



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

[www.wrd.state.or.us](http://www.wrd.state.or.us)

October 13, 2015

William H. Baquet, Jr.  
878 Monte Verde Drive  
Arcadia, California 91007

General Property Group LLC  
P.O. Box 8158  
Medford, Oregon 97501

James Bowman  
14389 East Evans Creek Road  
Rogue River, Oregon 97537

Laura Gerritsen  
13933 East Evans Creek Road  
Rogue River, Oregon 97537

Ruth Worth  
14375 East Evans Creek Road  
Rogue River, Oregon 97537

Randy and Gena Rice  
13933 East Evans Creek Road  
Rogue River, Oregon 97537

Bruce G. Buckmaster  
Jacqueline A. Buckmaster  
14095 East Evans Creek  
Rogue River, OR 97537

RE: Revised Notice of Proposed Partial Cancellation of water right evidenced by Certificate 40377

Two water rights for use of water from Evans Creek for irrigation are appurtenant to your tax lot, Certificates 40377 and 44950. The Buckmasters (owners of tax lot 103) filed affidavits stating there had been no use of water under those certificates on your tax lot for a period of at least five years. The Water Resources Department sent you a Notice of Proposed Partial Cancellation of Water Rights by certified mail and regular mail on October 13, 2014. Each notice, and a subsequent corrected notice for Certificate 44950, contained an error in a quarter-quarter section listing. Unfortunately, no one caught this error until now. The notice has been revised to correct the error and is enclosed. In addition, the location of the acres proposed for cancellation has been revised. To comply with Oregon Revised Statute (ORS) 540.631, the revised notice provides an opportunity for the owners of property to which the right is appurtenant to protest. Please review the notice carefully and note the deadline for the filing of a protest.

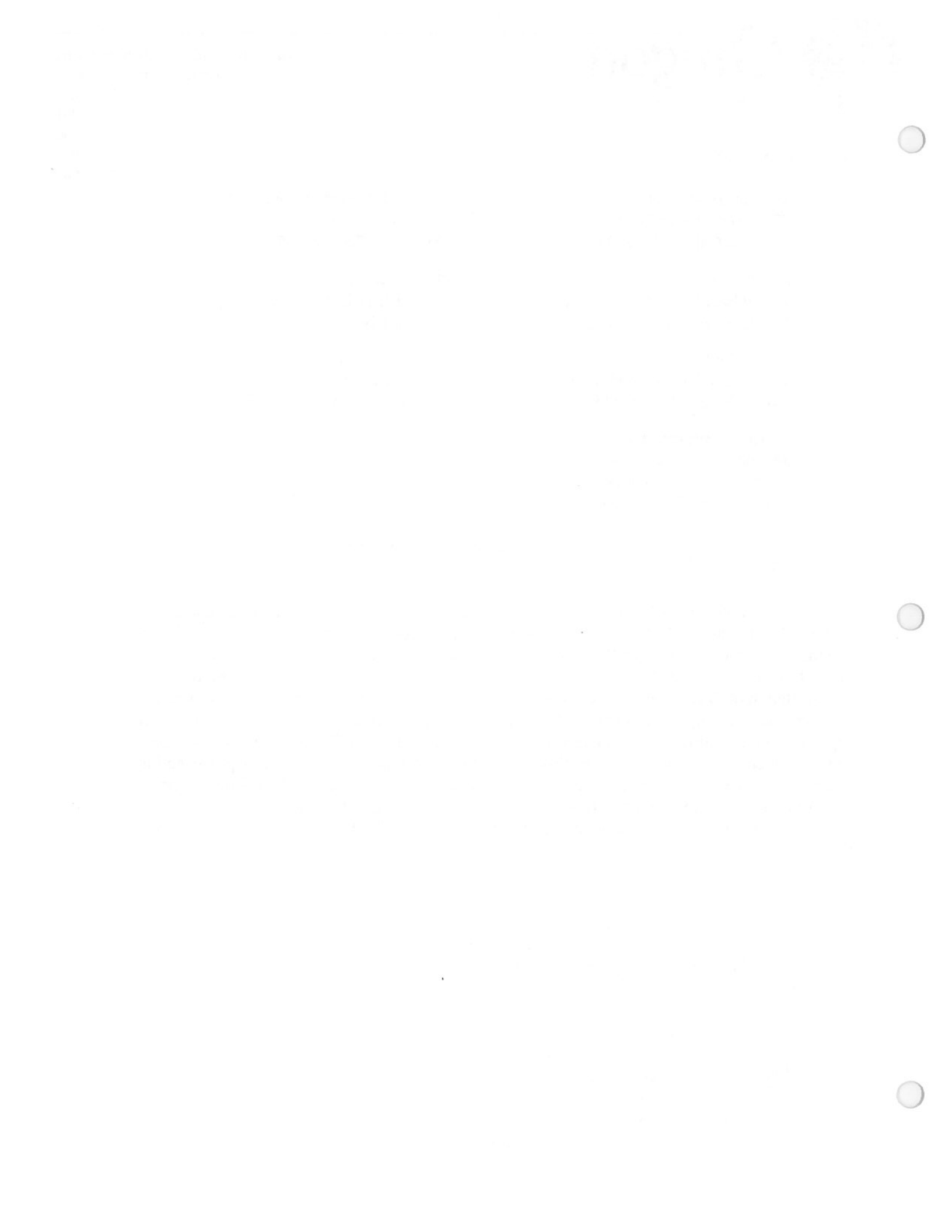
Sincerely,

Patricia McCarty, Protest Program Coordinator  
503-986-0820

cc: Watermaster Dist. 13  
Jasbir Ralph

Enc: Notice of Proposed Partial Cancellation  
Affidavits asserting non-use  
ORS 540.610 – 540.670  
Oregon Administrative Rules (OAR) 690-017





BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED	)	REVISED
PARTIAL CANCELLATION OF THE WATER	)	NOTICE OF PROPOSED
RIGHT EVIDENCED BY WATER RIGHT	)	PARTIAL CANCELLATION OF
CERTIFICATE 40377 FOR USE OF WATER	)	WATER RIGHT
FROM EVANS CREEK FOR IRRIGATION	)	
OF 17.0 ACRES, JACKSON COUNTY,	)	WRD Case No.: PC 02-14
OREGON	)	

TO: Record Owners and /or Occupants:

Section 5, Tax Lot 104, T35S R3W, W.M.: William H. Baquet, Jr., 878 Monte Verde Drive, Arcadia, California 91007; James Bowman, 14389 East Evans Creek Road, Rogue River, Oregon 97537;

Section 5, Tax Lot 105, T35S R3W, W.M.: General Property Group LLC, P.O. Box 8158, Medford, Oregon 97501;

Section 5, Tax Lot 107, T35S R3W, W.M.: Laura Gerritsen, 13933 East Evans Creek Road, Rogue River, Oregon 97537; Randy and Gena Rice, 13933 East Evans Creek Road, Rogue River, Oregon 97537;

Section 5, Tax Lot 110, T35S R3W, W.M.: Ruth Worth, 14375 East Evans Creek Road, Rogue River, Oregon 97537.

**Notice**

Pursuant to the provisions of Oregon Revised Statutes (ORS) 183.415 and ORS 540.631, you are hereby notified as the owners of record of certain real property in Section 5, Township 35 South, Range 3 West, Willamette Meridian (W.M.), Jackson County, Oregon of the proposed partial cancellation of irrigation water rights evidenced by Certificate 40377 in the name of Leroy M. Sinsabaugh.

**Basis for Initiation of Proposed Cancellation Action**

It is asserted in affidavits filed with the Water Resources Department (Department) by Bruce B. Buckmaster and Jacqueline A. Buckmaster that a portion of the water right evidenced by Certificate 40377 has been forfeited due to non-use for irrigation for five years and seven months (May 2008 through January 2014), on the subject lands.

**Water right proposed to be canceled for non-use**

The water right for which cancellation is proposed is:

Water Right Certificate 40377, in the name of Leroy M. Sinsabaugh, authorizing the use of 0.29 cubic feet per second (cfs) from Evans Creek, tributary to the Rogue River for irrigation of 22.0 acres in the NE1/4 NE1/4 and NW1/4 NE1/4 of Section 5, Township 35 South, Range 3 West, W.M. The point of diversion is located in the SW1/4 NE1/4, Section 5, Township 35 South, Range 3 West, W.M., 1625 feet South and 1805 feet West from NE Corner, Section 5. The priority date is November 8, 1918.

The portion of Water Right Certificate 40377 proposed to be canceled for non-use of water from Evans Creek, tributary to the Rogue River for irrigation is:

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	3 W	WM	5	NE NE	6.0
35 S	3 W	WM	5	NW NE	11.0
Total:					17.0

The priority date is November 8, 1918. A copy of Certificate 40377, application map and tax lot map are attached. In addition, the affidavits asserting non-use are also enclosed.

**Applicable law**

Oregon water law provides that if any portion of a water right undergoes five or more successive years of non-use, that non-use creates a rebuttable presumption of forfeiture. Use made after a period of five successive years of non-use will not make the forfeited right valid again. ORS 540.610; ORS 540.631.

A presumption of forfeiture may be rebutted by evidence that you submit in a protest and request for hearing and by evidence you may submit in a contested case hearing. ORS 540.610; Oregon Administrative Rule (OAR) 690-017-0800.

Other applicable law includes ORS 540.610 through ORS 540.650, OAR Chapter 690 Division 17 (governing water right cancellation) ORS Chapter 183 and OAR 137-003-0501 through 0700.

**Notice of right to request a contested case hearing if you don't agree with the proposed cancellation asserted in this Notice**

The information before the Department, if not countered by other evidence, establishes at least five years of non-use of your water right. Five years of non-use creates a rebuttable presumption of forfeiture. This means that you have an opportunity to show either that water use has occurred during the subject five-year period or that one or more statutorily established reasons excusing non-use as stated in ORS 540.610 and OAR 690-017-0800 apply to you.

You have the right to a contested case hearing on the matters asserted in this Notice of Proposed Cancellation. If you do not agree with the matters asserted in this Notice you may file a protest and request for hearing setting forth the reasons why the water rights specified in this Notice should not be cancelled.



To request a contested case hearing, the legal owner or occupant must file a written request for hearing with the Oregon Water Resources Department within 60 days from the date of the mailing of this Notice. Any protest and request for hearing must be in writing and received with a \$700.00 protest filing fee in the office of the Water Resources Department, Attention Patricia McCarty, 725 NE Summer Street, Suite A, Salem, Oregon 97301-1266, by 5:00 p.m. on December 16th, 2015. See ORS 536.050(1)(j)(authority for fee).

If you request a hearing, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. You have the right to be represented by an attorney and to respond and present evidence and argument on all issues properly before the Administrative Law Judge.

**If you do not request a hearing**

If you do not request a hearing within 60 days of the date of the mailing of this Notice, or if you withdraw a hearing request, notify the Department or the Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, the Department may issue a final order by default canceling your water right. ORS 540.641(1); OAR 137-003-0670. If the Department issues a final order by default, it designates its file on this matter as the record.

**Voluntary cancellation**

Holders of a water right **may also voluntarily relinquish** their water right by filing a notarized authorization to cancel with the Water Resources Department, Water Rights Section. ORS 540.621. If you decide to authorize voluntary cancellation of the water right or portion thereof appurtenant to your land, you do not need to file a protest. You should contact the Department or your local watermaster for the proper Cancel Authorization form.

Dated this 15th day of October 2015.



Dwight French, Administrator  
Water Right Services Division, for  
Thomas M. Byler, Director, Oregon Water Resources Department

## CERTIFICATE OF SERVICE

I certify that on October 15th, 2015, a copy of this Revised Notice of Proposed Partial Cancellation of Water Right 40377, with a copy of the Affidavits asserting non-use, a copy of Oregon Revised Statutes 540.610-540.670 and Oregon Administrative Rules Division 17, were served by certified mail, return receipt requested, and first class mail, postage prepaid upon the persons listed below:

William H. Baquet, Jr.  
878 Monte Verde Drive  
Arcadia, California 91007

James Bowman  
14389 East Evans Creek Road  
Rogue River, Oregon 97537

Ruth Worth  
14375 East Evans Creek Road  
Rogue River, Oregon 97537

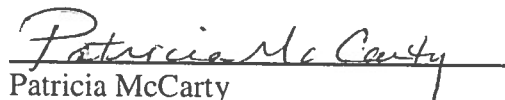
General Property Group LLC  
P.O. Box 8158  
Medford, Oregon 97501

Laura Gerritsen  
13933 East Evans Creek Road  
Rogue River, Oregon 97537

Randy and Gena Rice  
13933 East Evans Creek Road  
Rogue River, Oregon 97537

A copy of the above was also sent by first class mail, postage prepaid upon

Jasbir Ralph  
P.O. Box 630454  
Simi Valley, California, 93063

  
Patricia McCarty  
Water Resources Department

STATE OF OREGON  
COUNTY OF JACKSON  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That LEROY M. SINSABAUGH**

of **Route 1, Box 103, Rogue River**, State of **Oregon**, **97537**, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of **Evans Creek**

a tributary of **Rogue River** for the purpose of  
irrigation of **22.0 acres**

under Permit No. **3937** of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from **November 8, 1918**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed **0.29 cubic foot per second**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **SW $\frac{1}{4}$  NE $\frac{1}{4}$** , Section 5, T. 35 S., R. 3 W., W. M., **1625 feet South and 1805 feet West from NE Corner, Section 5.**

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to \_\_\_\_\_ of one cubic foot per second per acre,

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

**17.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
5.0 acres NW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 5  
T. 35 S., R. 3 W., W. M.**

This certificate is issued to confirm a change in place of use and point of diversion approved by orders of the State Engineer entered August 14, 1956 and April 22, 1965 and together with the certificate recorded at page 32145, Volume 24, supersedes certificate of water right heretofore issued to D. F. Neathamer and recorded at page 3243, Volume 4, State Record of Water Right Certificates.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. **May 24, 1974**

.....**Chris L. Wheeler**.....

State Engineer

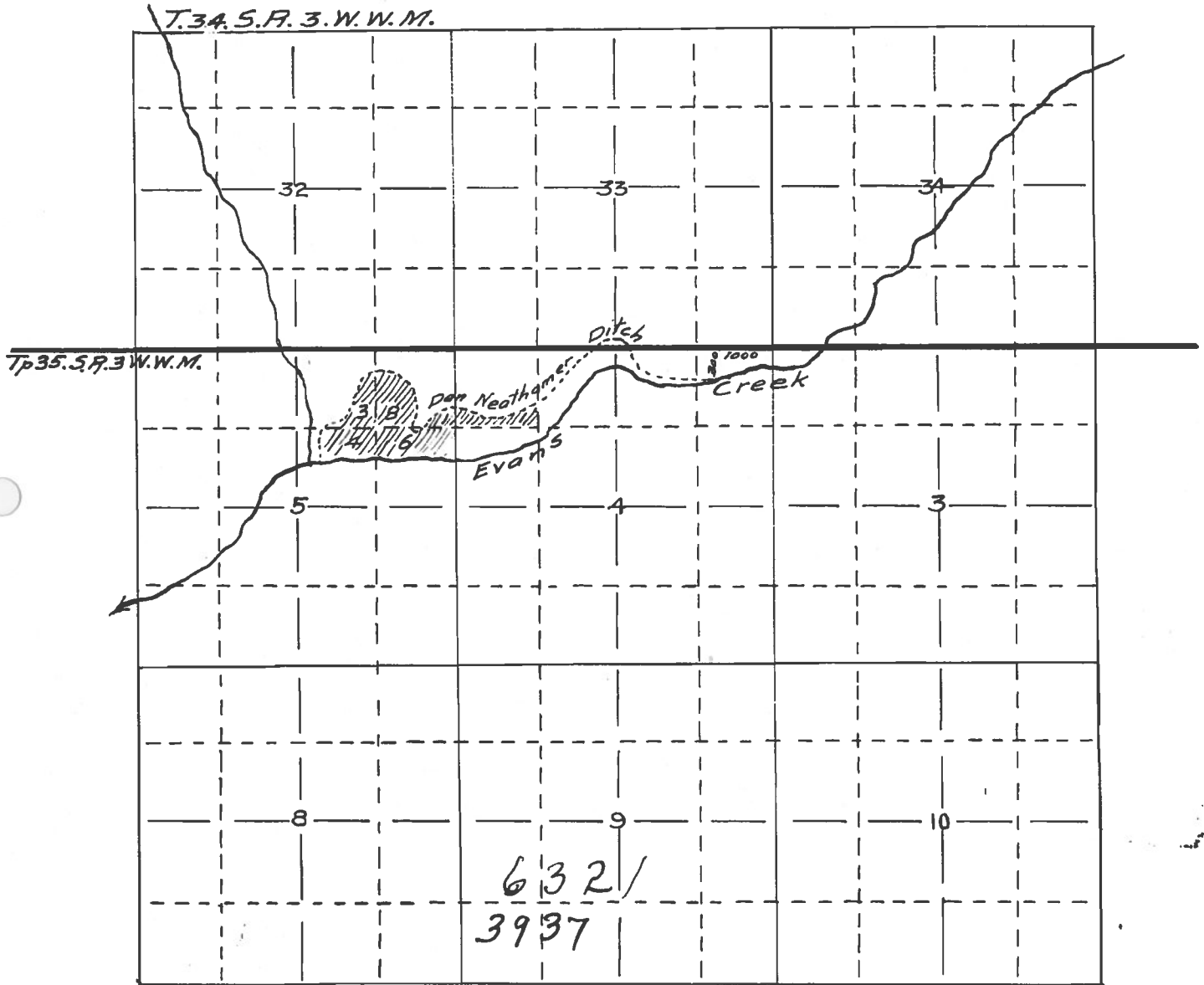
Recorded in State Record of Water Right Certificates, Volume **32**, page **40377**

Faint, illegible text covering the majority of the page, possibly bleed-through from the reverse side.

— MAP —

Accompanying application of Dan Neathammer for Permit to appropriate the waters of Evans Creek tributary of Rogue River Jackson County, Oregon.

— November 1917. —

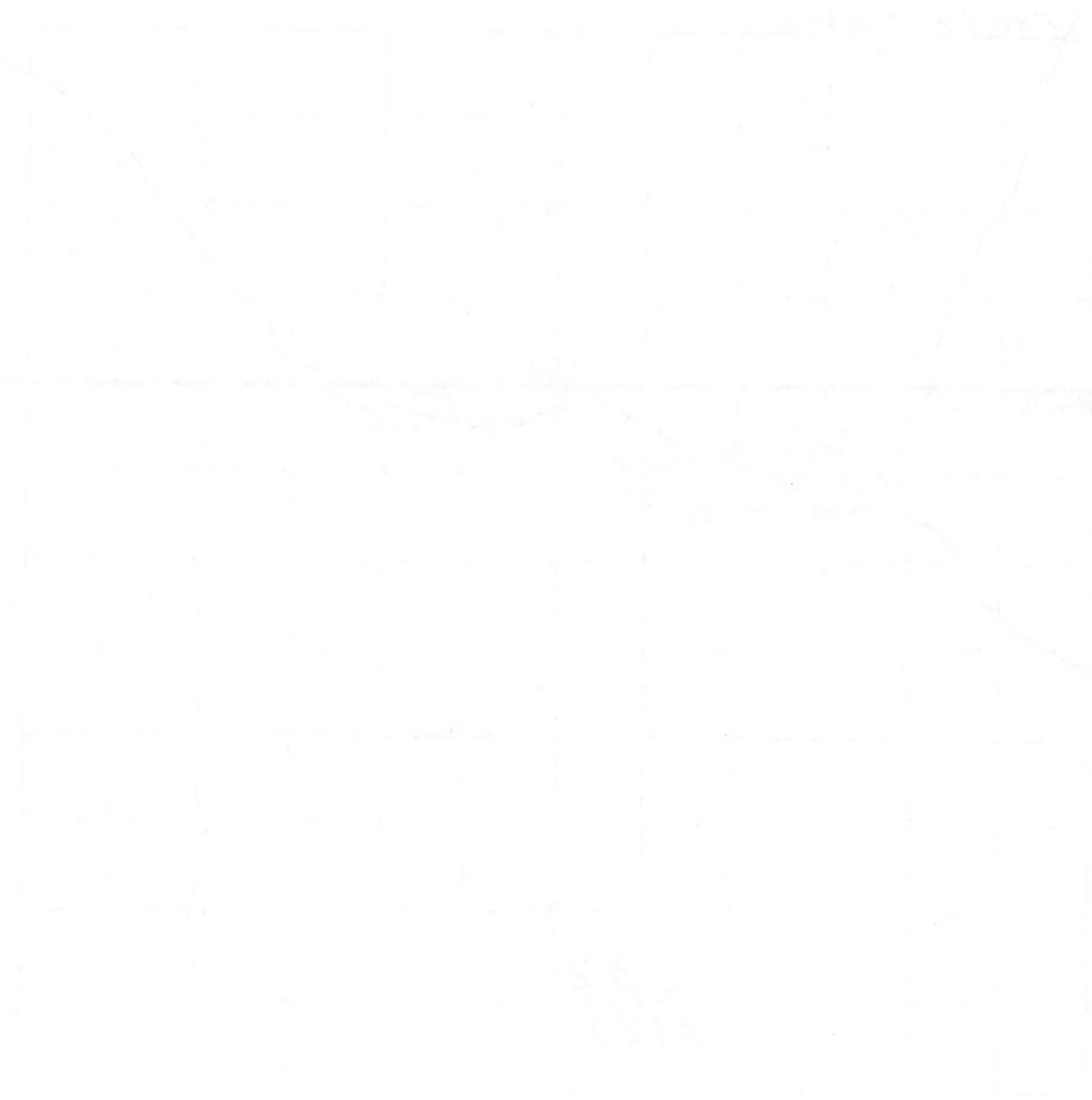


Map made <sup>from</sup> notes of actual survey of Lands and Ditch correctly showing same and ditches, & streams in immediate vicinity.

— Fred. N. Cummings C.E. —

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SECTION 5, T.35S., R.3W., W.M. JACKSON COUNTY 1" = 400'

35 3W 05

31

32

SEE MAP 34 3W 32

N 1/4 COR.

32

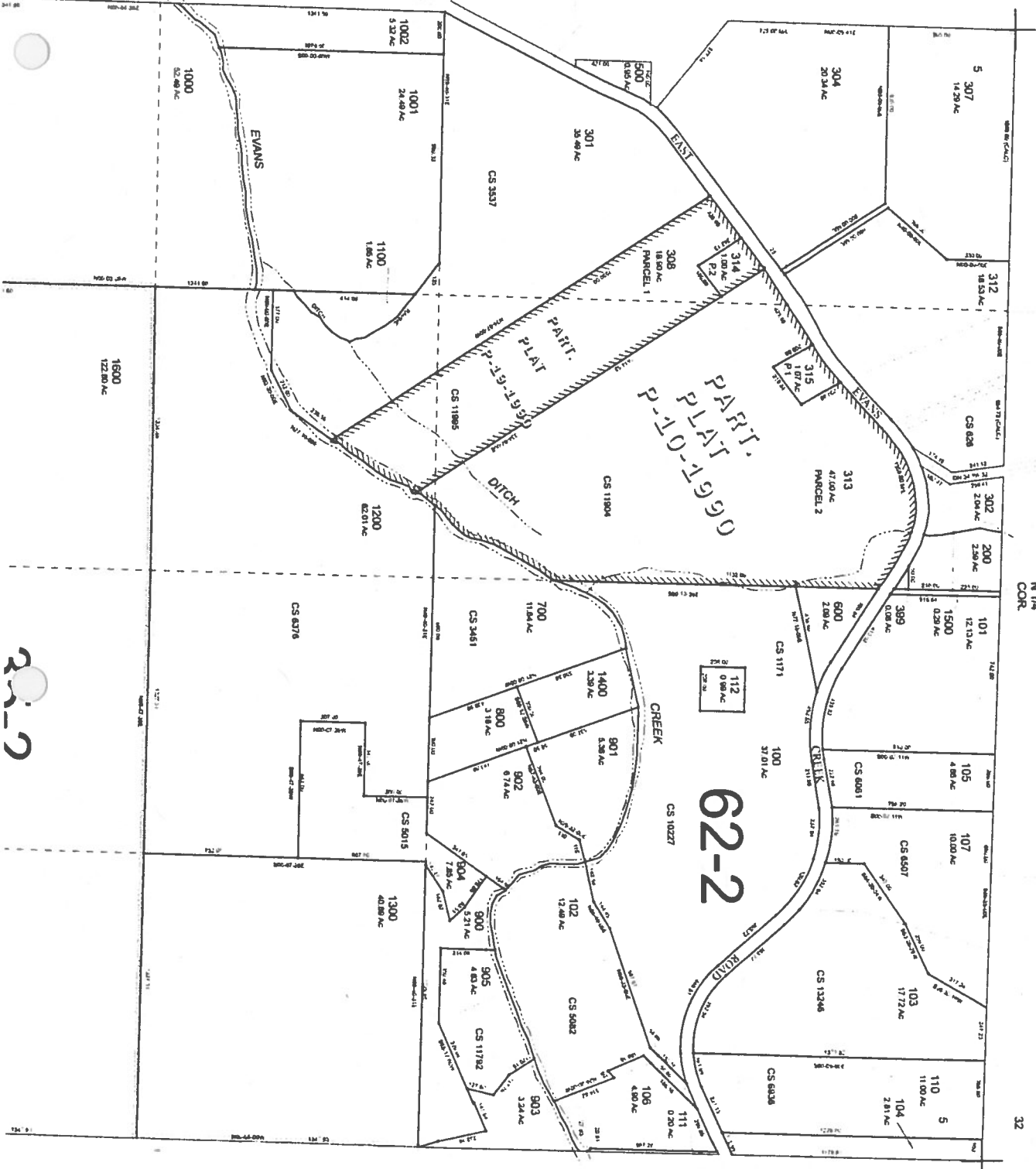
33

6

4

W 1/4 COR.

E 1/4 COR.



CANCELED TAX LOT NUMBERS

- 108
- 109
- 1201
- 300
- 303
- 305
- 306
- 309
- 310
- 311
- 400
- 900
- 907

SEE MAP 34 1W 00

SEE MAP 35 3W 11

20-2

INDEPENDENT COMMUNITY  
ACTION CENTER 521 W. 17th St. W.



