

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	27 E	WM	25	SE SW	1.0
10 S	27 E	WM	25	SW SE	19.0

3. Certificate 946 does not describe the diversion rate for the right; however the permit for the right (Permit S-1239) indicates that the rate allowed for the right shall be limited to one-eightieth of one cubic foot per second for each acre irrigated.
4. Certificate 946 does not describe the location of the points of diversion, however the application for the right (Application S-2419) indicates that the points of diversion are located as follows:

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	27 E	WM	36	NW NE	DITCH NO. 1 - 52 RODS [858 feet] SOUTH AND 130 RODS [2145 feet] WEST OF THE NE CORNER OF SECTION 36
10 S	27 E	WM	36	SE NE	DITCH NO. 2 - 145 RODS [2392.5 feet] SOUTH AND 40 RODS [660 feet] WEST OF THE NE CORNER OF SECTION 36

5. The Transfer Application depicts the points of diversion under Certificate 946 as being:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	27 E	WM	36	NE NE	DITCH NO. 1 - 850 FEET SOUTH AND 1170 FEET WEST OF THE NE CORNER OF SECTION 36
10 S	27 E	WM	36	SE NE	DITCH NO. 2 - 1500 FEET SOUTH AND 730 FEET WEST OF THE NE CORNER OF SECTION 36

- a. On the ground it is very evident due to the elevations of the hills and creek that the ditches could have never been in the locations where the permit placed them. There is in excess of 15 feet of elevation difference between the creek and the ditch in the locations where the permit placed the head of the ditches. The Department considers there was an error or mistake made when the locations of the points of diversions were finalized for this right. The ditches appear not to have moved any significant distance over time and the current survey accurately describes the location of the two ditches which serve Certificate 946.

- b. The following table lists the points of diversion as described in Application S-2419 (Certificate 946) and a proposed re-description based on the above findings:

Original Description of Points of Diversion		Proposed Re-Description of Points of Diversion		
¼-¼	Measured Distances	¼-¼	Measured Distances	Current Tax Lot
NW NE	DITCH NO. 1 - 52 RODS SOUTH AND 130 RODS WEST OF THE NE CORNER OF SECTION 36	NE NE	DITCH NO. 1 - 850 FEET SOUTH AND 1170 FEET WEST OF THE NE CORNER OF SECTION 36	5600
SE NE	DITCH NO. 2 - 145 RODS SOUTH AND 40 RODS WEST OF THE NE CORNER OF SECTION 36	SE NE	DITCH NO. 2 - 1500 FEET SOUTH AND 730 FEET WEST OF THE NE CORNER OF SECTION 36	2500
Township 10 S, Range 27 E, Section 36				

6. Certificate 946 describes the authorized place of use as 1 acre in the SE SW and 19 acres in the SW SE of Section 25, Township 10 S, Range 27 E, Willamette Meridian, Grant County, Oregon.

- a. The transfer application depicts the place of use under Certificate 946 as being:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	27 E	WM	25	SE SW	0.7
10 S	27 E	WM	25	SW SE	19.3

- b. The map for Permit S-1239/Certificate 946 did not clearly define the location of the irrigated acreage with much precision. The landscape of the area is physically marked by knobs, rises, outcroppings of rock, and sloping small pastures. The fields are odd shaped as a result of the lay of the land. Based upon the Department's visual inspection of the area, it appears that no significant alterations to the landscape have occurred over the life of this water right. The locations noted on the permit map for Certificate 946 apparently described the place of use at the time the permit was awarded a certificate of water right. It is clear based upon the permit map that the intent was to show the place of use being shaped to fit the overall lay of the land. However, survey technology today can better show the locations on the ground than was possible back in 1912.
- c. The following table lists the place of use as described in existing Certificate 946 and a proposed re-description based on the above findings:

Original Description of Place of Use		Proposed Re-Description of Place of Use		
¼-¼	Acres	¼-¼	Acres	Current Tax Lot
SE SW	1.0	SE SW	0.7	2700
SW SE	19.0	SW SE	19.3	2700
Township 10 S, Range 27 E, Section 25				

7. Transfer Application T-10997 proposes to replace the two authorized points of diversion by moving to a single point approximately 900 feet upstream from the currently authorized point of diversion for Ditch No. 1, which is the actual point that has been used for POD No. 2:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	27 E	WM	36	SE NE	POD NO. 4 - 1500 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 36

8. The proposed point of diversion location for T-10997 is also currently in use as the diversion point for another right evidenced by Certificate 47400 which is not involved in the transfer.
9. On January 6, 2010, the Department sent a request to Oregon Department of Fish and Wildlife to review the proposed point of diversion and indicate any fish screen, by-pass device, or fish passage devices that should be installed at the proposed point of diversion.
10. Notice of the application for transfer was published on January 12, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
11. On March 1, 2010, the applicant requested that the Department seek a recommendation from the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Parks and Recreation Department (Parks), as to whether the Department should consent to injury of the instream water right pursuant to OAR 690-380-4030.
12. On May 3, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-10997 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 4, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
13. On May 14, 2010, the Department issued a Preliminary Determination proposing to deny Transfer Application T-10997 unless ODFW and Parks recommended consent to injury of the instream water right and mailed a copy to the applicant. Additionally, the Department mailed copies of the Preliminary Determination to ODFW and Parks, along with a request for a net benefit analysis and recommendation on whether the Department should consent to injury of the instream water right under Certificate 63251.
14. Notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on May 18, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
15. On July 22, 2010, the Department received a letter from Parks, recommending that the Department consent to injury of the instream water right under Certificate 63251.
16. Parks observed that the transfer provides a net benefit to recreational fishing, which offsets the injury to the instream water right caused by the transfer. While the proposed project

would result in injury due to reduction in flow within the reach between the current authorized diversion and the upstream proposed point, the project gives a net benefit because the removal of two push-up dams will eliminate yearly instream disturbances, and the use of fish screening at the new point of diversion will prevent diversion of fish into irrigation canals. This will result in improved conditions for fish to thrive and improve recreational fishing opportunities over time.

