 44, at a point 17.71 chains E. of SW corner of said D. L. C.; thence N. 40.94 chains to the S. line of the land deeded to John S. Lewis by Reuben Lewis Nov. 4, 1874; thence East 31.93 chains; thence South 51.11 chains; thence West 31.93 chains; thence North 9.57 chains to the place of beginning and containing 160 acres, more or less, situated in T. 8 S., R. 2 West, W. U., in Harney County, Oregon. Grava and except from the above described tract all roads and roadways.

Said certificate of water right, as to the description of the place of use, is modified to conform with the description as set forth in this finding.

15.

CONTEST NO. 3

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon

Contestants,

v.

W. J. Denham,

Contestee.

Contestee, W. J. Denham, filed herein Statement and Proof of Claim No. 24, wherein he asserts a right to the use of 0.29 cubic foot per second of water from Mill Creek for the irrigation of 63.0 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 27, Township 8 South, Range 2 West, W. U., with a date of priority of June 7, 1924, the water to be diverted by means of a pump and water wheel,

To said statement and proof of claim, Contestants, Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and the City of Salem, Oregon, filed herein Statement of Contest No. 3, wherein it is alleged: (1) That Contestants deny each and every statement set forth in Contestee's claim, except as stated in this Contest. (2) That Mill Creek for the most part of the irrigation season has no natural flow past the premises of Contestee. That whenever there is any natural flow of Mill Creek during the irrigation season it is trivial in amount and Contestants are entitled to the same and that said water right certificate of said Contestee is a meaningless thing leading only to misunderstanding and the same should be cancelled. (3) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company, the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said

Contestants and their predecessors in interest have carried Santiam River water through the channel of Mill Creek since the year 1857. That Contestee used said Santiam River water for irrigation under pretense of irrigating with the waters of Mill Creek to the injury of Contestants. That said facts justify a special finding to the effect that Contestee has no right to take any water from the channel of Mill Creek or said race for irrigation.

It appears that the Contestee first began the use of water from Mill Creek for irrigation purposes in 1922 and on June 7, 1924 made application to the State Engineer for a permit. Said application was approved by the State Engineer on July 16, 1924 and on January 19, 1928 final proof was made and a certificate of water right issued on March 19, 1928, for which a corrected certificate of water right was issued on April 28, 1928. Said certificate of water right is recorded in Volume 7, at page 7567, State Record of Water Right Certificates. It further appears that said correction certificate does not correctly describe the lands upon which the water has been used.

The survey and maps prepared by the State Engineer showing the lands irrigated with water diverted from Mill Creek show the total area irrigated by the Contestee to be 11.9 acres. It appears from the evidence that the area irrigated by the Contestee prior to 1930 varied between 5.0 and 15.0 acres.

The Contestee, W. J. Danhaus, in accordance with said certificate of water right as modified herein and subject to the provisions of Paragraph 115 herein, hereby is allowed a right to the use of 0.188 cubic foot per second of water from the natural flow of Mill Creek for the irrigation of 15.0 acres of land as described in the tabulation herein with a date of priority of June 7, 1924, said water to be diverted by means of pumping and water wheel.

It is further provided that the certificate of water right recorded in Volume 7, Page 7567, State Record of Water Right Certificates, is modified, as to the area of land irrigated, description of lands to which the water is appurtenant, and the quantity of water, to conform to this finding.

16.

CONTEST NO. 4

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon;

Contestants,

v.

Donker Brothers,

Contestees.

The Contestees, Donker Brothers, by Naams Donker and Gerben Donker, filed herein Statement and Proof of Claim No. 27 wherein they assert a right to the use of 0.25 cubic foot per second of water from Mill Creek and Porter Creek, a tributary of Mill Creek, with a date of priority of July 12, 1922, for the irrigation of 15.0 acres within the SW¹/₄ SW¹/₄, Section 25, and 10.0 acres within the NW¹/₄ NE¹/₄, Section 35, Township 2 South, Range 2 West, T. 2 S., which right is evidenced by Certificate of Water Right recorded in State Record of Water Right Certificates, Volume 5, Page 4839.