GIS





Chapter 540 — Distribution of Water; Watermasters; Change in Use; Transfer or Forfeiture of Water Rights

FORFEITURE OF WATER RIGHTS

- 540.610 Use as measure of water right; forfeiture for nonuse; confirmation of rights of municipalities
- 540.612 Exemption from forfeiture
- 540.621 Cancellation of abandoned water right upon request of owner
- 540.631 Cancellation of forfeited water right; notice
- 540.641 Protest of cancellation; procedure
- 540.650 Issuance of new water right certificate for water rights not canceled
- 540.660 Affidavit of watermaster that circumstances prevent use of water right in accordance with terms of certificate; procedures for cancellation of right
- 540.670 Effect of cancellation of primary water right on supplemental right; change from supplemental to primary right; priority date

FORFEITURE OF WATER RIGHTS

**540.610 Use as measure of water right; forfeiture for nonuse; confirmation of rights of municipalities.** (1) Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state. Whenever the owner of a perfected and developed water right ceases or fails to use all or part of the water appropriated for a period of five successive years, the failure to use shall establish a rebuttable presumption of forfeiture of all or part of the water right.

(2) Upon a showing of failure to use beneficially for five successive years, the appropriator has the burden of rebutting the presumption of forfeiture by showing one or more of the following:

(a) The water right is for use of water, or rights of use, acquired by cities and towns in this state, by appropriation or by purchase, for all reasonable and usual municipal purposes.

(b) A finding of forfeiture would impair the rights of such cities and towns to the use of water, whether acquired by appropriation or purchase, or heretofore recognized by act of the legislature, or which may hereafter be acquired.

(c) The use of water, or rights of use, are appurtenant to property obtained by the Department of Veterans' Affairs under ORS 407.135 or 407.145 for three years after the expiration of the period of redemption provided for in ORS 18.964 while the land is held by the Department of Veterans' Affairs, even if during such time the water is not used for a period of more than five successive years.

(d) The use of water, or rights of use, under a water right, if the owner of the property to which the right is appurtenant is unable to use the water due to economic hardship as defined by rule by the Water Resources Commission.

(e) The period of nonuse occurred during a period of time within which land was withdrawn from use in accordance with the Act of Congress of May 28, 1956, chapter 327 (7 U.S.C. 1801-1814; 1821-1824; 1831-1837), or the Federal Conservation Reserve Program, Act of Congress of December 23, 1985, chapter 198 (16 U.S.C. 3831-3836, 3841-3845). If necessary, in a cancellation proceeding under this section, the water right holder rebutting the presumption under this paragraph shall provide documentation that the water right holder's land was withdrawn from use under a federal reserve program.

(f) The end of the alleged period of nonuse occurred more than 15 years before the date upon which evidence of nonuse was submitted to the commission or the commission initiated cancellation proceedings under ORS 540.631, whichever occurs first.

(g) The owner of the property to which the water right was appurtenant is unable to use the water because the use of water under the right is discontinued under an order of the commission under ORS 537.775.

(h) The nonuse occurred during a period of time within which the water right holder was using reclaimed water in lieu of using water under an existing water right.

(i) The nonuse occurred during a period of time within which the water right holder was reusing water through land application as authorized by ORS 537.141 (1)(i) or 537.545 (1)(g) in lieu of using water under an existing water right.

(j) The owner or occupant of the property to which the water right is appurtenant was unable to make full beneficial use of the water because water was not available. A water right holder rebutting the presumption under this paragraph shall provide evidence that the water right holder was ready, willing and able to use the water had it been available.

(k) The holder of a water right is prohibited by law from using the water. If the prohibition is subject to remedial action that would allow the use of the water, the water right holder shall provide evidence that the water right holder is conducting the remedial action with reasonable diligence.

(L) The nonuse occurred during a period of time within which the exercise of all or part of the water right was not necessary due to climatic conditions, so long as the water right holder had

a facility capable of handling the full allowed rate and duty, and was otherwise ready, willing and able to use the entire amount of water allowed under the water right.

(m) The nonuse occurred during a period of time within which the water was included in a transfer application pending before the Water Resources Department.

(n) The nonuse of a supplemental water right occurred during a period of time when the primary water right used in conjunction with that supplemental water right was leased as an in-stream water right pursuant to ORS 537.348.

(3) Notwithstanding subsection (1) of this section, if the owner of a perfected and developed water right uses less water to accomplish the beneficial use allowed by the right, the right is not subject to forfeiture so long as:

(a) The user has a facility capable of handling the entire rate and duty authorized under the right; and

(b) The user is otherwise ready, willing and able to make full use of the right.

(4) The right of all cities and towns in this state to acquire rights to the use of the water of natural streams and lakes, not otherwise appropriated, and subject to existing rights, for all reasonable and usual municipal purposes, and for such future reasonable and usual municipal purposes as may reasonably be anticipated by reason of growth of population, or to secure sufficient water supply in cases of emergency, is expressly confirmed.

(5) After a water right is forfeited under subsection (1) of this section, the water that was the subject of use shall revert to the public and become again the subject of appropriation in the manner provided by law, subject to existing priorities. [Amended by 1985 c.689 §5; 1987 c.339 §4; 1989 c.699 §1; 1989 c.833 §61a; 1991 c.370 §6; 1995 c.356 §2; 1995 c.366 §1; 1997 c.42 §5; 1997 c.244 §5; 1997 c.283 §1; 1999 c.335 §3; 1999 c.804 §§3,4; 2005 c.222 §1; 2005 c.542 §70; 2005 c.625 §70]

**540.612 Exemption from forfeiture.** If a district, as defined in ORS 540.505, petitions for a transfer as provided in ORS 540.574 no later than the end of the calendar year of the fifth year of nonuse under ORS 540.610 (1), the forfeiture provisions of ORS 540.610 shall not apply to the lands from which the water right is sought to be transferred pending approval of the district's petition. The time required for the processing of the petition, including any time required for hearings, appeals and completion of an authorized change, shall not be included when computing a five-year period of nonuse under the provisions of ORS 540.610 (1). [1991 c.957 §11]

**540.615** [1961 c.140 §1; 1987 c.339 §5; repealed by 1989 c.699 §4]

**540.620** [Repealed by 1955 c.671 §1]

**540.621 Cancellation of abandoned water right upon request of owner.** Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right. Effective upon the date of the entering of such order, the water which was the subject of use under the water right shall revert to the public and become again the subject of appropriation in the manner provided by law, subject to existing priorities. [1955 c.670 §1; 1979 c.67 §5; 1985 c.673 §96]

**540.630** [Repealed by 1955 c.671 §1]

**540.631 Cancellation of forfeited water right; notice.** Whenever it appears to the satisfaction of the Water Resources Commission upon the commission's own determination or upon evidence submitted to the commission by any person that a perfected and developed water right has been forfeited as provided in ORS 540.610 (1), and would not be rebutted under ORS 540.610 (2), the commission shall initiate proceedings for the cancellation of such water right by causing written notice of such initiation of proceedings to be given by registered or certified mail, return receipt requested, to the legal owner of the lands to which the water right is appurtenant and to the occupant of such lands. The notice to the legal owner shall be addressed to the legal owner at the owner's last address of record in the office of the county assessor of the county in which the lands are located. The notice shall contain a complete description of the water right and of the lands to which the water right is appurtenant. The notice shall state that the legal owner or the occupant has a period of 60 days from the date of the mailing of the notice within which to protest the proposed cancellation of the water right. [1955 c.670 §2; 1985 c.673 §97; 1989 c.699 §2; 1991 c.249 §53]

**540.640** [Repealed by 1955 c.671 §1]

**540.641 Protest of cancellation; procedure.** (1) If the legal owner or the occupant receiving notice as provided in ORS 540.631 fails to protest the proposed cancellation of the water right within the 60-day period prescribed in the notice, the Water Resources Commission may enter an order canceling the water right.

(2) If the legal owner or the occupant receiving notice as provided in ORS 540.631 files a protest against the proposed cancellation of the water right with the commission within the 60-day period prescribed in the notice, the commission shall fix a time and place for a hearing on the protest. The commission shall cause written notice of the hearing to be given at least 10 days prior to the hearing to the person protesting the cancellation of the water right and to any other person who in the opinion of the commission is an interested party to the proceeding. The hearing shall be held by the commission and shall be conducted under the provisions of ORS chapter 183 pertaining to contested cases. After the hearing the commission shall enter an order canceling the water right, canceling in part or modifying the water right, or declaring that the water right shall not be canceled or modified. [1955 c.670 §3; 1975 c.581 §26c; 1983 c.807 §3; 1985 c.673 §98]

**540.650 Issuance of new water right certificate for water rights not canceled.** If the order of the Water Resources Commission or the final decree on the appeal therefrom under

ORS 540.641 cancels in part or modifies the water right, that portion of the water right not canceled or continued as modified shall be reaffirmed by a new water right certificate issued by the commission. Such certificate shall be of the same character as that described in ORS 539.140. The certificate shall be recorded and transmitted to the owner of the water right as provided in ORS 539.140. [1955 c.670 §4; 1979 c.67 §6; 1985 c.673 §99]

**540.660 Affidavit of watermaster that circumstances prevent use of water right in accordance with terms of certificate; procedures for cancellation of right.** (1) If a watermaster has reason to believe that circumstances exist that prevent a water right from being exercised according to the terms and conditions of the water right certificate issued under ORS 537.250 or 539.140, such as the land to which the water right is appurtenant is covered by an impermeable surface, or the diversion mechanism used to appropriate water under a water right is no longer operable, the watermaster shall file an affidavit with the Water Resources Director. The affidavit shall state that to the best of the watermaster's knowledge, there is no physical way the water may be applied to a beneficial use in accordance with the terms and conditions of the water right certificate.

(2) If the watermaster files an affidavit under subsection (1) of this section each year for five consecutive years, the affidavits shall constitute prima facie evidence that the water has not been applied to a beneficial use for five years and the Water Resources Commission shall initiate proceedings under ORS 540.631 to cancel the water right.

(3) The Water Resources Department shall provide notice of the affidavit filed with the Water Resources Director under subsection (1) of this section. The department shall provide such notice in the following manner:

(a) If there are 25 or fewer record owners of the land, the department shall mail a copy of the affidavit to each record owner.

(b) If there are more than 25 record owners, the department shall provide general notice by publication according to the procedures established in ORS 193.010 to 193.100.

(c) If the land is within the boundaries of an irrigation district, the department shall mail a copy of the affidavit to the irrigation district.

(4) As used in this section, "record owner" means the person shown as the owner of the land in the county deed records established under ORS chapter 93. [1987 c.339 §1]

**540.670 Effect of cancellation of primary water right on supplemental right; change from supplemental to primary right; priority date.** (1) The cancellation of a primary water right for nonuse under ORS 540.641 shall not also cancel a supplemental water right unless the supplemental water right also has not been used beneficially for five or more years.

(2) If the Water Resources Commission cancels a primary water right under ORS 540.641 the commission may issue a new water right certificate changing the supplemental water right to

a primary right if the commission finds that the change would not result in injury to existing water rights.

(3) A supplemental right changed to a primary right under subsection (2) of this section shall retain the priority date of the supplemental right. [1987 c.339 §2]

## DIVISION 17

### CANCELLATION OF PERFECTED WATER RIGHTS

#### 690-017-0005

##### Introduction

These rules define the process the Water Resources Department will follow when cancelling a perfected water right. The action to cancel the perfected water right can be initiated as the result of a request by the record owner of the land to which the water right is appurtenant, or as the result of a request to determine the validity of a water right which may be forfeited due to five successive years of non-use.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

#### 690-017-0010

##### Definitions

- (1) "Affidavit" means a declaration upon oath, in writing, signed by the party and sworn to before a notary public.
- (2) "Affiant" means the individual completing, swearing to and signing an affidavit.
- (3) "Bankruptcy" means proceedings under federal bankruptcy statutes to relieve a debtor (the bankrupt) from insurmountable debt. The commencement of a bankruptcy action occurs with the date a petition for relief is filed by a debtor or creditor to the bankruptcy court.
- (4) "Cancellation" means the action taken by the Director, the Commission, or the courts to abolish all or part of a permit or certificate of water right.
- (5) "Deed-in-Lieu" means a deed tendered by the record owner to prevent the creditor from asserting a legal right to recover payment of a debt through a foreclosure action.
- (6) "District" has the meaning of the term as defined in ORS 540.505
- (7) "Foreclosure" means a proceeding in or out of court to extinguish all right, title and interest of the record owner(s) of property in order to sell or repossess the property to satisfy a lien

against it. A foreclosure action begins on the date presentation of the official demand for payment is made to the debtor by the creditor by certified mail.

(8) "Forfeiture" means the loss of a water right caused by the failure of the appropriator or record owner of the right to use the water for five successive years.

(9) "Judicial Action" means a suit, injunction, or litigation filed with or allowed by the courts.

(10) "Natural Disaster" means an act of God, such as flooding or erosion, which occurred with such magnitude that it either prohibited or severely limited the ability to use the water.

(11) "Perfected Water Right" means a water right which has been confirmed by the issuance of a certificate of water right or by a court decree.

(12) "Presumption of Forfeiture" means a conclusion established by statute that a water right, in whole or in part, is forfeited by nonuse of the right for five successive years.

(13) "Principal Farm Operator" means the record owner, including a lessee to whom the right of possession of agricultural property has been granted by the lessor for a specified period of time in return for a consideration.

(14) "Rebuttable Presumption" means a presumption which, by statute, may be overcome by evidence sufficient to explain or disprove the presumption.

(15) "Record Owner" means the person shown as the owner of the land in the county deed records established under ORS Chapter 93.

Stat. Auth.: ORS 536.025 & 536.027

Stats. Implemented: ORS 540.610-540.670

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90; WRD 7-2004, f. & cert. ef. 11-5-04

## **690-017-0100**

### **Cancellation Authorized by Record Owner**

(1) Perfected water rights shall be cancelled by order of the Director in accordance with the provisions of ORS 540.621 when so requested by notarized affidavit of the record owner of the land to which the water right in question is appurtenant.

(2) The affidavit shall contain, at a minimum, the following:

(a) A statement that the affiant is the record owner of the lands associated with the water right in question;



(b) The certificate number of the water right;

(c) A statement that the affiant has abandoned any and all interest in and to all or a specified portion of the water right;

(d) Where only part of the right has been abandoned, a description of the specific place of use by quarter-quarter section and acres on which the right has been abandoned, with information sufficient to determine the lands on which the right is not to be cancelled; and

(e) A request that all or part of the certificate be cancelled.

(f) A statement of whether, to the best of the affiant's knowledge, the subject water right is within the boundaries of a district or federal reclamation project.

(3) Based on the best information available to the Department, if the subject water right is within the boundaries of a district or federal reclamation project, the Department shall, as applicable, provide the district and the United States Bureau of Reclamation notice of the water right cancellation request.

Stat. Auth.: ORS 536.025 & 536.027

Stats. Implemented: ORS 540.610-540.670

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90; WRD 7-2004, f. & cert. ef. 11-5-04

## **690-017-0200**

### **Watermaster Affidavit of Inability to Appropriately or Beneficially Use Water**

(1) If a watermaster has reason to believe that circumstances exist that prevent a water right from being exercised, including but not limited to, the lands being covered by an impermeable surface or the diversion mechanism used to appropriate the water is no longer operable, the watermaster shall file an affidavit with the Water Resources Director.

(2) The affidavit shall state:

(a) The date and time the land or diversion mechanism or other evidence was inspected by the watermaster;

(b) The names of all record owners of the land where the water right is appurtenant and the owners' address as it appears in the county assessors' records; and

(c) The watermaster's findings during the inspection that indicate the water right cannot be exercised.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

### **690-017-0300**

#### **Notice of Watermaster Affidavit to Record Owner**

(1) The Water Resources Department shall notify each record owner of the land described by an affidavit submitted by a watermaster under ORS 540.660 in the following manner:

(a) If there are 25 or fewer record owners of the land, the department shall mail a copy of the affidavit to each record owner;

(b) If there are more than 25 record owners, the department shall provide general notice by publication according to the procedures established in ORS 193.010 to 193.100; and

(c) If the land is within the boundaries of an irrigation district, the Department shall mail a copy of the affidavit to the irrigation district.

(2) The record owner named in an affidavit shall be given the option of voluntarily relinquishing the water right or portion thereof, continuing to be the subject of the filing of such affidavits each year for a period of five successive years, or of applying the water to the use authorized by the certificate.

(3) If the watermaster files an affidavit each year for five successive years, the Water Resources Department shall initiate proceedings under ORS 540.631 to cancel the water right.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

### **690-017-0400**

#### **Cancellation Initiated by Department**

(1) The Department shall initiate proceedings to cancel a perfected water right, as provided in ORS 540.631 and these rules, whenever it appears that a right has been forfeited as provided in 540.610. The decision to initiate cancellation proceedings shall be based on evidence submitted to the Department, by any person, that alleges five or more years of nonuse so as to create a

presumption of forfeiture, and from which evidence it further appears the presumption of forfeiture would not likely be rebutted under OAR 690-017-0800(2)(a), (d) or (e).

(2) Where the evidence submitted to the Department is in the form of affidavits, notarized affidavits from two individuals shall be required. An affidavit shall contain the following:

(a) Name, address and telephone number of affiant;

(b) Page number of the certificate in question as recorded in the State Record of Water Right Certificates, name of the person to whom the certificate was issued, and priority date of the certificate;

(c) Township, range, quarter-quarter section and number of acres to which the certificate in question is appurtenant;

(d) The use for which the water right was issued;

(e) The source of water to be used as provided in the certificate;

(f) A statement of the affiant's knowledge of the lands described in the certificate in question, and an explanation of how the affiant gained this knowledge;

(g) A statement that the affiant knows with certainty that no water from the allowed source has been used for the authorized use on the lands, or a portion of the lands, the portion being accurately described, under the provisions of the water right within a period of five or more successive years, and the beginning and ending years of the period of nonuse. Where possible, beginning and ending months should also be given;

(h) A statement that the affiant believes the allegation of nonuse will not be rebutted under any of the grounds for rebuttal set out in ORS 540.610;

(i) A copy of the county tax plat map illustrating the lands to which the subject water right is appurtenant, and if applicable, the location of the portion of the water right asserted to have been forfeited;

(j) The affiant's agreement to testify in a hearing before the Water Resources Department if necessary;

(k) To the best of the affiant's knowledge, a statement of whether the subject water right is within the boundaries of a district or federal reclamation project; and

(l) Proof that the affidavit(s) have been served upon the legal owner of the lands to which the water right is appurtenant and to the occupant of such lands.

(3) Based on the best information available to the Department, if the subject water right is within the boundaries of a district or federal reclamation project, the Department shall provide notice of

receipt of affidavits submitted under this rule, as applicable, to the district and the United States Bureau of Reclamation at least 90 days prior to initiating a cancellation proceeding.

(4) Where the evidence submitted is solely from Department personnel, such evidence shall be submitted in the form of an affidavit and contain all information described in section (2) of this rule. In addition, the affidavit shall be supported by stream or canal gaging records, water or electric meter readings, static level measurements, system capacity calculations, a summary of field investigations, photos, maps, or other relevant data covering each year of the period of alleged nonuse.

(5) The Department shall initiate proceedings to cancel a water right under ORS 540.631 within 180 days of receiving the evidence required under sections (1) and (2) of this rule.

(6) The Department shall notify the record owner of the land to which a perfected water right is appurtenant that it intends to cancel all or a portion of the water right. The occupant of affected lands, if other than the owner, shall also be notified. If the subject water right is within the boundaries of a district or federal reclamation project, the Department shall, as applicable, mail a copy of the cancellation notice to the district and the United States Bureau of Reclamation. Notice shall be sent to the record owner of the land or occupant by certified mail, return receipt requested. The notice to the record owner shall be addressed to the owner at the owner's last address or record in the office of the county assessor of the county in which the lands are located. The notice shall contain the following:

- (a) A description of the water right and the land to which the water right is appurtenant;
- (b) A statement that the information before the Director creates a rebuttal presumption of forfeiture;
- (c) A statement that the record owner or the occupant has a period of 60 days from the date of the mailing of the notice within which to protest the proposed cancellation either by asserting that the water right has been used, or by making rebuttal in the manner and on the grounds provided in OAR 690-017-0600 and 690-017-0800;
- (d) Notice that if the record owner intends to rebut the presumption of forfeiture, the protest shall include a statement of the grounds for rebuttal relied upon, and shall be accompanied by appropriate supporting documentation; and
- (e) A statement that, following receipt of a protest against the proposed cancellation and determination that the presumption of forfeiture has not been rebutted, a contested case hearing will be scheduled.

Stat. Auth.: ORS 536.025 & 536.027

Stats. Implemented: ORS 540.610-540.670

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90; WRD 7-2004, f. & cert. ef. 11-5-04

## **690-017-0500**

### **Cancellation Not Protested**

If the record owner or occupant receiving notice as provided in ORS 540.631 fails to protest the proposed cancellation of the water within the 60-day period prescribed in the notice, the Water Resources Department shall enter an order cancelling the water right as provided in ORS 540.641.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

## **690-017-0600**

### **Protest of Cancellation/Statement of Intent to Rebut Presumption of Forfeiture**

(1) A protest submitted to the Water Resources Department by the record owner or occupant of the land on which a cancellation of a perfected water right is proposed shall include the following:

(a) A written statement citing the reasons the record owner or occupant believes the water right has not been forfeited by nonuse; and

(b) The statutory fee for filing the protest.

(2)(a) Where the record owner or occupant intends to rebut the presumption of forfeiture by claiming one or more of the grounds for rebuttal established in ORS 540.610(2) and as further defined in OAR 690-017-0800, grounds claimed for rebuttal shall be stated in the protest;

(b) Where applicable, documentary evidence in support of the rebuttal as described in OAR 690-017-0800(3) shall be submitted with the protest.

(3)(a) On receipt of a protest claiming rebuttal and supporting documentary evidence, a determination shall be made whether the presumption of forfeiture has been rebutted;

(b) Where rebuttal is found to have been made, the matter shall be closed and no further action taken to cancel the water right;

(c) Where it is determined that the presumption of forfeiture has not been rebutted, the Department shall initiate proceedings to cancel the right as provided in OAR 690-017-0700.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

### **690-017-0700**

#### **Cancellation Hearing**

- (1) If the Department receives a protest to the proposed cancellation of a water right within the prescribed 60-day period, a hearing on the protest shall be scheduled. The protestant shall be given not less than ten days notice of the hearing time and place.
- (2) The hearing shall be held by the Department's Hearings Referee, and shall be conducted under the provisions of ORS 183.310 to 183.550 pertaining to contested cases.
- (3) In contested case hearings where the initial determination was made that the presumption of forfeiture had not been rebutted, the owner may offer additional evidence in support of rebuttal.
- (4) After the hearing the Hearings Referee shall enter a proposed order:
  - (a) Cancelling the water right;
  - (b) Cancelling in part or modifying the water right; or
  - (c) Declaring that the water right shall not be cancelled or modified.
- (5) If no exceptions or objections to the proposed order are filed within the time allowed, the Hearings Referee shall issue a final order.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

### **690-017-0800**

#### **Grounds for and Manner of Rebutting a Presumption of Forfeiture**

- (1) Any record owner or occupant rebutting a presumption of forfeiture for nonuse of water under ORS 540.610(2), as provided in these rules, shall provide evidence that rebuts the presumption of forfeiture.
- (2) A presumption of forfeiture may be rebutted by showing one or more of the following:

- (a) The water right is for reasonable and usual municipal use of water;
- (b) A finding of forfeiture would impair the rights of cities and towns to the use of water, whether acquired by appropriation or purchase, or previously recognized by legislative act, or which may be acquired in the future;
- (c) The owner of the property was unable to use the water due to economic hardship as defined in section (3) of this rule;
- (d) The period of nonuse occurred during a period of time within which land was withdrawn from use under the Federal Soil Bank Program or the Federal Conservation Reserve Program;
- (e) The end of the alleged period of nonuse occurred more than 15 years before the date upon which evidence of nonuse was submitted or cancellation proceedings were initiated under ORS 540.631, whichever occurs first; and
- (f) The owner of the property to which the water right is appurtenant is unable to use the water because the use of water under the right is discontinued by an order of the Commission under ORS 537.775 (wasteful or defective wells).

(3) An economic hardship exists only during the following periods of time:

- (a) During a bankruptcy action initiated by or for the record owner or principal farm operator;
- (b) During a foreclosure of real or personal property of the record owner or principal farm operator. The foreclosure of personal property must directly affect the ability to use the water in question;
- (c) During the redemption periods as provided in ORS 23.530 to 23.600;
- (d) Three calendar years following the expiration of redemptions as provided in ORS 23.530 to 23.600; or, three years from the date of recording of a deed in lieu of foreclosure tendered by the record owner or principal farm operator in payment of debt owed; and
- (e) The time during which judicial actions limit or prohibit the record owner's or principal farm operator's use of the water in question;
- (f) The time during which a natural disaster would limit or prohibit the record owner's or principal farm operator's use of the water in question.

(4) Documentation supporting rebuttal based on enrollment in a federal program, bankruptcy, foreclosure or foreclosure redemption, natural disaster, or the 15-year statute of limitations on cancellation as provided for in ORS 540.610(2) may include, but is not limited to, the following items:

- (a) The enrollment contract or agreement between the record owner, occupant, or principal farm operator and the appropriate federal jurisdiction;
- (b) Affidavits by knowledgeable parties such as employees administering the federal programs;
- (c) Court pleadings, filings or other legal documentation of bankruptcy or foreclosure;
- (d) Documents from financial, mortgage, lending or title institutions; and
- (e) Sworn statements by a watermaster, soil scientist, or in-surance claim adjuster.

Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537, & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90

## **690-017-0900**

### **Time Period of Non-Use**

Where the rebutted nonuse occurs as an intervening period within an unrebutted period of nonuse totally five or more years, the remaining unrebutted years of nonuse will be treated as consecutive and cancellation will be initiated.

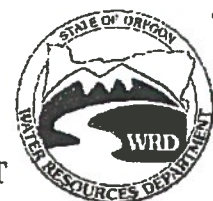
Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537 & ORS 540

Stats. Implemented:

Hist.: WRD 12-1988, f. & cert. ef. 8-10-88; WRD 17-1990, f. & cert. ef. 9-27-90



B  
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TL 104



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

Mail to: **Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271**

04/11  
nstcancel

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REPORT OF THE

COMMISSION

ON THE



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson ) ss

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Bruce Glen Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, OREGON, 97537  
(City) (State) (Zip Code)

Phone 541) 582-1392, say that:

2. Water Right Certificate number 40377,  
issued to LeRoy Sinsbaugh authorizes use of water from (source) Evans Creek  
for (use) IRRIGATION  
, under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0.

4. The subject water right is located within Tax Lot(s) 104, in Township 35  
N/S, Range 3 W E/W, in the NE 1/4 NE 1/4, of  
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived near TL 104 since 2008  
My diversion point is the same. There  
is no irrigation facility or an irrigation  
to TL 104 since 2008 that I have seen.

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STATE OF NEW YORK

DEPARTMENT OF WATER RESOURCES

OFFICE OF THE COMMISSIONER

Albany

Prince George Parkmaster

4035 East Evans Street Road

45237

Albany

4035 East Evans Street Road

40357

Prince George Parkmaster

40357

Albany

40357

40357

40357

40357

I have had a meeting with the... my attention part is the same... is the inspection... to the... sure that I have seen...

