Dear Mr Dwight French;

My name is Russell Thornton and I am having issues with a water right problem concerning "Crooked creek", a tributary of the chewaucan river in south central Oregon. I was looking through some of your on line information and found a line that states "Notification of any errors would be appreciated". I have found a rather large error and can't seem to get anyone from the water board to help in this matter. Our rights for "Sam Dicks" as well as others along the creek were found to be full of errors. The error involves the missdating of the begining date of water rights for J.B. elder. The information was placed in a stipulation and agreement dated November 15th, 1920 and Mr Elder signed the agreement, as well as all of the other water rights holders along the creek at the time. The problem I have is this agreement has been in effect for 94 years without any problems. Now Mr Dave Elder (J.B. Elder's nephew) has sold the family ranch and stated that his family has the first rights. The stipulation and agreement clearly shows that the Oregon State water board has entered several errors in the decree. These errors have caused us to lose the rights my family has had on crooked creek since 1875. As you can see, Mr Elder had stated his water right date to be 1873, which in fact should have been 1877. This error clearly causes the value of our property to be much less, not to mention the new water right holder is at the end of the creek, so our use of the water is substantially decreased in drought times. I have enclosed a copy of Mr Elders Water right certificates that shows he didn't even get the name of the creek right as well as the date of acquisition for the rights. I have already talked to Scott from your department, but haven't gotten any answers as to how to deal with this situation. We hired "Karnopp Petersen attorneys" to help us with this and have now spent over 17,000 dollars for nothing and have been told it would be another approximately 108,000 dollars to get this taken to court. I don't feel we should have to spend anymore of our money correcting a mistake the water board should have corrected back in 1920. I would really appreciate any help or direction in this matter.

Sincerely,

Russell Thornton

20633 old smokey rd.

Lakeview, OR 97630

Home phone: 541-947-2827

Cell phone: 541-417-1323

e-mail: quickdraw_27@hotmail.com

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JUN 16 2014

SALEM, OR

OREGON

STIPULATION AND AGREEMENT.

RECEINED 141:11 1921 J.B. Elder and R.G. Waller and B.G. Waller and er; and J.B. Elder and E.S. McDonald, as partners; and A.C. Hotchkiss; and H.L. Chandler; and S.B. Chandler; and Thomas Daly and David Rahilly, successors in interest through mesne conveyance of S.P. Dicks; and F.D. Loveless; and Mrs. A.M. Stevenson and J.M. Sullivan, as successors in interest through mesne conveyances of Lena A. Hardesty; and J.W. Rehart and R.E. Winchester, as successors in interest through means conveyances of J.C. Shellhammer; and R.L. Weir, as successor in interest through meene conveyances of S.B. Chandler; and Roy Chandler, as successor in interest through means conveyances of S.B. Chandler; and A.M. Pierson, as successor in interest through means conveyances of S.B. Chandler; and Mrs. Margaret Hedstrom, as successor in interest through mesne conveyances of Mrs. Everina Benefield; and C.A. Rehart; all of Lake County, Oregon.

That the findings of fact and order of determination of the State Water Board in the matter of the determination of the relative rights to the use of the waters of the Chewaucan River and its tributaries, a tributary of Abert Lake, Lake County, Oregon, made and filed in said proceedings before the State Water Board of the State of Orem gon, Water Division No. 1, Lake County, made on the 27th day of December 1915, as modified in the Circuit Court of the State of Oregon for Lake County by decree of date December the 2nd, 1916 in said matter, modifying the findings of fact and order of determination of said Water Board and affirming the same as modified, do not state the facts correctly and the parties hereto stipulate and agree that said findings of fact and order of determination as modified, as it relates to the waters of Crooked Creek between the parties to this agreement and stipulation is hereby corrected to read as fol-

On page 64 and 65 it should read as follows: Video of and of it should read as lollows; lame and postoffice address of appropriator - J.B. Elder, Paisley, Oregon. (Proof 62, Vol. 1); date of relative priority, 1877; amount oubic feet per second, 7.29; number of acres, 291.5; use, irrigation; name of ditch, 70 ditch; stream, Orocked Creek; description of land or place of use, land fully and properly described in said order of datermiland fully and properly described in said order of determination; whereas the order of determination under heading date of relative priority gives the year as 1875 when in truth and fact the same should be 1877.