17. On July 30, 2010, a letter was received from ODFW, also recommending consent to injury of the instream water right.
18. ODFW's analysis noted that the John Day river basin is the second longest free-flowing river in the lower 48 states and is one of the few rivers in the Columbia River basin that is managed exclusively for wild anadromous fish. Cottonwood Creek is a tributary to the North Fork of the John Day River, which supports populations of wild redband trout, spring Chinook salmon, bull trout and summer steelhead, as well as mountain whitefish and many species of non-game fish.
19. The accepted historic irrigation water diversion method in the basin has been almost exclusively to use gravel push-up dams that require reconstruction prior to each irrigation season using a bulldozer, loader or backhoe to push stream gravels and cobble into a semi-porous berm that is angled across the stream. The berm often requires modifications throughout the summer to ensure that the legal rate of irrigation water is diverted as streamflows recede. Some of these dams are significant barriers to up and down stream migration of adult and juvenile salmon and steelhead. Push-up dams have the potential to prevent juvenile salmonids from reaching refuge areas.
20. Potential injury of Certificate 63251 would most likely occur during the irrigation season beginning in June until the end of the irrigation season at the end of September, with the WRD Water Availability Tables indicating a possible deficiency of 7-21 cfs. Habitat within the affected reach is utilized during the period of expected impact to the instream water right by adult and juvenile Chinook salmon, adult and juvenile steelhead, resident redband trout and Pacific Lamprey. The greatest impact would be in late September when resident redband trout and juvenile Chinook and steelhead would be moving downstream and utilizing the reach for foraging and escape cover. Potential impacts include reduced availability of foraging habitat, reduced availability of hiding cover offered by stream bank sedges and slightly submerged vegetation, reduced water depth and lessened water quality, and increased water temperature. This reach is designated as "Category 3 habitat," being that it is essential or important habitat that is limited on a physiographic province or on a site-specific basis.
21. Transfer Application T-10997 proposes to replace the use of two currently authorized push-up dams with a single sheetpile diversion with fish passage and screening which would assure that all life stages of fish will have passage at all stream flows throughout the entire year. A second benefit is that stream bed material will no longer be disturbed each year to construct the push-up dam, resulting, over time, in a more stable stream channel and

improved riparian vegetation. Increased sedge and willow growth and a gradual narrowing and deepening of the stream channel will provide higher quality habitat than is found where a push-up dam is being used. Additionally, elimination of the current diversions that do not have fish screens will benefit juvenile and adult fish by not diverting them out of the stream.

22. ODFW concluded that the series of benefits resulting from transferring the push-up dam points of diversion for Certificate 946 approximately 900 feet upstream to a single permanent point of diversion would offset the potential injury to instream right Certificate 63251. Fish migration will not be further prevented by the reduction in flow caused by the upstream transfer than under current conditions. Any flow reductions will be offset by an increase in quantity and quality of fish habitat as a result of the removal of two push-up dams.
23. Notice of the opportunity to comment on the recommendation to consent to injury of the instream water rights was published on August 3, 2010, in the Department's weekly notice pursuant to OAR 690-380-5050(4). No comments were received.
24. On September 3, 2010, a draft Final Order was e-mailed to the applicant, ODFW, Parks and the North Fork John Day Watershed Council.
25. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria [OAR 690-380-4010(2)]

26. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
27. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10997.
28. The proposed change would not result in enlargement of the right.
29. An instream water right, Certificate 63251, which was applied for by the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Parks and Recreation (Parks), exists to maintain an instream flow for the purpose of anadromous and resident fish habitat and recreational fishing in the reach of the river in which the authorized point of diversion for Ditch No. 1 would be moved upstream, and stream flows during the summer months within the reach are frequently below the levels allocated under the instream water right. Thus, the instream water right would be injured as a result of the proposed change in point of diversion; however, pursuant to ORS 540.530(1)(d and e) and OAR 690-380-5050, ODFW

and Parks have recommended that the Water Resources Department consent to the injury because potential benefits from the proposed change will more than offset the injury.

Re-description of the Diversion Point Location for Certificate 47400

30. The proposed point of diversion location for T-10997 is also currently in use as the diversion point for the right evidenced by Certificate 47400 which is not involved in the transfer. No movement of the POD is proposed under Certificate 47400, however, the location of the POD needs to be re-described in the water right record as follows, based on an on-the-ground survey:

Point of Diversion location as listed on Certificate 47400:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	27 E	WM	36	NE NE	900 FEET SOUTH AND 1180 FEET WEST FROM THE NE CORNER OF SECTION 36

Actual Location of Point of Diversion as per Current Survey:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	27 E	WM	36	SE NE	POD NO. 4 - 1500 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 36

Conclusions of Law

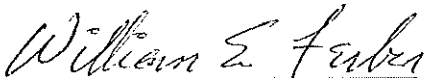
The change in points of diversion proposed in Transfer Application T-10997 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the point of diversion location on Certificate 47400 should be re-described.

Now, therefore, it is ORDERED:

1. The change in points of diversion proposed in application T-10997 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 946 and any related decree.
3. Water right Certificate 946 is cancelled.
4. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
5. Water use measurement conditions:
 - a) Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the new point of diversion.
 - b) The water user shall maintain the meter or measuring device in good working order.

- c) The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
7. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.
10. Water right Certificate 47400 is cancelled and a new certificate will be issued re-describing the point of diversion location.