RECEIVED BY: WHO

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DATE: 10/18/00

DATE: 10/18/00

SALEM, OH

SALEM, OH



6. I know from personal observation and state with certainty that **the entire water right has not been used for:**

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty **that a portion of this water right has not been used for:**

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the **portion of the water right which has not been exercised**, totaling 1.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. BUB (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. BUB (Initial to indicate you have read this statement and understand your responsibilities).

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I have been granted a patent for the invention of a...

...the invention of a...

...the invention of a...

*Handwritten signature and name: J. Edgar Hoover*

...the invention of a...

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...the invention of a...

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Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

Bruce Y Buckenrath  
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2 014.



Angell R Pittman  
(Notary Public of Oregon)

My Commission Expires Nov. 5, 2015

(SEAL)

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**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 10 Day of June, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: William H. Baguet, Jr.  
Address: 878 Monte Verde Drive  
City, State, Zip: Arcadia, CA. 91007

Name: James Bowman  
Address: 14389 East Evans Ck K.  
City, State, Zip: Rogue River, OR.  
97537

Name:  
Address:  
City, State, Zip:

Name:  
Address:  
City, State, Zip:

[/s/ Signature]  
Title

Bruce G. Buckenrite

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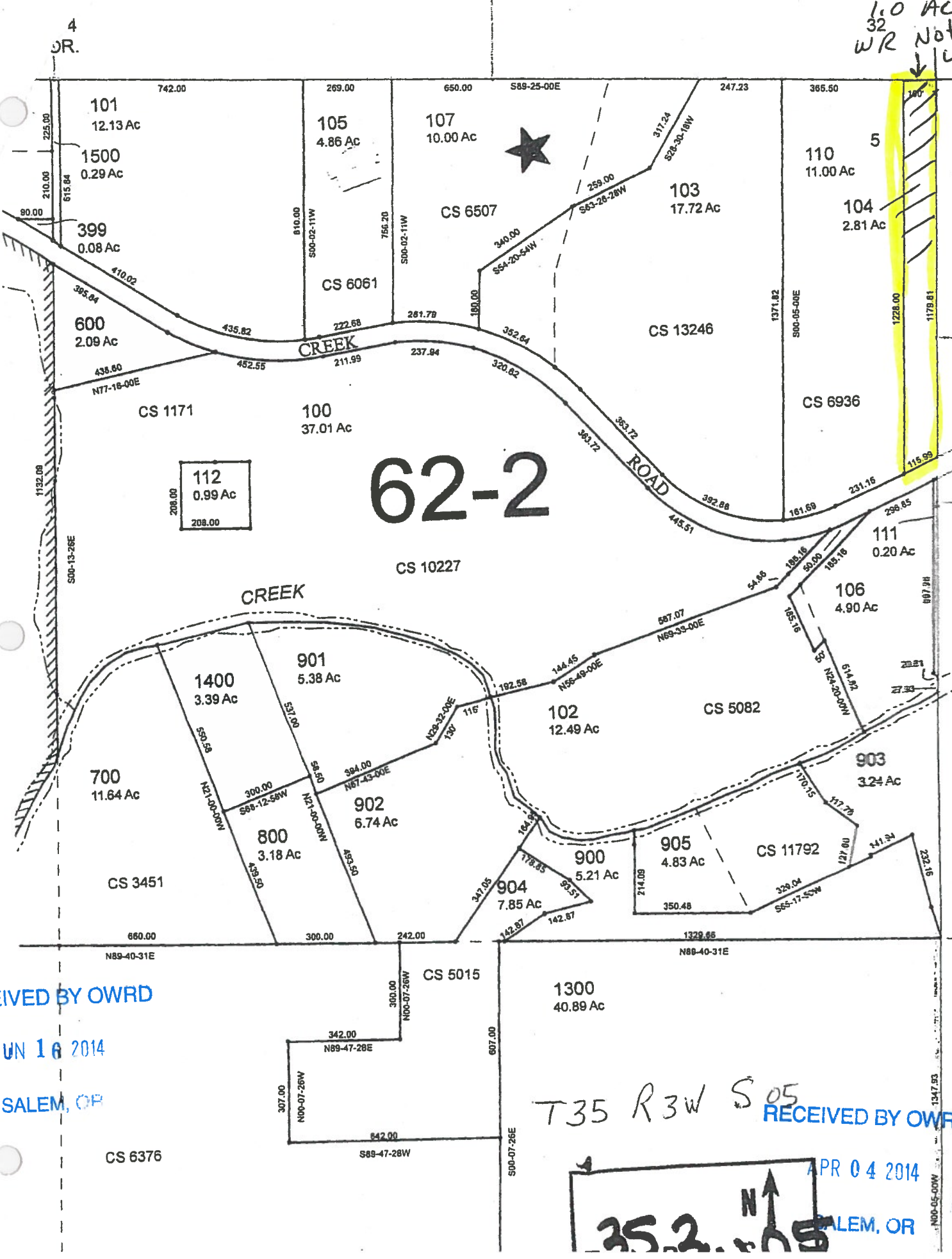
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TL 104 7  
1.0 ACRE  
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T35 R3W S05  
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RC MINE

BY





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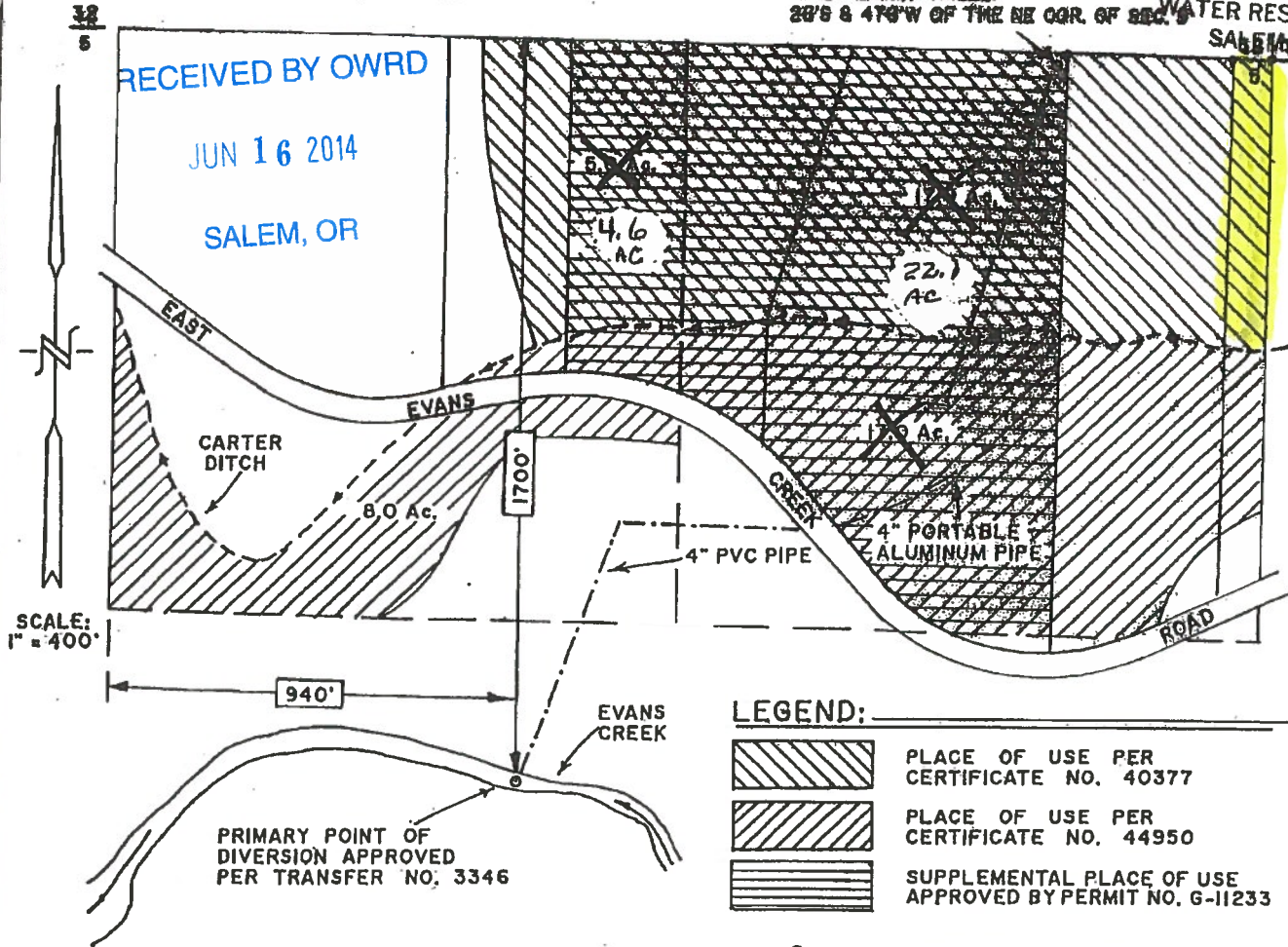


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# 1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.

AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION (WELL) 20'S & 470' W OF THE NE COR. OF SEC. 5 WATER RESOURCES SALEM, OREGON



### LEGEND:

- PLACE OF USE PER CERTIFICATE NO. 40377
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233

- POINT OF DIVERSION
- FOUND PROPERTY CORNER

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

### ACRES TO RECEIVE SUPPLEMENTAL SUPPLY

QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

APPLICATION NO. G-11979

PERMIT NO. G-11233

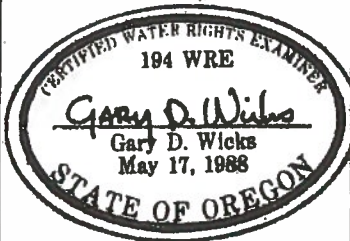
MAP MODIFIED BY WRD STAFF TO REFLECT ACRES PER TABLE. JWG 8-20-2007

PROJECT NO.  
142-90-120

DRAWING NO.  
38-8.5.11

DATE  
7-22-1992

SCALE  
1" = 400'



## PLAT OF CLAIM OF BENEFICIAL USE

LOCATED IN  
1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.  
JACKSON COUNTY, OREGON

PREPARED FOR:

ANTHONY L.S. EWALT  
14095 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 582-4112

PREPARED BY:

GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
962 S.E. "N" STREET  
GRANTS PASS, OREGON 97526-3290  
TEL. 479-3436.

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APR 04 2014

SALEM, OR

MINERAL SECTION OF 1875



FEDERAL DEPARTMENT

IN 1875

SECTION

TO THE SECRETARY OF THE INTERIOR  
WASHINGTON, D. C.  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D. C.

STATE OF CALIFORNIA

SECTION	ACRES	AMOUNT	TOTAL
1	36	1080	1080
2	36	1080	2160
3	36	1080	3240
4	36	1080	4320
5	36	1080	5400
6	36	1080	6480
7	36	1080	7560
8	36	1080	8640
9	36	1080	9720
10	36	1080	10800
11	36	1080	11880
12	36	1080	12960
13	36	1080	14040
14	36	1080	15120
15	36	1080	16200
16	36	1080	17280
17	36	1080	18360
18	36	1080	19440
19	36	1080	20520
20	36	1080	21600
21	36	1080	22680
22	36	1080	23760
23	36	1080	24840
24	36	1080	25920
25	36	1080	27000
26	36	1080	28080
27	36	1080	29160
28	36	1080	30240
29	36	1080	31320
30	36	1080	32400
31	36	1080	33480
32	36	1080	34560
33	36	1080	35640
34	36	1080	36720
35	36	1080	37800
36	36	1080	38880
37	36	1080	39960
38	36	1080	41040
39	36	1080	42120
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41	36	1080	44280
42	36	1080	45360
43	36	1080	46440
44	36	1080	47520
45	36	1080	48600
46	36	1080	49680
47	36	1080	50760
48	36	1080	51840
49	36	1080	52920
50	36	1080	54000
51	36	1080	55080
52	36	1080	56160
53	36	1080	57240
54	36	1080	58320
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81	36	1080	87480
82	36	1080	88560
83	36	1080	89640
84	36	1080	90720
85	36	1080	91800
86	36	1080	92880
87	36	1080	93960
88	36	1080	95040
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96	36	1080	103680
97	36	1080	104760
98	36	1080	105840
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100	36	1080	108000



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DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D. C.



8

TL 104  
WR 40377  
JB



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

04/11  
nstcancel

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SALEM, OR

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APR 04 2014

SALEM, OR



# INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
  2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
  3. List the total number of acres noted on the certificate, if applicable.
  4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
  5. Explain your knowledge regarding the alleged non-use.
  6. If the entire water right has been forfeit due to non-use, indicate the use and the alleged period of non-use by month and year.
  7. Illustrate on the appropriate county tax plat map the lands to which the water right in question is appurtenant.
  8. If only a portion of the water right has been forfeit due to non-use, indicate the use and the alleged period of non-use by month and year.
  9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
  10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
  11. Initial to show that you have read these laws (ORS 650 (10)(2) and OAR 600-17-0800).
  12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
- Sign the affidavit and have it witnessed
- Complete front of Service Form which indicates you have received a copy of this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

Mail to:  
Water Resources Department  
125 NE Summer Street Suite A  
Seaside, OR 97138-1271

(144)  
Form

RECEIVED BY OWNER

Page 1 of 2

DATE: 1/1/00

SIGNATURE: [illegible]



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson )

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Jacqueline Ann Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, Oregon, 97537  
(City) (State) (Zip Code)

Phone 541 582-1392, say that:

2. Water Right Certificate number 40377,  
issued to Leroy Sinsabaugh authorizes use of water from (source) Evans Creek  
for (use) Irrigation,  
under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0.

4. The subject water right is located within Tax Lot(s) 104, in Township 35  
N/S, Range 3 W E/W, in the NE 1/4 NE 1/4, of  
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived near TL 104 since 2008.  
My diversion point is the same. There  
is no irrigation facility or any irrigation  
to TL 104 since 2008 that I have seen.

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BEFORE THE WATER BOARD OF THE DISTRICT OF COLUMBIA

STATE OF DISTRICT OF COLUMBIA  
NATIONAL WATERWORKS ASSOCIATION

STATE OF DISTRICT OF COLUMBIA  
NATIONAL WATERWORKS ASSOCIATION  
James Jackson

Inspector Alan Burkholder  
1400 East Evans Lane Road  
Kiper River, Colorado

Case No. 22-1387

Case No. 22-1387  
Inspector Alan Burkholder  
1400 East Evans Lane Road  
Kiper River, Colorado

Inspector Alan Burkholder  
1400 East Evans Lane Road  
Kiper River, Colorado

Inspector Alan Burkholder  
1400 East Evans Lane Road  
Kiper River, Colorado

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APR 14 2022  
-BIRM ON

APR 14 2022  
-BIRM ON



6. I know from personal observation and state with certainty that **the entire water right has not been used for:**

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty **that a portion of this water right has not been used for:**

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the **portion of the water right which has not been exercised**, totaling 1.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes No No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. [Signature] (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. [Signature] (Initial to indicate you have read this statement and understand your responsibilities).

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JUN 16 2014

SALEM, OR

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SALEM, OR



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Second block of faint, illegible text, appearing as several lines of a paragraph.

Third block of faint, illegible text, continuing the paragraph or as a separate line.

Fourth block of faint, illegible text, possibly a signature or a specific heading.

Fifth block of faint, illegible text, appearing as a few lines.

Sixth block of faint, illegible text, continuing the document's content.

Seventh block of faint, illegible text, appearing as several lines.

Eighth block of faint, illegible text, continuing the text.

Ninth block of faint, illegible text, appearing as a few lines.

Faint text at the bottom right, possibly a date or a reference number.

Second block of faint text at the bottom right.

Third block of faint text at the bottom right.

Faint text at the bottom left, possibly a footer or page number.

Fourth block of faint text at the bottom left.

Fifth block of faint text at the bottom left.



Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

*Jacqueline Belmont*  
\_\_\_\_\_  
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2014.



*Angell R Pittman*  
\_\_\_\_\_  
(Notary Public of Oregon)

My Commission Expires Nov 5, 2015

(SEAL)

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JUN 16 2014

SALEM, OR

RECEIVED BY OWRD

APR 04 2014

SALEM, OR



I do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County of [unclear] State of Oregon.

*[Signature]*  
[unclear]  
[unclear]

I do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County of [unclear] State of Oregon.

*[Signature]*  
[unclear]  
[unclear]



My commission expires on [unclear]

RECEIVED BY CLERK

11-14-12

11:43 AM

RECEIVED BY CLERK

11-14-12

11:43 AM





**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 10 Day of June, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: William H. Baguet, Jr.  
Address: 878 Monte Verde Drive  
City, State, Zip: Arcadia, Ca. 91007

Name: James Bowman  
Address: 14389 East Evans Crk. Rd.  
City, State, Zip: Rogue River, OR, 97537

Name:  
Address:  
City, State, Zip:

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JUN 16 2014

SALEM, OR

Name:  
Address:  
City, State, Zip:

[/s/ Signature]

Title

Jacqueline A. Belmont



DECLARATION OF STATEMENT  
STATEMENT OF WORK

The undersigned hereby certifies that the information furnished in this statement of work is true and correct to the best of his knowledge and belief, and that he is not aware of any information that would cause this statement to be misleading, incomplete or otherwise inaccurate.

This statement of work is prepared in accordance with the requirements of the contract and is intended to provide a clear and concise description of the work to be performed under the contract.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

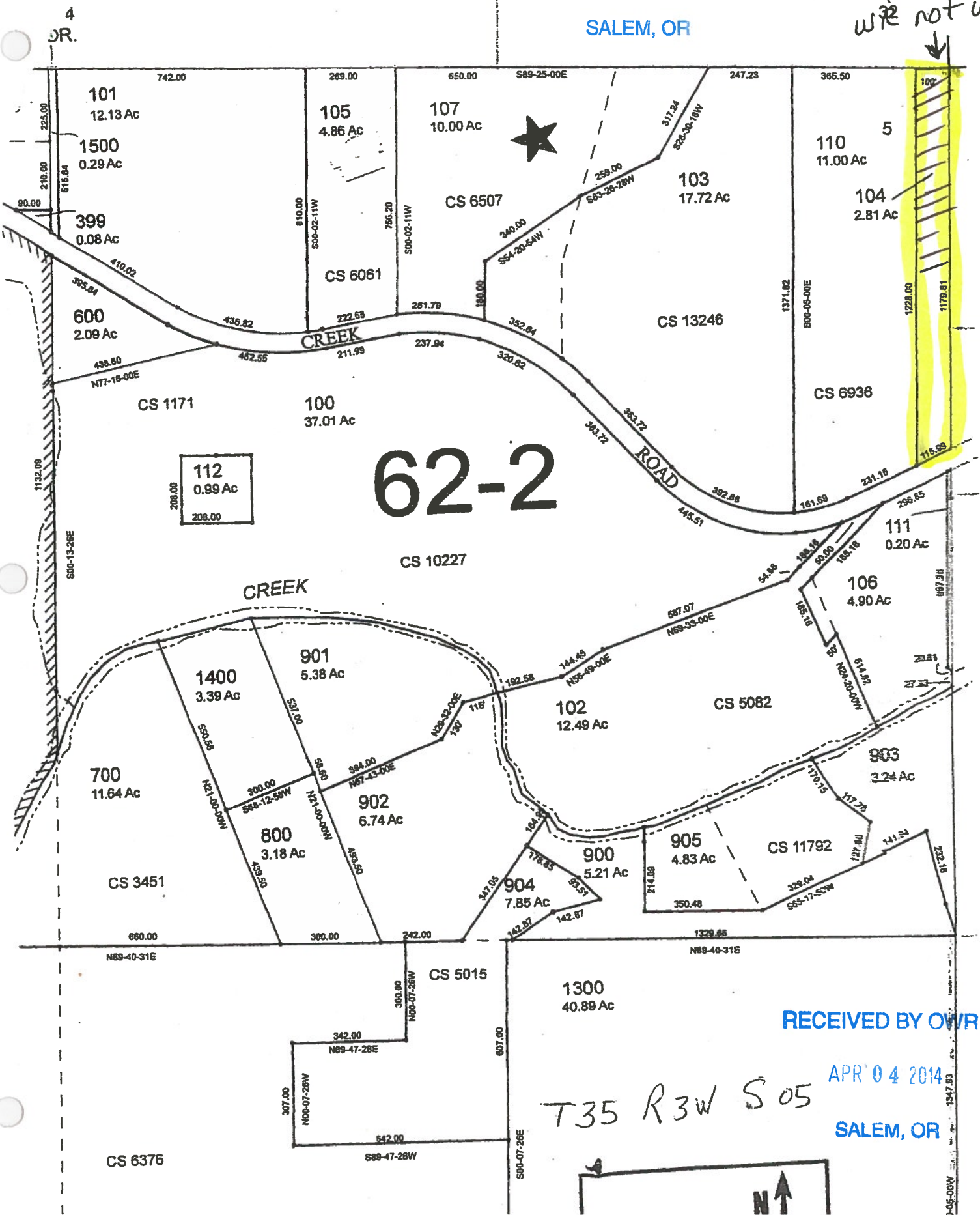
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

Name: \_\_\_\_\_

JUN 16 2014

SALEM, OR

TL 104  
1.0 Acre  
W/R NOT USED



62-2

APR 04 2014

SALEM, OR

T35 R3W S05



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12 16  
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14 18



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T35 R3W S05

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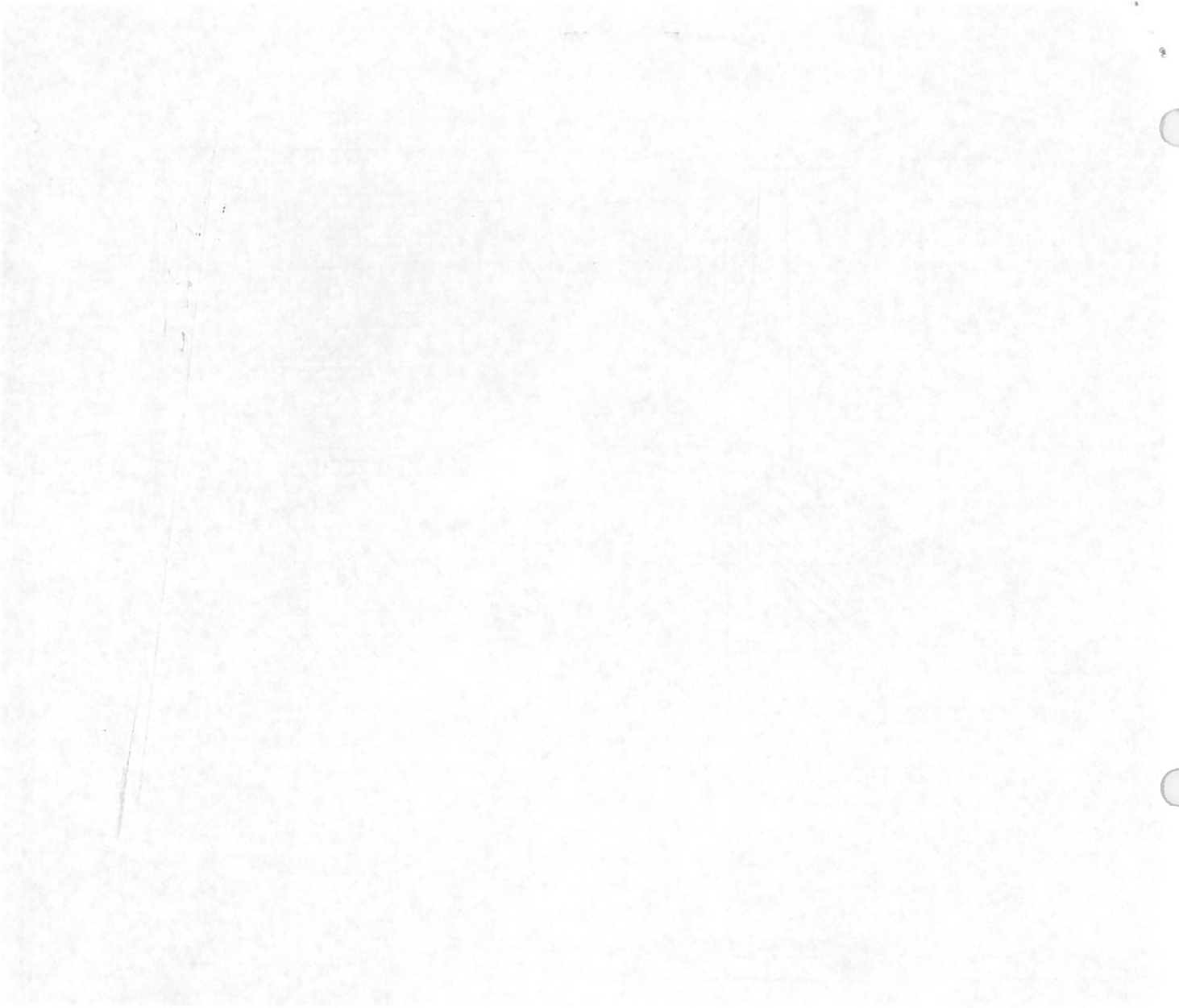
JUN 16 2014

SALEM, OR

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SALEM, OR



SECRETARY OF WAR

FORM 101

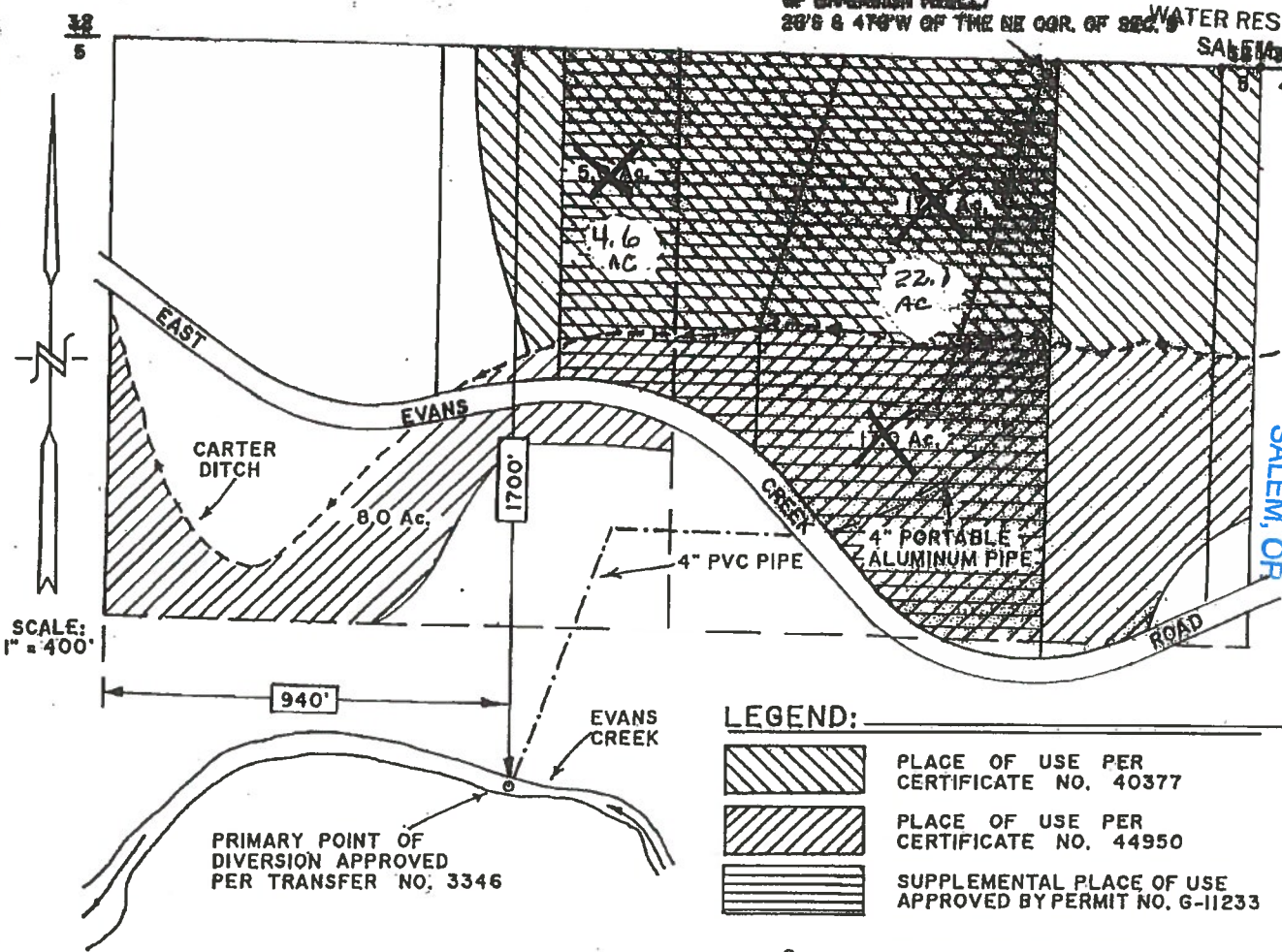


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# NE 1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.

AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION (WELL) 20'S & 47'S W OF THE NE COR. OF SEC. 5 WATER RESOURCES DIVISION SALEM, OREGON



- LEGEND:**
- PLACE OF USE PER CERTIFICATE NO. 40377
  - PLACE OF USE PER CERTIFICATE NO. 44950
  - SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233
  - POINT OF DIVERSION
  - FOUND PROPERTY CORNER

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
<b>TOTAL</b>	<b>16.9 Ac.</b>	<b>9.8 Ac.</b>	<b>26.7 Ac.</b>

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.

SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979

PERMIT NO. G-11233

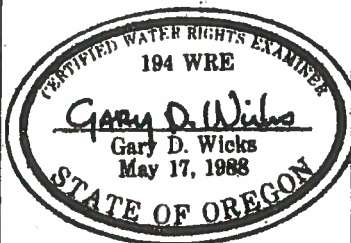
MAP MODIFIED BY WCD STAFF TO REFLECT ACRES PER TABLE SW6 8-20-2007

PROJECT NO.  
142-90-120

DRAWING NO.  
38-8.5.11

DATE  
7-22-1992

SCALE  
1" = 400'



**PLAT OF CLAIM OF BENEFICIAL USE**

LOCATED IN  
NE 1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.  
JACKSON COUNTY, OREGON

PREPARED FOR:  
ANTHONY L.S. EWALT  
14095 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 582-4112

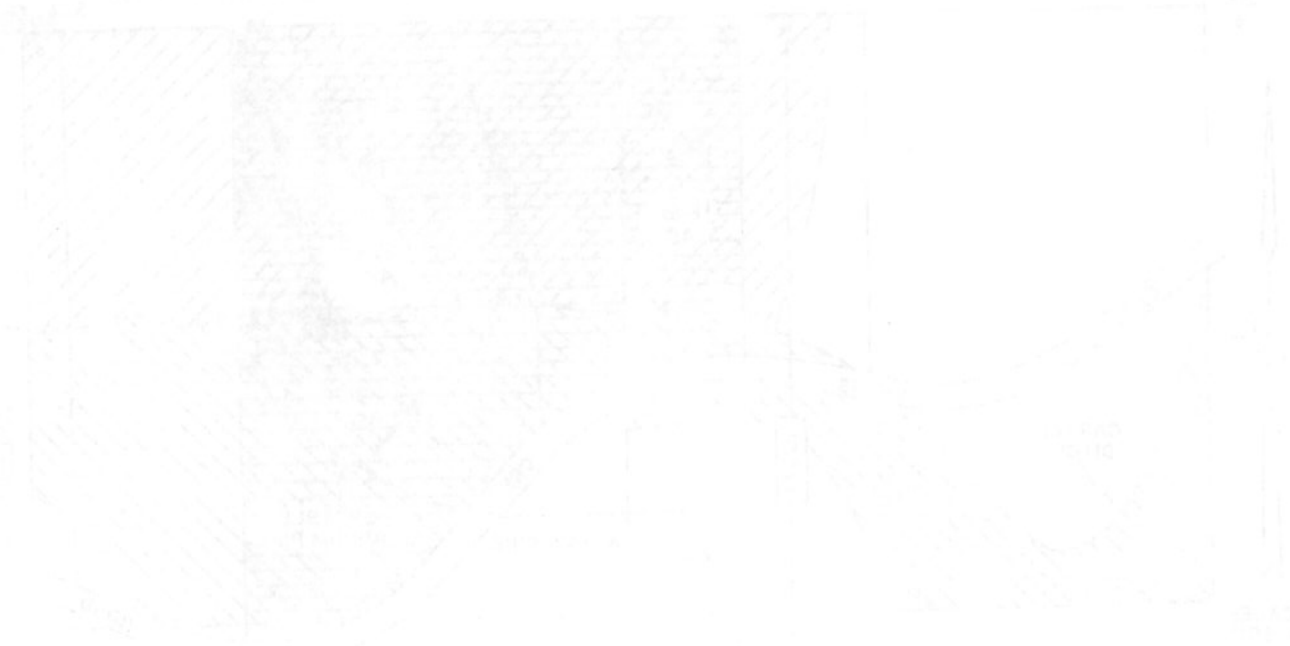
PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
962 S.E. "N" STREET  
GRANTS PASS, OREGON 97526-3290  
TEL. 479-3436.

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JUN 16 2014

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APR 04 2014  
SALEM, OR

# STATE OF TEXAS

COUNTY OF DALLAS  
CITY OF DALLAS



ALL RIGHTS RESERVED  
 BY THE STATE OF TEXAS  
 COUNTY OF DALLAS  
 CITY OF DALLAS

NO.	DESCRIPTION	AMOUNT
1	...	...
2	...	...
3	...	...
4	...	...
5	...	...
6	...	...
7	...	...
8	...	...
9	...	...
10	...	...

THE STATE OF TEXAS  
 COUNTY OF DALLAS  
 CITY OF DALLAS  
 ...  
 ...  
 ...

PROPERTY OWNED



...  
 ...  
 ...



14  
B  
77  
TL 105



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

04/11  
nstcancel

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APR 04 2014

SALEM, OR

GEORGE WASHINGTON

1789

1789



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon ) AFFIDAVIT ASSERTING
County of Jackson ) ss NON-USE OF WATER RIGHT

1. I, Bruce Glen Buckmaster
of 14095 East Evans Creek Road
Rogue River, Oregon, 97537
Phone (541) 582-1392, say that:

2. Water Right Certificate number 40377
issued to Helog Sinsabaugh authorizes use of water from (source) Evans Creek
for (use) Irrigation
under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0 acres.

4. The subject water right is located within Tax Lot(s) 105, in Township 35
N/S, Range 3 W E/W, in the NW 1/4 NE 1/4, of
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:
I have lived near TL 105 since 2008. My
diversion point is the same. There is no
irrigation facility or any irrigation to TL 105
since 2008 that I have seen.

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APR 04 2014
SALEM, OR

MAR 07 2014
SALEM, OR

FEB 10 2014
SALEM, OR



BEFORE THE WATER RESOURCES DEPARTMENT

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

State of Oregon )  
) ss )  
County of Jackson )

1. I, James Glen Dickmaster  
(Legal Name)  
of 1414 East Evans Creek Road  
(Address)  
Regina, Oregon (City) 97152 (Zip Code)  
Phone (503) 882-1812, say that:

2. Water Right Certificate number W0277  
issued to James Glen Dickmaster authorizes use of water from (source) Evans Creek  
for (use) irrigation  
under a priority date of May 8, 1912.

3. The total number of acres described in the certificate is 2.2 acres.

4. The subject water right is located within Tax Lot(s) 14 in Township 27  
NS, Range 10 EW, in the 14 VE 14 of  
Section(s) 14, Jackson County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have had the 2.2 acre water right since 1912  
and have used it for irrigation purposes  
throughout the entire time there is no  
irrigation facility on any adjacent to it  
and I have never

RECEIVED BY TOWN OF REGINA, OREGON  
Page 3 of 3

APR 04 2016  
8:27 AM  
REGINA, OR



6. I know from personal observation and state with certainty that the entire water right has not been used for:

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty that a portion of this water right has not been used for:

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the portion of the water right which has not been exercised, totaling 3.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. BBB (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. BBB (Initial to indicate you have read this statement and understand your responsibilities).

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APR 04 2014

SAI EM OR

PROPERTY OF WARD

1951

1951

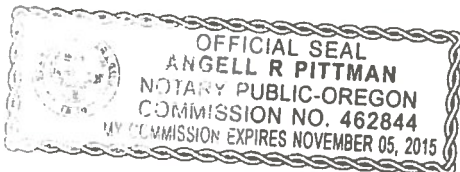


Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

Bruce G. Buckmaster

(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2 014.



Angell R Pittman

(Notary Public of Oregon)

My Commission Expires Nov 5 2015

(SEAL)

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APR 04 2014

SALEM, OR



PROPERTY OF  
LIBRARY  
NO. 1633





**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: Jasbir Ralph  
Address: PO Box 630454  
City, State, Zip: Simi Valley, CA 93063

Name:  
Address:  
City, State, Zip:

Name:  
Address:  
City, State, Zip:

Name:  
Address:  
City, State, Zip:

[/s/ Signature] Bruce S. Buchmeyer  
Title

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APR 04 2014  
SALEM, OR

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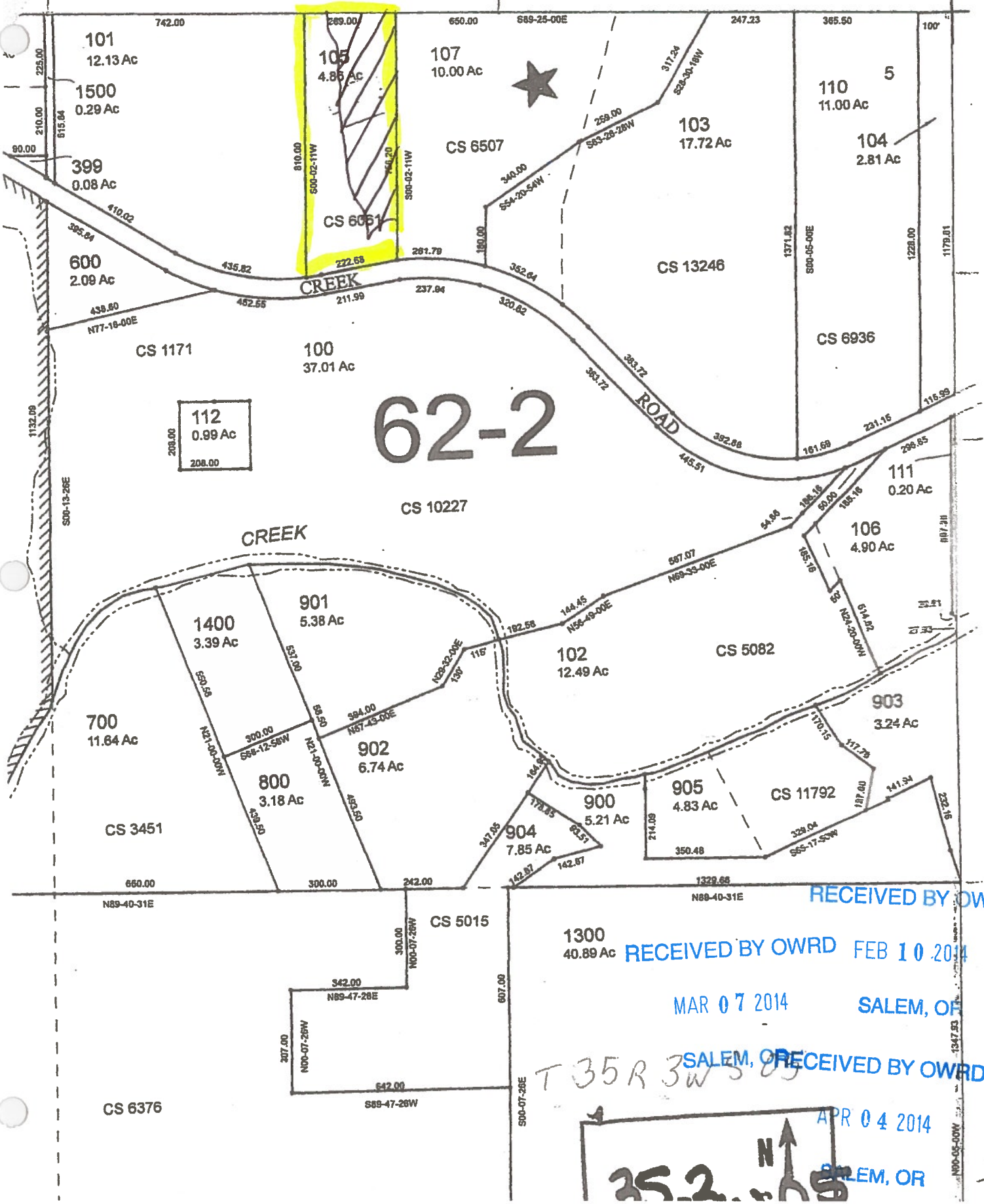
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NO. 1000

1/4 OR.

3 AC. W/R  
Not used

32



112  
0.99 Ac  
208.00

62-2

CS 10227

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RECEIVED BY OWRD FEB 10 2014

MAR 07 2014 SALEM, OR

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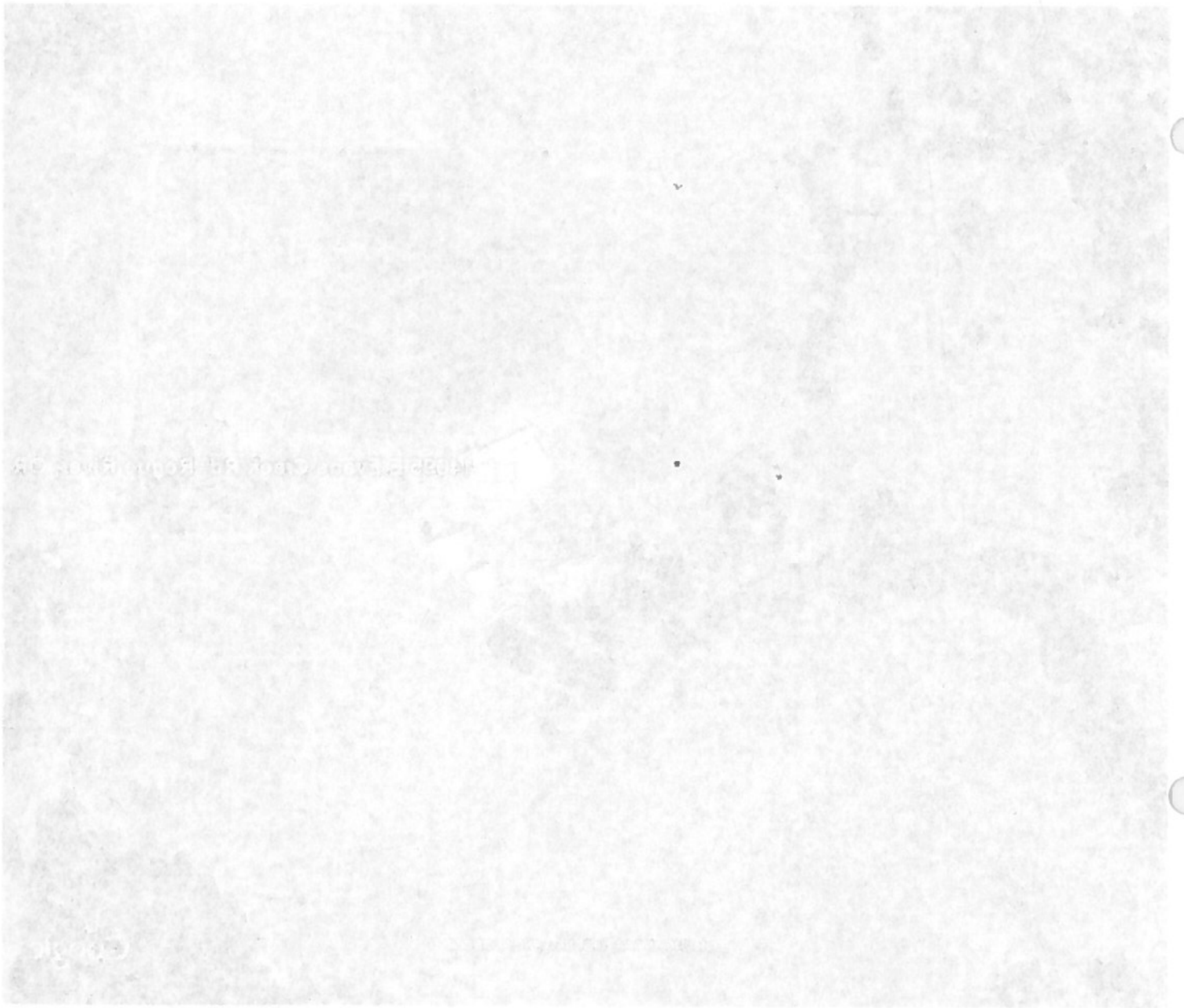
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APR 04 2014

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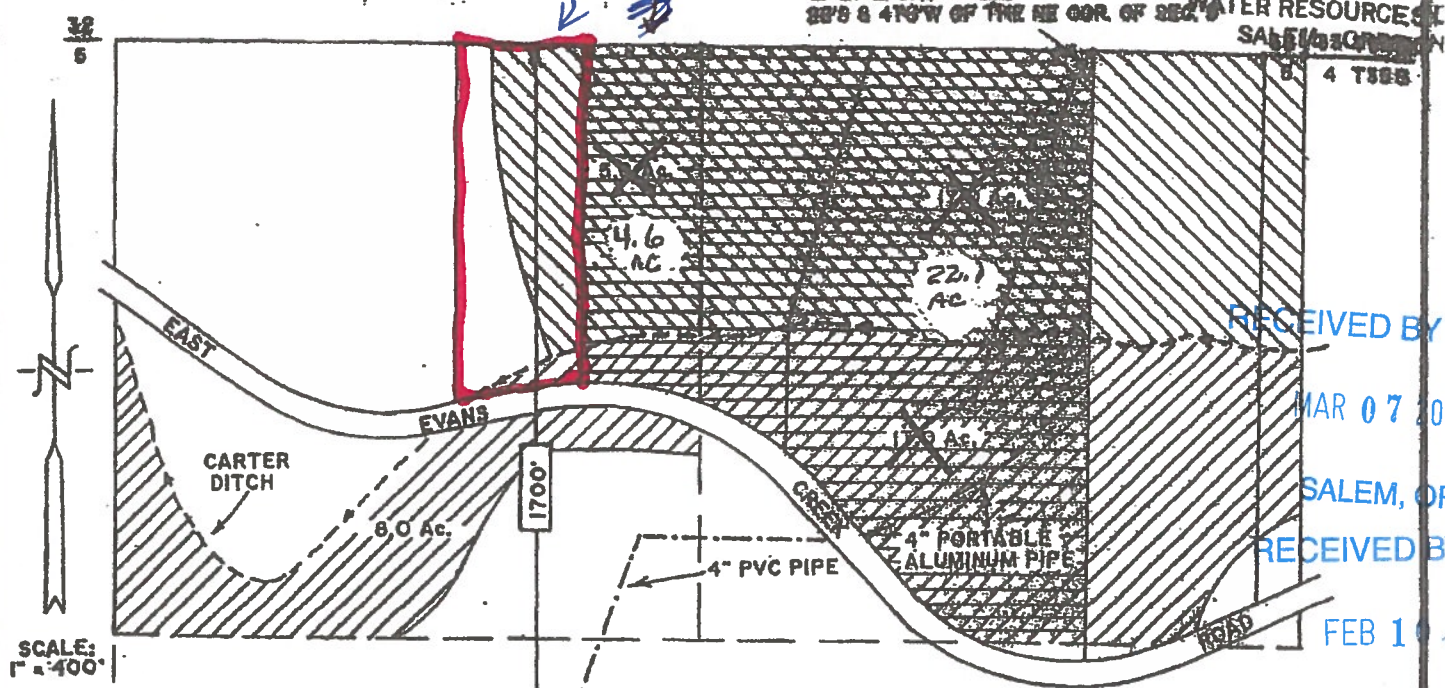
RECEIVED BY CWRD

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1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.

AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION (WELL) 30'S & 470'W OF THE NE COR. OF SEC. 5 WATER RESOURCES SALMON COUNTY OREGON



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FEB 1 2014  
SALEM, OR

SCALE: 1" = 400'

LEGEND:

- PLACE OF USE PER CERTIFICATE NO. 40377
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233 Certificate 83678
- o POINT OF DIVERSION
- FOUND PROPERTY CORNER

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.

SUBJECT PROPERTY; TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979

PERMIT NO. G-11233

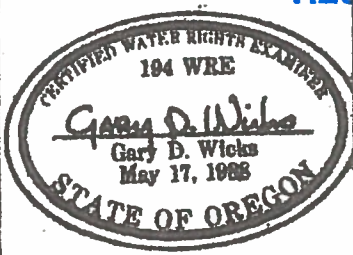
MAP MODIFIED BY WRO STAFF TO REFLECT ACRES PER TABLE JW6 8-20-2007

PROJECT NO.  
142-90-120

DRAWING NO.  
38-8.5.11

DATE  
7-22-1992

SCALE  
1" = 400'



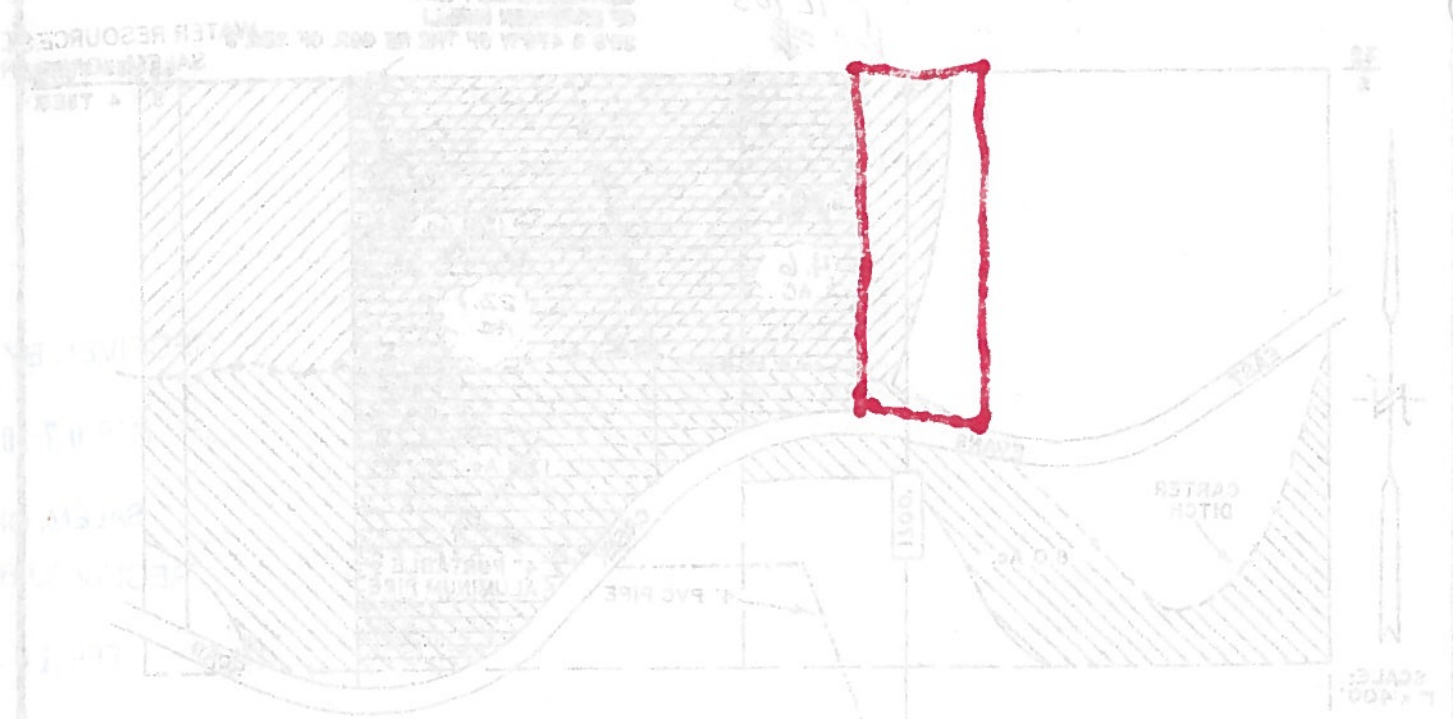
RECEIVED BY OWRD  
APR 04 2014

PLAT OF CLAIM OF BENEFICIAL USE  
LOCATED IN 1/2 NE 1/4 SECTION 5, T.35S. R.3W., W.M. JACKSON COUNTY, OREGON

PREPARED FOR:  
ANTHONY L.B. EWALT  
14095 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 582-4112

PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
962 S.E. "N" STREET  
GRANTS PASS, OREGON 97528-3290  
TEL. 479-3436.