Name and Postoffice Address of Applicant	Date of Reclamation Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
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Calvin, C. E. Turner, Oregon Proof #22 (See Findings, Paragraph 45)	June 8 1922	0.20	16	Irrigation	Unnamed ditch	Porter Creek	16.0 acres in Section 26, T. 8 S., R. 2 W., T. 11 E., being within the fol- lowing described tract:
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Beginning at a point 59 rods west of the SE corner of Sec. 26, T. 8 S., R. 2 W., T. 11 E., Marion County, Oregon, running thence west 45 rods; thence north 160 rods; thence east 45 rods; thence south 160 rods to the place of beginning, containing 45.0 acres, more or less.

Dremer, Chris and Hilda, Stoyton, Oregon Proof #23 (See Findings, Paragraph 46)	1904	2.0 gallens per minute from each of two springs, and 2.0 c.f.p.m. from an unnamed stream, trib. to Mill Cr.		Stock	No diver- sions	Two springs, and an unnamed stream, trib. to Mill Creek	Within the following described tract:
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Beginning at a point in the center of the county road 9.74 chains east of the southwest corner of the Charles Benson D.L.C. in Sec. 1, T. 9 S., R. 1 W., T. 11 E., in Marion County, Oregon; running thence west along the center of the county road 9.74 chains to the southeast corner of said D.L.C.; thence south 89° west 3.52 chains; thence south 45.25 chains to the center of the county road; thence north 84° east 12.00 chains; thence north 45° east 45.54 chains to the place of beginning and containing 60 acres more or less.

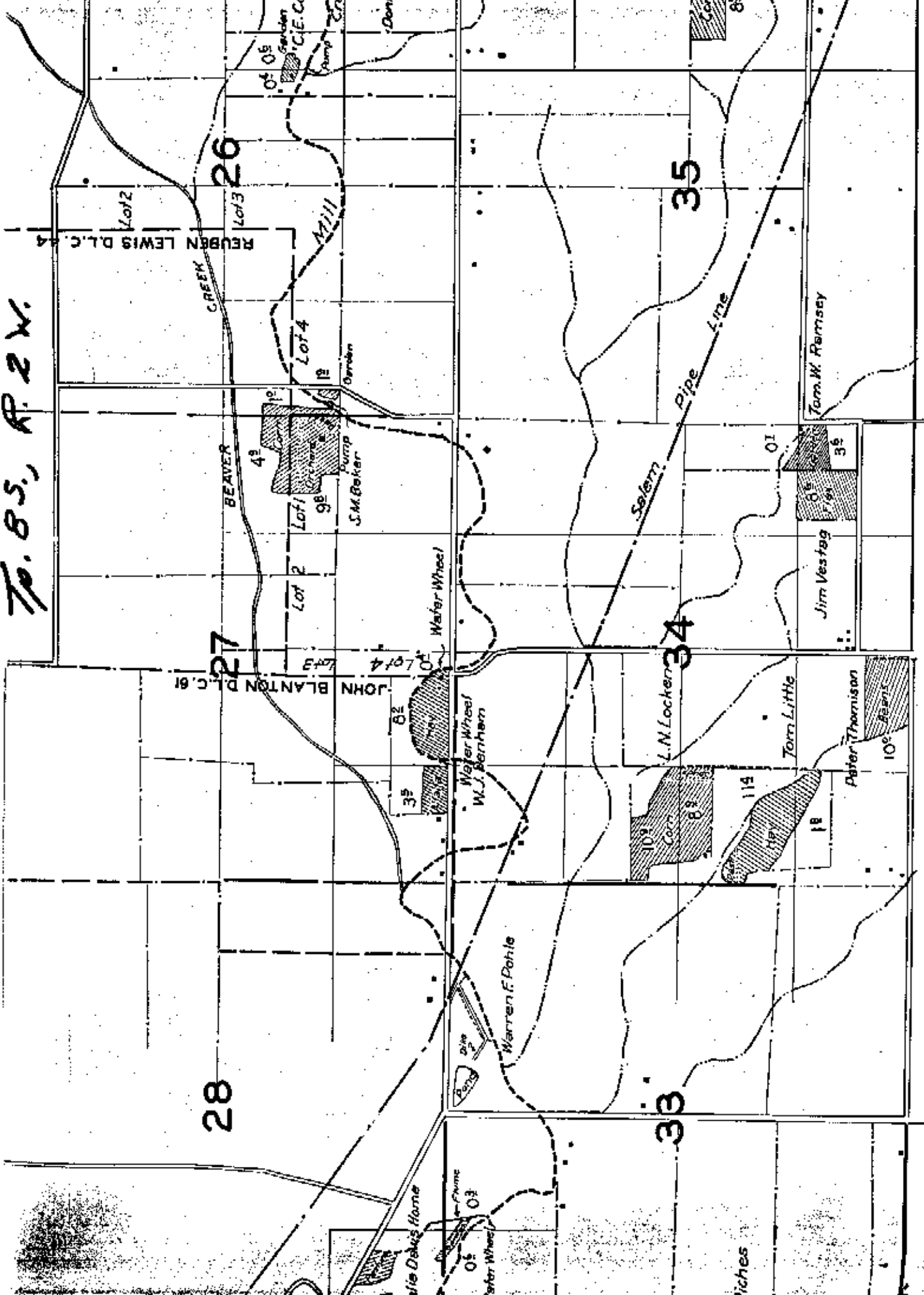
Deason, W. J. Turner, Oregon Proof #24 (See Findings, Paragraph 45)	June 7, 1924	0.180	15.0	Irrigation	Water wheel and pump	Mill Creek	15.0 acres within the following de- scribed tracts:
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Beginning at the southeast corner of John Blanton D.L.C. No. 61 within Section 27, T. 8 S., R. 2 W., T. 11 E., running thence N. 43 rods two inches; thence west 93 rods; thence south 43 rods two inches; thence east 93 rods to point of beginning, con-
taining 25.0 acres, more or less; ALSO that part of Lot 4, Section 27, T. 8 S., R. 2 W., T. 11 E., lying south and west of Mill Creek, being in the southwest corner of said Lot 4 and containing 1/8-acre more or less.