On page 71 instead of reading as in the order of determination specified it should read as follows: Name and post office address of appropriator, E.S. McDonald and J.B. Elder (partners), Paisley, Oregon; (proof 113, Vol. 2); date of relative priority, 1877; amount cubic feet per second, name of ditch, dams and ditches; stream, Crooked Creek; desoription of land or place of use, same as correctly and properly described in said order of determination; whereas the order of determination under heading date of priority gives the year 1873 when in truth and fact the same should be 1877.

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That the order of determination on page 78 as 1t

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relates to the J.C. Shellhammer land should read as follows: Name and post office address of appropriator, J.C. Shellhammer, Lakeview, Oregon (Proof 152, Vol. 2); date of relative priority, 1875; amount cubic feet per second, 3; number of acres, 100; use, irrigation; name of ditch, Shellhammer ditches; stream, Crocked Creek; description of land or place of use, being a strip of land north and south of 100 acres in the center of the Eg of Section 13, Town-under heading date of relative priority is 1885 when in truth fore described.

4.

On page 45 of said order of determination it should read as follows: Name and post office address of appropriator, Everina Benefield, Lakeview, Oregon (Proof 3, Vol. 1); date of relative priority, 1875; amount cubic feet per second, O.15; number of acres, 6; use, irrigation; name of ditch, Chandler; stream, Crooked Creek; description of land and place of use, 2½ acres in NW1 of NW1; whereas the order of determination under heading date of priority is 1892 when in truth and fact the same should be Benefield, Lakeview, Oregon (Proof 4, Vol. 1); date of relative priority, 1875; amount cubic feet per second, O.4; number of acres, 16; use, irrigation; name of ditch, Benefield; stream, Benefield Creek; description of land or place of use, 7½ acres in SW1 of SW2, Sec. 20; 8½ acres the order of determination under heading date of relative priority is 1892 when in truth and fact the same should be priority is 1892 when in truth and fact the same should be

õ.

That the land now held and owned by R.L. Weir, successor in interest throughnesse conveyances of S.B. Chandler of the lands described in said order of determination as modified, the date of the priority for 80 acres of the land now used and possessed and owned by said Weir, described as the Ri of Sri, of Sec. 24, Township 375., R. 20E., W.M., should be 1880 instead of 1876.

That it is hereby stipulated and agreed that the

That it is hereby stipulated and agreed that the priorities, the amount of water, the number of sores irrition and the description of the land in said order of description as modified shall be the true rights and insert of said parties to this stipulation and agreement as set out therein, with the modifications as hereinbefore

And that the said order of determination as modified with the priorities and rights therein as hereby modified by this stipulation, especially hereinbefore set out, shall be and are the rights and interests of the respective parties to this stipulation and agreement to the waters and use of the waters of Crooked Greek and its tributaries and not otherwise or different and in carrying out said order of determination as modified, this stipulation and agreement shall become and is a part thereof and in enforcing said order of determination as modified it shall be enforced as therein provided, save and except as by this stipulation and agreement modified, and as thus modified by this stipulation and agreement the same shall be binding on the parties in all particulars and carried into full force and effect, binding the parties to this stipulation

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(2)

JUN 16 2014

and agreement and the parties not in the order of determination but who are parties to this stipulation and agree-ment as successors in interest through mesne conveyances of certain parties to this agreement be reinbefore named, namely: Daly and Rahilly, successors through mesne conveyances to S.P. Dicks; R.E. Winchester and J.W. Rehart, successors in interest through mesne conveyances to J.C. Shellhammer; Mrs. Margaret Hedstrom, as successor in interest through mesne conveyance of Mrs. Everina Benefield: R.L. Weir, successor in interest through mesne conveyances of certain of the S.B. Chandler interests; Mrs. A.M. Stevenson and J.M. Sullivan, successors in interest of Mrs. Lena A. Hardesty; A.M. Pierson, successor in interest through means conveyances of certain of the S.B. Chandler interests; and A.C. Hotohkiss, successor in interest through mesne conveyances of the Oregon Valley Land Company; and J.B. Elder; and J.B. Elder and E.S. McDonald, partners, as successors in interest through meene conveyances of the Oregon Valley Land Company.