IN 1/2 SECTION 4 SECTION 2, T.33S., R.3W., W.M. AUG - 1 1982



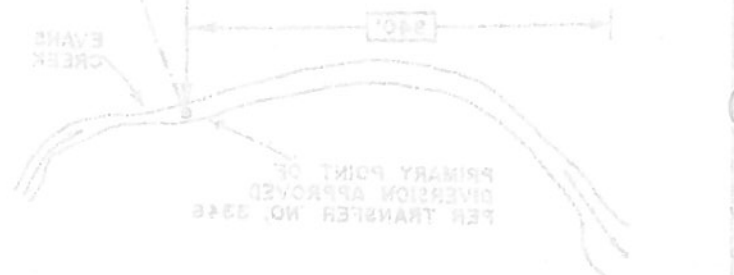
**LEGEND:**

- PLACE OF USE PER CERTIFICATE NO. 40373
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 0-1533
- POINT OF DIVERSION
- ROUND PROPERTY CORNER

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD-TIEGO THEODOLITE WITH A DISTANCE 10-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. SUBJECT PROPERTY; TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 88-24-2.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERS' LINES.



OTR FOOT	40373	44950	TOTAL
WINE	15.9 AC.	0.8 AC.	55.1 AC.
MWNE	4.0 AC.	0.2 AC.	4.8 AC.
TOTAL	19.9 AC.	1.0 AC.	59.7 AC.

PREPARED BY: GARY D. WICKS, P.E., P.L.S.  
 CIVIL ENGINEER & LAND SURVEYOR  
 888 S.E. 14<sup>TH</sup> STREET  
 BRANTS BARR, OREGON 97136-2520  
 TEL: 478-2488

RECEIVED BY ORVD OF CLAIM OF BENEFICIAL USE  
 LOCATION IN 1/2 SECTION 4 SECTION 2, T.33S., R.3W., W.M. JACKSON COUNTY, OREGON

APPROVED FOR: ANTHONY L.S. EWALT  
 HOSE E. EVANS OF RD  
 RIVER OREGON 97137  
 TEL: 962-2112

STATE OF OREGON  
 Gary D. Wicks  
 May 17, 1982

PROJECT NO. MS-90-150  
 DRAWING NO. 78-0-811  
 DATE 7-22-1982  
 SCALE 1" = 400'

APPLICANT'S AGREEMENT TO RECEIVE SUPPLEMENTAL SUPPLY

PERMIT NO. 0-1533  
 APPLICATION NO. 0-1173

THIS PLAT IS SUBJECT TO THE PROVISIONS OF THE WATER RESOURCES ACT AND THE WATER RESOURCES DEPARTMENTAL PLAN OF OREGON.



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TL 105



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

04/11  
nstcancel

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SALEM, OR

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1994

10/10/94



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson )

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Jacqueline ANN Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, Oregon, 97537  
(City) (State) (Zip Code)

Phone 541-582-1392, say that:

2. Water Right Certificate number 40377  
issued to Le Roy Sinsbaugh authorizes use of water from (source) Evans Creek  
for (use) IRRIGATION  
, under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0 acres.

4. The subject water right is located within Tax Lot(s) 105, in Township 35  
N/S, Range 3 W E/W, in the NW 1/4 NE 1/4, of  
Section(s) 5, Jackson County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived near TL 105 since 2008, My  
diversion point is the same. There is no  
irrigation facility or any irrigation to TL 105  
since 2008 that I have seen.

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REPORT OF THE WATER RESOURCES DEPARTMENT

DEPARTMENT OF WATER RESOURCES  
REPORT OF THE WATER RESOURCES

DATE: \_\_\_\_\_  
BY: \_\_\_\_\_

*[Faint, illegible handwritten text]*

*[Faint, illegible handwritten text]*

*[Faint, illegible handwritten text]*

*[Faint, illegible handwritten text]*

*[Faint, illegible handwritten text]*

RECEIVED BY DWDR

DATE: \_\_\_\_\_  
BY: \_\_\_\_\_



6. I know from personal observation and state with certainty that the entire water right has not been used for:

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty that a portion of this water right has not been used for:

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the portion of the water right which has not been exercised, totaling 3.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. JB (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. JB (Initial to indicate you have read this statement and understand your responsibilities).

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APR 04 2014

SALEM, OR



RECEIVED BY OWNER

DATE

SIGNATURE



Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

*Joseline A. Belmont*  
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2014.



*Angell Pittman*  
(Notary Public of Oregon)

My Commission Expires Nov 5, 2015

(SEAL)

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SALEM, OR



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 JAN 19 1964  
 U.S. DEPARTMENT OF AGRICULTURE  
 WASHINGTON, D.C.

RECEIVED BY OWNER

JAN 19 1964  
 U.S. DEPARTMENT OF AGRICULTURE  
 WASHINGTON, D.C.





**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

<b>Name:</b> Jasbir Ralph	<b>Name:</b>
<b>Address:</b> PO Box 630454	<b>Address:</b>
<b>City, State, Zip:</b> Simi Valley, Ca 93063	<b>City, State, Zip:</b>

**Name:**  
**Address:**  
**City, State, Zip:**

**Name:**  
**Address:**  
**City, State, Zip:**

/s/ Jacqueline A. Palma  
Title

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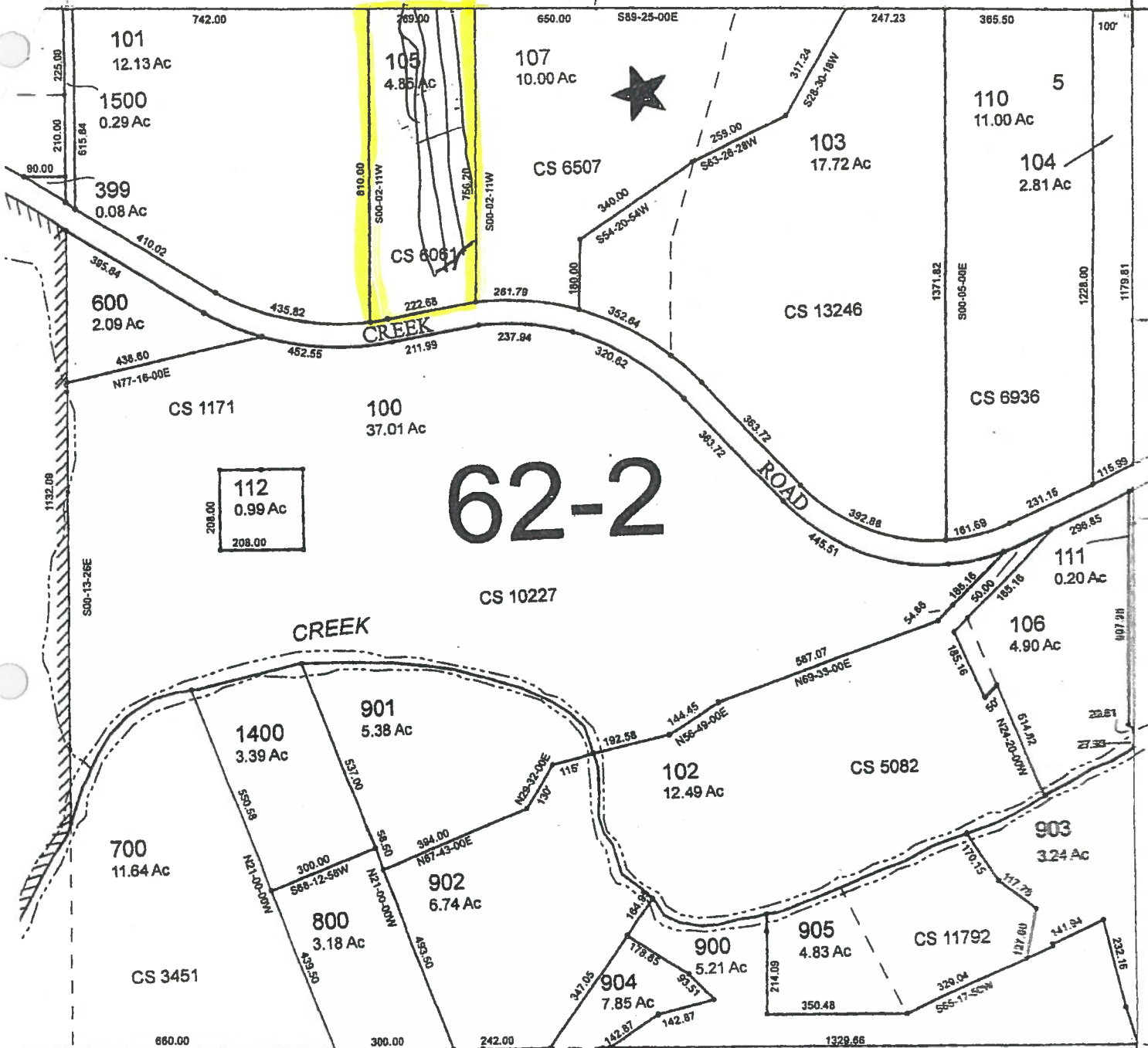
1911

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3 AC W/R  
Not used



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MAR 07 2014

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APR 04 2014

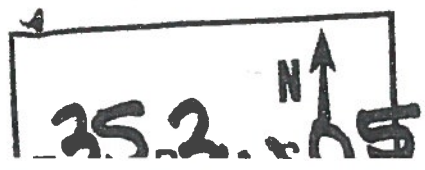
SALEM, OR

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FEB 10 2014

SALEM, OR

T35 R3W S05



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N00-05-00W

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not used  
BAC W/S

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W. E. O'NEILL





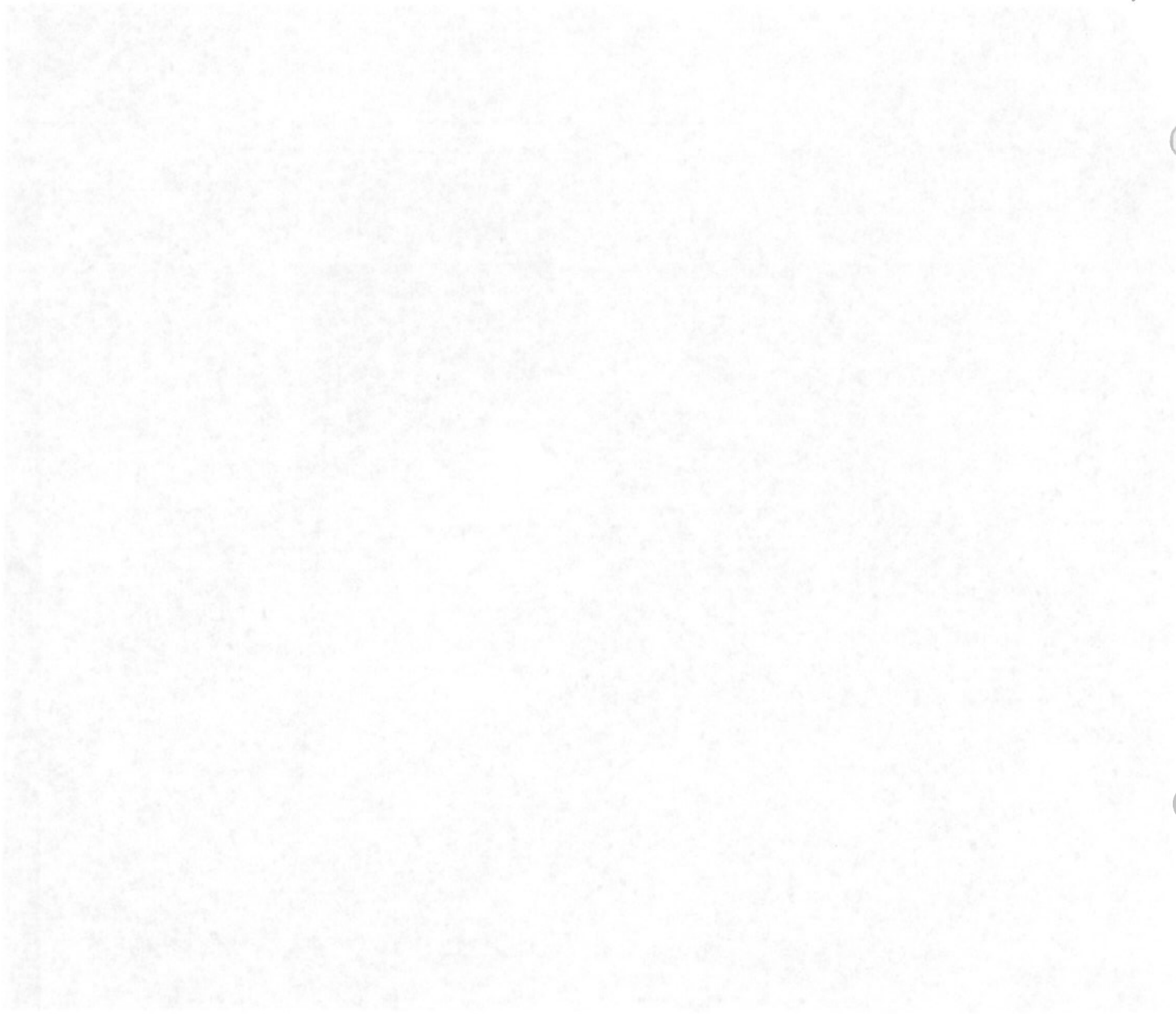
T35 R3W S05

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 FEB 10 2014  
 SALEM, OR





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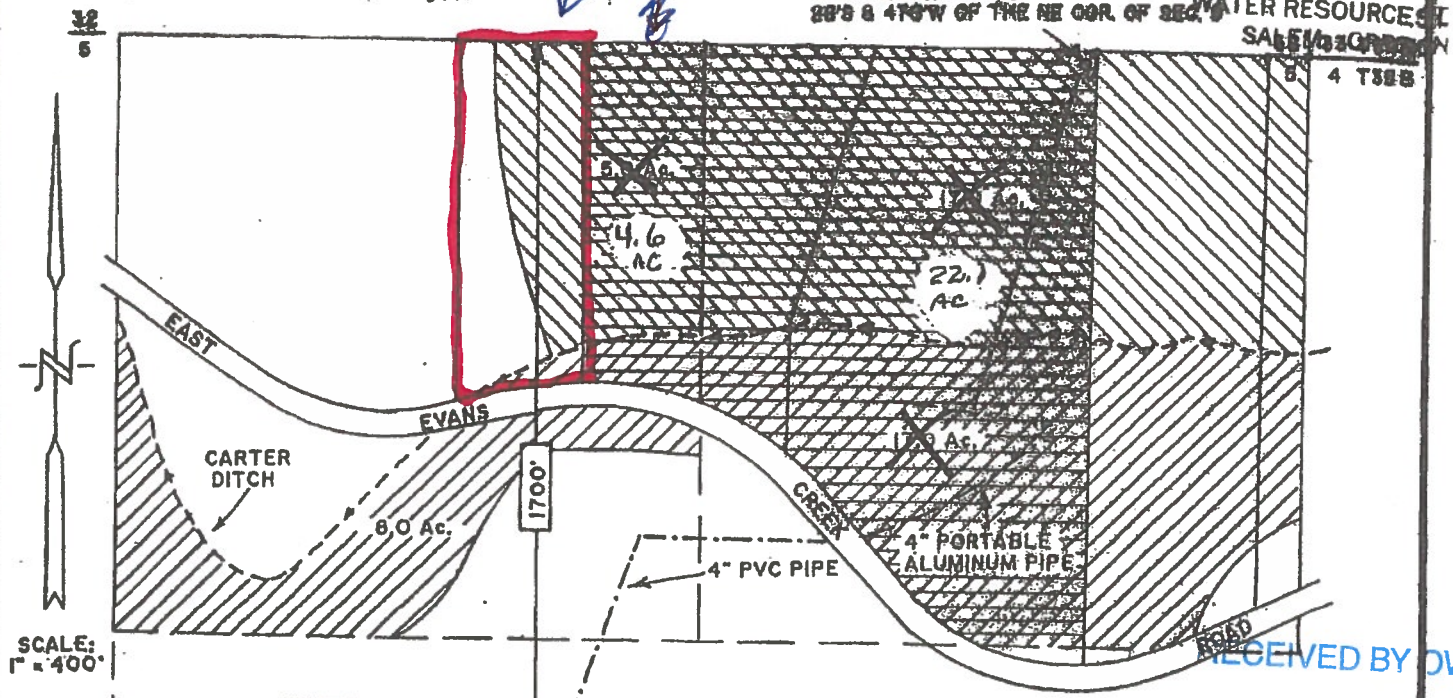
19

# NI/2NE1/4 SECTION 5, T.35S., R.3W., W.M.

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AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION (WELL) 28'S & 470'W OF THE NE COR. OF SEC. 5 WATER RESOURCES SALEM, OREGON

40377 TL 105



SCALE: 1" = 400'

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PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3346

### LEGEND:

- PLACE OF USE PER CERTIFICATE NO. 40377
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233 Certificate 83678
- o POINT OF DIVERSION
- FOUND PROPERTY CORNER

FEB 10 2014  
SALEM, OR

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.

SUBJECT PROPERTY; TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979  
PERMIT NO. G-11233

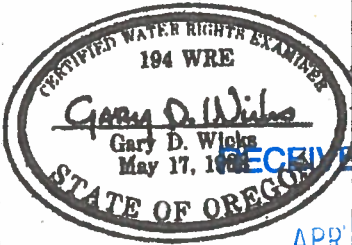
MAP MODIFIED BY WRD STAFF TO REFLECT ACRES PER TABLE. JW6 8-20-2007

PROJECT NO.  
142-90-120

DRAWING NO.  
38-8.5.11

DATE  
7-22-1992

SCALE  
1" = 400'



## PLAT OF CLAIM OF BENEFICIAL USE

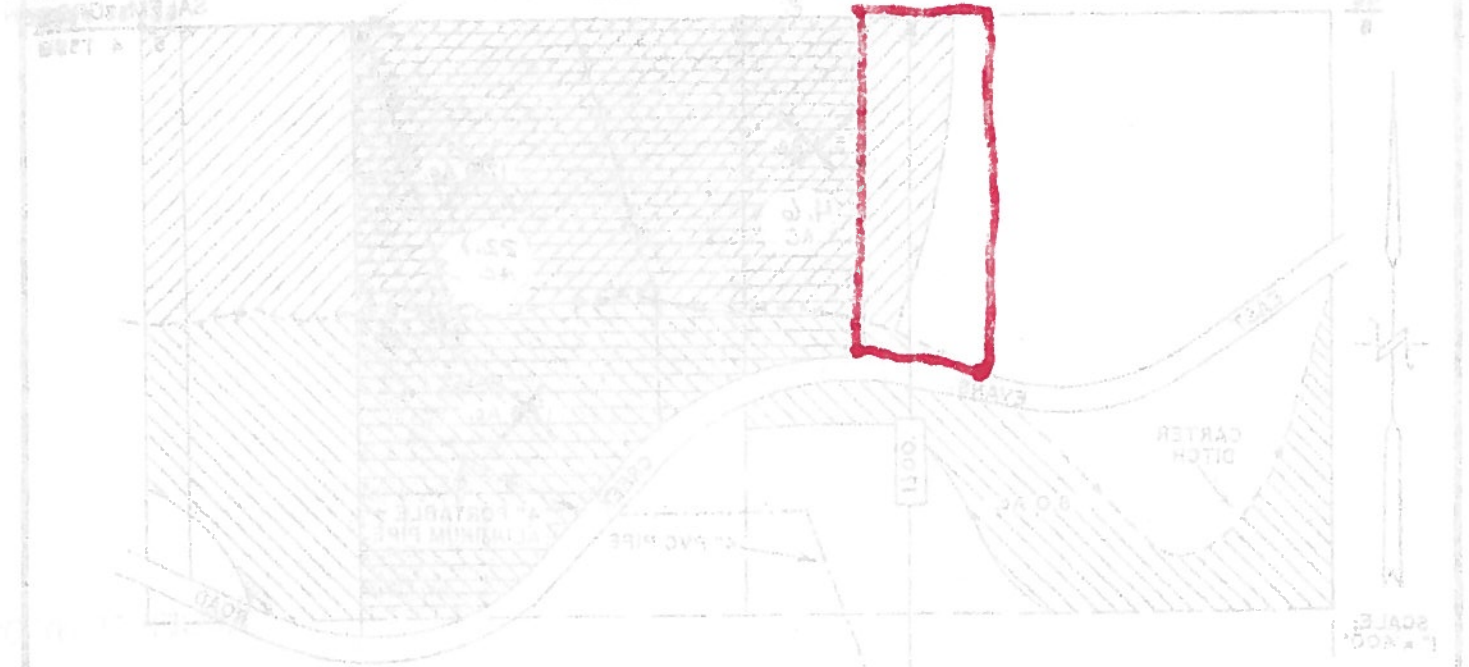
LOCATED IN  
NI/2NE1/4 SECTION 5, T.35S. R.3W., W.M.  
JACKSON COUNTY, OREGON

PREPARED FOR:  
ANTHONY L.S. EWALT  
14085 E. EVANS CR. RD.  
ROQUE RIVER, OREGON 97537  
TEL. 582-4112

PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
962 S.E. "N" STREET  
GRANTS PASS, OREGON 97528-3200  
TEL. 479-3436.

SALEM, OR

IN \SNEI\4 SECTION 5, T.35S., R.3W., W.M. AUG - 1 1982



**LEGEND:**

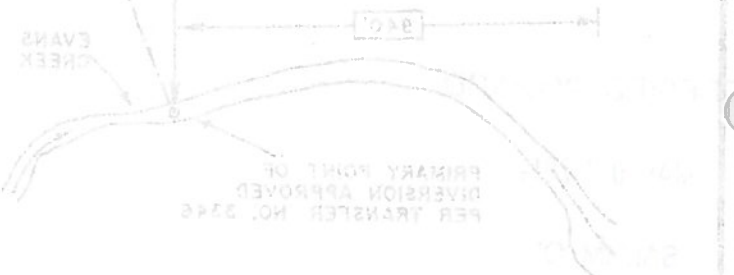
- [Hatched pattern] PLACE OF USE PER CERTIFICATE NO. 40377
- [Hatched pattern] PLACE OF USE PER CERTIFICATE NO. 44920
- [Horizontal lines] SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 0-11333
- [Star symbol] POINT OF DIVERSION
- [Dot symbol] FOUND PROPERTY CORNER

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSASSOR'S MAP NO. 28-3W-2.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. WERE MEASURED USING A WILD T-1000 THEODOLITE WITH A DISTOMAT DI-1000 EDM.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION FOUND PROPERTY CORNER



ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
OWNER	ACRES	COST	TOTAL
WINE	12.9 AC.	9.2 AC.	521.46.
WYNE	4.0 AC.	0.6 AC.	1.2 AC.
TOTAL	16.9 AC.	9.8 AC.	267.7 AC.

CLAIM OF BENEFICIAL USE  
 PLAT OF  
 M. SNEI\4 SECTION 5, T.35S., R.3W., W.M.  
 JACKSON COUNTY, OREGON

PREPARED BY:  
 GARY D. WICKS, P.E., P.L.S.  
 CIVIL ENGINEER & LAND SURVEYOR  
 303 SE 7th STREET  
 SEASIDE PASS, OREGON 97138-2590  
 TEL: 476-2426

PREPARED BY:  
 ANTHONY J. SWINT  
 1408 E. EVANS CR. RD.  
 SEASIDE RIVER, OREGON 97137  
 TEL: 262-4112

STATE OF OREGON  
 JUL 11 1982  
 GARY D. WICKS  
 CIVIL ENGINEER

PROJECT NO. MS-90-120  
 DRAWING NO. 38-8-11  
 DATE 7-22-1982  
 SCALE 1" = 400'

PERMIT NO. 0-11333  
 APPLICATION NO. 0-11379

WAS APPLIED BY AND STAFF TO REFLECT ACRES PER TABLE 2442-2004



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TL 107



## INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

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nstcancel

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SALEM OR

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1954



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson ) ss

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Bruce Glen Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, OREGON, 97537  
(City) (State) (Zip Code)

Phone 541 582-1392, say that:

2. Water Right Certificate number 40377,  
issued to LeRoy Sinsbaugh, authorizes use of water from (source) Evans Creek  
for (use) Irrigation,  
under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0 acres.

4. The subject water right is located within Tax Lot(s) 107, in Township 35  
N/S, Range 3 W E/W, in the NW and NE 1/4, of  
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived next door since 2008. My diversion point  
is the same. There is no irrigation facility  
TL 107 or any irrigation since 2008 that I  
have seen.

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Page 2 of 5 RECEIVED BY OWRD RECEIVED BY OWRD SALEM, OR

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SALEM, OR

SALEM, OR



BEFORE THE WATER RESOURCES DEPARTMENT

ALFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

State of Oregon )  
) ss )  
) County of Jackson )

1. I, Frank Glen Ruckelshaus  
(Legal Name)  
of 14015 East Evans Creek Road  
(Address)  
Maple River (City) OR (State) 97551 (Zip Code)

Phone (503) 835-1312 say that

2. Water Right Certificate number 46517  
issued to Frank Ruckelshaus, authorizes use of water from (source) Evans Creek  
(for use) irrigation  
under a priority date of 1/1/1918

3. The total number of acres described in the certificate is 22.0 acres

4. The subject water right is located within 1/4 (s) 1/4 in Township 32  
NS, Range 2 W EW, in the Maple River WA of 14  
Section(s) 2, Jackson County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:

I have owned and operated this land since 1967 and I have never used the water right for irrigation.  
The water right is not used for irrigation.  
I have never used the water right for irrigation.  
APR 04 1988  
RECEIVED BY OWRD



6. I know from personal observation and state with certainty that the entire water right has not been used for:

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty that a portion of this water right has not been used for:

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the portion of the water right which has not been exercised, totaling 8.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. BBB (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. BBB (Initial to indicate you have read this statement and understand your responsibilities).

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APR 04 2014

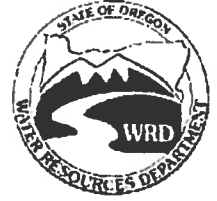
SALEM, OR



THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 433



Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

Bruce A. Buckmaster  
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2 014.