Boerfler, Ed and Eva, Route 1 Auneville, Oregon Proof #45 (See Findings, Paragraph 47)	1865	0.02 being 0.004 from each of 4 un- named streams and an unnamed spring		Stock	No di- versions	Four unnamed streams, trib. to Mill Cr., and an unnamed spring	In Sections 16 and 21, T. 8 S., R. 1 E., T. 11 E., being within the fol- lowing described tract:
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Beginning at a point 23.19 chains west and 13.45 chains south of the southeast corner of Section 16, T. 8 S., R. 1 W., T. 11 E., running thence as follows: West along the south boundary of Moses J. Smith T. L. C. No. 54 and Napoleon E. Wisdom D. L. C. No. 70, 50.0 chains, north 9.5 chains, west 3.86 chains, north 36.20 chains, east 22.0 chains; thence south 0° 42' west 21.3 chains, east 32.0 chains, south 25.0 chains to the place of beginning.

To. 85., R. 2 W.



Lot 2

REUBEN LEWIS D.C. 44

26

Lot 1

CREEK

BEAVER

27

Lot 4

Lot 2

Lot 1

Lot 4

JOHN BLANTON D.C. 81

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378-3066

File No. 9568

August 4, 1977

George Gerspacher
133 W. Regis Street
Stayton, OR 97383

Dear Mr. Gerspacher:

The certificate of water right issued to W.J. Denham, recorded at page 7567 State Record of Water Right Certificate, was modified by the findings and order of determination in the matter of the determination of the relative rights to the use of the waters of Mill Creek and its tributaries, which were approved by Decree of the Circuit Court of the County of Marion dated January 30, 1945, to describe the water right as being appurtenant to the lands illustrated within the red bounded area on the map accompanying your letter of July 28, 1977.

The water right as modified allows the use of 0.188 cubic foot of water per second from the natural flow of Mill Creek for the irrigation of 15.0 acres of land with a date of priority of June 7, 1924.

The lands in the Southeast quarter of Section 27, Township 8 South, Range 2 West, were also included in the permit No. E-82 held by the Santiam Water Control District. It would be best to check with the district to determine if they are delivering water to the property in question.

A completed and perfected water right as evidenced by a certificate of water right remains valid so long as it is not lost through non use. If any portion of the water right has not been used for a period of any five successive years, that portion would be forfeited.