Dated at Salem, Oregon this 10th day of September 2010.



for Phillip C. Ward, Director

Mailing date: SEP 14 2010

Oregon Department of Fish and Wildlife
Additional Fish Screening and Passage Information for the Applicant
(To be completed by ODFW for WRD to provide to the applicant.)

Transfer #: T-10997

The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.

- Fish screening and/or fish by-pass devices are required as a condition of this transfer. The fish screen and/or by-pass device must meet ODFW's design, construction, operational and maintenance standards. Fish screening prevents fish from entering the diversion, while a by-pass device safely transports fish back to the body of water from which the fish were diverted.

Pursuant to ORS 498.306, cost share funds may be available to assist in the installation of fish screening and by-pass devices at diversions.

The applicant should contact the ODFW staff below to obtain additional information on the design, construction, operational, and maintenance standards for the required fish screening and/or by-pass device and to obtain information about ODFW's cost sharing program for screening and by-pass devices. **Prior to installation, the water user must obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria.**

ODFW staff name: _____

Address: _____

City/State/Zip: _____

Phone: (_____) _____

- This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: Kelly Stokes

Address: PO box 515

City/State/Zip: John Day, OR 97845

Phone: (541) 575-0561



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

Watermaster Dept., District 4

201 S. Humbolt St., Suite 180

Grant County Courthouse

Canyon City, OR 97280

Ph: 541-575-0119

Fax: 541-575-0641

December 16, 2009

Attn: Transfer Division
Oregon Water Resources Department
725 Summer Street, N.E. Suite A
Salem, Oregon 97301

RE: Clarification of the point of diversions for C-946 and C-47400 and place of use for C-946.

To whom it may concern,

Gary Engle is submitting a transfer to request a change in point of diversion for C-946. This proposed transfer is located in T.10S R. 27E W.M. within Sections 25 and 36. I have worked closely with Bob Bagett the CWRE hired to prepare the application and map as well as the North Fork Watershed Council with this project. My understanding is this proposed transfer will be an upstream point of diversion movement as a result of a proposed project to remove fish passage barriers along Cottonwood Creek a tributary of the North Fork of the John Day River. The proposed upstream movement will leave only one point of diversion along the creek in this area. This will result in C-946 and C-47400 sharing one diversion.

Upon assisting Bob Bagett with the water right research for the property we noted a discrepancy with the location of the authorized point of diversion and authorized place of use listed in C-946 compared to the locations found on the ground. Additionally, the location of the point of diversion for C-47400 was found not to fit the coordinates listed on the certificate. Bob Bagett explained to me the discrepancies he found during the survey of the lands and subsequently I asked to visit the property and take a look at the findings.

Upon my visit to the property and the inspection of the area it was noted that C-946's permit map did not clearly define where the acreage was supposed to be very precisely. The landscape of the area is physically marked by knobs, rises, outcroppings of rock and sloping small pastures. The fields are odd shaped as a result of the lay of the land.

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SALEM, OREGON

T 10997



It is my personal opinion that no significant alterations to the landscape have occurred over the life of this water right based upon my visual inspection of the area. I also believe that the locations noted on the permit map for C-946 accurately described the place of use at the time the permit was awarded a certificate of water right. It is clear based upon the permit map that the intent was to show the place of use being shaped to fit the overall lay of the land. However, I believe that survey technology today can better show the locations on the ground than what were possible back in 1912.

Acreage Authorized Under C-946			Acreage Noted by Physical Survey of Bob Bagett		
T. 9S R. 27E W.M.			T. 9S R. 27E W.M.		
1.0 ac.	SESW	Sec.25	0.7 ac.	SESW	Sec.25
19.0 ac.	SWSE	Sec.25	19.3 ac.	SWSE	Sec.25

The physical survey by Bob Bagett places the points of diversion as follows: Ditch #1 (West side of Creek) within the NWNE of Section 36. Ditch #2 (East side of creek) within the SENE of Section 36. See attached transfer application map for the appropriate coordinates for these ditches. On the ground it was very evident due to the elevations of the hills and creek that the ditches could have never been in the locations where the permit placed them. There is in excess of 15 feet elevation difference between the creek and the ditch in the locations where the permit placed the head of the ditches.

When viewing this area on an aerial photo I can see where it would be easy to miss the heads of the two ditches; one on the east side of the creek and one on the west side of the creek. I suspect that perhaps when the survey was conducted by S. C. Brown in 1977 for C-47400 that the two ditches may have not been clear enough on the photos to determine the location of the heads of the ditches if one of sufficient scale and detail wasn't used (assuming an aerial photo was used).

Photo DDU-1FF-80 was used, as per 10/15/77 note by SCB on Permit abstract.

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I believe there was some kind of error or mistake made when the locations of the points of diversions were finalized for both certificates. Due to the great elevation difference there would have been no way for water to reach the place of use if the ditches were ever in the location where the certificates placed them. Additionally, the surrounding hills, rock outcroppings and other features would make moving the location of the ditch an extremely difficult undertaking. Moving these ditches upstream would require extensive fluming and construction due to the steep slopes and rocky hills along the edge of the creek. Moving the locations downstream would result in such a rapid change in elevation that lifting the water would require pumping. **It is my professional opinion that these ditches have not moved any significant distance over time and the current survey accurately describes the location of the two ditches which serve C-946 and C-47400.** Based upon the physical survey there appears to be approx 900ft distance between the authorized POD locations and the locations where they were noted on the ground (See attached survey map).

The authorized head of ditch #1 compared to the actual level of the ditch.