Angell R Pittman  
(Notary Public of Oregon)

My Commission Expires Nov. 5, 2015

(SEAL)

RECEIVED BY THE

SECRETARY

OF THE





**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: Laura Gerritsen Name:  
Address: 13933 East Evans Crk. Road Address:  
City, State, Zip: Rogue River, Oregon City, State, Zip:  
97537

Name: Randy + Gena Rice Name:  
Address: 13933 East Evans Creek Road Address:  
City, State, Zip: Rogue River, Oregon City, State, Zip:  
97537

[s/ Signature] Bruce B. Buckmaster  
Title

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APR 04 2014

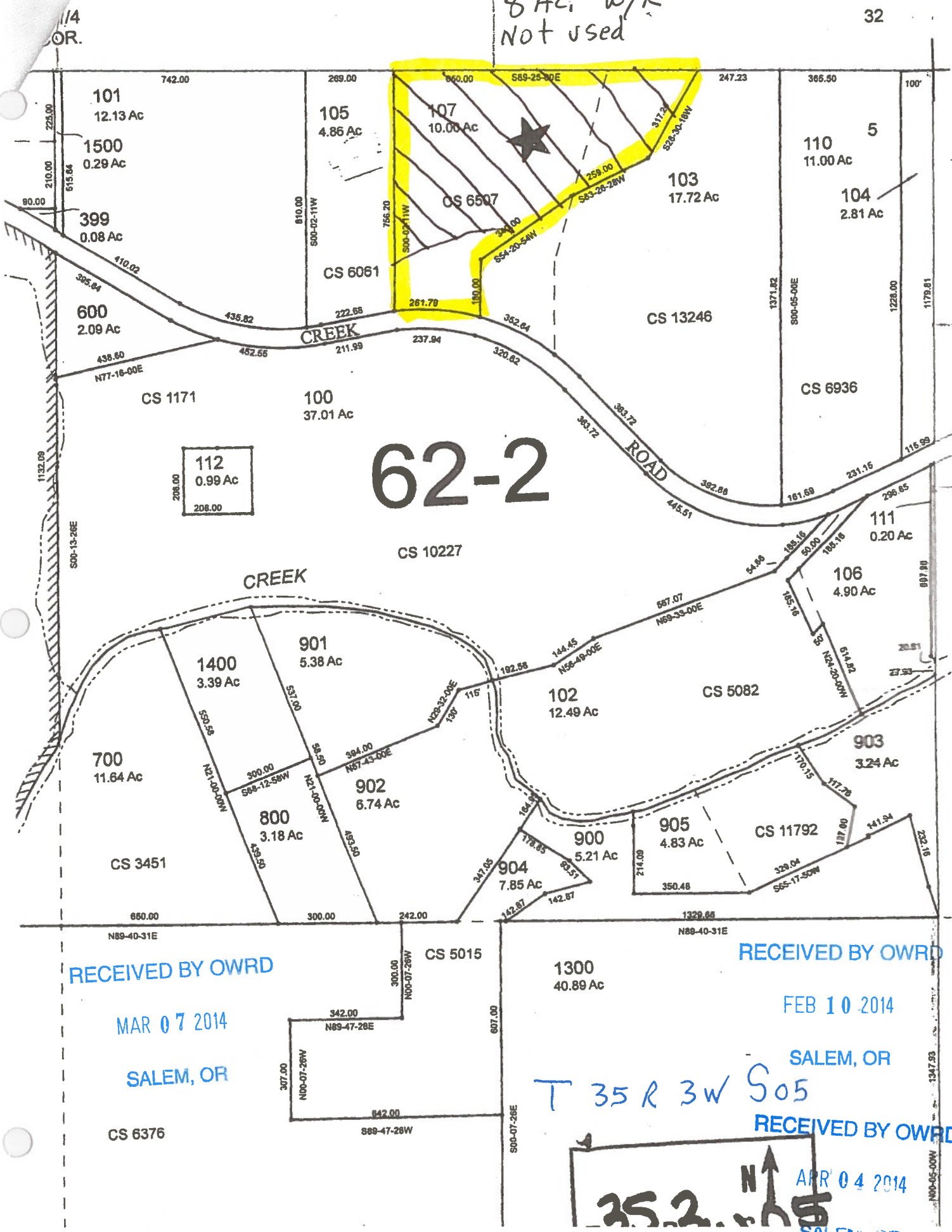
SALEM, OR

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11:30 AM

8 AC. W/R  
Not used



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MAR 07 2014

SALEM, OR

CS 6376

RECEIVED BY OWRD

FEB 10 2014

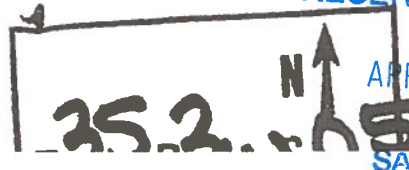
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SALEM, OR



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Handwritten notes at the top of the map, possibly indicating a date or location.

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Handwritten signature or name at the bottom of the map, possibly 'S. S. S. S.'.





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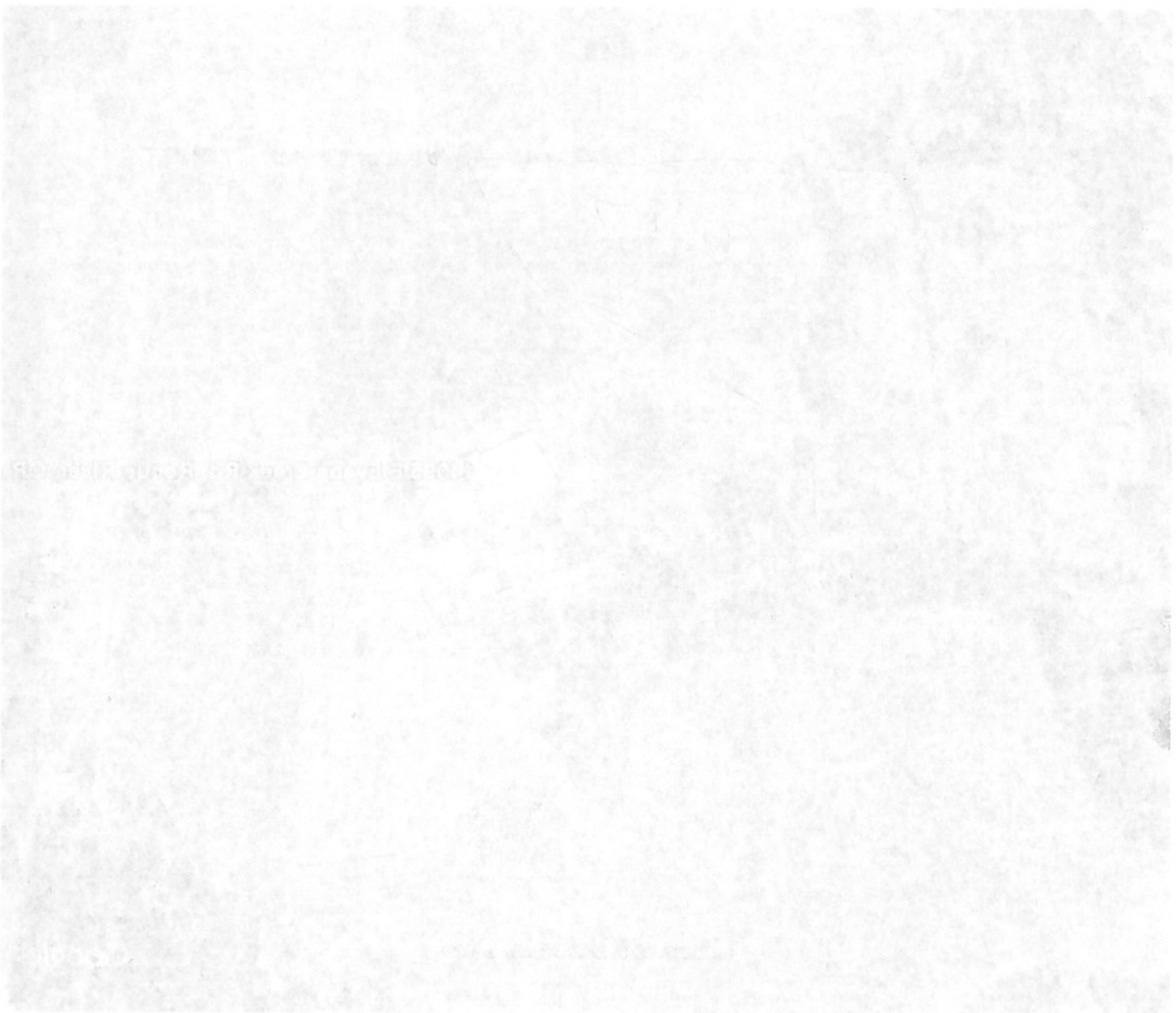
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10/14/08

8/20/08



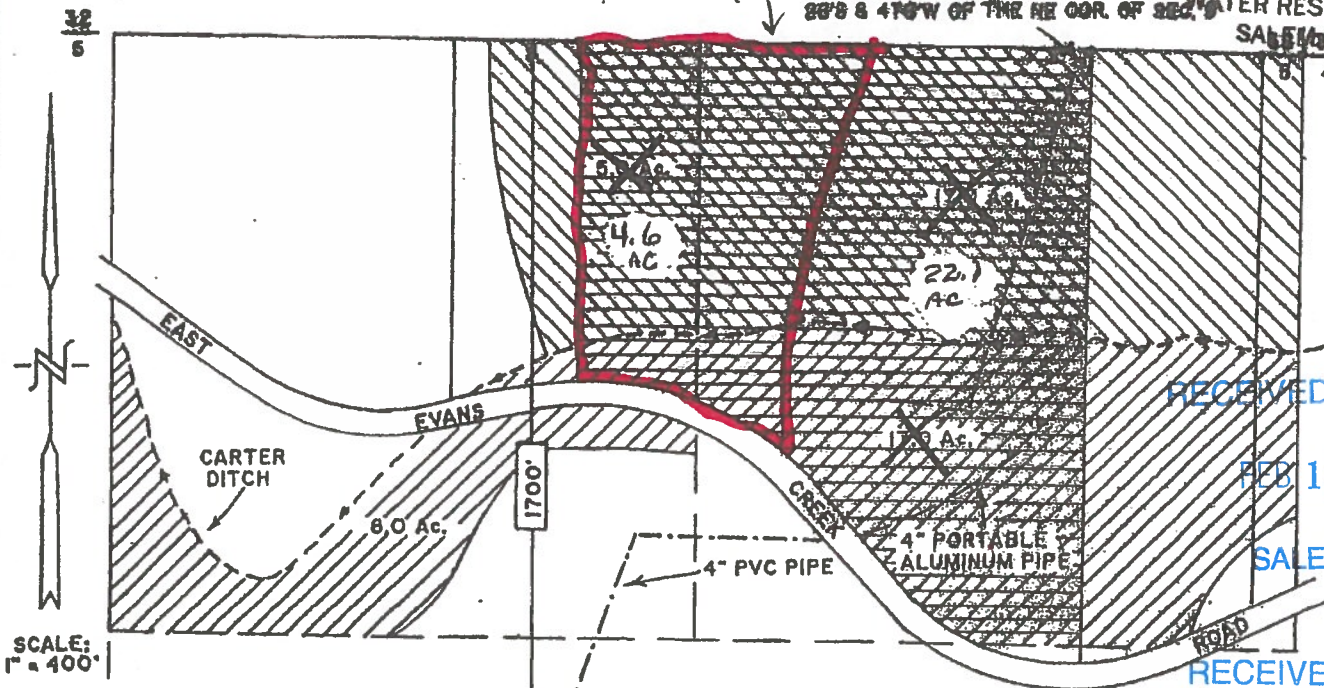
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NI/2NE1/4 SECTION 5, T.35S., R.3W., W.M.

AUG - 4 1992

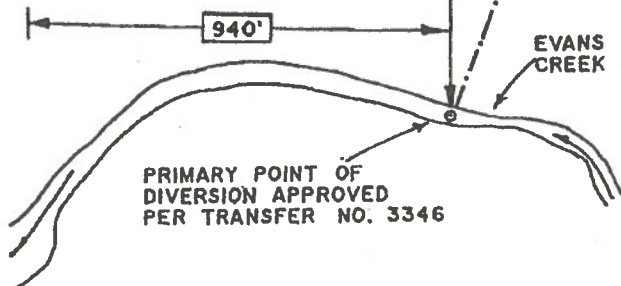
TL107 SUPPLEMENTAL POINT OF DIVERSION (WELL) 20'S & 470'W OF THE NE COR. OF SEC. 5

WATER RESOURCES DIVISION SALEM, OREGON



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FEB 10 2014  
SALEM, OR  
RECEIVED BY OWRD

SCALE: 1" = 400'



PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3346

LEGEND:

- PLACE OF USE PER CERTIFICATE NO. 40377
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233 Certificate 83678
- POINT OF DIVERSION
- FOUND PROPERTY CORNER

MAR 07 2014  
SALEM, OR

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM. A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979

PERMIT NO. G-11233

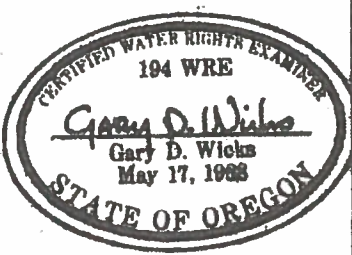
MAP MODIFIED BY WRD STAFF TO REFLECT ACRES PER TABLE JW6 8-20-2007

PROJECT NO.  
142-90-120

DRAWING NO.  
38-8.5.11

DATE  
7-22-1992

SCALE  
1" = 400'



PLAT OF CLAIM OF BENEFICIAL USE  
LOCATED IN  
NI/2NE1/4 SECTION 5, T.35S. R.3W., W.M.  
JACKSON COUNTY, OREGON

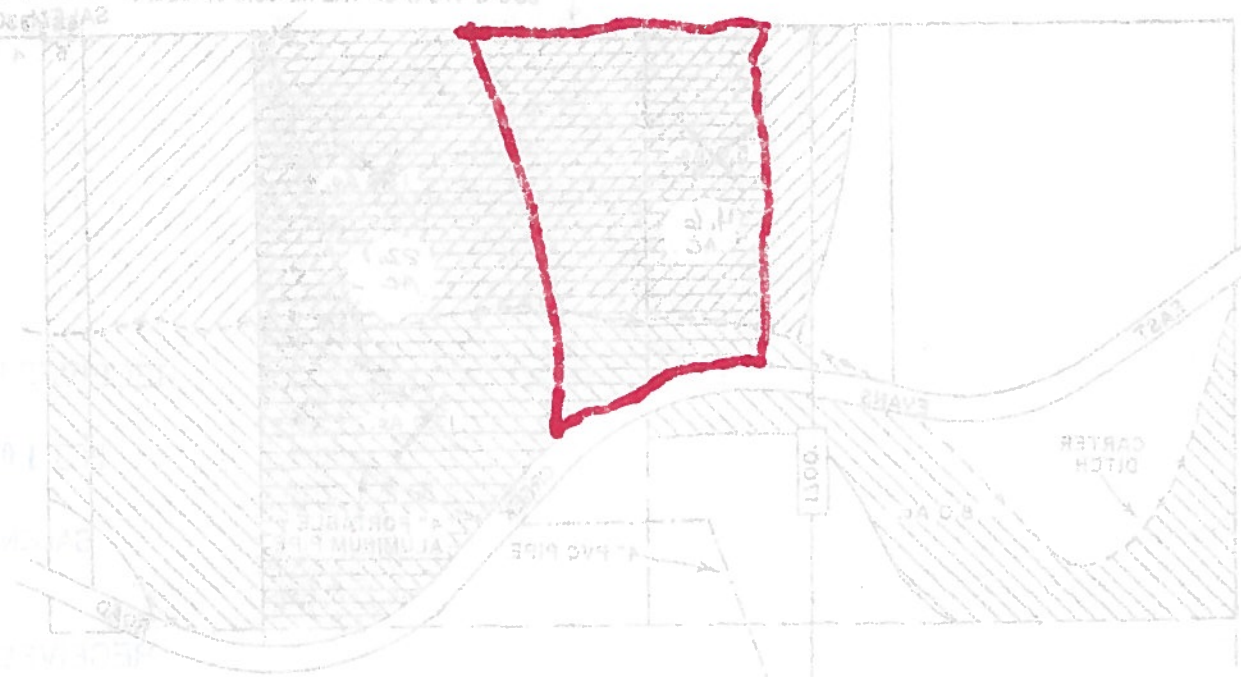
PREPARED FOR:  
ANTHONY L.S. EWALT  
14095 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 562-4112

PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
962 S.E. "N" STREET  
GRANTS PASS, OREGON 97526-3290  
TEL. 479-3436

RECEIVED BY OWRD  
APR 01 2014  
SALEM, OR

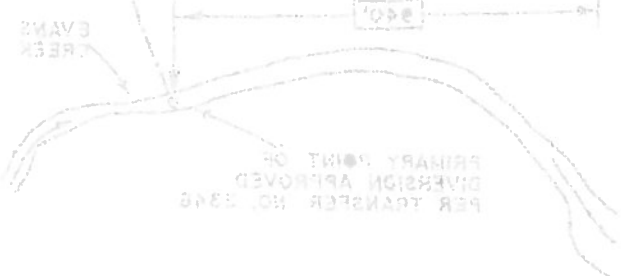
WILMELA SECTION 3, T.38S., R.3W., W.M. AUG - 4 1988

THIS IS A PLAN OF THE NE COR OF SEC 3 OF SECTION 3, T.38S., R.3W., W.M. SHOWING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION AND THE LOCATION OF THE SUPPLEMENTAL PLACE OF USE.



LEGEND:

	PLACE OF USE PER CERTIFICATE NO. 40377
	PLACE OF USE PER CERTIFICATE NO. 44850
	SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 6-11523



THIS PLAN WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

SUBJECT PROPERTY: TAX LOT 103 AND LOT 104 ASSessor's MAP NO. 52-2A-5.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAN. A DISTOMAT 01-100 EDM; WERE MEASURED USING A WILD T-1500 THEODOLITE WITH THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION FOUND PROPERTY CORNER.

AGRES TO RECEIVE SUPPLEMENTAL SUPPLY

OWNER	40377	44850	TOTAL
WHEE	12.9 AC.	9.2 AC.	22.1 AC.
WHEE	1.40 AC.	0.8 AC.	4.8 AC.
TOTAL	103 AC.	9.8 AC.	207.7 AC.

APPLICATION NO. 6-11523  
PERMIT NO. 6-11523

THIS PLAN WAS PREPARED BY WED STATE TO REFLECT AGRES PER TABLE 202 8-10-2007

CLAIM OF BENEFICIAL USE  
PLAT OF

LOCATED IN  
WILMELA SECTION 3, T.38S., R.3W., W.M.  
JACKSON COUNTY, OREGON

PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
202 S. W. STREET  
GRANT PASS, OREGON 97626-4200  
TEL. 478-3418

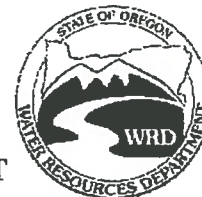
PREPARED FOR:  
ANTHONY L. EWALT  
1408 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97137  
TEL. 365-4118



PROJECT NO. 145-90-150  
DRAWING NO. 38-8.2.11  
DATE 7-22-1988  
SCALE 1" = 400'



INSTRUCTIONS FOR COMPLETING THE  
AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT



①  
J  
77  
TL 107

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

04/11  
nstcancel

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APR 04 2014

SALEM, OR

1971



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

WHEREAS certain lands are being offered for sale to the public and it is the policy of the Department of the Interior to sell such lands to the highest bidder for cash in full; and

WHEREAS certain lands are being offered for sale to the public and it is the policy of the Department of the Interior to sell such lands to the highest bidder for cash in full; and

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WHEREAS certain lands are being offered for sale to the public and it is the policy of the Department of the Interior to sell such lands to the highest bidder for cash in full; and

WHEREAS certain lands are being offered for sale to the public and it is the policy of the Department of the Interior to sell such lands to the highest bidder for cash in full; and

WHEREAS certain lands are being offered for sale to the public and it is the policy of the Department of the Interior to sell such lands to the highest bidder for cash in full; and

RECEIVED BY CWP

APR 24 1971

SALEM, OR

40377  
TL 107  
JB



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson ) ss )

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Jacqueline ANN Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, Oregon, 97537  
(City) (State) (Zip Code)

Phone (541) 582-1392, say that:

2. Water Right Certificate number 40377,  
issued to Leroy Sinsbaugh authorizes use of water from (source) Evans Creek  
for (use) IRRIGATION,  
under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0 Acres.

4. The subject water right is located within Tax Lot(s) 107, in Township 35  
N/S, Range 3 W E/W, in the NW and NE 1/4 NE 1/4, of  
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:

I have lived next door since 2008. My diversion point is the same. There is no irrigation facility to TL 107 or any irrigation since 2008 that I have seen.

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SALEM, OR

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6. I know from personal observation and state with certainty that **the entire water right has not been used for:**

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty **that a portion of this water right has not been used for:**

IRRIGATION From May 2008 Through January 2014.  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the **portion of the water right which has not been exercised**, totaling 8.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. JL (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. JL (Initial to indicate you have read this statement and understand your responsibilities).





Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

    *Jeaneline P. Buelma*      
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2014.



    *Angell Pittman*      
(Notary Public of Oregon)

My Commission Expires Nov 5, 2015

(SEAL)







**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: Laura Gerritsen Name:  
Address: 13933 East Evans Crk. Rd. Address:  
City, State, Zip: Rogue River, Oregon City, State, Zip:  
97537

Name: Randy & Gena Rize Name:  
Address: 13933 East Evans Crk. Rd. Address:  
City, State, Zip: Rogue River, Oregon City, State, Zip:  
97537

[/s/ Signature  
Title

Jeaneline A. [Signature]



UNITED STATES OF AMERICA  
DEPARTMENT OF JUSTICE

INVESTIGATION OF THE ACTS OF VIOLENCE COMMITTED BY THE  
MEMBERS OF THE BLACK PANTHER PARTY AND OTHERS  
ASSOCIATED WITH THE SAID PARTY

Subscribed and sworn to before me on \_\_\_\_\_ Day of \_\_\_\_\_ 1968, at \_\_\_\_\_  
City, State of \_\_\_\_\_, by \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_

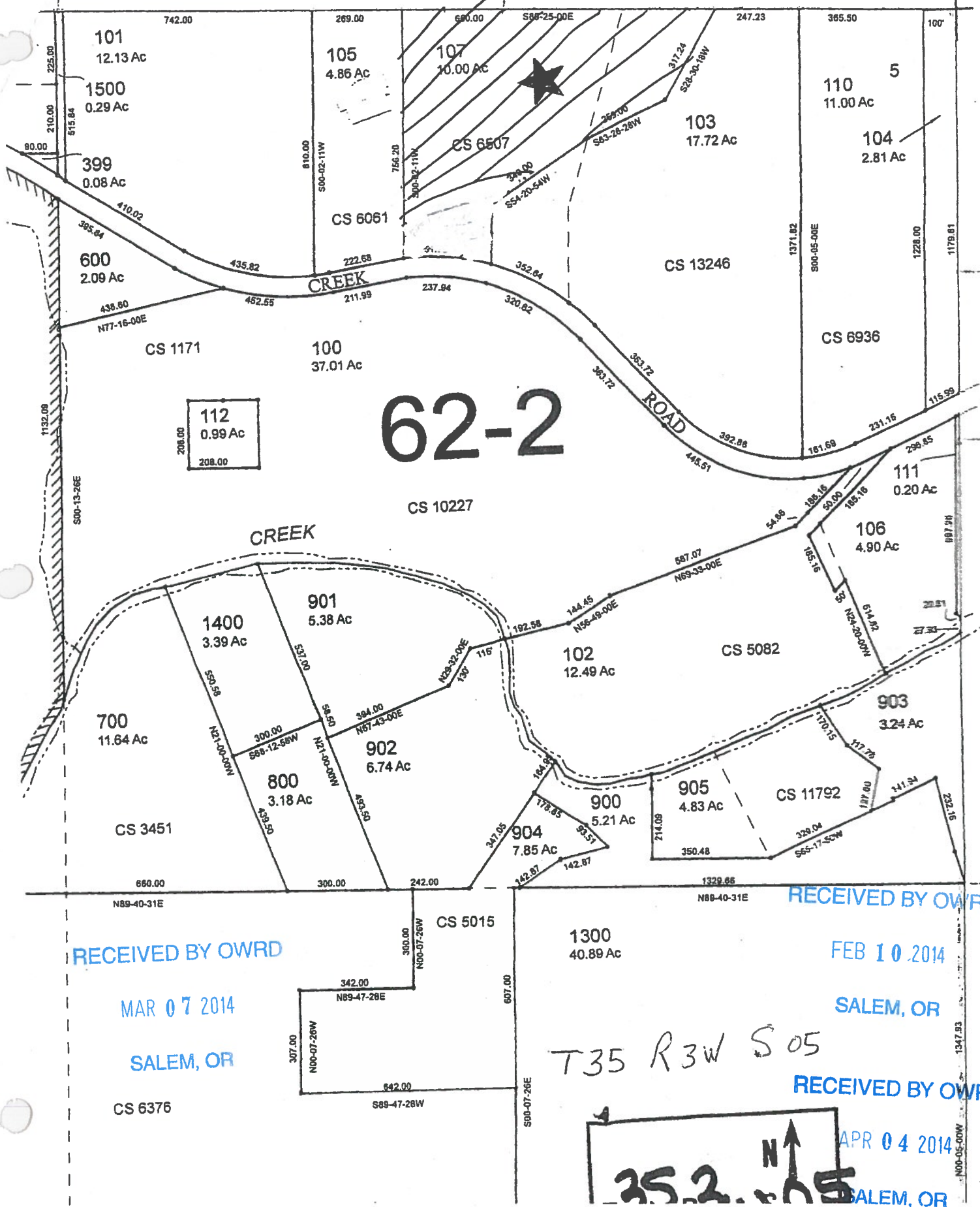
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_

