

Form C (690-9-77)

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

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

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

Application No. _____

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

HERB DAVIS & Sons, the holder of Permit No. _____

to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the _____ day of Summer, 1980.

Remarks: D-D USE water through the system installed in Section 34 and most of Sec 28.

Form C (690-9-77)

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

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

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

Application No. G-10258

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

Herb Davis & Sons, the holder of Permit No. G-9324

to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the _____ day of _____, 19_____.

Remarks: water can be used on all Permitted Property at this time there is 50 acres in 5/2 of NE 1/4 Sec 33 T 26 S R 33 E. The crop will be in next Spring.

IN WITNESS WHEREOF, I have hereunto set my hand this 30 day of Sept, 1982

Herbert C Davis (Signature of Applicant) Box 120 E PRINCETON, ORE 97721 (Address)

Form B (690-9-77)

Application No. G-10258

NOTICE OF COMPLETION OF CONSTRUCTION

Herb Davis & Sons, the holder of Permit No. G-9324

to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the 15 day of May, 1982

Remarks: Construction work is Completed

If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 30 day of Sept, 1982

Herbert C Davis (Signature of Applicant) Box 120 E PRINCETON, ORE 97721 (Address)

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

RECEIVED

OCT 4 1982

WATER RESOURCES DEPT. SALEM, OREGON

RECEIVED

OCT 4 1982

WATER RESOURCES DEPT. SALEM, OREGON

Permit No. Application No. G-10258

Handwritten initials

Handwritten initials

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12138, Harney County) ADDITIONAL POINTS OF
) APPROPRIATION AND CHANGES IN
) PLACE OF USE

Authority

Oregon Revised Statute (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

PHASE 3 FARMS INC
41771 SODHOUSE LANE
PRINCETON, OR 97721

Findings of Fact

1. On August 6, 2015, PHASE 3 FARMS INC filed an application for an additional point of appropriation and to change the place of use under Certificates 90729, 28839, 46391 and 84831. The Department assigned the application number T-12138.
2. Notice of the application for transfer was published on August 25, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 24, 2015 the applicant was sent a letter of deficiency requesting corrections to well locations and to amend a certificate number. The department received the corrected information and revised tables on December 28, 2015.
4. On January 25, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12138 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 24, 2016, for the applicant to respond.
5. On March 18, 2016, the Department received amended application pages that are being incorporated into this Preliminary Determination. The applicant requested that the

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. On July 22, 2016, the Department issued a Preliminary Determination proposing to approve Transfer T-12138 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on July 26, 2016, and in the Burns Times Herald newspaper on July 27 and August 3, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

7. The first right to be transferred is as follows:

Certificate: 90729 in the name of E. A. WING (perfected under Permit U-724)
Use: IRRIGATION of 106.4 ACRES
Priority Date: APRIL 29, 1955
Rate: 1.33 CUBIC FEET PER SECOND (CFS)
Limit/Duty: 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-EIGHTIETH 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 3.0 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.
Source: WELL 1 within the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
27 S	33 E	WM	2	NW NW	4	WELL 1: 325 FEET SOUTH AND 690 FEET EAST FROM THE NW CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	33 E	WM	35	NE SW	39.2
26 S	33 E	WM	35	NW SW	37.0
26 S	33 E	WM	35	SW SW	30.2
Total					106.4

8. Transfer Application T-12138 proposes additional points of appropriation approximately 1.0 and 1.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	27	SE SW	WELL 4: 440 FEET NORTH AND 50 FEET WEST OF THE S1/4 CORNER OF SECTION 27
26 S	33 E	WM	27	SW SE	WELL 3: 40 FEET NORTH AND 1685 FEET WEST OF THE SE CORNER OF SECTION 27
26 S	33 E	WM	34	SW NE	WELL 2: 70 FEET NORTH AND 90 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 34

9. Transfer Application T-12138 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
2, 3, 4	26 S	33 E	WM	27	SE SW	4.3
2, 3, 4	26 S	33 E	WM	34	NE NW	8.0
1	26 S	33 E	WM	35	NE SW	31.2
1	26 S	33 E	WM	35	NW SW	31.5
1	26 S	33 E	WM	35	SW SW	31.4
Total						106.4

10. The second right to be transferred is as follows:

Certificate: 28839 in the name of E. A. WING (perfected under Permit U-727)

Use: IRRIGATION of 158.6 ACRES

Priority Date: MAY 5, 1955

Rate: 1.98 CUBIC FEET PER SECOND

Limit/Duty: 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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL 1 within the SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	34	SW NE	* WELL 1: 70 FEET NORTH AND 90 FEET EAST FROM CENTER OF SECTION 34

* Applicant refers to this POA as Well 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	33 E	WM	34	NE NE	40.0
26 S	33 E	WM	34	NW NE	39.6
26 S	33 E	WM	34	SW NE	39.0
26 S	33 E	WM	34	SE NE	40.0
Total					158.6

11. Transfer Application T-12138 proposes additional points of appropriation approximately one half mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	27	SE SW	WELL 4: 440 FEET NORTH AND 50 FEET WEST OF THE S1/4 CORNER OF SECTION 27
26 S	33 E	WM	27	SW SE	WELL 3: 40 FEET NORTH AND 1685 FEET WEST OF THE SE CORNER OF SECTION 27

12. Transfer Application T-12138 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
2, 3, 4	26 S	33 E	WM	27	NE SW	4.6
2, 3, 4	26 S	33 E	WM	27	NW SW	1.6
2, 3, 4	26 S	33 E	WM	27	SW SW	7.6
2, 3, 4	26 S	33 E	WM	27	SE SW	7.0
2, 3, 4	26 S	33 E	WM	34	NE NE	33.2
2, 3, 4	26 S	33 E	WM	34	NW NE	34.3
2, 3, 4	26 S	33 E	WM	34	SW NE	35.9
2	26 S	33 E	WM	34	SE NE	34.4
Total						158.6

13. The third right to be transferred is as follows:

Certificate: 46391 in the name of HERBERT C. DAVIS (perfected under Permit G-4914)

Use: IRRIGATION of 39.2 ACRES

Priority Date: MAY 17, 1971

Rate: 0.49 CUBIC FOOT PER SECOND

Limit/Duty: 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
27 S	33 E	WM	2	NW NW	4	330 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	33 E	WM	35	SE SW	39.2

14. Certificate 46391 does describe the location of the point of appropriation, however information is available from the applicant and certified water right examiner indicating that the point of diversion is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
27 S	33 E	WM	2	NW NW	4	WELL 1: 325 FEET SOUTH AND 690 FEET EAST FROM THE NW CORNER OF SECTION 2

15. Transfer Application T-12138 proposes additional points of appropriation approximately one mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	27	SE SW	WELL 4: 440 FEET NORTH AND 50 FEET WEST OF THE S1/4 CORNER OF SECTION 27
26 S	33 E	WM	27	SW SE	WELL 3: 40 FEET NORTH AND 1685 FEET WEST OF THE SE CORNER OF SECTION 27
26 S	33 E	WM	34	SW NE	WELL 2: 70 FEET NORTH AND 90 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 34

16. Transfer Application T-12138 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
2, 3, 4	26 S	33 E	WM	34	NE NW	7.3
1	26 S	33 E	WM	35	SE SW	31.9
Total						39.2

17. The portion of the fourth right to be transferred is as follows:

Certificate: 84831 in the name of MARIE WATTS (perfected under Permit G-9324)

Use: IRRIGATION of 158.4 ACRES

Priority Date: APRIL 7, 1981

Rate: 1.98 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: WELL 2 within the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	34	SW NE	WELL 2: 2660 FEET NORTH AND 2670 FEET EAST FROM THE SE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
26 S	33 E	WM	34	NE SE	40.0	
26 S	33 E	WM	34	NW SE	40.0	
26 S	33 E	WM	34	SW SE	39.0	
26 S	33 E	WM	34	SE SE	39.4	
Total						158.4

18. Certificate 84831 describes the total acres on the certificate as being 638.9 acres, however, the total acres associated with the certificate is 639.7 acres.