Sincerely

Wayne J. Overcash
Water Rights Engineer

WJO:cah

**RON BENTZ
& ASSOCIATES**

REALTORS

133 W. REGIS ST.
STAYTON, OREGON

97553

TWO OFFICES:

STAYTON: 782-6322

SCIO: 994-2636

July 28, 1997

Dear Sirs:

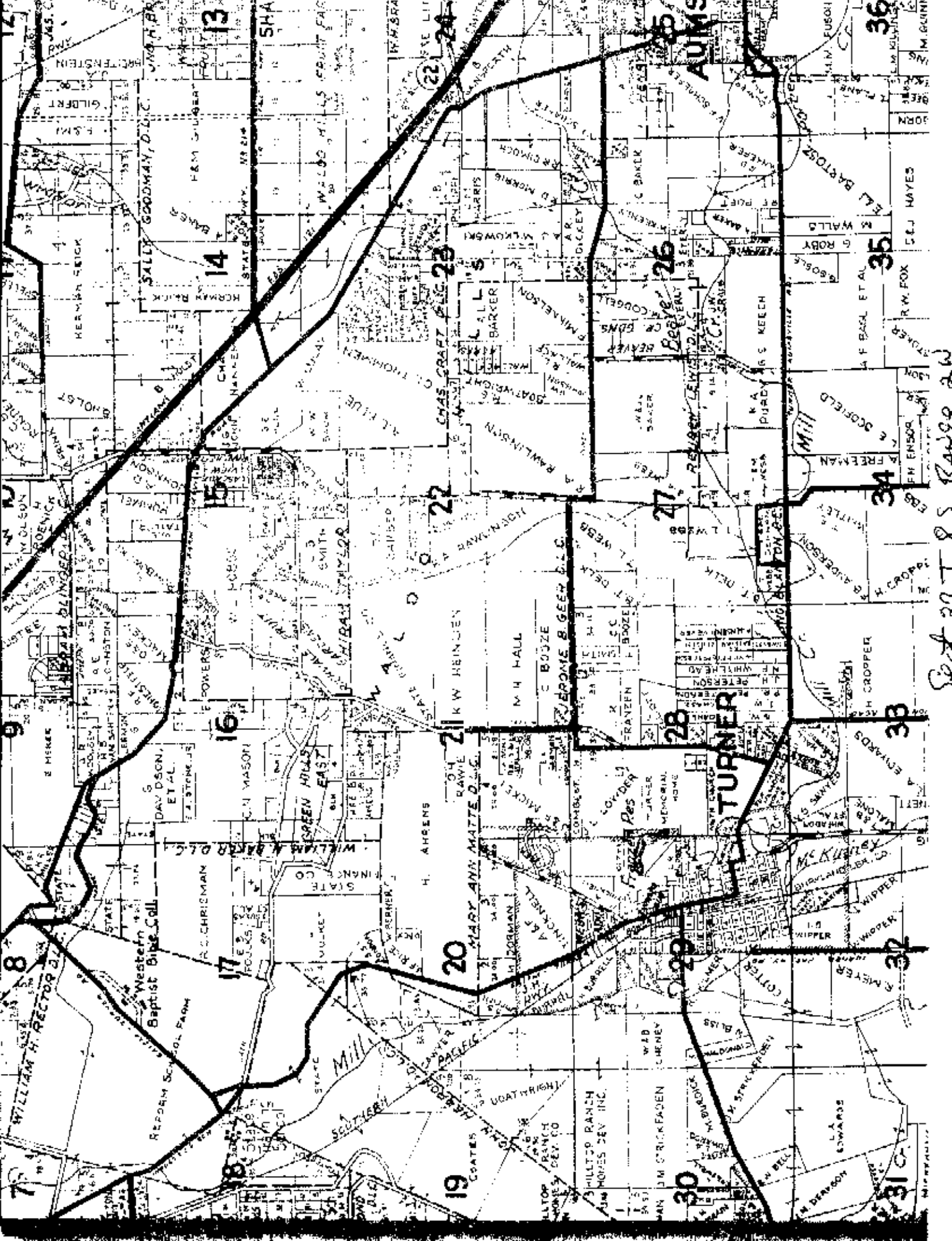
Would appreciate knowing if water rights have existed or now exist on this property

there are a total of 25 acres in the parcel and would like to know if all 25 acres are or were under water rights

Will look forward to hearing from you

Sincerely

George Gerspacher
GERSPACHER



Section 20 T 8 S Range 20 W

SALLY GOODWAY, D.L.C.

Western Baptist Bible Coll.
Reform School Farm

WILLIAM H. BARBER, D.L.C.

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9568

July 18th, 1924.

Mr. W. J. Deham,
Turner, Marion Co.,
Oregon.