RECEIVED BY MAIL

APR 10 1968

3 acres w/r  
Not used

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62-2

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MAR 07 2014

SALEM, OR

CS 6376

RECEIVED BY OWRD

FEB 10 2014

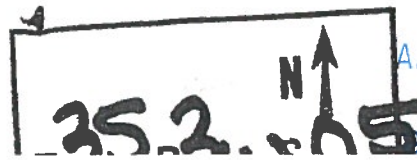
SALEM, OR

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APR 04 2014

SALEM, OR

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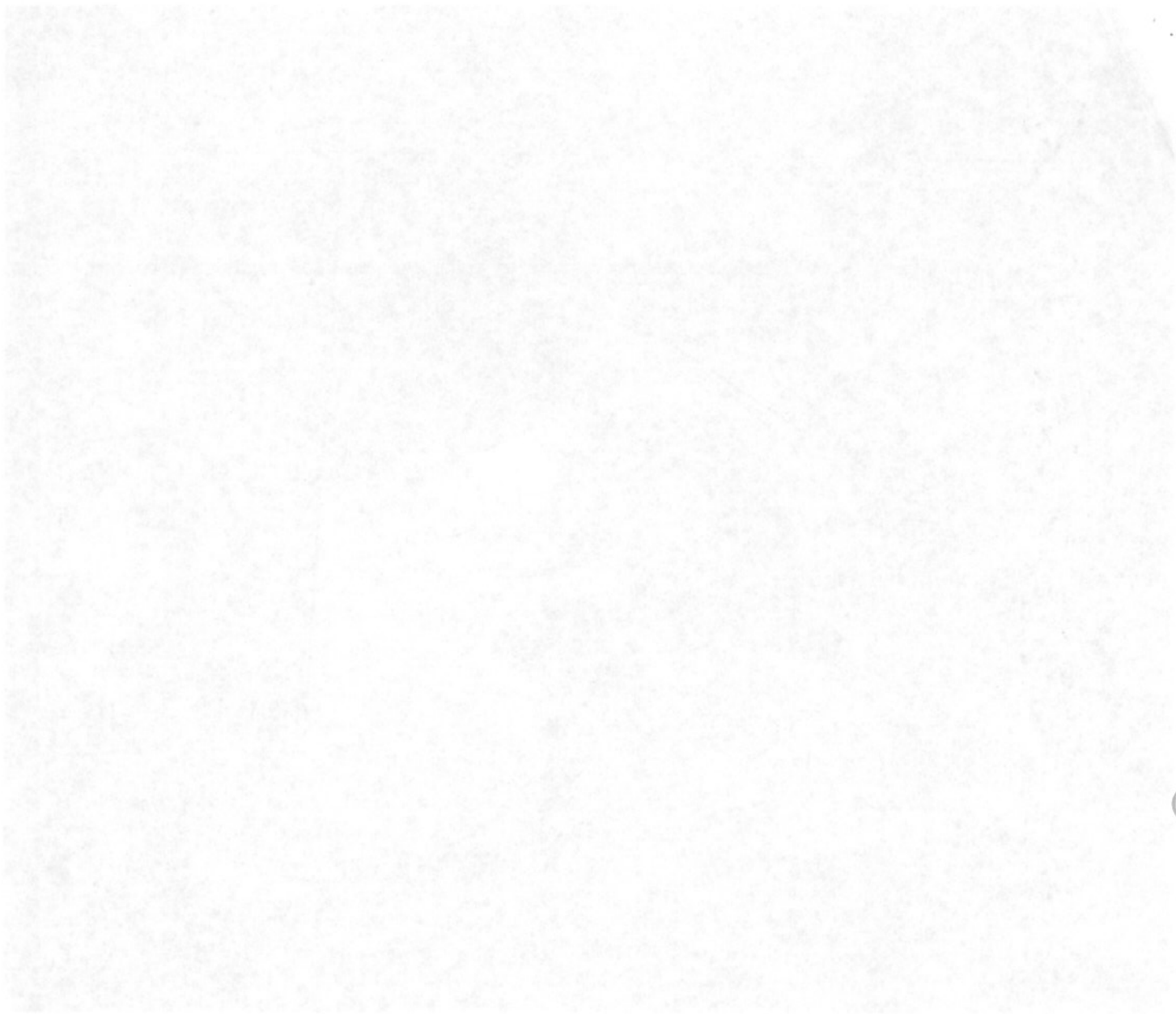
MAR 07 2014

SALEM, OR

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RECEIVED BY OWRD

FEB 10 2014

SALEM, OR



RECEIVED

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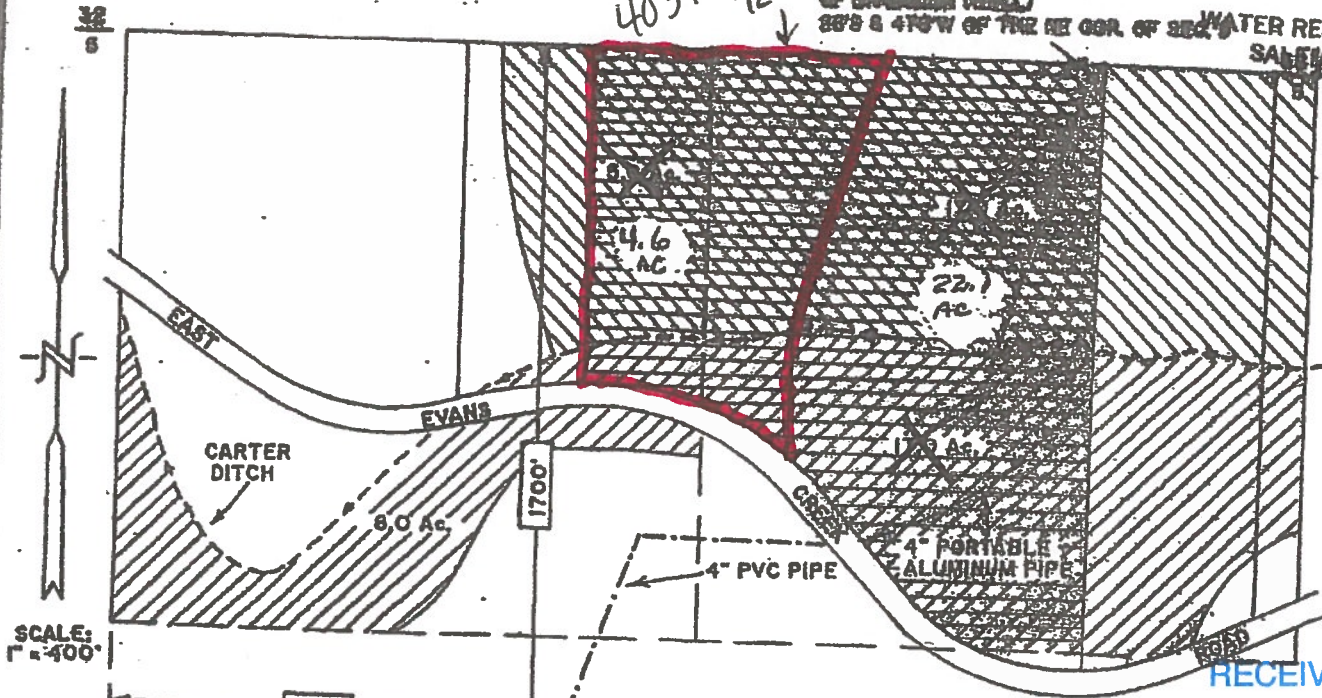
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NI/2NE1/4 SECTION 5, T.35S., R.3W., W.M.

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AUG - 4 1992



SCALE: 1" = 400'

RECEIVED BY OWRD

RECEIVED BY OWRD

MAR 07 2014

FEB 10 2014

SALEM, OR

SALEM, OR

PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3346

LEGEND:

- PLACE OF USE PER CERTIFICATE NO. 40377
- PLACE OF USE PER CERTIFICATE NO. 44950
- SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233 Certificate 83628
- POINT OF DIVERSION
- FOUND PROPERTY CORNER

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/OTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.

SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979

PERMIT NO. G-11233

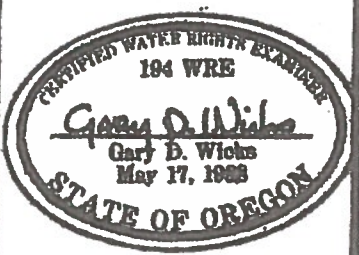
MAP MODIFIED BY OWRD STAFF TO REFLECT ACRES PER TABLE JW6 8-20-2007

PROJECT NO. 142-90-120

DRAWING NO. 38-8.5.11

DATE -22-1992

SCALE 1" = 400'



PLAT OF CLAIM OF BENEFICIAL USE

RECEIVED BY OWRD

LOCATED IN NI/2NE1/4 SECTION 5, T.35S., R.3W., W.M. JACKSON COUNTY, OREGON

APR 04 2014

PREPARED FOR:

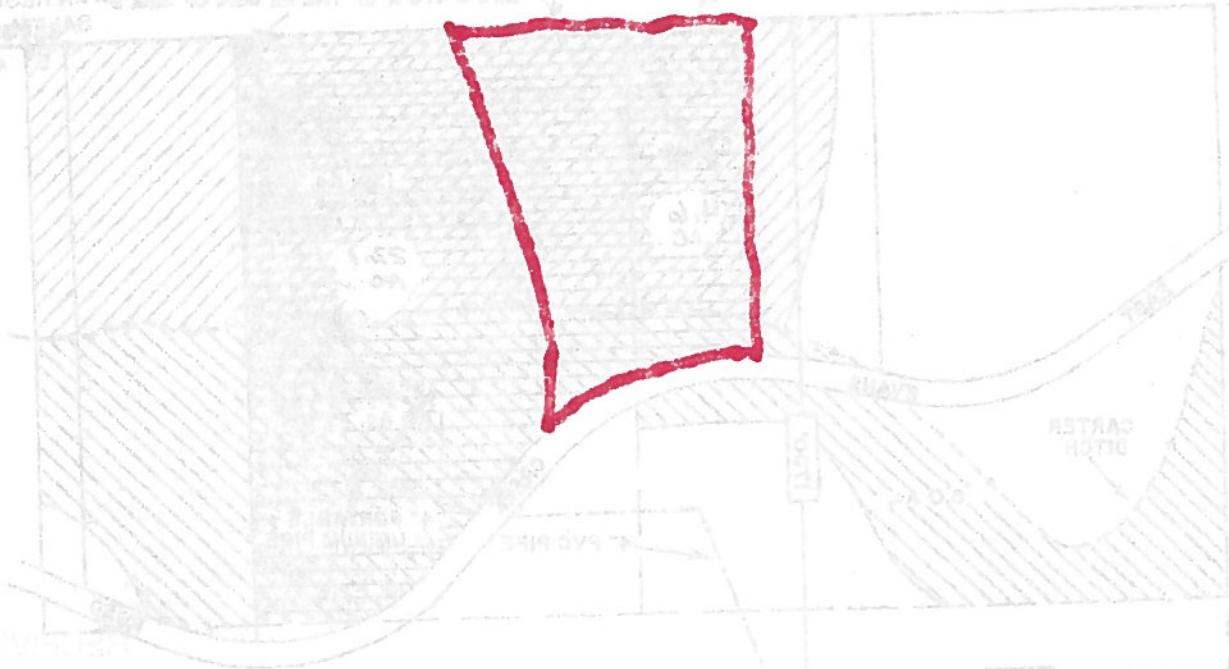
ANTHONY L.B. EWALT  
14095 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 562-4112

PREPARED BY:

GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
982 S.E. "N" STREET  
GRANT'S PASS, OREGON 97528-3280  
TEL. 479-3436.

SALEM, OR

M/KMEI/A SECTION 8, T.38S., R.3W., W.M. AUG - 4 1982



**LEGEND:**

- [Hatched pattern] PLACE OF USE PER CERTIFICATE NO. 40377
- [Hatched pattern] PLACE OF USE PER CERTIFICATE NO. 44900
- [Hatched pattern] SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 8-11233



POINT OF DIVERSION FOUND PROPERTY CORNER

THE THIS TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD-T-1600 THEODOLITE WITH A DISTANCE OF 1000 FEET.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.

SUBJECT PROPERTY TAX LOT 105 AND 107 OF ASSASSOR'S MAP NO. 28-28-2.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO ATTEMPT TO PROVIDE BENCHMARKS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

AGREES TO RECEIVE SUPPLEMENTAL SUPPLY

OWNER	40377	44900	TOTAL
KENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
WINE	4.0 Ac.	0.8 Ac.	4.8 Ac.
TOTAL	16.9 Ac.	10.0 Ac.	26.9 Ac.

APPLICATION NO. 8-11279

PERMIT NO. 8-11233

MAY BE REVISED BY AND STAFF TO REFLECT 48227 PLS. TABLE 2/26-2007

PLAT OF CLAIM OF BENEFICIAL USE RECEIVED BY OWRD

PREPARED FOR: ANTHONY J. EWITT, HORS E EVIDS OR PD, HOOK RIVER OREGON 97037, TEL. 502-412-5024

PREPARED BY: GARY D. WICKS, P.E., P.L.S., CIVIL ENGINEER & LAND SURVEYOR, 922 S.E. W. STREET, GRANTS PASS, OREGON 97626-2000, TEL. 502-548-2400



PROJECT NO. WS-30-120  
 DRAWING NO. 38-8-211  
 DATE 12-19-92  
 SCALE 1" = 400'



5  
77  
TL 110



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

Mail to: Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

04/11  
nstcancel

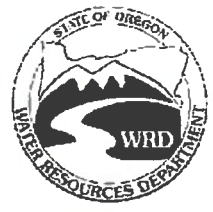
RECEIVED BY OWRD  
APR 04 2014  
SALEM, OR

CHINA'S CRISIS

NO. 100

RO. 100

TL 110  
WR 40377  
JB



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson )

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Jacqueline ANN Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, Oregon, 97537  
(City) (State) (Zip Code)

Phone (541) 582-1392, say that:

2. Water Right Certificate number 40377,  
issued to Deby Sinstaub authorizes use of water from (source) Evans Creek  
for (use) IRRIGATION,  
under a priority date of Nov. 06, 1918

3. The total number of acres described in the certificate is 22.0 Acres.

4. The subject water right is located within Tax Lot(s) 110, in Township 35  
N/S, Range 3 W E/W, in the NE 1/4 NE 1/4, of  
Section(s) 5, Jackson, County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived next to TL 110 since 2008,  
my diversion point is the same. There  
is no irrigation facility or any irrigation  
to TL 110 since 2008 that I have seen

Page 2 of 5 RECEIVED BY OWRD RECEIVED BY OWRD

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Second line of faint text, possibly a recipient name or address.

Third line of faint text, possibly a date or subject line.

Fourth line of faint text, possibly a salutation or opening.

Fifth line of faint text, possibly the start of a paragraph.

Sixth line of faint text, possibly a continuation of the paragraph.

Seventh line of faint text, possibly another paragraph or section.

Eighth line of faint text, possibly a closing or signature area.

Ninth line of faint text, possibly a footer or reference.

Tenth line of faint text, possibly a final note or page number.



6. I know from personal observation and state with certainty that **the entire water right has not been used for:**

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty that **a portion of this water right has not been used for:**

Irrigation From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the **portion of the water right which has not been exercised**, totaling 5.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. [Signature] (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. [Signature] (Initial to indicate you have read this statement and understand your responsibilities).

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SALEM, OR



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Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

    *Jacqueline A. Budman*      
(Signature of Affiant)

Sworn to and subscribed before me this   1<sup>st</sup>   Day of   April  , 2  014  .



    *Angell Pittman*      
(Notary Public of Oregon)

My Commission Expires   Nov. 5, 2015  

(SEAL)

RECEIVED BY OWRD

APR 04 2014

SALEM, OR

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**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: <u>Ruth Worth</u>	Name:
Address: <u>14375 East Evans Crk Rd.</u>	Address:
City, State, Zip: <u>Rogue River, Oregon</u>	City, State, Zip:
<u>97537</u>	

Name:  
Address:  
City, State, Zip:

Name:  
Address:  
City, State, Zip:

[/s/ Signature] *Jeanelle A. Belmont*  
Title

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APR 04 2014

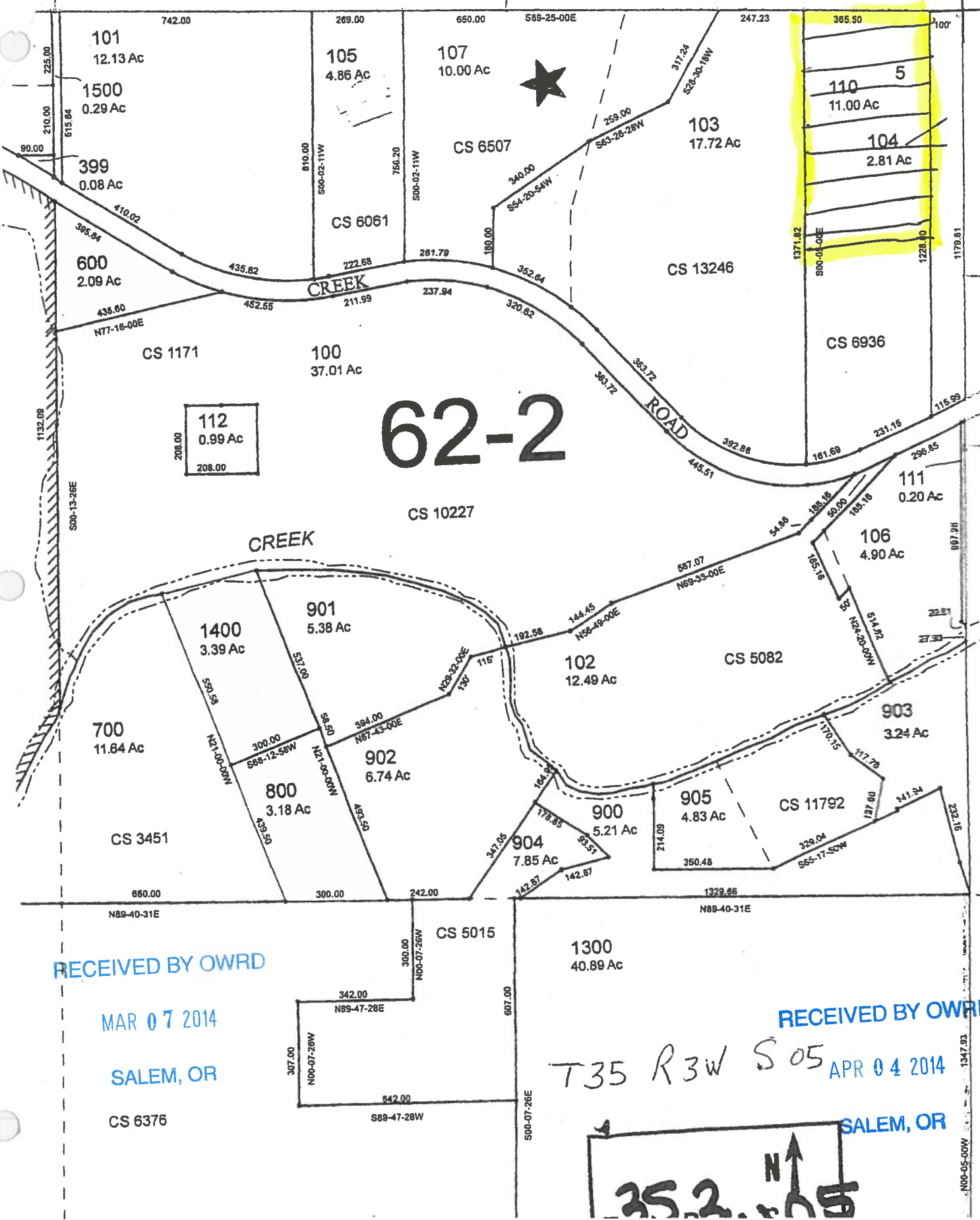
SALEM, OR

CONFIDENTIAL

SECRET

EO 12812

TL110  
5.03 ac w/r  
32  
not used



# 62-2

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MAR 07 2014

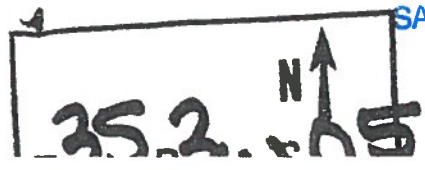
SALEM, OR

CS 6376

RECEIVED BY OWRD

T35 R3W S05 APR 04 2014

SALEM, OR



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DATE

BY

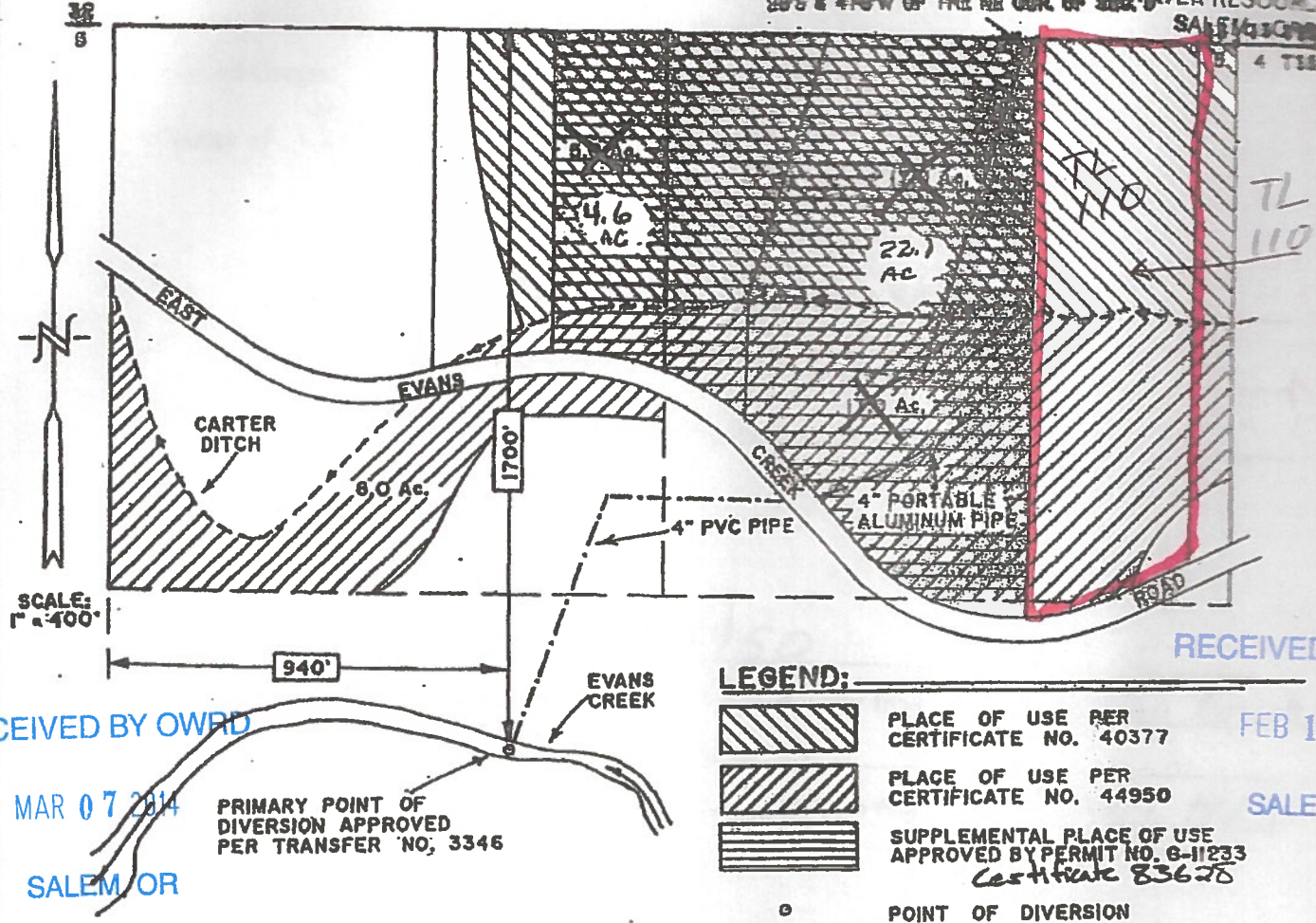
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NI/2NE1/4 SECTION 5, T.35S., R.3W., W.M.

RECEIVED  
AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION (WELLS) 20'S & 470'W OF THE NE COR. OF SEC. 5 WATER RESOURCES SAFETY CENTER








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MAR 07 2014  
SALEM OR

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FEB 10 2014  
SALEM OR

PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3346

LEGEND:

-  PLACE OF USE PER CERTIFICATE NO. 40377
-  PLACE OF USE PER CERTIFICATE NO. 44950
-  SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233 Certificate 83628
-  POINT OF DIVERSION
-  FOUND PROPERTY CORNER

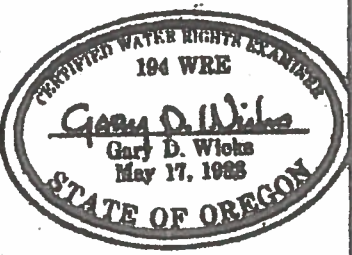
ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
OTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
TOTAL	16.9 Ac.	9.8 Ac.	26.7 Ac.

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT DI-1000 EDM. A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 36-3W-6. THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979  
PERMIT NO. G-11233

MAP MODIFIED BY WCD STAFF TO REFLECT ACRES PER TABLE JW6 8-20-2007

PROJECT NO.  
142-90-120  
DRAWING NO.  
38-8.5.11  
DATE  
7-22-1992  
SCALE  
1" = 400'



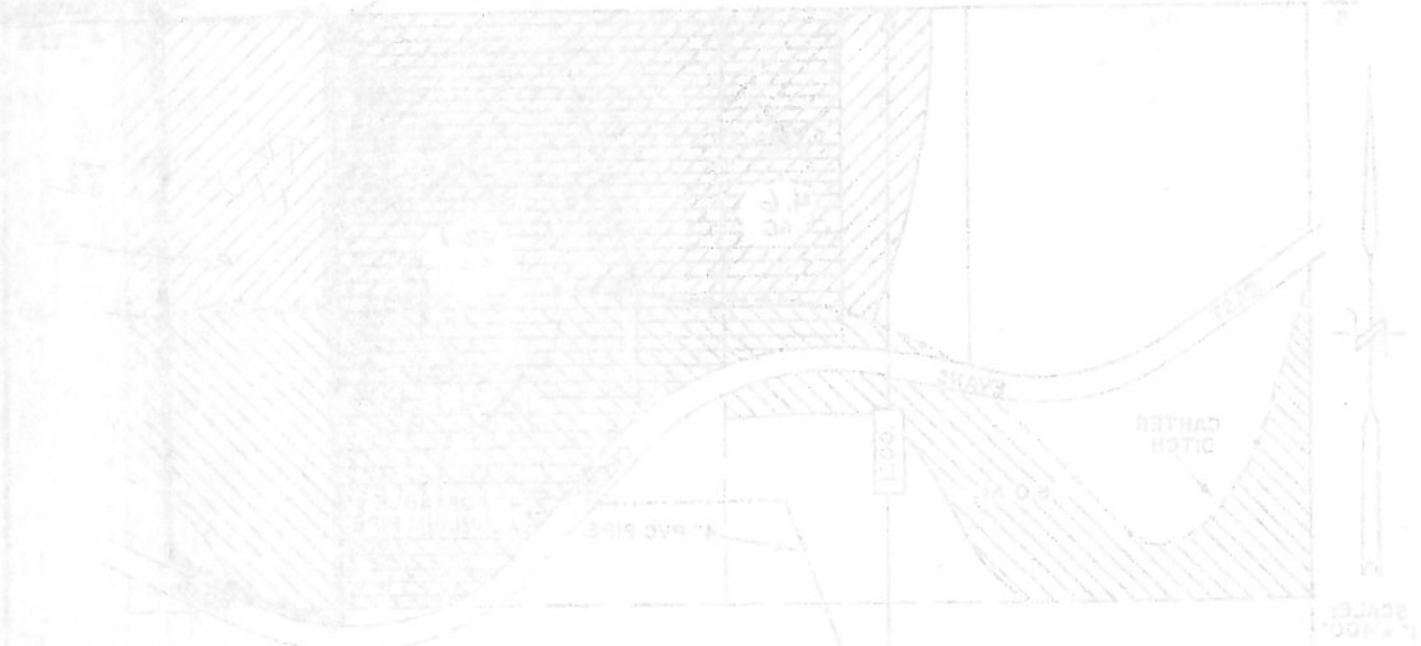
PLAT OF  
CLAIM OF BENEFICIAL USE 2014  
LOCATED IN  
NI/2NE1/4 SECTION 5, T.35S. R.3W., W.M.  
JACKSON COUNTY, OREGON SALEM, OR

PREPARED FOR:  
ANTHONY L.S. EWALT  
14085 E. EVANS CR. RD.  
ROGUE RIVER, OREGON 97537  
TEL. 502-4112

PREPARED BY:  
GARY D. WICKS, P.E., P.L.S.  
CIVIL ENGINEER & LAND SURVEYOR  
862 S.E. "N" STREET  
GRANTS PASS, OREGON 97526-3290  
TEL. 479-3436.