19. Certificate 84831 does describe the location of the point of appropriation, however information is available from the applicant and certified water right examiner indicating that the point of diversion is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	34	SW NE	WELL 2: 70 FEET NORTH AND 90 FEET EAST FROM THE CENTER OF SECTION 34

20. Transfer Application T-12138 proposes additional points of appropriation approximately one half mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	27	SE SW	WELL 4: 440 FEET NORTH AND 50 FEET WEST OF THE S1/4 CORNER OF SECTION 27
26 S	33 E	WM	27	SW SE	WELL 3: 40 FEET NORTH AND 1685 FEET WEST OF THE SE CORNER OF SECTION 27

21. Transfer Application T-12138 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
2, 3, 4	26 S	33 E	WM	27	SE SW	21.0
2, 3, 4	26 S	33 E	WM	34	NE SE	33.7
2, 3, 4	26 S	33 E	WM	34	NW SE	35.7
2, 3, 4	26 S	33 E	WM	34	SW SE	34.1
2, 3, 4	26 S	33 E	WM	34	SE SE	33.9
Total						158.4

Transfer Review Criteria (OAR 690-380-4010)

22. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
23. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12138.
24. The proposed changes, as conditioned, would not result in enlargement of the rights.
25. The proposed changes, as conditioned, would not result in injury to other water rights.
26. All other application requirements are met.

Conclusions of Law

The additional points of appropriation and change in place of use proposed in Transfer Application T-12138 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation and change in place of use proposed in Transfer Application T-12138 are 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 Certificates 90729, 28839, 46391, and 84831.
3. Water right Certificates 90729, 28839, 46391 and 84831 are cancelled. A new certificate will be issued describing that portion of water right Certificate 84831 not affected by this transfer.
4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this water right, then use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
6. Prior to using water from any well listed on this water right, the water user shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.
7. **Dedicated Measuring Tube:** Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.
8. **Water use measurement conditions:**
 - a) Before water use may begin under this order, the water user shall install a totalizing flowmeter, or with prior approval of the Director, another suitable measuring device at each point of appropriation (new and existing).
 - b) The water user shall maintain the meters or measuring devices in good working order.
 - c) The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

9. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
10. The former place of use of the transferred right shall no longer receive water under the right.
11. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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 changes and full beneficial use of the water.
12. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 7 day of September, 2016.



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

SEP 15 2016

Mailing date: _____



Oregon

Kate Brown, Governor

G-10258

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

August 18, 2015

PHASE 3 FARMS INC
41771 SODHOUSE LANE
PRINCETON, OR 97721

Reference: Application T- 12138

On August 6, 2015, we received your water right Transfer application. The application was accompanied by \$3625.00. Our receipt number 116893 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change. A review form will also be sent to our groundwater staff to determine whether the proposed well accesses the same source of water as the original well.

Your application will be examined to determine whether additional information is needed. We will notify you if further information or corrections to the application or map are required.

This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water in the new place of use or from the new point of diversion until a final order approving the transfer application has been issued by the Department.

In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

If you have any questions, please contact the Transfer Section at (503) 986-0807.

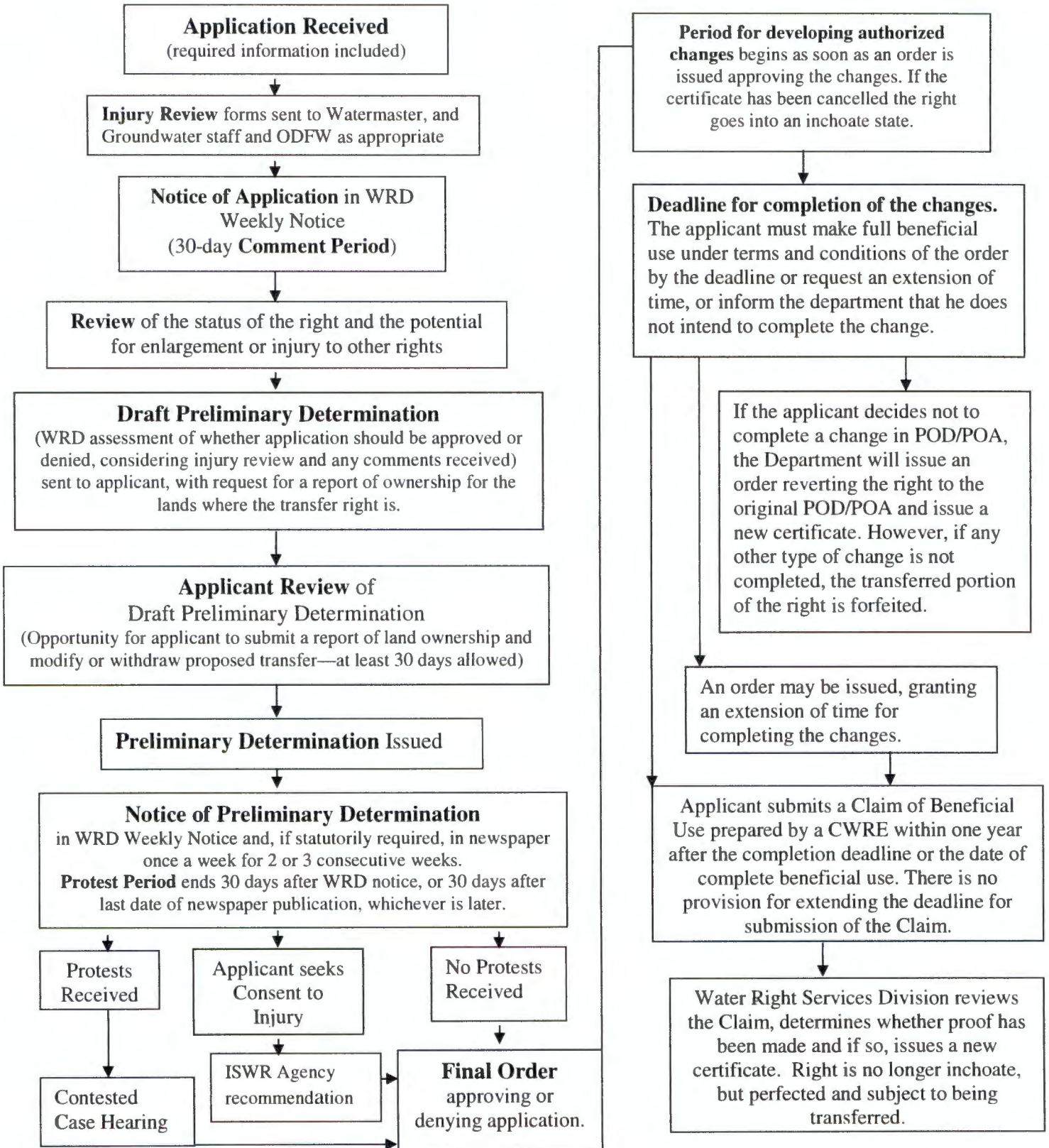
Cc: Watermaster Dist. #10 (*via email*)
John A. Short, Agent

Enclosure



Regular Transfer Process (including “Proving Up” on the changes)

OAR 690 Division 380



Transfer Applications: Regular

The holder of a water right may apply to permanently change an existing water use subject to transfer as defined in ORS 540.505(4). An application may involve any of the following changes: Point of diversion or appropriation; Additional point of diversion or appropriation; Historic POD; Place of use; Character of use; Instream; Substitution; or Exchange.

The Department seeks public comment on the recently-filed transfer applications listed below. Any person may comment on a transfer application. Comments must be received by the Department on or before September 24, 2015. Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time.