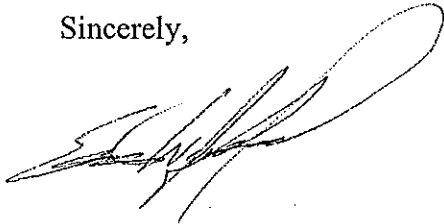


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It is my belief that these particular water rights (C-946 and C-47400) are a candidate for clarification of the point of diversions to more accurately describe their location on the ground. The area where the points of diversions are located is bordered by steep canyon walls on the easterly and westerly boundaries. I saw no evidence of any major earth moving or alterations in this area to suggest construction activity or severe head cutting resulted in the movement of the points of diversions over time. Additionally, the general shape of the fields for C-946 represented on the paper permit map can be seen on the ground visually and I believe that the permit map accurately depicted the appropriate shape and size of the intended place of use but unfortunately didn't describe the place of use as accurately as we can today.

Sincerely,

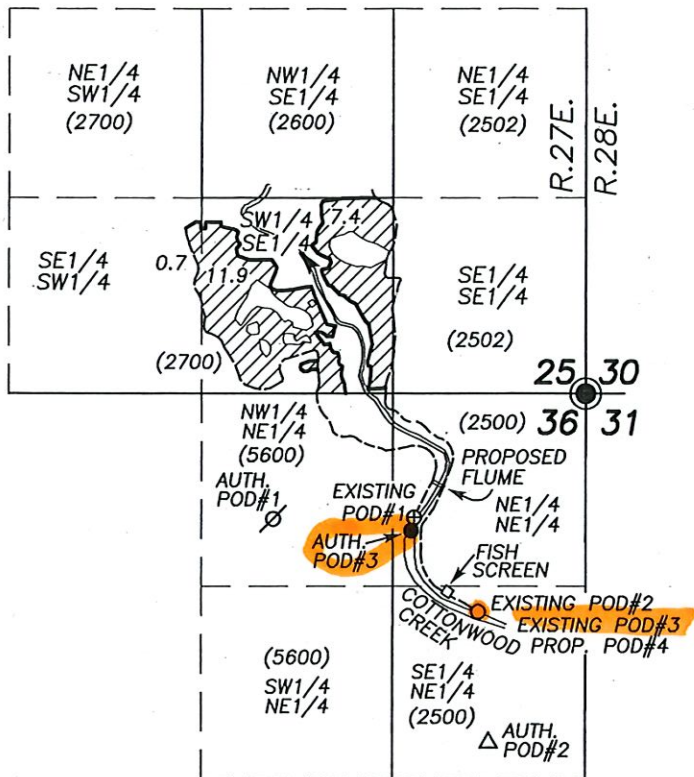


Eric W. Julsrud
Oregon Water Resources Department
Watermaster District 4

Cc: Cottonwood Creek Regulation File

T 10997

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SCALE: 1" = 1320'

APPLICATION MAP
FOR
CHANGE OF POINT OF DIVERSION
FOR
GARY ENGLE

BY
ROBERT D. BAGETT
217 N. CANYON BLVD.
JOHN DAY, OREGON
(541) 575-1251
NOVEMBER 11, 2009

- ∅ AUTHORIZED POD#1: PER PERMIT 1239
858 FT. SOUTH & 2145 FT. WEST OF NE COR. SEC. 36
- ⊕ HISTORIC AND CURRENT LOCATION POD#1:
850 FT. SOUTH & 1170 FT. WEST OF NE COR. SEC. 36

- △ AUTHORIZED POD #2: PER PERMIT 1239
2392 FT. SOUTH & 660 FT. WEST OF NE COR. SEC. 36
- HISTORIC AND CURRENT LOCATION POD#2:
1500 FT. SOUTH & 730 FT. WEST OF NE COR. SEC. 36

- AUTHORIZED POD #3: PER CERTIFICATE 47400
900 FT. SOUTH & 1180 FT. WEST OF NE COR. SEC. 36
- HISTORIC AND CURRENT LOCATION POD#3:
1500 FT. SOUTH & 730 FT. WEST OF NE COR. SEC. 36

- PROPOSED POD #4:
1500 FT. SOUTH & 730 FT. WEST OF NE COR. SEC. 36

C-946

FD. GRANT COUNTY SURVEYOR
BRASS CAP

----- DITCH

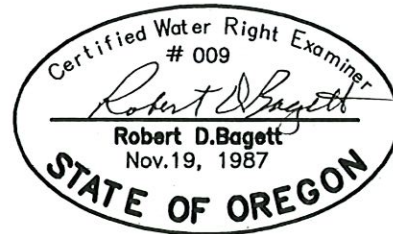
() TAX LOT NO.

NOTE: LOCATION OF THE CURRENT EXISTING POD'S AND IRRIGATED FIELDS IS THE RESULT OF AN ON THE GROUND SURVEY FOR THIS TRANSFER.

T 10997

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

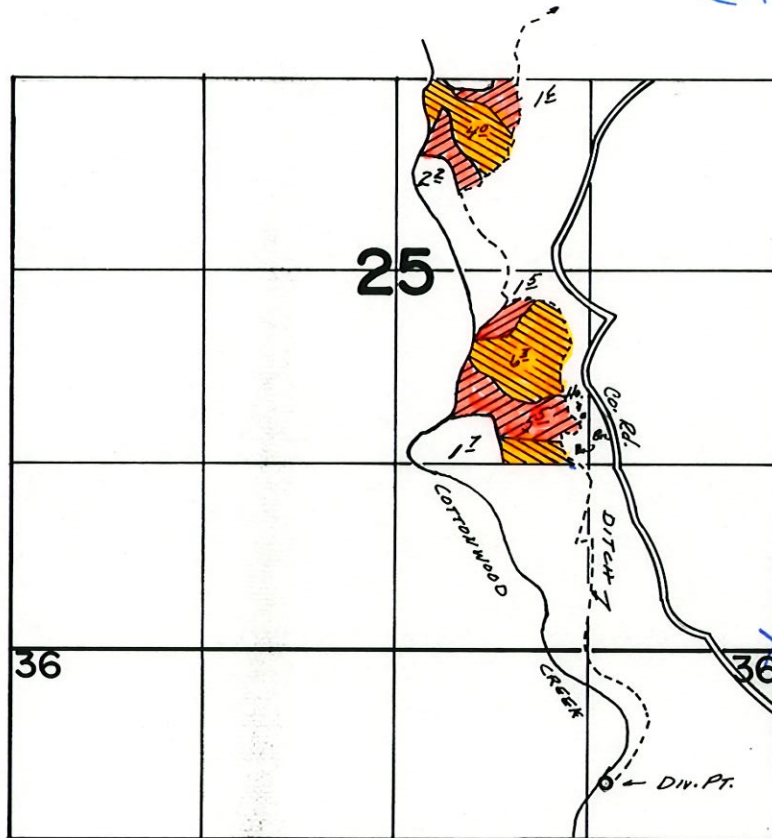
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T.10 S. R.27 E. W.M.