That the said order of determination with ite modifications, by reason of the facts hereinbefore set out has caused a difference to exist between the parties to this stipulation and agreement and to settle those differences the parties have therefore entered into this stipulation and agreement.

That in entering into this stipulation and agreement and making the corrections as herein especially stipulated and agreed, as between the parties hereto relative to the appropriation, diversion and use of the waters of Crooked Creek by the parties hereto-and their predecessors in interest there is no change as to the amount of water appropriated, diverted and used; the place of use; the character of use; the time of use than as theretofore existed and used by the parties and their predecessors and no additional water or water right or use of water is involved or to be taken from or to be diverted from said Grooked Greek, but this stipulation is intended to and does carry out, specify and name the priority of appropriation, diversion and use, the priority thereunder, and as thus modified as to the date of appropriation and priority only, in all other matters provided for in the order of determination with its modification as modified by the order of determination of the Circuit Court of Oregon for Lake County in said matter shall be the rights of the parties hereto and to be carried into full force and effect by and with this stipulation and agreement as to priorities here stipulated and agreed in all particulars as a part of said order of determination as modified. This stipulation and agreement is made as to the dates of priority of appropristion and use and priority of right to give the true and correct dates of such priority, and thereby avoid legal pro-ceedings and future trouble or disputes in relation thereto between the parties hereto.

This stipulation and agreement is intended to and does bind the parties hereto, their heirs and executors and administrators, successors or assigns, their agents or attorneys.

In witness whereof the parties hereto have hereunto

est their hands and seals this the 15th day of November 1920.

(Signed) J.E.SHIder.

(Signed) McDonald & Elder, by J.B.Elder.

(Signed) A.C. Rotchkiss.

(Signed) S.B. Chandler.

(Signed) Thomas Daly.

(Signed) David Rehilly, by Thomas Daly, Attorney in Fact. (Signad) F.D. Loveless. Figned) J.M. O'Sullivan. Bigned) Stephenson & Sullivan, partners, by J.M. Sullivan.

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J.W. Rehart. R.E. Wimhester. Robt. L. Weir. ned) Roy Chandler. med A.M. Pierson. gnad) C.A. Rehart. igned) Margaret Hedstrom, by Mabel Hedstrom. Atty. in Fact.

Witnesses to all the signatures: K.B. Gott John E. Raker.

STATE of OREGON)

COUNTY OF LAKE

On this, the 16th day of November A.D., 1920, personally came before me, a Hotary Public in and for said County and State, the within named, J.B. Elder; A.C. Hotchkiss; S.B. Chandler; Thomas Daly, each for himself, and McDonald & Elder, by J.B. Elder; and David Rahilly, by Thomas Daly, his attorney—in-fact; F.D. Loveless, for himself; J.M. Sullivan, for himself; Stephenson and Sullivan, by J.M. Sullivan; J.W. Rehart; R.E. Winchester; Robt. L. Weir; Roy Chandler; A.M. Pierson; C.A. Rehart, each for himself; Margaret Hedstrom, by Mabel Hedstrom, her attorney-in-fact; all to me known to me to be the identical person described in and who executed the within instrument and person described in and who executed the within instrument and acknowledged to me that they executed the same freely and for the uses and purposes therein named.

Witness my hand and official seal this luth day of Movember, 1920.

(Signed) K.B. Gott.
Notary Public for Oregon,
Residing at Lakeview, Oregon. My commission expires 12/19/1925.

ENDORSED:

(Seal.)

Filed December 24th, 1920, at 2 o'olook P. M.

RECORDED: Volume 1 Page 393 Records of Agreements Lake County, Oregon. John Ward, County Clerk.