Transfer	<u>T 12138</u>
Water Right	Cert: 27019, 28839, 46391, 84831
County/Basin	Harney / Malheur Lake (12)
Applicant Name	PHASE 3 FARMS INC 41771 SODHOUSE LANE PRINCETON, OR 97721
Proposed Change	ADDITIONAL POINT OF APPROPRIATION, PLACE OF USE
Sources/TRSQ40Q160	A WELL > MALHEUR LAKE / 27.00S 33.00E 2 NWNW A WELL > MALHEUR LAKE / 26.00S 33.00E 34 SWNE A WELL > MALHEUR LAKE / 26.00S 33.00E 33 NWSE A WELL > MALHEUR LAKE / 26.00S 33.00E 34 SWSW A WELL > MALHEUR LAKE / 26.00S 33.00E 28 SESW WELL 1 > MALHEUR LAKE / 27.00S 33.00E 2 NWNW WELL 1 > SILVIES RIVER / 26.00S 33.00E 34 SWNE
Use/Quantity	IRRIGATION / 0.490 CFS IRRIGATION / 1.980 CFS IRRIGATION / 1.320 CFS IRRIGATION / 2.030 CFS IRRIGATION / 2.665 CFS IRRIGATION / 1.610 CFS IRRIGATION / 1.980 CFS
Priority Date	04/29/1955, 05/05/1955, 05/17/1971, 04/07/1981

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

HARNEY COUNTY

IN THE MATTER OF CANCELLATION OF A)
PORTION OF A PERFECTED AND DEVELOPED) FINAL ORDER
WATER RIGHT EVIDENCED BY CERTIFICATE)
76880 IN THE NAME OF MARIE WATTS)

Authority

ORS 540.621 directs the Commission to enter an order canceling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

Findings of Fact

1. On August 25, 2008, the Department received an affidavit from John, Erna and Linda Watts, 41769 Sod House Lane, Princeton, OR 97721, stating they are the owners of lands and the water right appurtenant as evidenced by Certificate 76880, State Record of Water Right Certificates. The affidavit further states a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled.
2. Pursuant to OAR 690-017-002(a), the Department has determined that John, Erna and Linda Watts are the record owners of land described, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 76880 is appurtenant.
3. Certificate 76880 allows for the use of 8.055 cubic feet per second (cfs), being 1.98 cfs from Well #2, 1.38 cfs from Well #3, 2.03 cfs from Well #4 and 2.665 cfs from Well #5, all within the Malheur Lake Basin for irrigation of 4.9 acres. The date of priority is April 7, 1981.
4. The portion of Certificate 76880 which has been abandoned is for the use of 0.06 cfs for irrigation of 4.9 acres located as follows:

IRRIGATION					
TWP	RNG	MER	SEC	Q-Q	ACRES
26 S	33 E	WM	33	NE NE	4.9

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

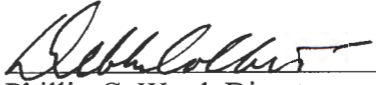
Conclusions of Law

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 76880 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. Certificate 76880 is canceled.
2. The Department shall issue a new and superseding certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated at Salem, Oregon this 16th day of September, 2008.


Phillip C. Ward, Director

Mailing date: SEP 19 2008



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

September 18, 2008

John, Erna, Linda Watts
41769 Sod House Lane
Princeton, Oregon 97721

RE: Certificate 76880

Pursuant to your request Certificate 76880 has been partially canceled by order of the Director of the Water Resources Department. This cancellation is recorded in Special Order Volume 75, Page 766.

Your certificate 76880 has been canceled and a new certificate of water right 84831 describes that portion of the water right not canceled.

If you have any questions, please contact Susan Douthit at 503-986-0858.

Sincerely,

Sarah Henderson
Executive Support

cc: Watermaster #10
Water Availability
Susan Douthit, Field Services
File G-10258



STATE OF OREGON

COUNTY OF HARNEY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARIE WATTS
510 W. 13th
THE DALLES, OR 97058

confirms the right to use the waters of FOUR WELLS in the MALHEUR LAKE BASIN for IRRIGATION 638.9 ACRES.

This right was perfected under Permit G-9324. The date of priority is APRIL 7, 1981. The amount of water to which this right is entitled for the purposes aforesaid is limited to an amount actually used beneficially, and shall not exceed 7.995 CUBIC FEET PER SECOND (cfs), BEING 1.98 cfs from WELL #2, 1.32 cfs from WELL #3, 2.03 cfs from WELL #4 and 2.665 cfs from WELL #5, or its equivalent in case of rotation, measured at the well.

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	33 E	WM	28	SE SW	6500 FEET NORTH AND 2690 FEET WEST FROM THE SE CORNER OF SECTION 33
26 S	33 E	WM	33	NW SE	2560 FEET NORTH AND 2110 FEET WEST FROM THE SE CORNER OF SECTION 33
26 S	33 E	WM	34	SW NE	2660 FEET NORTH AND 2670 FEET EAST FROM THE SE CORNER OF SECTION 33
26 S	33 E	WM	34	SW SW	680 FEET NORTH AND 1320 FEET EAST FROM THE SE CORNER OF SECTION 33

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

Twp	Rng	Mer	Sec	Q-Q	Acres	Well #
26 S	33 E	WM	28	NE SW	39.2	5
26 S	33 E	WM	28	NW SW	35.2	5
26 S	33 E	WM	28	SE SW	25.2	5
26 S	33 E	WM	28	NW SE	38.8	5
26 S	33 E	WM	28	SW SE	39.6	5
26 S	33 E	WM	29	NE SE	8.6	5
26 S	33 E	WM	29	SW SE	1.6	5
26 S	33 E	WM	29	SE SE	11.4	5

Twp	Rng	Mer	Sec	Q-Q	Acres	Well #
26 S	33 E	WM	33	NW NE	12.8	5
26 S	33 E	WM	33	NW NE	0.1	3
26 S	33 E	WM	33	SW NE	24.8	3
26 S	33 E	WM	33	SE NE	23.4	3
26 S	33 E	WM	33	NE NW	0.5	5
26 S	33 E	WM	33	NE SE	0.2	3
26 S	33 E	WM	33	NW SE	35.2	3
26 S	33 E	WM	33	SW SE	21.6	3
26 S	33 E	WM	33	SE SE	0.3	3
26 S	33 E	WM	34	NE NW	1.1	4
26 S	33 E	WM	34	NW NW	2.9	4
26 S	33 E	WM	34	SW NW	40.0	4
26 S	33 E	WM	34	SE NW	38.8	4
26 S	33 E	WM	34	NE SW	40.0	4
26 S	33 E	WM	34	NW SW	40.0	4
26 S	33 E	WM	34	NE SE	40.0	2
26 S	33 E	WM	34	NW SE	40.0	2
26 S	33 E	WM	34	SW SE	39.0	2
26 S	33 E	WM	34	SE SE	39.4	2

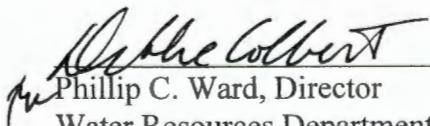
The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

This certificate describes that portion of the water right confirmed by Certificate 76880, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered SEP 1 6 2008, and Recorded in Special Order Volume 75, Pages 766-767

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed SEP 1 6 2008.


 Phillip C. Ward, Director
 Water Resources Department

Partial

Water Right Cancellation Completion Checklist

Certificate: 76880

Staff Initials: smd

Water Rights Affected

App File No.	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
g10258	g9324	76880	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	na

84831

Copies Needed

Watermaster District: 10

CWRE No.: na

Irrig Dist/USBOR Name/Address: na

Affiant Name/Address: John, Erna, and Linda Watts, 41769 Sod House Lane, Princeton, OR 97721

Electronic Files located:

S/Groups/FS/Transfer/Cancellations/Orders and RRs/ 76880- ord-cancel-portion.doc

File Folder updated and affidavits and supporting documents placed in file

Remaining Right Certificates

Public Notice -9/16/2008

Mail to: Affiant US Bureau of Reclamation
 Watermaster Irrigation District
 Other

Final Order Review (Salem)

Reviewer: ASP Date: 9/16/08
Coordinator: _____ Date: _____

Comments/Special Issues: Cancellation of a portion of a certificate to facilitate new application

Special Order Volume: 75, Pages 766

Final Order Signature Date: 9-16-08

WRIS clone correction needed

Susan

STATE OF OREGON
 COUNTY OF HARNEY
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARIE WATTS
 510 W. 13th
 THE DALLES, OR 97058

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for IRRIGATION of 643.8 ACRES.