(IR) 48, 49, 50, 51

(Supp) 52, 53, 54



Div. Pt. Loc. 900' S & 1180' W From NE Cor. Sec. 36

PRIMARY →  10.8 AC
Suppl. TO CERT. # 20306 →  12.0 AC

FINAL PROOF SURVEY UNDER

Application No. 54622. Permit No. 40984.
IN NAME OF

BERNARD B. & GRACE G. FITZE...

Surveyed Oct. 15, 1977, by S.C. BROWN.....



STATE OF OREGON

INTEROFFICE MEMO

TO: Bruce Estes

DATE: March 21, 1979

FROM: Charles D. Aufforth
Assistant Watermaster Dist. # 4

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MAR 23 1979

WATER RESOURCES DEPT.
SALEM, OREGON

SUBJECT: Location of Lands:

Dear Bruce:

Enclosed you will find a copy of the cert. and final proof map. You will note that the 1.4 ac. called out in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ being primary, is not located, that the map shows there being 3.8 ac. primary. Please send us color coded on the map the 1.4 ac. in case they do not file on the other land, in this way relieving problems from future uncertainty, etc.

Thank you for your help in this matter.

Will look forward to hearing on this.

Sincerely,

Chuck

*Called
& told
Garry that
we could not
define land
w/o water
right
JL Bron*

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MAR 23 1979

WATER RESOURCES DEPT.
SALEM, OREGON

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That BERNARD B. & GRACE G. FITZE

of Courtrock Rt., Monument, State of Oregon, 97864, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Cottonwood Creek

a tributary of John Day River for the purpose of irrigation of 8.4 acres and supplemental irrigation of 12.0 acres

under Permit No. 40984 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 August 6, 1976

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 0.36 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 NE 1/4 NE 1/4, Section 36, T. 10 S., R. 27 E., W. M., 900 feet South and 1180 feet West from the NE corner, Section 36

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 one-fortieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4 acre feet per acre for each acre irrigated during the irrigation season of each year,

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:

- Primary
- 1.4 acres SW 1/4 NE 1/4
- 7.0 acres NW 1/4 SE 1/4
- Supplemental
- 4.0 acres SW 1/4 NE 1/4
- 8.0 acres NW 1/4 SE 1/4
- Section 25
- T. 10 S., R. 27 E., W. M.

Section 2
Cottonwood Creek

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date, February 9, 1979

James E. Severson
Water Resources Director

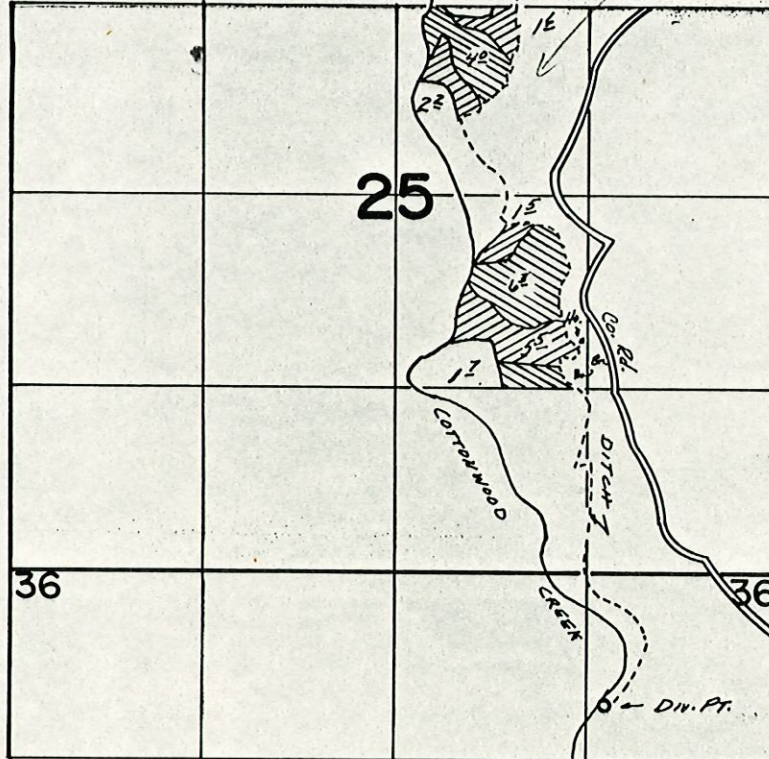
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MAR 23 1979


T.10 S. R.27 E. W.M.