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JUN 1 6 2014

SALEM, OR

STATE OF OREGON, County of Lake.	
I, John Ward County Clerk and Clerk of the County	
Court of the County and State aforesaid, do hereby certify that the foregoing copy of	
Stimulation and Agraement between J. B. Elder etal	
has been by me compared with the original, and that it is a correct transcript therefrom,	
and of the whole of such original Stipulation and Agreement as the same	
appears of record at my office and in my custody.	
In Costimony Whereat, I have hereunto set my hand and affixed the	
neal of said Court this	
of January 193:	
John March	
ByClerk.	

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JUN BRUZBIA OR

SALEM, OR

DEFUNE THE BUAKU UF GUNTRUL OF THE STATE OF OREGON

Water Division No,	Count
In the Matter of the Determination of the Relative	
	7 Martin 2017
Rights to the Waters of Chewaucan	STATEMENT AND PROOF OF CLAIMANT
River and its tributaries, a	The state of the s
Tributary of Laws Aband	h ditch through which a material that
(The claimant must submit separate proof as to each	in elich through which
TATE OF OPECOM	which a water right is claimed)
County of Lake	
J. B. Pldan	
J. B. Rider	of Paislay Oregon;
sing called as a witness in support of this Stateme	nt of Claim, and being first duly swarm testified
follows:	aworn, testified
1. O. What is also well.	•
1. Q.—What is claimant's name and postoffice corporation and the authority by which you make	s address? If a corporation, give the place of
J. D. Distant	proof.
(If this proof is made by you as agent or attorney, the wrickstone upon the 12. Q.—Do you claim a right to the waters of the	ittan authorisation therefor must be signed by the
2. Q.—Do you claim a right to the waters of the from a tributary, give its name.	s above named stream or a tributary thereof?
A _ Yes, Orooks orees	as the sent a
A. Yas, Orooks creek. 8. Q. What is the nature of the right or use on based?	K WY
Dased?	wiscon this cuim to the waters of said stream
A.—	toward Irrigation.
4. Q.—How was such right initiated, or upon	ns, domastic, stock, etc.) What is if hased?
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(Appropriation, diver	and use, etc.)
. U. W. Stote the date of the initialian a	11.21
ht? Answer fully, attaching separate sheet if nec	ater right. A.— 1873. It or his predecessor in interest to initiate said.
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ditches	and use of water for irrigation
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7. Q.—When was water first used for irrigation	***************************************
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9. Q.—State the interest claimant has in such s interested therein:	ditch, with the names of any other and
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A Lessee, no others.	1 3 7 1 4 7 1 4 7 1 4 7 1 4 1 4 1 4 1 4 1 4

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Pange	Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q.—Q	Give the Charten on the Carate of Carate	he len is the tire t in de in de in de in max	gth o estin he witail, to ssent if n	rior f such nated orks the nated actual seesso	intendumber under cally in cry.)	Peb posed of such of a such rigate	be coveres proped shu	A.— posed emple solichich osed ould	constant you ditch be de	Wat brustie A.— propo or en scribe	on?	fu.1	y al	pplic reach 7 the que	sd. small small followstion	liest ving 17.
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4	cost of construction to dats. A.
34. Q.—What inte	erest have you in the lands irrigated or place where the water is used?
A ī	08866
35. Q.—Name at	large three witnesses only out to the second
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A.—	. D. Heryford, W. P. Heryford. John Simmons.
all of Lakevi	AW. Organi
A A	itional evidence have you attached hereto or submitted herewith?
needed.	Any other additional swidence that may be