WYOMING SECTION 5, T.35S. R.2W., W.M. 100

DEPARTMENT OF  
LAND SURVEY  
STATE OF WYOMING



**LEGEND:**  
 PLACE OF USE PER CERTIFICATE NO. 40215  
 PLACE OF USE PER CERTIFICATE NO. 42300  
 SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 6-11233



FOUND PROPERTY CORNER  
 POINT OF DIVERSION  
 A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT.  
 A DISTRICT 2-1000 EDM.  
 WERE MEASURED USING A WILD T-3000 THEODOLITE WITH  
 THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION  
 SUBJECT PROPERTY: TAX LOTS 103 AND 104 OF  
 SECTION 5, T.35S. R.2W., W.M. 100  
 THIS PLAT WAS PREPARED FOR THE PURPOSE OF  
 IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL  
 POINT OF DIVERSION ONLY. THERE IS NO INTENT TO  
 PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY  
 CORNERS.

AGREED TO RECEIVE SUPPLEMENTAL SUPPLY

TOTAL	163 AC.	98 AC.	507 AC.
WANE	40 AC.	18 AC.	129 AC.
WANE	43 AC.	83 AC.	216 AC.
TOTAL	83 AC.	106 AC.	189 AC.

APPLICATION NO. 6-11233  
 PERMIT NO. 6-11233

**CLAIM OF BENEFICIAL USE AND PLAT OF**  
 JACOBSON QUANTITY DIVISION  
 WYOMING SECTION 5, T.35S. R.2W., W.M. 100  
 PREPARED FOR: ANTHONY L.L. EWITT  
 1000 E. EVANS ST. WY.  
 80000 RIVER OREGON OREGON  
 TEL 502-412-2422  
 PREPARED BY: GARY D. WICKS, P.E. P.L.S.  
 CIVIL ENGINEER & LAND SURVEYOR  
 602 S.E. 17th STREET  
 SALEM OREGON 97302-2800  
 TEL 503-425-2422



PROJECT NO. MS-90-150  
 DRAWING NO. 38-8-211  
 DATE 7-22-1992  
 SCALE 1" = 100'





T35 R3W S05

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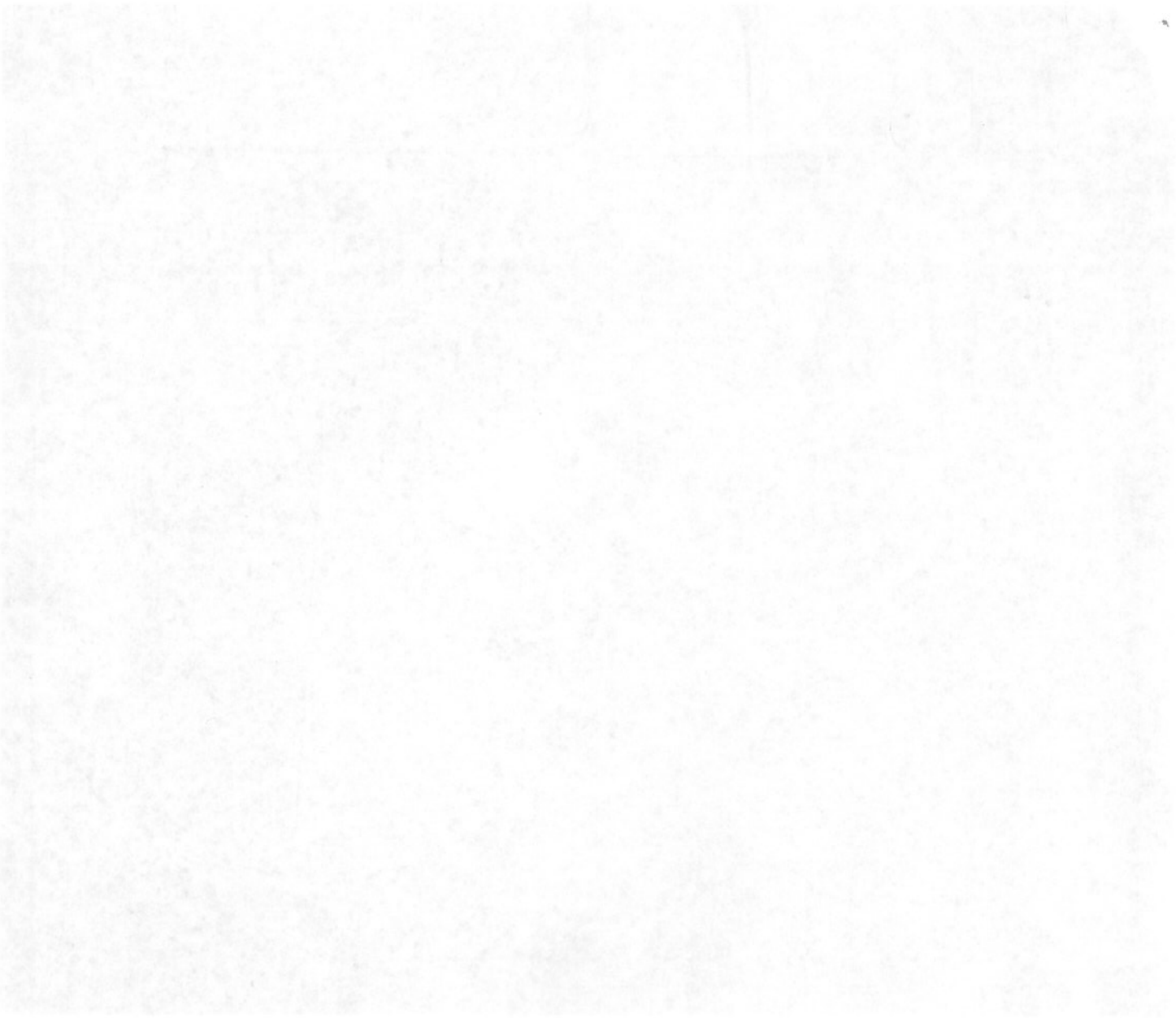
APR 04 2014

SALEM, OR  
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MAR 07 2014

SALEM, OR





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DATE

SIGNATURE

NO.

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77  
7, 110



### INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT ASSERTING NON-USE OF A WATER RIGHT

1. Complete information regarding legal name, address and telephone number.
2. Complete information regarding the water right certificate number, the name of the person(s) to whom the water right certificate was issued, the source of water, the use of water and the priority date of the water right.
3. List the total number of acres noted on the certificate, if applicable.
4. Identify the current tax lot number(s), Township, Range, Section(s), Quarter-Quarter Section(s) and County.
5. Explain your knowledge regarding the alleged non-use.
6. If the **entire water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
7. Illustrate on the appropriate county tax plat map, the lands to which the water right in question is appurtenant.
8. If only a **portion of the water right has been forfeit** due to non-use, indicate the use and the alleged period of non-use by month and year.
9. Show the portion of the water right that has not been exercised on the appropriate tax plat map.
10. Indicate whether the subject water right is within the boundaries of an irrigation district or federal reclamation project.
11. Initial to show that you have read these laws (ORS 650.610(2) and OAR 690-17-0800).
12. Initial to show that you have read this statement and understand your responsibilities as proponent of this cancellation.
  - ▶ Sign the affidavit and have it notarized.
  - ▶ Complete Proof of Service Form which indicates you have served a copy this affidavit upon the legal land owner and occupant of the lands to which the water right is appurtenant.

**Mail to:** Water Resources Department  
725 NE Summer Street Suite A  
Salem, OR 97301-1271

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nstcancel

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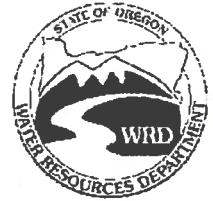
GEORGE WASHINGTON UNIVERSITY

LIBRARY

1968

TL 110  
NR 40377  
BWP

6



BEFORE THE WATER RESOURCES DEPARTMENT

State of Oregon )  
County of Jackson )

AFFIDAVIT ASSERTING  
NON-USE OF WATER RIGHT

1. I, Bruce Glen Buckmaster  
(Legal Name)  
of 14095 East Evans Creek Road  
(Address)  
Rogue River, Oregon, 97537  
(City) (State) (Zip Code)

Phone (541) 582-1392, say that:

2. Water Right Certificate number 40377  
issued to Le Roy Sinsaback authorizes use of water from (source) Evans Creek  
for (use) \_\_\_\_\_  
\_\_\_\_\_ , under a priority date of Nov. 8, 1918

3. The total number of acres described in the certificate is 22.0 Acres.

4. The subject water right is located within Tax Lot(s) 110, in Township 35  
N/S, Range 3 W E/W, in the NE 1/4 NE 1/4, of  
Section(s) 5, Jackson County Oregon.

5. I am familiar with these lands and I am aware of the non-use of this water right because:  
I have lived next to TL 110 since 2008,  
my diversion point is the same. There  
is no irrigation facility or any irrigation  
to TL 110 since 2008 that I have seen.

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APR 04 2014

MAR 07 2014

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SALEM, OR



PROBATION DEPARTMENT

STATE OF CALIFORNIA

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Blue Glen Boulevard  
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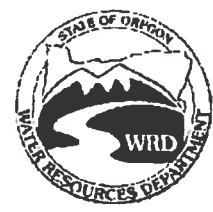
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6. I know from personal observation and state with certainty that **the entire water right has not been used for:**

\_\_\_\_\_ From \_\_\_\_\_ Through \_\_\_\_\_  
(Use) (Month and year) (Month and year)

7. I have illustrated on the attached tax lot map the lands to which the water right in question is appurtenant.

8. I know from personal observation and state with certainty that **a portion of this water right has not been used for:**

IRRIGATION From May 2008 Through January 2014  
(Use) (Month and year) (Month and year)

9. I have illustrated on the attached tax lot map, the location of the **portion of the water right which has not been exercised**, totaling 5.0 Acres.

10. Is the subject water right within the boundaries of an irrigation district or federal reclamation project? \_\_\_\_\_ Yes NO No. If Yes: (Name of Irrigation District or Federal Reclamation Project)  
\_\_\_\_\_

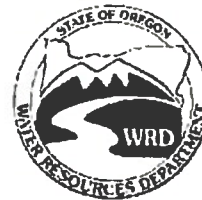
11. I have read the provision of Oregon Revised Statutes 540.610(2) and Oregon Administrative Rules Chapter 690, Division 17 and believe the presumption of forfeiture for five or more consecutive years of non-use may not be rebutted by the holder(s) of this water right. BBB (Initial to indicate you have read these laws)

12. I am willing to testify in a Contested Case Hearing to all allegations contained in this affidavit. I understand that as the proponent, I have the burden of proof on the alleged non-use issue. BBB (Initial to indicate you have read this statement and understand your responsibilities).

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THE UNIVERSITY OF  
MICHIGAN  
LIBRARY





Under penalty of perjury, I do solemnly swear or affirm that the foregoing is a true statement of the facts as I know them to be from my personal knowledge.

Bruce H. Buckmaster  
(Signature of Affiant)

Sworn to and subscribed before me this 1<sup>st</sup> Day of April, 2 014.



Angell R Pittman  
(Notary Public of Oregon)

My Commission Expires Nov 5, 2015

(SEAL)

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APR 04 2014

SALEM, OR

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**CERTIFICATE OF SERVICE  
AFFIDAVIT ASSERTING NON USE**

OAR 690-17-0400 requires that an affiant provide proof that affidavit asserting non-use has been served upon the legal land owner and occupant of the lands to which the water right is appurtenant.

I certify that on 4 Day of April, 2014, I served the attached Affidavit Asserting Non Use of Water Right by mailing in a sealed envelope, with first class postage prepaid, a copy thereof addressed as follows:

Name: <u>Ruth Worth</u>	Name:
Address: <u>14375 East Evans Crk. Rd.</u>	Address:
City, State, Zip: <u>Rogue River, Oregon</u>	City, State, Zip:
<u>97537</u>	

Name:  
Address:  
City, State, Zip:

Name:  
Address:  
City, State, Zip:

[/s/ Signature] Bruce S. Buchmaster  
Title \_\_\_\_\_

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APR 04 2014

SALEM, OR

SECRETARY (WR)

SECRETARY

SECRETARY

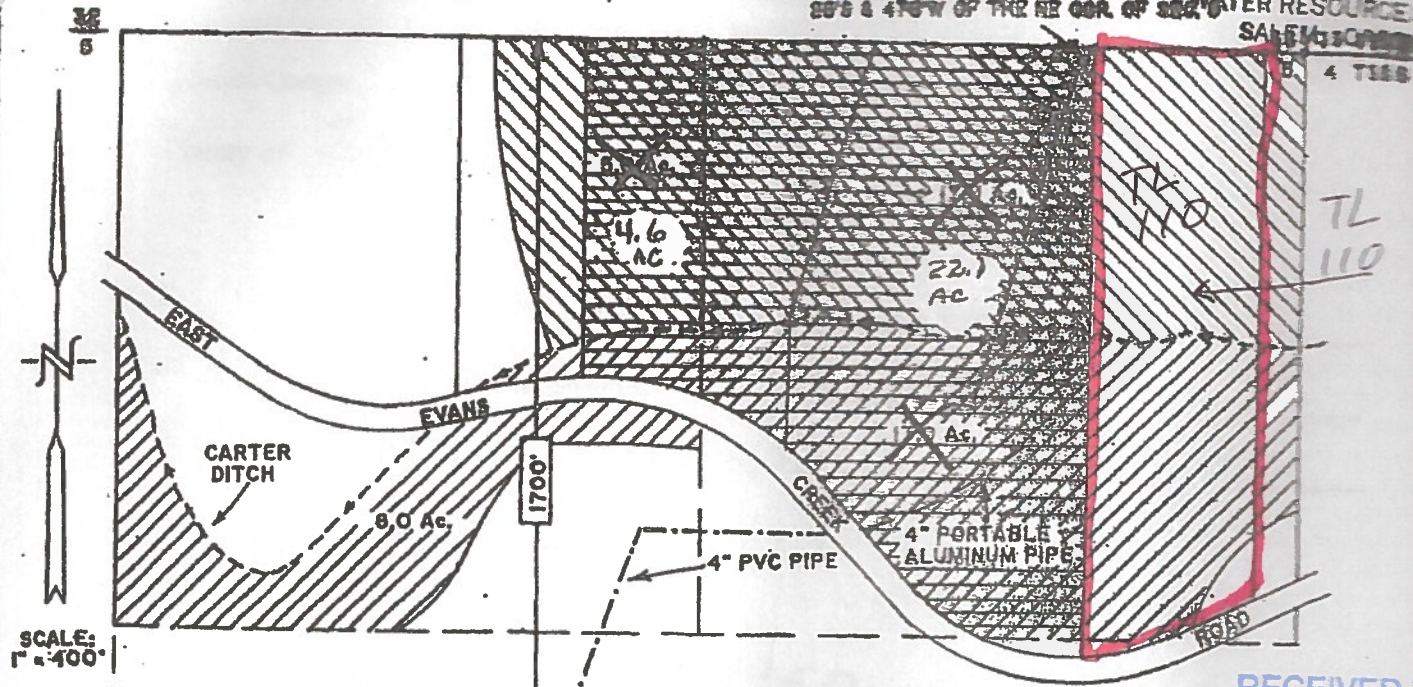
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# NE 1/2 NE 1/4 SECTION 5, T.35S., R.3W., W.M.

AUG - 4 1992

SUPPLEMENTAL POINT OF DIVERSION PERMIT NO. G-11233  
SOUTH 8 470'W OF THE NE COR. OF SE 1/4

WATER RESOURCES  
SALEM, OREGON



SCALE: 1" = 400'




RECEIVED BY OWRD

MAR 07 2014

SALEM, OR

PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3346

### LEGEND:

-  PLACE OF USE PER CERTIFICATE NO. 40377
-  PLACE OF USE PER CERTIFICATE NO. 44950
-  SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. G-11233  
*Certificate 83678*
- POINT OF DIVERSION
- FOUND PROPERTY CORNER

RECEIVED BY O

FEB 10 2014

SALEM OR

ACRES TO RECEIVE SUPPLEMENTAL SUPPLY			
QTR/QTR	40377	44950	TOTAL
NENE	12.9 Ac.	9.2 Ac.	22.1 Ac.
NWNE	4.0 Ac.	0.6 Ac.	4.6 Ac.
<b>TOTAL</b>	<b>16.9 Ac.</b>	<b>9.8 Ac.</b>	<b>26.7 Ac.</b>

THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD T-1600 THEOMAT WITH A DISTOMAT 91-1000 EDM.

A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAT. SUBJECT PROPERTY: TAX LOTS 103 AND 107 OF ASSESSOR'S MAP NO. 35-3W-5.

THIS PLAT WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

APPLICATION NO. G-11979

PERMIT NO. G-11233

MAP MODIFIED BY OWRD STAFF TO REFLECT ACRES PER TABLE JWG 8-20-2007

PROJECT NO. 142-90-120

DRAWING NO. 38-8.5.11

DATE 7-22-1992

SCALE 1" = 400'



## PLAT OF CLAIM OF BENEFICIAL USE

LOCATED IN NE 1/2 NE 1/4 SECTION 5, T.35S. R.3W., W.M. JACKSON COUNTY, OREGON

RECEIVED BY OWRD

APR 04 2014

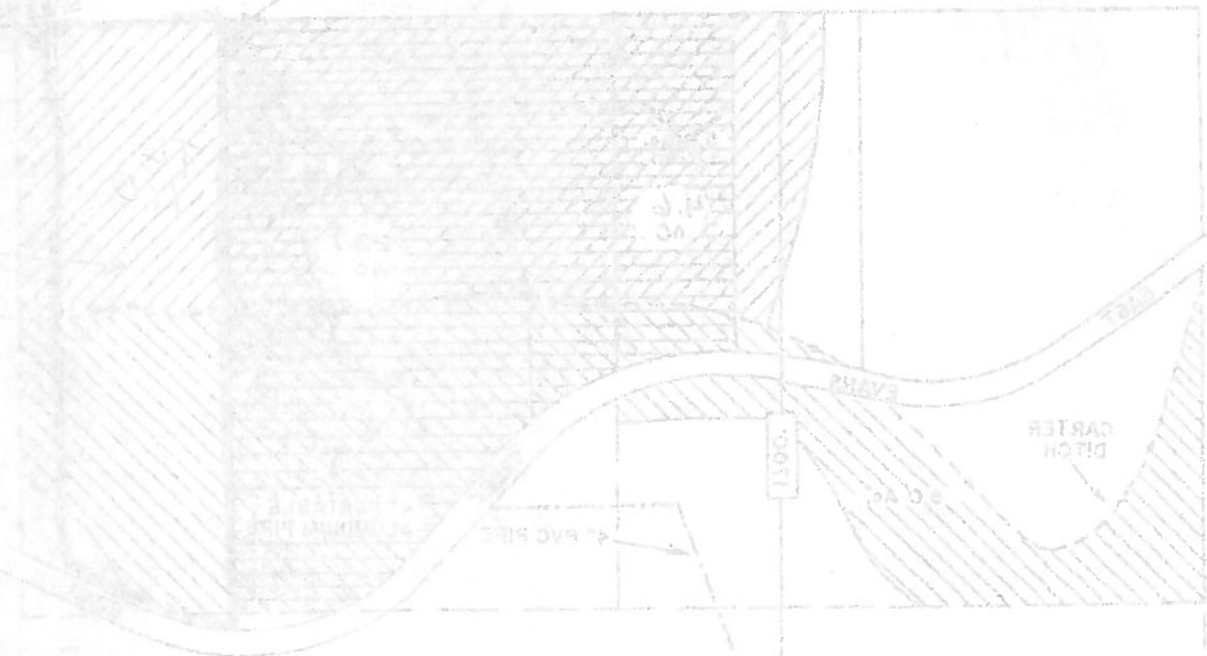
SALEM, OR

PREPARED FOR:  
 ANTHONY L.S. EWALT  
 14085 E. EVANS CR. RD.  
 ROGUE RIVER, OREGON 97537  
 TEL. 502-4112

PREPARED BY:  
 GARY D. WICKS, P.E., P.L.S.  
 CIVIL ENGINEER & LAND SURVEYOR  
 982 S.E. "N" STREET  
 GRANTS PASS, OREGON 97528-3290  
 TEL. 479-3436.



WYCKELVA SECTION 8, T.33S., R.3W., W.M.



SCALE: 1" = 100'

**LEGEND:**  
 PLACE OF USE PER CERTIFICATE NO. 40377  
 PLACE OF USE PER CERTIFICATE NO. 44330  
 SUPPLEMENTAL PLACE OF USE APPROVED BY PERMIT NO. 0-11232  
 POINT OF DIVERSION  
 FOUND PROPERTY CORNER

EVANS CREEK  
 340'  
 PRIMARY POINT OF DIVERSION APPROVED PER TRANSFER NO. 3248

THIS PLAN WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE SUPPLEMENTAL POINT OF DIVERSION ONLY. THERE IS NO INTENT TO PROVIDE EVIDENCE OF LOCATIONS OF PROPERTY OWNERSHIP LINES.  
 A THREE PAGE SITE REPORT ACCOMPANIES THIS PLAN. A DISTANT 21-000 COME. THE TIES TO THE SUPPLEMENTAL POINT OF DIVERSION WERE MEASURED USING A WILD-T-1500 THEODOLITE WITH

AGRES TO RECEIVE SUPPLEMENTAL SUPPLY

OTRACHT	40377	44330	TOTAL
WINE	15.9 AC.	9.2 AC.	25.1 AC.
WINE	4.0 AC.	0.6 AC.	4.6 AC.
TOTAL	19.9 AC.	9.8 AC.	29.7 AC.

APPLICATION NO. 0-11232

PERMIT NO. 0-11232

WAS REVIEWED BY WCD STAFF TO ENSURE ACCURACY FOR TIE TO

PLAT OF RECEIVED BY OWNER  
 CLAIM OF BENEFICIAL USE

WYCKELVA SECTION 8, T.33S., R.3W., W.M.  
 JACKSON COUNTY, OREGON

PREPARED BY  
 GARY D. WICKS, P.E., P.L.S.  
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PREPARED FOR  
 ARTHUR L. EWITT  
 1008 E. EVANS CR. RD.  
 ROOSE RIVER, OREGON 97531  
 TEL. 662-412



PROJECT NO. 142-30-150  
 DRAWING NO. 38-8-11  
 DATE 7-22-1992  
 SCALE 1" = 400'





1000  
1000  
1000



7



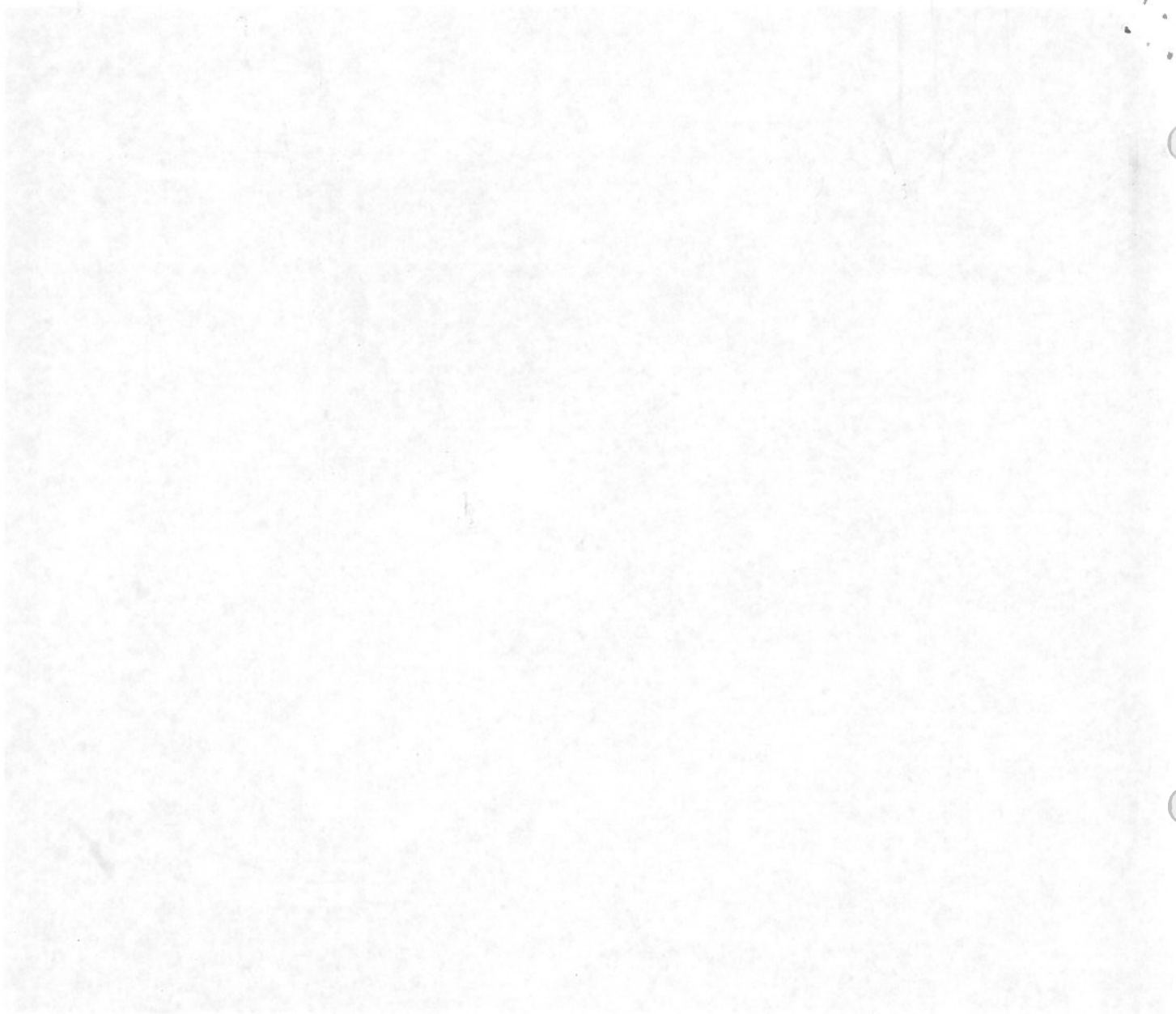
T35 R3W S05

RECEIVED BY OWRD

RECEIVED BY OWRD MAR 07 2014

APR 04 2014 SALEM, OR

SALEM, OR



RECEIVED BY - WIND

6/1/2005