WATER RESOURCES DEPT.
SALEM, OREGON

*at this time only
1.4 AC good for permit
THIS SURVEY - PRIMARY
LOCATION ??
OCH 3-21-79*



Div. Pt. Loc. 900'S of 1180'W From NE Cor. Sec. 36

PRIMARY → 

Suppl. TO
CERT. # 20306 → 

FINAL PROOF SURVEY
UNDER

Application No. 54622. Permit No. 40984.
IN NAME OF

BERNARD B. & GRACE G. FITZE

Surveyed Oct. 15, 1977, by S.C. BROWN

October 15, 1977

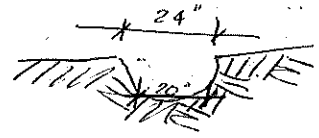
INFO: MR FITZE
SOURCE: COTTONWOOD CREEK

~~Crop:~~
USE: Irrigation

Crop: pasture

DIVERSION: Direct from Creek then to a 24" x 24" Wood Headgates then to ditch to land.

the ditch:



24" top
20" bottom
10" deep

Condition:
rocky, earthy, & grassy.

slope: 1' in 200' or 0.5%

system: All Flood irrigation

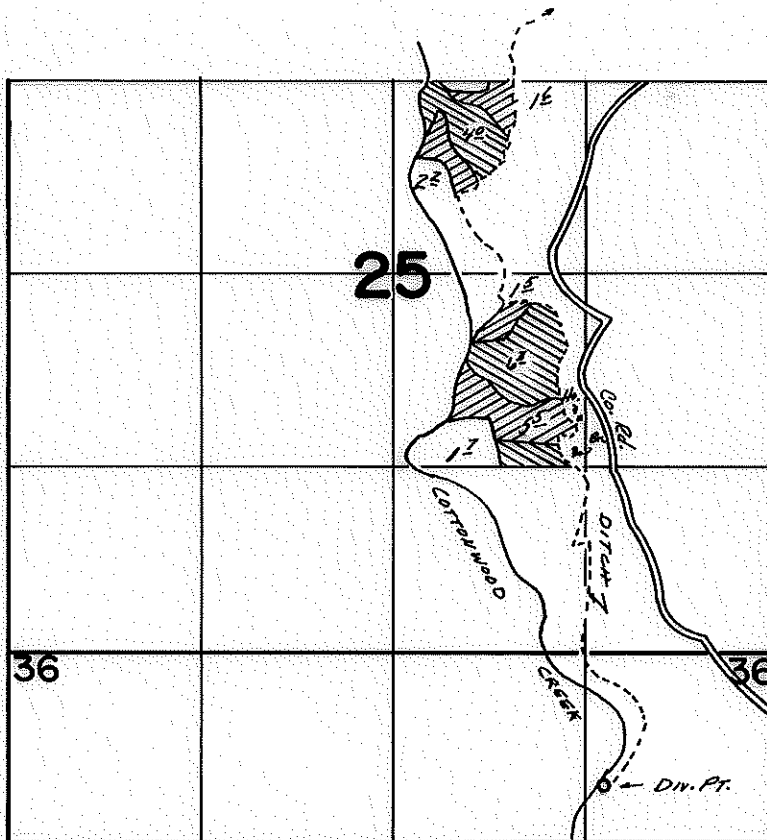
tie: Photo DDU-15F-80

MATCH TO EXIST. RIGHTS.



Note: this application is for additional lands only, not suppl.

Steve Bern
Field Engineer

T.10 S. R.27 E. W.M.



Div. Pt. Loc. 900' S. $\frac{1}{2}$ 1180' W From NE Cor. Sec. 36

PRIMARY 
Suppl. TO 
CERT. # 20306

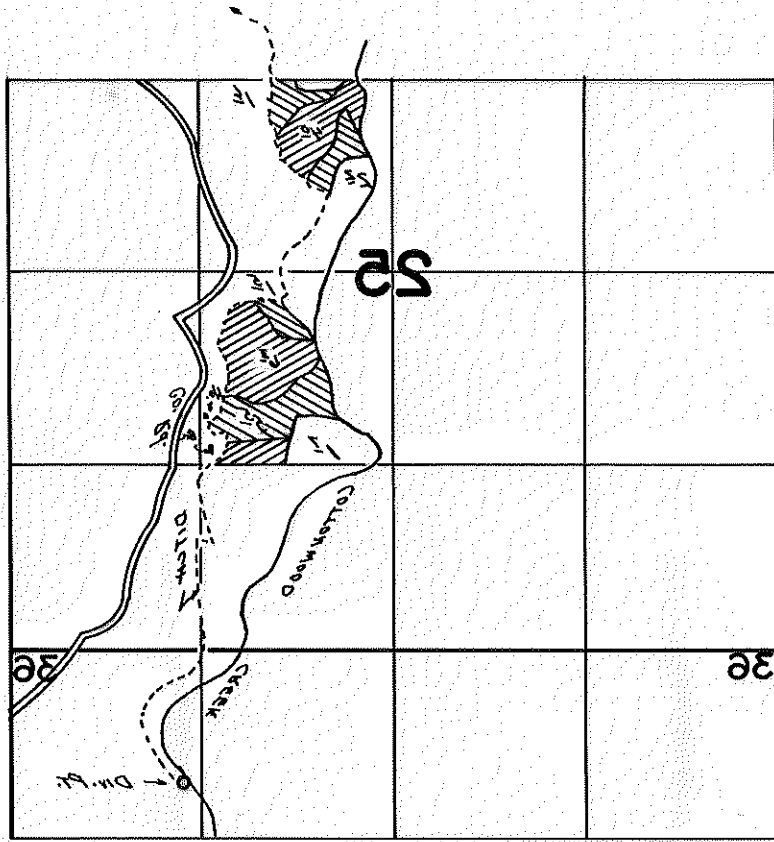
FINAL PROOF SURVEY UNDER

Application No. 54622. Permit No. 40984.
IN NAME OF

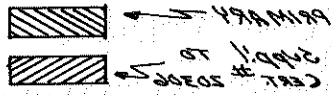
BERNARD B. & GRACE G. FITZE

Surveyed Oct. 15, 1977, by S.C. BROWN

T.10 S R.27 E W.M.