separate sheet or sheets. A c	he space insufficient to properly answer any question; he should attach hereto said answer or
each smallest legal subdivision.	ig the lands so supplied, with the correct description of the lands owned by each such person. Certified copies of records and men exclusion of the lands owned by each such person.
hereby certify	he space insufficient to properly answer any question; he should attach hereto mid answer on opporation supplying water for irrigation to lands not its own, should attach to its proof a countries of the lands so supplied, with the correct description of the lands owned by each such person cartified copies of records and such evidence as the claimant may desire to submit, should tried for identification as Exhibit "A," "B," "C," etc. upon oath that the foregoing statements and answers are true as I veri
beliepe.	one for syonny statements and answers are true as I ver
	y W Som
2 1 1 W	Storation of Chairman
Eukamia makana	Signature of Claimant, or agent making proof.
prosecution and supplied to	Superintendent of Water Division No. 4 State of Oregon.
	Virgil Com
	Superintendent of Water Vivision No.
Filad:	Superintendent of Water Division No. 4 State of Oregon.
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Fees paid:	Suprintendent Water Division W.
"In case there is objection the reasons therefor, and must landa, with addays of surveyor to the mis (48 chairs and property).	Superintendent, Water, Division No. State of Oragon, on to the official plat the parties objecting must, when giving proof, file a written statement when the proof proof of the a written statement thereto giving date of survey. Such man of such man of suid ditch and irrigate
"In case there is objection the reasons therefor, and must landa, with addays of surveyor to the mis (48 chairs and property).	Superintendent, Water, Division No. State of Oragon, on to the official plat the parties objecting must, when giving proof, file a written statement when the proof proof of the a written statement thereto giving date of survey. Such man of such man of suid ditch and irrigate
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"In case there is objection the reasons therefor, and must lands with affidavit of surveyor to the mile (48 chains to one which is irrigated "Theoretical hemspower cubic foot per second falling a see Where a water right yet or only partially applied to with the Division Superintenden trading linea, on a scale of two irrigate in each 40-acre tract of surveyor or engineer should and lands now irrigated. Question of the contract of the contract of the contract of surveyor or engineer should and lands now irrigated.	Superintendent, Water Division No. State of Oregon. In to the official plat the parties objecting must, when giving proof, fite a written statement of the thirty days, fite with the Division Superintendent a map of said ditch and irrigate thereto giving date of survey. Such map should be on tracing lines, on a scale of two inche inch), and should have marked thereon, within each 69-acre legal subdivision, the area of lan equals total quantity claimed in cubic feet per second, times fail in feet, divided by 8.8 (on heas been initiated prior to Fubruary 34, 1908, and the works are monosplate, or the water no beneficial use, a map of lands on the above scale should accompany this statement, or fite twithin thirty days from date of proof, which maps should be drawn on uniform sheets of the male (46 chains to one inch), and should show the area which it is propose as well as main canals and general plans of all important structures to be built. The addience one stated, with date. The surveys of the State Engineer will show only constructed work one 28, 37, 28, 29, 30, 31, and 32 relate only to uncompleted rights. AUTHORIZATION OF AGENT.
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BEFORE THE BOARD OF CONTROL OF THE STATE OF OREGON