The right was perfected under PERMIT G-9324. The date of priority is APRIL 7, 1981. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purposes and shall not exceed 8.055 CUBIC FOOT PER SECOND; being 1.98 cfs from WELL #2, 1.38 cfs from WELL #3, 2.03 cfs from WELL #4, and 2.665 cfs from WELL #5, or its equivalent in case of rotation measured at the well.

The wells are located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33; SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T 26 S, R 33 E, W.M.; WELL #2 — 2660 feet north and 2670 feet east, WELL #3 — 2560 feet north and 2110 feet west, WELL #4 — 680 feet north and 1320 feet east, WELL #5 — 6500 feet north and 2690 feet west, all from the southeast corner of Section 33.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall further be limited to a diversion of not to exceed 3.0 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:

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$		39.2 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		35.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$		25.2 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$		38.8 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		39.6 ACRES
SECTION 28		
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.		

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SE $\frac{1}{4}$		8.6 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		1.6 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$		11.4 ACRES
SECTION 29		

Handwritten notes:
 9/18
 644.6
 well part can
 639.7
 7-0
 0 ad front
 well 3

Handwritten note:
 1.32 after part can

Large handwritten note:
 RR = 84831

110.8

	<u>WELL #3</u>	<u>WELL #5</u>
NE¼ NE¼	4.9 ACRES	
NW¼ NE¼	0.1 ACRES	12.8 ACRES
SW¼ NE¼	24.8 ACRES	
SE¼ NE¼	23.4 ACRES	
NE¼ NW¼		0.5 ACRES
NE¼ SE¼	0.2 ACRES	
NW¼ SE¼	35.2 ACRES	
SW¼ SE¼	21.6 ACRES	
SE¼ SE¼	0.3 ACRES	

SECTION 33

	<u>WELL #2</u>	<u>WELL #4</u>
NE¼ NW¼		1.1 ACRES
NW¼ NW¼		2.9 ACRES
SW¼ NW¼		40.0 ACRES
SE¼ NW¼		38.8 ACRES
NE¼ SW¼		40.0 ACRES
NW¼ SW¼		40.0 ACRES
NE¼ SE¼	40.0 ACRES	
NW¼ SE¼	40.0 ACRES	
SW¼ SE¼	39.0 ACRES	
SE¼ SE¼	39.4 ACRES	

SECTION 34

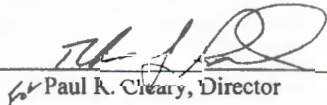
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 64340, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered May 2, 2001, and recorded at Special Order Volume 55, Page 398, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed MAY 02 2001


for Paul K. Cleary, Director

AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A WATER RIGHT CERTIFICATE

RECEIVED

AUG 25 2008

WATER RESOURCES DEPT SALEM, OREGON

State of Oregon)
County of Harney) ss

I/We (or authorized agent), John Watts, Erna Watts, & Linda Watts, residing at 41769 Sod House Ln Princeton, OR 97721, telephone (541) 493-4669, being first duly sworn depose and say:

- 1. I/We are the legal owner(s) of the property described as tax lot number 7000, within the NE 1/4 NE 1/4, Section 33, Township 26 N, Range 33 E, of the Willamette Meridian, in Harney County, Oregon...
2. A portion of water right certificate number 76880 issued to Marie Watts with a date of priority of April 7, 1981 for use of 8.055 cubic foot per second of water from 4 wells irrigation...
3. The appurtenant water right is/is not located within the boundaries of an irrigation, drainage, water improvement, or water control district...
4. I/We have abandoned any and all interest in the portion of this water right shown on the attached map and described as follows: The right to the use of .06125 cubic foot per second from Well # 3 for irrigation...
5. I/We request the portion of the water right described above be canceled.

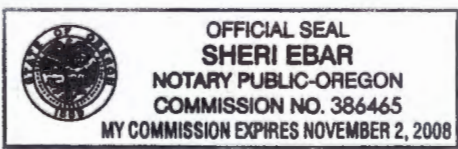
Signature of legal owner as listed on deed, or authorized agent

8-21-08 Date

Signature of legal co-owner as listed on deed (if applicable)

Date

Subscribed and Sworn to Before Me this 21st day of August, 2008.



Signature of Notary Public for Oregon

My Commission Expires 110208

PLEASE ATTACH A LEGIBLE COPY OF : 1) A DEED WHICH LISTS LAND OWNERS AND INCLUDES A LEGAL DESCRIPTION OF AFFECTED LANDS, AND 2) AN ADJUDICATION MAP, WATER RIGHT FINAL PROOF MAP, OR A TAX LOT MAP WITH THE PORTION OF THE ABANDONED RIGHT CLEARLY DRAWN AND IDENTIFIED. IF ACTING AS AN AUTHORIZED AGENT, INCLUDE COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTS GRANTING AUTHORITY TO ACT ON BEHALF OF LEGAL OWNER(S).