Ditch Pt. Loc. 200' S of 1180' W from NE Cor. Sec. 30

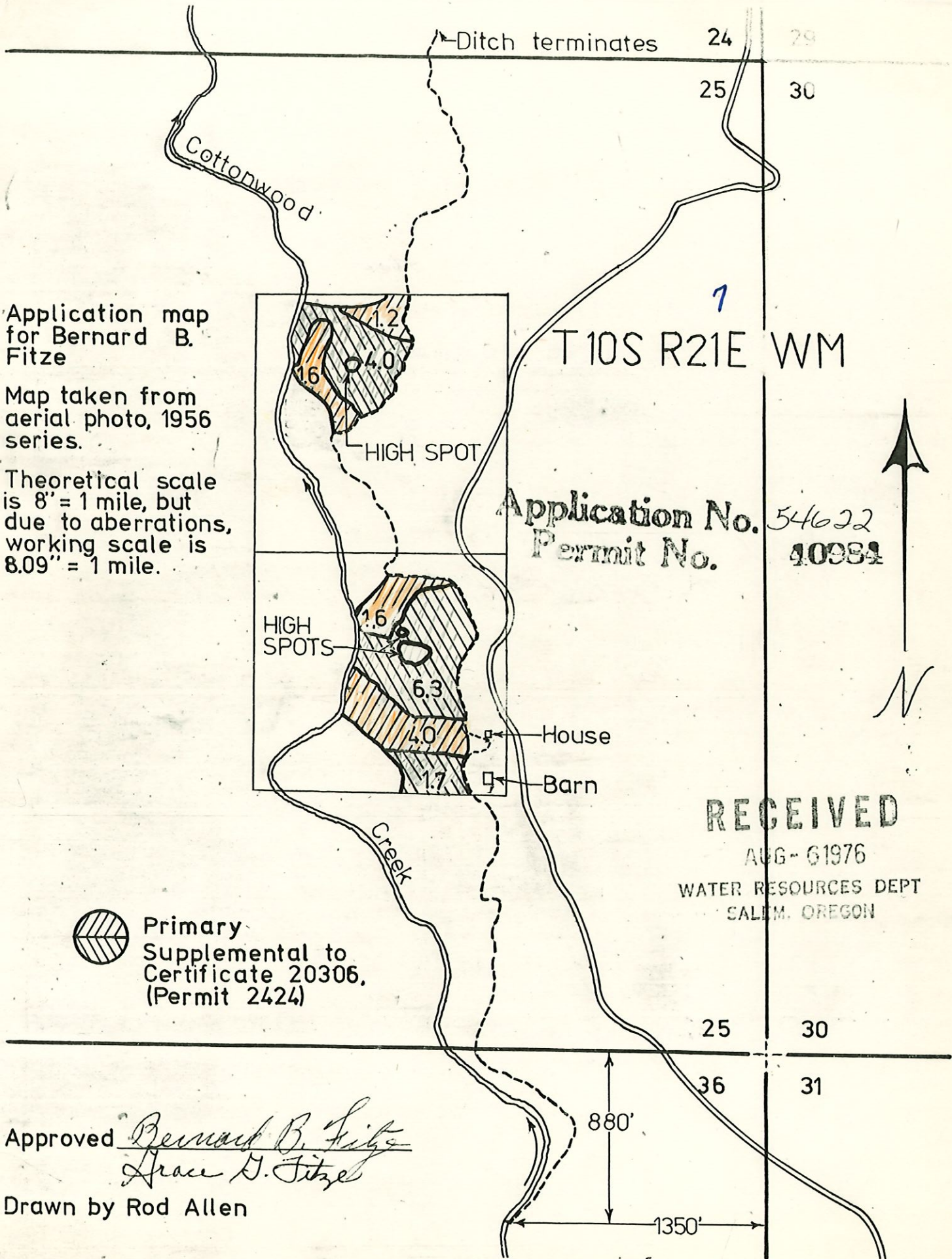


FINAL PROOF SURVEY UNDER

Application No. 54655, Permit No. 40884
IN NAME OF

BERNARD B. & GRACE G. FITZ

Surveyed Oct. 15, 1977, by S.C. BROWN



Application map
for Bernard B.
Fitze


Map taken from
aerial photo, 1956
series.

Theoretical scale
is 8" = 1 mile, but
due to aberrations,
working scale is
8.09" = 1 mile.