Water Division No,	Count	
the Matter of the Determination of the Relative	OW CO	
Rights to the Waters of the Chewaucan		/ -
River and its tributaries, a	AND PROOF OF CLAIMAR	7 T
Tributary of	tack! Cook 4	1
(The claimant must submit separate proof as to seek auch	Den SCRECTION	F 3
	II a water villar in curinds)	5
County of Lake	ā	_
J.B.Elder of	Pointan o	
ng called as a witness in support of this Statement of Claim, and	Themes and the second	gon,
follows:	onng first duly sworn, test	tified
1. Q.—What is claimant's name and postoffice address? If a corporation and the authority by which you make this proof	- corporation give the place	55 10. od
in a minute fitte Diffel.		
A J.B. Elder for himself and as agent for Mo	Donald and Elder	
It this proof is made by you as agent or attorney, the written authorization claimant upon the back hereof.) 2. Q.—Do you claim a right to the waters of the above serviced	therefor must be signed by the	
2. Q.—Do you claim a right to the waters of the above named from a tributary, give its name.	stream or a tributary there	eof? 1
A - Wa do to Creot's Creek		18 V
CONTRACTOR OF PARTY	and the second s	
3. What is the nature of the right or use on which this clai	m to the waters of said stre	ectorn /
ased?		
ased? Irrigation and stone	aggari er andigera a	
A.— Irrigation and atoms: (Irrigation power, mining domestic, stock, 4. Q.—How was such right initiated, or upon what is it bases	etc.)	
A.— Irrigation and stook. (Irrigation power, mining, domestic, stock, 4. Q.—How was such right initiated, or upon what is it based A.— Appropriation diversion and use. (Appropriation, diversion and use. etc.)	etc.)	(a
A.— Irrigation and stone. (Irrigation, power, mining, domestic, stock, 4. Q.—How was such right initiated, or upon what is it based A.— Appropriation, diversion and use, etc.) 5. Q.—State the date of the initiation of such water right. A.— 6. Q.—What steeps are a first initiation of such water right. A.—	etc.)	(a
A.— Irrigation and stone. (Irrigation, power, mining, domestic, stock, 4. Q.—How was such right initiated, or upon what is it bases A.— Appropriation diversion and use. (Appropriation diversion and use, etc.) 5. Q.—State the date of the initiation of such water right. A.— 6. Q.—What steps were taken by this claimant or his predecest? Answer fully, attaching separate sheet if necessary.	sh.) About 1873 seor in interest to initiate s	(Q
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***32.	Q. How many miles of ditch and what other construction work has been completed to
	La companie to
***33,	Q.—State the cost of construction to date: A.—
34.	Q.—What interest have you in the lands irrigated or place where the water is used?
12 200	Á in Owners
101. Gi	Q.—Name at least three witnesses who will substantiate the statements herein made by
	A W.P. and J.D. Hersford and J. Simmons all of Lakewiew, Oregon
36.	Q.—What additional evidence have you attached hereto or submitted herewith?
	AA. map showing the ditches on my land and the
in.	.each amallest legal subdivision
superate and plots list of ach smalles attached to	witness finds the space insufficient to properly answer any question, he should attach herete said answer on a set or sheets. A corporation superlying water for irrigation to lands not its own, should attach to its proof a comthe legal subdivision. Certified copies of records and such evidence as the elaisant may desire to submit, should be thereby certify apon oath that the foregoing statements and different are true as I verily
believe.	solvey upon buth that the foregoing statements and answers are true as I verily
171	Som B. alder.
, .	Signature of Claimant, or agent making proof.
Subscribe	d and sworn to before me this day of
1.0	Superintendents of Water Division No
Filed:	101 State of Oregon.
Fees paid	
- 5	Question 7. Library
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*In cas	there is objection to the oficial plat the parties objection No
ianda, with at to the mile ( which is irri	there is objection to the official plat the parties objecting must, when string proof, sie a written statement of merefor, and must, within thirty days, file with the Division Superintendent a map of said ditch and frighted 40 chains to one inch), and should have marked thereon, within each 40-acra legal subdivision, the area of land parties.
cubic foot per	second falling 8.8 rest equals tons quantity claimed in cubic feet per second, times fall in feet, divided by 8.8 (one see right has been initiated prior to Exhrust 84 100 pounds per second);
with the Divi- tracing lines, to irrigate in of surveyor or and lands now	(40 chains to one inch), and should have marked thereon, within each 40-acra legal subdivision, the area of innd patch.  Petical horsepower equals total quantity chained in cubic feet per second, times failf in feet, divided by 8.8 (one was a water right has been initiated prior to February 34, 1308, and the works are incomplete, or the water not sion Superintendent within thirty days from date of proof, which maps should accompany this statement, or filed on a scale of two inches to the mile (40 chains to one inch), and should show the area which it is proposed such that the proof of the state of the first one inches to the mile (40 chains to one inch), and should show the area which it is proposed state of the state of th
	AUTHORIZATION OF AGENT
State of	Oregon do hereby make and appoint
and afterne Proof of Cl valid service in the with such contex full pageer the ways in	der, Paisley, Orugon, of my agent of make and submit the within Statement and a grant as and in my name, place and stead, to make and submit the within Statement and a sin any be made of all process and notices in any contest commenced by or against me, in entitled matter, and said agent is hereby duly authorized to appear in any and all and any true and lawful agent and attorney, giving and granting unto my said attimiser and authority to do and perform all and every act necessary and requisite to be done in a fully as I might or would do if personally present, hereby ratifying and confirming agent shall the fully as I might be would do if personally present, hereby ratifying and confirming agent shall the fully as I will the confirming
9	And the contraction of the contraction of the contraction of the contraction of