Dear Sir:- Herewith you will find Application No. 9568, being Permit No. 4346,
which has been approved and recorded in this office.

June 21st 1924.

Mr. W. J. Benson,
Turner, Marion County,
Oregon.

Dear Sir:-

This will acknowledge receipt of your applica-
tion No. 9549 and map, which had been returned for cor-
rection.

The application now appears to be in proper form
and will be taken up for approval within a short time.

Yours respectfully,

Edna Luper,
State Engineer.

ER-LA

June 18th, 1924.

Mr. W. J. Deehan,
Turner, Marion County,
Oregon.

Dear Sir:-

Upon taking up for approval Application No. 9569 for permit to appropriate water from Mill Creek, I find the application and map do not correspond with reference to the location of the point of diversion of the ditch or pipeline.

You will note the application states the point of diversion is in the NE SW Sec. 27, while the map shows the point of diversion to be in Sec. 8, I am unable to determine which is correct, and am accordingly returning the map and application herewith.

In order to retain its original date of priority, the application should be corrected and returned to this office with the required map on or before July 18th.

Yours respectfully,

Rhea Luper,
State Engineer.

SB-LA

January 19, 1922.

Mr. E. J. Deahess,
Turner, Oregon.

Dear Sir:

I find it necessary to return the proof of appropriation of water in connection with your Permit No. 5314 for the reason that you failed to sign the affidavit at the bottom of the second page. Otherwise the proof seems to be in proper form.

My official receipt No. 7713 is enclosed covering your remittance of \$1.00 as a certificate recording fee. When the proof is returned with your affidavit the matter of issuance of a certificate will be given consideration.

Yours very truly,

Edna Inger,
State Engineer.

LES:CB

November 17, 1927

Mr. W. J. Dushan,
Turner,
Oregon.

Dear Sir:

I am enclosing blanks for making final
proof of appropriation of water under your Permit
No. 5844.

After the proof has been properly filled
out and signed before a notary public, it should
be returned to this office, accompanied by \$1.00
for recording the water right certificate in the
county records.

Yours very truly,

Edna Loper,
State Engineer.

HB
Enc.

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, W. Jay Denhem, the holder of Application No. 9568, being Irrigation Permit No. 6346, issued by the State Engineer of the State of Oregon for the appropriation of 2.51 second-feet of the waters of Mill Creek, in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer, completely applied the water to a beneficial use, on the 5 day of July, 1924, being the time limitation as fixed in said permit or extended by the State Water Board for the complete application of water to a beneficial use.

Remarks: If all of the water granted to the permit had not been fully applied to beneficial use, you should so state, so that delinquent applications may have notice.

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

Edmund Orndorff (Present Address)

W. Jay Denhem (Signature of Applicant)

Fill out, detach, and mail to the Secretary, State Water Board, Salem, Oregon.

NOTICE OF COMPLETION OF CONSTRUCTION

I, W. Jay Denhem, the holder of Application No. 9568, being Irrigation Plant Permit No. 6346, issued by the State Engineer of the State of Oregon for the appropriation of 31 cubic feet per second second-feet of the waters of Mill Creek, in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer, have completed the construction of the works described therein the 1st day of June, 1926, being within the time limitation as fixed in said permit or extended by the State Water Board for the completion of construction work.

Remarks: If the works have a less capacity than as described in the permit, or you have definitely abandoned your plan of irrigating any of the lands described in your permit, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 10 day of June, 1926,

Turner (Present Address)

W. Jay Denhem (Signature of Applicant)

Fill out, detach, and mail to the Secretary, State Water Board, Salem, Oregon. Form B should be used in reporting progress of work if more than one year has been allowed for completion.

NOTICE OF BEGINNING OF CONSTRUCTION

I, W. Jay Denhem, the holder of Application No. 9568, being pipeline Permit No. 6346, issued by the State Engineer of the State of Oregon for the appropriation of 31 second-feet of the waters of Mill Creek, in accordance with the tenor of such permit and the limitations endorsed thereon by the State Engineer, began the actual construction of the works described therein on the day of 19, being within the time limitation as fixed in said permit for the beginning of construction work.

There is construction of work as this a portable pipeline

The appropriate should state the number of buildings constructed, work, number of men and teams employed, the amount of work completed up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this 6 day of Sept., 1924,

Turner (Present Address)

W. Jay Denhem (Signature of Applicant)