7
T 10S R 21E WM

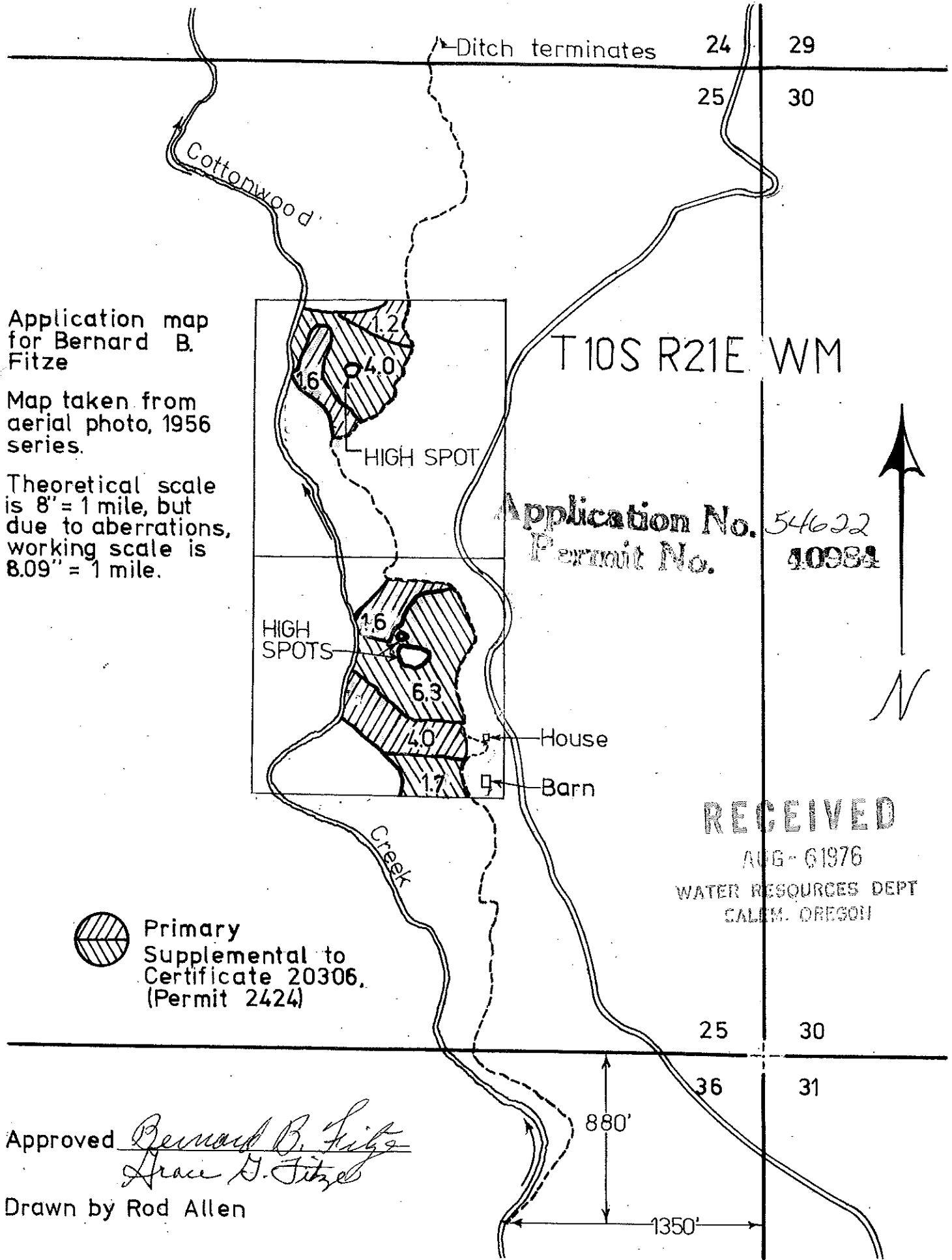
Application No. 54622
Permit No. 40984

RECEIVED
AUG-6-1976
WATER RESOURCES DEPT
SALIM, OREGON

 Primary
Supplemental to
Certificate 20306,
(Permit 2424)

Approved *Bernard B. Fitze*
Arae D. Fitze
Drawn by Rod Allen

880'
1350'



Application map
for Bernard B.
Fitze

Map taken from
aerial photo, 1956
series.

Theoretical scale
is 8" = 1 mile, but
due to aberrations,
working scale is
8.09" = 1 mile.

T10S R21E WM

Application No. 54622
Permit No. 40984

HIGH SPOTS

HIGH SPOT

House

Barn

Creek



Primary
Supplemental to
Certificate 20306.
(Permit 2424)

RECEIVED

AUG-6-1976

WATER RESOURCES DEPT
CALIF. OREGON

Approved *Bernard B. Fitze*
Grace D. Fitze

Drawn by Rod Allen

880'

1350'

RECEIVED

JAN 29 1979

WATER RESOURCES DEPT.
SALEM, OREGON

STATE OF OREGON

COUNTY OF

GRANT

Proof of Appropriation of Water

BERNARD B. & GRACE G. FITZE

of **Courtrock Rt., Monument**
has applied beneficially the waters of
Cottonwood Creek

, State of **Oregon, 97864**

a tributary of **John Day River** for the purpose of
irrigation of 8.4 acres and supplemental irrigation of 12.0 acres

under Permit No. **340984** and that the use of said waters has been completed under the
terms of said permit; that the priority of the right dates from
August 6, 1976
that the amount of water for the purposes aforesaid, has been actually beneficially used in the
amount of
0.36 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 **NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, T. 10 S., R. 27 E., W. M.,**
900 feet South and 1180 feet West from the NE corner, Section 36

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 **one-fortieth** of one cubic foot per second
per acre, or its equivalent for each acre irrigated and shall be further limited
to a diversion of not to exceed **4 acre feet per acre** for each acre irrigated
during the irrigation season of each year,

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, and to which such right is appurtenant, is
as follows:

- Primary
- 1.4 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$
- 7.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
- Supplemental - *not supplemented (is ADDITIONAL)*
- 4.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$
- 8.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 25
- T. 10 S., R. 27 E., W. M.

OK Jan 25, 1979

I have read the above and foregoing proof of appropriation of water; I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of January
1979.

Bernard B. Fitze
Grace G. Fitze

378-3066

September 29, 1976

File 54622

Bernard B. & Grace G. Fitze
Courtrock Route
Monument, OR 97864

Dear Mr. and Mrs. Fitze:

This will acknowledge your map, fees of \$30.00, and application for a permit to appropriate 0.36 cubic foot of water per second from Cottonwood Creek for the irrigation and supplemental irrigation of 20.4 acres. Your application has been filed as No. 54622.

Permits will be issued for the use of water from the John Day River and its tributaries with the understanding that water may not be available during the dry periods of the irrigation season. The available water may be needed to satisfy existing rights or meet the minimum flow standards established.

Your application is in satisfactory form for approval by the issuance of a permit.

Sincerely,

Vestal R. Garner
Water Rights Engineer

VRG:cc
Encl. Receipt No. 55357