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY
UNDER

APPL. G-10258

PER. G-9324

RECEIVED

AUG 25 2008

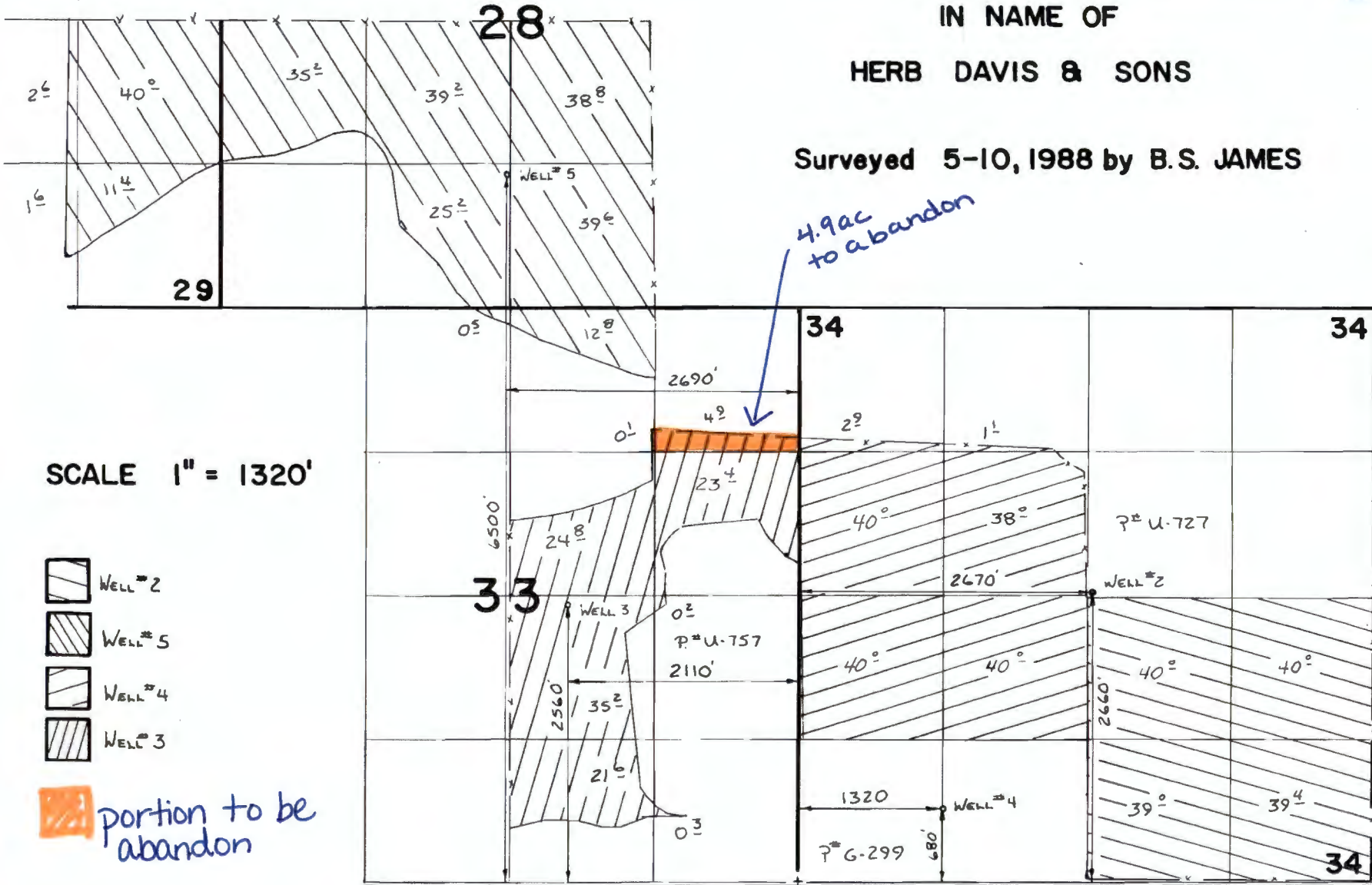
WATER RESOURCES DEPT
SALEM, OREGON

IN NAME OF





HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES

*4.9 ac
to abandon*



SCALE 1" = 1320'

-  WELL #2
-  WELL #5
-  WELL #4
-  WELL #3

 *portion to be
abandon*

John Watts
41769 Sod House Ln
Princeton
OR 97721

BEND OR 977

21 AUG 2008 PM 1 L

Water Resources Department
725 N.E. Summer Street, Suite A
Salem, OR 97301-2430
Attn: Brook Geffen



T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY
UNDER

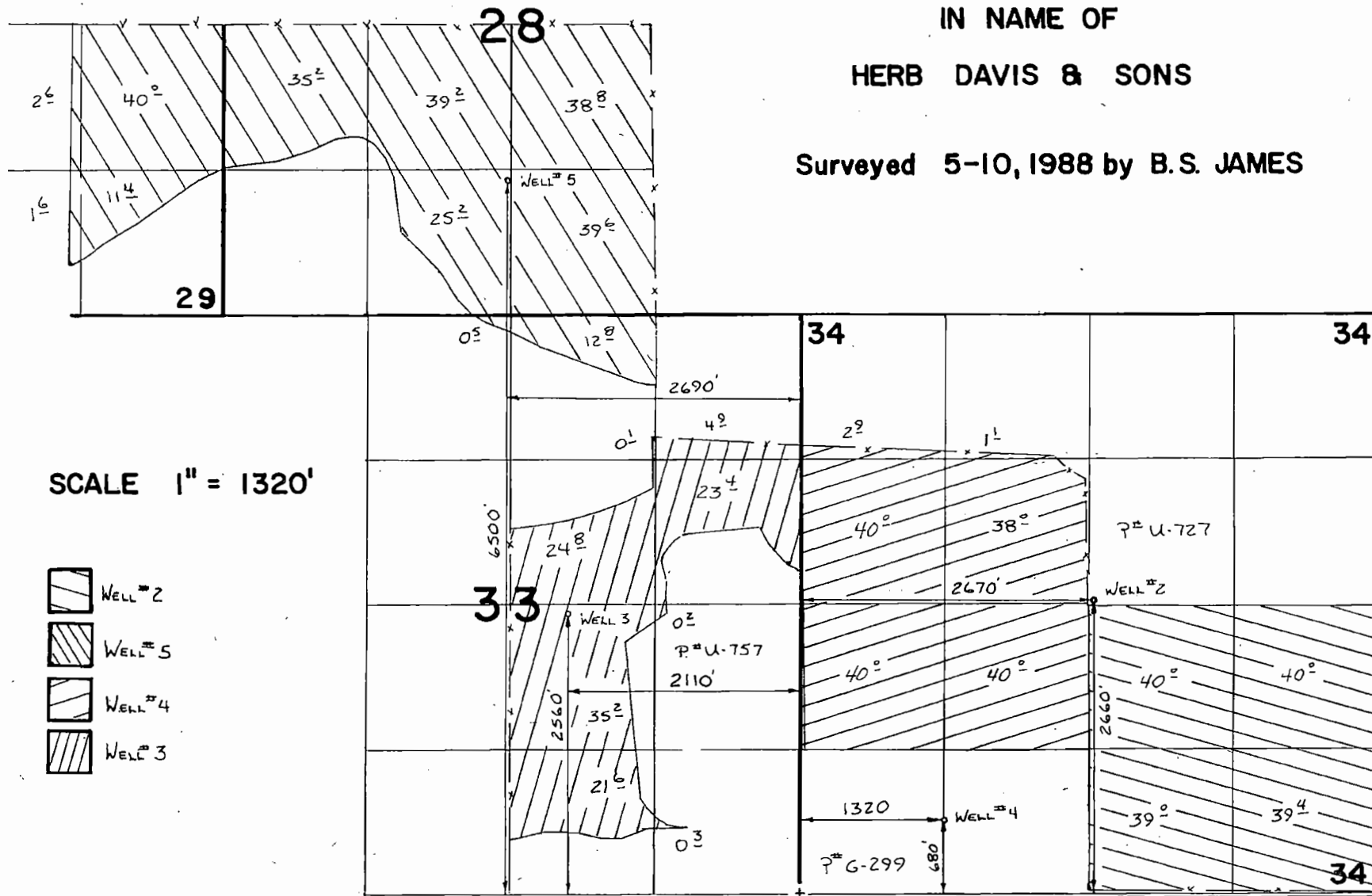
APPL. G-10258

PER. G-9324





IN NAME OF

HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES



SCALE 1" = 1320'

-  WELL #1
-  WELL #2
-  WELL #3
-  WELL #4

Brook Geffen

From: Brook Geffen
Sent: Wednesday, August 20, 2008 11:58 AM
To: Catie Kerns
Subject: App: G-17045, Watts

Catie:

I am the caseworker for this file. I noticed that you helped the Watts' with their mitigation effort through a partial cancellation. However, the form they submitted is incorrect. They submitted the "Affidavit for the partial abandonment of a ground water certificate of registration". Since the certificate under which they want to do a partial cancellation is not a ground water certificate, the applicants will need to submit the form for "Affidavit for the Voluntary Partial Cancellation of a Water Right Certificate".

Please let me know if this is something you would like to inform them of and work with them on, or if you would like me to do it.

Thanks,
Brook

Brook A. Geffen
Oregon Water Resources Department
725 Summer St. NE Suite A
Salem, Oregon 97301
(503)986-0808

Dear Customer Service Group :

This application has received our assistance here in Watermaster District _____.

by _____ Phone # _____.

(Name)

Please let us know if there is anything else that might be needed.

Assistance was provided in the preparation of the:

- Application
- Map
- Other

[Faint handwritten notes and signatures]

G-17645

RECEIVED
AUG 14 2008
WATER RESOURCES DEPT
SACRAMENTO, CALIFORNIA

**AFFIDAVIT FOR THE PARTIAL ABANDONMENT OF A
GROUND WATER CERTIFICATE OF REGISTRATION**

State of Oregon)
County of Harney) ss

I/We (or authorized agent), John, Erna, & Linda Watts,
residing at 41769 Sod House Ln Princeton, OR 97721,
telephone number (541) 493-4669, being first duly sworn depose and say:

- I/We are the legal and deeded owner(s) of the property described as tax lot number 5600⁷⁰⁰⁰, within the NE 1/4 NE 1/4, Section 33, Township 26 N, Range 33 E, of the Willamette Meridian, in Harney County, Oregon, as shown on the attached map and described in the attached deed and legal description and made part of this affidavit;
- Ground Water Certificate of Registration number 76880 in the name of Marie Watts, with a tentative date of priority of April 7, 1981 for use of 8.055 gpm/cfs/AF for the purpose of irrigation (use) is appurtenant to my/our property;
- The appurtenant ground water registration is (s not) located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (if the registration is located within a district or reclamation project, name it here: _____); and
- I/We have abandoned any and all interest in the portion of this ground water registration shown on the attached map and described as follows:
The claim to the use of .00125 gpm/cfs/AF for irrigation (use), located:

NE 1/4 NE 1/4 4.9 Acres
1/4 1/4 _____ Acres
1/4 1/4 _____ Acres

Section _____
Township 26 N, Range 33 E, WM; and

- I/We have abandoned any and all claim to appropriate and use ground water as described above under this certificate of registration for the purpose of the final determination of the right to appropriate ground water under ORS 537.670 to 537.695

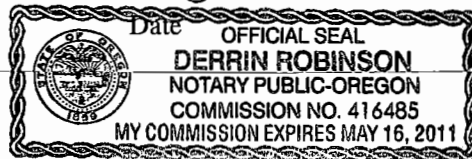
John J. Watts
Signature of legal owner as listed on deed, or authorized agent

Aug 8, 2008
Date

Erna E. Watts
Signature of legal co-owner as listed on deed
(If applicable)

Aug 7, 2008
Date

STATE OF OREGON }
County of Harney } ss



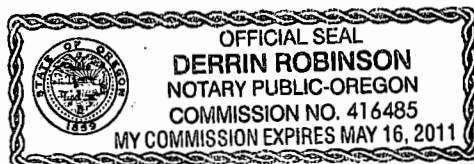
RECEIVED

AUG 11 2008

The foregoing instrument was acknowledged before me this 8th day of August, 2008 by Linda K. Watts.

WATER RESOURCES DEPT
SALEM, OREGON

[Signature]
Notary Public for Oregon
Com. Exp. 5/16/11



20080626

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS THAT, JOHN P. WATTS and ERNA E. WATTS, Grantors, for and in consideration of vesting change, do hereby grant, bargain, sell and convey unto JOHN P. WATTS, ERNA E. WATTS and LINDA K. WATTS, not as tenants in common but with the right of survivorship, that is the fee title shall vest in the survivor, Grantees, the following described tract of land in the County of Harney and State of Oregon, more particularly described as follows:

Land in County of Harney and State of Oregon

Township 26 South, Range 33 East, Willamette Meridian
Section 33: Ne1/4ne1/4.

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

And the Grantors do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances EXCEPT.

1. Easements, Reservations, restrictions of record.

WITNESS our Hand and Seal this 16th day of April, in the year Two Thousand and Eight.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and to determine any limits on lawsuits against Farming or Forest practices as defined in ORS 30.930.

John P. Watts
JOHN P. WATTS
Erna E. Watts
ERNA E. WATTS

STATE OF OREGON
COUNTY OF HARNEY

BE IT REMEMBERED, that on this 16th day of April, 2008, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within names JOHN P. WATTS and ERNA E. WATTS, to me known to be the individual(s) described in and who executed the foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

Patrick Moss
Notary Public for the State of OREGON
My Commission Expires: 03/20/2010



--SPACE BELOW FOR RECORDERS USE ONLY--

Until a change is requested all tax statements should be sent to the following address:
John P. Watts
41769 Sodhouse Ln.
Princeton, Or 97721

After Recording Please Return to
John P. Watts
41769 Sodhouse Ln.
Princeton, Or 97721

STATE OF OREGON }
County of Harney }
I certify that the instrument identified herein was recorded on the 16th day of April, 2008 at 12:30 o'clock P.M. in the County Clerk's Records of Harney County, Oregon.
Michael J. Quinn County Clerk
[Signature] Deputy

RECEIVED

AUG 11 2008

WATER RESOURCES DEPT
SALEM, OREGON

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY UNDER

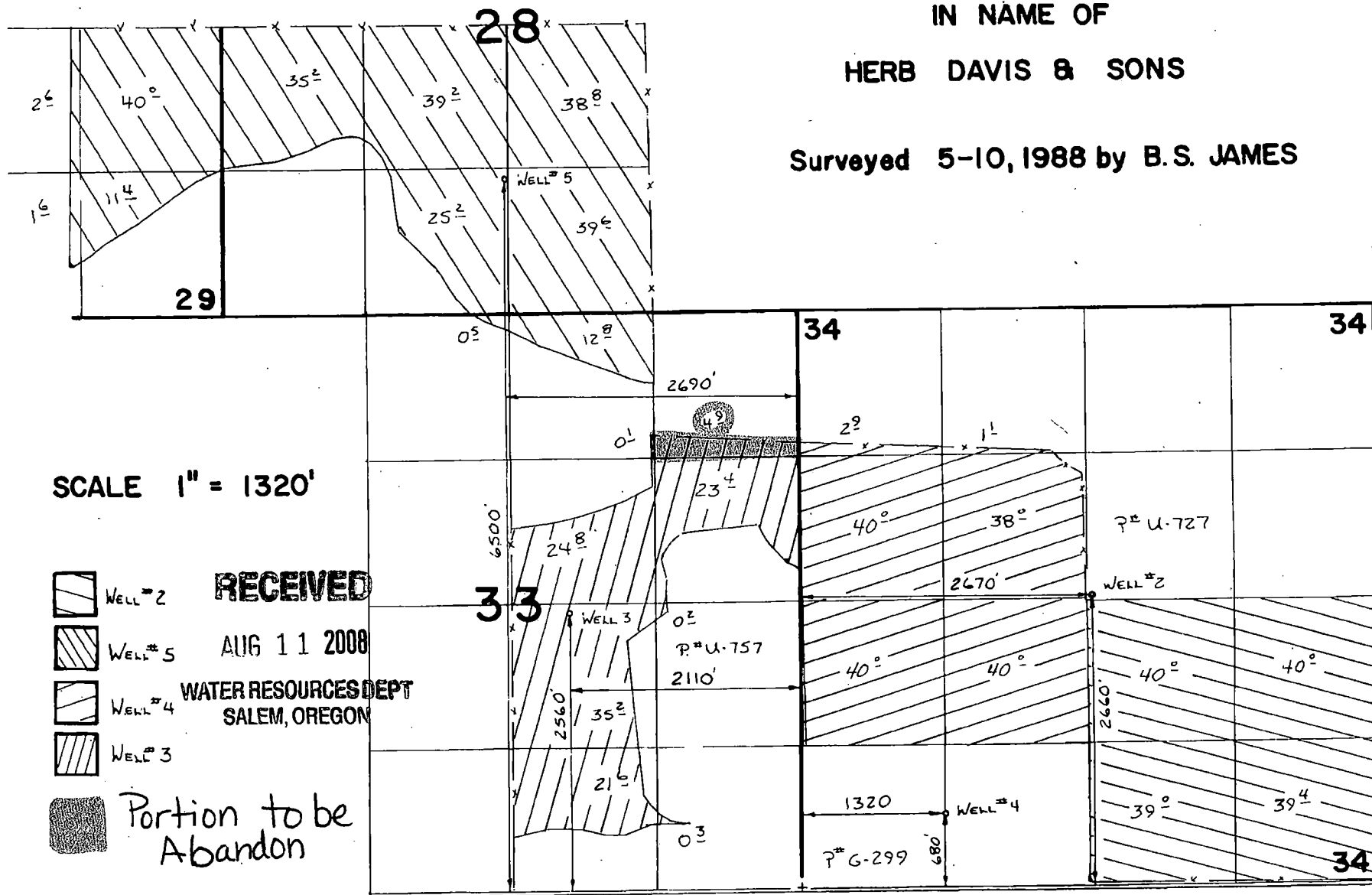
APPL. G-10258

PER. G-9324

IN NAME OF

HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES



SCALE 1" = 1320'



WELL #2

RECEIVED



WELL #5

AUG 11 2008



WELL #4

WATER RESOURCES DEPT
SALEM, OREGON



WELL #3



Portion to be
Abandon

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY UNDER

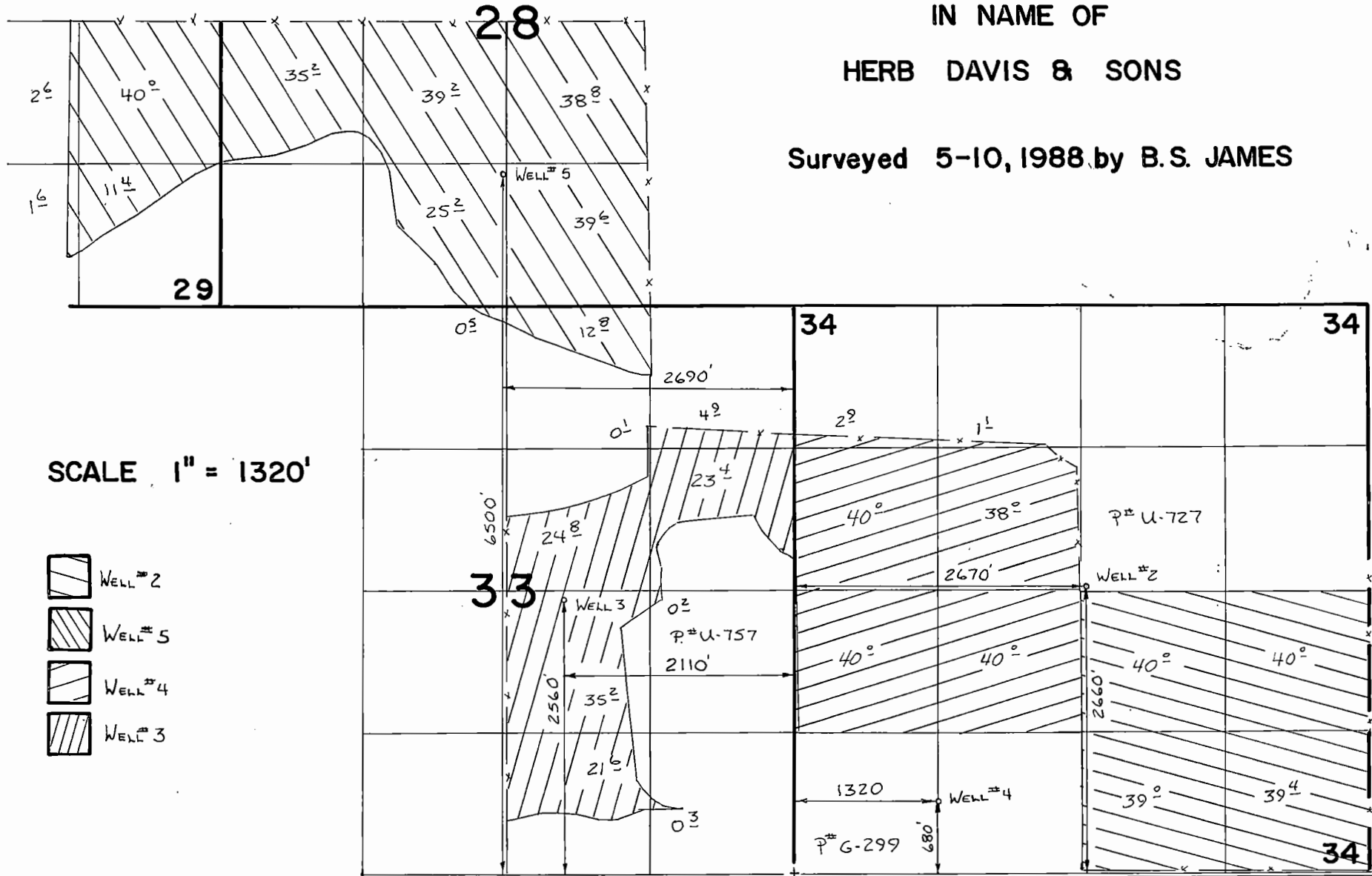
APPL. G-10258

PER. G-9324





IN NAME OF

HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES



SCALE 1" = 1320'

-  WELL # 2
-  WELL # 5
-  WELL # 4
-  WELL # 3



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

June 14, 2001

Marie Watts
510 W. 13th
The Dalles, Oregon 97058

RE: Certificate 64340 (File G-10258)

Pursuant to your request Permit G-9324 has been partially canceled by order of the Director of the Water Resources Department. This partial cancellation is recorded in Special Order Volume 55, Page 398.

Your certificate 64340 has been canceled and a new certificate of water right 76880 describes that portion of the water right not canceled.

If you have any questions please call 505-378-8455 ext. 285.

Sincerely,

GREG NELSON
Field Services Division

GLN:sh

cc: Mitch Lewis, Watermaster
John Watts





Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

RECEIVED

FEB 04 2000

**WATER RESOURCES DEPT.
SALEM, OREGON**

January 11, 2000

John Watts
HC 72 Box 128
Princeton, OR 97221

Dear Mr. Watts:

I have enclosed an affidavit for Marie Watts to sign. Although we previously received an affidavit from her attesting to ownership of the land on which you seek to cancel a portion of a water right, the affidavit was not notarized. As was discussed in our telephone conversation, the warranty deed lists Marie Watts as the grantee. With her signed and notarized affidavit we can proceed to cancel the portion of the water right which conflicts with your pending water use permit application G-14960.

I have enclosed materials which describes the calculations I used to describe the portion of the water right you seek to cancel. I also included a copy of the warranty deed submitted with your affidavits, a computerized copy of the Davis water right certificate, and the Davis final proof survey map and your water use permit application map. I highlighted significant information and made notations on the enclosures. With this information in hand, I hope you can understand why I filled-out the affidavit as I did.

I left blanks on the affidavit for you to fill-in. Since Marie Watts is the deed grantee, please include her address and telephone number. However, I suggest you attach a note indicating that you and other family members are the appropriate contact for questions about the cancellation because you are the farm operators. In addition, you may want to check with the county assessors office to verify the tax lot numbers covered by the proposed cancellation, and add those to the affidavit in the space provided. It is also important to note that you need to indicate whether there are any lien/mortgage holders (and include their mailing address) for the parcels on which you intend to cancel the water right. Our process has us notify them of an action which may affect their interest in the property. Please be sure to complete that portion of the affidavit as well.

If you have any questions, please do not hesitate to contact me at 1-800-624-3199, extension 285.

Sincerely,

Greg Nelson
Field Services Division

enclosures

RECEIVED

JUN 27 2000

**WATER RESOURCES DEPT.
SALEM, OREGON**



AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A
WATER RIGHT CERTIFICATE

State of Oregon)
) ss
County of Harney)

I/We, Marie Watts, residing at 510 W. 13 St The Dalles OR 97058, phone (541) 296-3590, being first duly sworn depose and say:

1. I/We are the legal owner(s) of the property described as tax lot number 300, within the SE $\frac{1}{4}$, Section 29, Township 26 S, Range 33 E, of the Willamette Meridian, in Harney County, Oregon, as shown on the attached map and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right certificate number 64340 issued to Herb Davis and Sons, with a date of priority of April 7, 1981, for use of 3.09 cubic foot per second of water from Well #5 (sources) for the purpose of irrigation (uses) is appurtenant to my/our property;
3. I/We have abandoned any and all interest in the portion of this water right shown on the attached map and described as follows:
The right to the use of 0.425 cubic foot per second from Well #5 for the irrigation of 34.0 acres located:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 Acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.6 Acres
Section 29
Township 26 S, Range 33 E, WM; and

4. I/We request that said portion of the right described above be canceled.
5. My/Our property ___ is / X is not within an irrigation district. If within, the name of the district is _____.
6. There ___ are/ X are not encumbrance holders for my/our property. If there are, a list of encumbrance holders with their addresses is attached

Marie S. Watts
Signature of Legal Owner

June 26 / 2000
Date

Signature of Co-Owner

Date

Subscribed and Sworn to Before Me this 26 day of June, 2000.

RECEIVED
JUN 27 2000
WATER RESOURCES DEPARTMENT
SALEM, OREGON



Patrice A. Delaney
Notary Public for Oregon

My Commission Expires 09-08-02

PLEASE ATTACH MAP AND DEED WITH LEGAL DESCRIPTION

	<u>WELL #3</u>	<u>WELL #5</u>
NE¼ NE¼	4.9 ACRES	
NW¼ NE¼	0.1 ACRES	12.8 ACRES
SW¼ NE¼	24.8 ACRES	
SE¼ NE¼	23.4 ACRES	
NE¼ NW¼		0.5 ACRES
NE¼ SE¼	0.2 ACRES	
NW¼ SE¼	35.2 ACRES	
SW¼ SE¼	21.6 ACRES	
SE¼ SE¼	0.3 ACRES	

SECTION 33

	<u>WELL #2</u>	<u>WELL #4</u>
NE¼ NW¼		1.1 ACRES
NW¼ NW¼		2.9 ACRES
SW¼ NW¼		40.0 ACRES
SE¼ NW¼		38.8 ACRES
NE¼ SW¼		40.0 ACRES
NW¼ SW¼		40.0 ACRES
NE¼ SE¼	40.0 ACRES	
NW¼ SE¼	40.0 ACRES	
SW¼ SE¼	39.0 ACRES	
SE¼ SE¼	39.4 ACRES	

SECTION 34

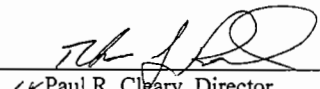
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 64340, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered May 2, 2001, and recorded at Special Order Volume 55, Page 398, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed MAY 02 2001



 Paul R. Cleary, Director

STATE OF OREGON
COUNTY OF HARNEY
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARIE WATTS
510 W. 13th
THE DALLES, OR 97058

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for IRRIGATION of 643.8 ACRES.

The right was perfected under PERMIT G-9324. The date of priority is APRIL 7, 1981. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purposes and shall not exceed 8.055 CUBIC FOOT PER SECOND; being 1.98 cfs from WELL #2, 1.38 cfs from WELL #3, 2.03 cfs from WELL #4, and 2.665 cfs from WELL #5, or its equivalent in case of rotation measured at the well.

The wells are located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33; SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T 26 S, R 33 E, W.M.; WELL #2 — 2660 feet north and 2670 feet east, WELL #3 — 2560 feet north and 2110 feet west, WELL #4 — 680 feet north and 1320 feet east, WELL #5 — 6500 feet north and 2690 feet west, all from the southeast corner of Section 33.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall further be limited to a diversion of not to exceed 3.0 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:

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$		39.2 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		35.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$		25.2 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$		38.8 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		39.6 ACRES
SECTION 28		
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.		

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SE $\frac{1}{4}$		8.6 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		1.6 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$		11.4 ACRES
SECTION 29		

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

HARNEY COUNTY

IN THE MATTER OF CANCELLATION OF A)
PORTION OF A WATER RIGHT IN THE) ORDER
NAME OF HERB DAVIS AND SONS)

The Water Resources Department (Department) received an affidavit from the owners of lands stating that they have abandoned the water right appurtenant to their land and requesting the cancellation of the certificate. Whenever the owner of a perfected and developed water right abandons the right, an order canceling the right shall be entered. The Water Resources Director has reviewed the affidavit and makes the following disposition of the request:

STATEMENT OF FACTS

The Department received an affidavit from Marie Watts stating she is the owner of lands and the water right appurtenant as evidenced by a portion of Certificate 64340, State Record of Water Right Certificates. The affidavit further states that the portion of the right appurtenant to her property has been abandoned and requests that portion of the certificate be canceled.

Certificate 64340 allows for the use of not more than 8.48 cubic feet per second (cfs) of water from four wells in the Malheur Lake Basin; being 1.98 cfs from Well #2, 1.38 cfs from Well #3, 2.03 cfs from Well #4, and 3.09 cfs from Well #5, for irrigation of 677.8 acres with a date of priority of April 7, 1981.

The portion of Certificate 64340 which has been abandoned is for the use of 0.425 cfs of water from Well #5, for irrigation of 34.0 acres located:

NE¼ SE¼ 31.4 Acres
NW¼ SE¼ 2.6 Acres
Section 29
Township 26 South, Range 33 East, W.M.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

CONCLUSIONS OF LAW

ORS 540.621 directs the Commission to enter an order canceling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

Oregon Administrative Rule 690-017-0100 authorizes the Director of the Water Resources Department to issue an order, under authority delegated to him by the Commission, canceling a perfected and developed water right in accordance with the provisions of ORS 540.621 when so requested by notarized affidavit of the record owner of land to which a water right is appurtenant.

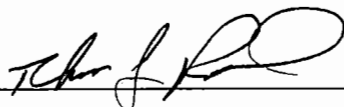
The Director of the Water Resources Department concludes a portion of Certificate 64340 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED that the portion of the water right described by Certificate 64340 for the use of 0.425 cfs of water from Well #5, for irrigation of 34.0 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, Township 26 South, Range 33 East, W.M. , is canceled.

IT IS FURTHER ORDERED that Certificate 64340 hereby canceled. The Department shall issue Certificate 76880, a new and superseding water right certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated MAY 02 2001



Paul R. Cleary, Director
Oregon Water Resources Department



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

CERTIFIED MAIL
Return Receipt Requested

June 15, 2000

Marie and John Watts
Mary and Elmer Watts
HC 72 Box 128
Princeton, Oregon 97721

RE: Application File # G-14960

Dear Applicants:

The Department is currently in the process of preparing a Proposed Final Order for the above referenced application. However, based upon continued review, the Department has determined that additional information is necessary in order to complete your application. The following information must be received:

- ▶ A complete signed and notarized affidavit to partially cancel certificate 64340. A copy of the deed with the legal description and a map showing the area to be canceled must be attached to the affidavit. The affidavit previously submitted by the Department was not signed by the appropriate legal owner(s) of the property.

I have attached an affidavit, copy of the certificate and map, and a copy of the application map for your reference.

I have also enclosed a copy of the original letter sent to you from Greg Nelson describing what was needed for the affidavits.

Please submit this information by **June 29, 2000**. If we do not receive the information requested above by this date, we **may** reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.



Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me at (503) 378-8455, extension 331, or toll free within Oregon at 1-800-624-3199.

Sincerely,



Laura K. Snedaker
Senior Water Rights Specialist

Enclosure: Affidavit of Partial Cancellation
Copy of Certificate 64340 and map
Copy of Application Map

cc: Mitch Lewis, Watermaster District 10

~~Greg Nelson, WRD~~

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY UNDER

APPL. G-10258

PER. G-9324

IN NAME OF

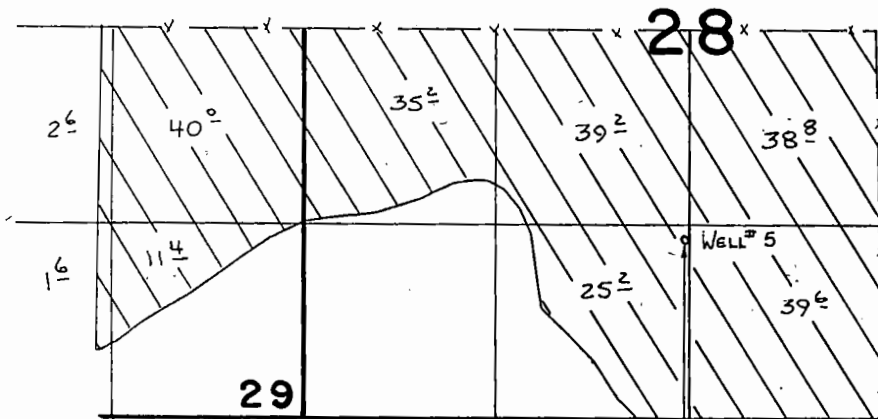
HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES





RECEIVED

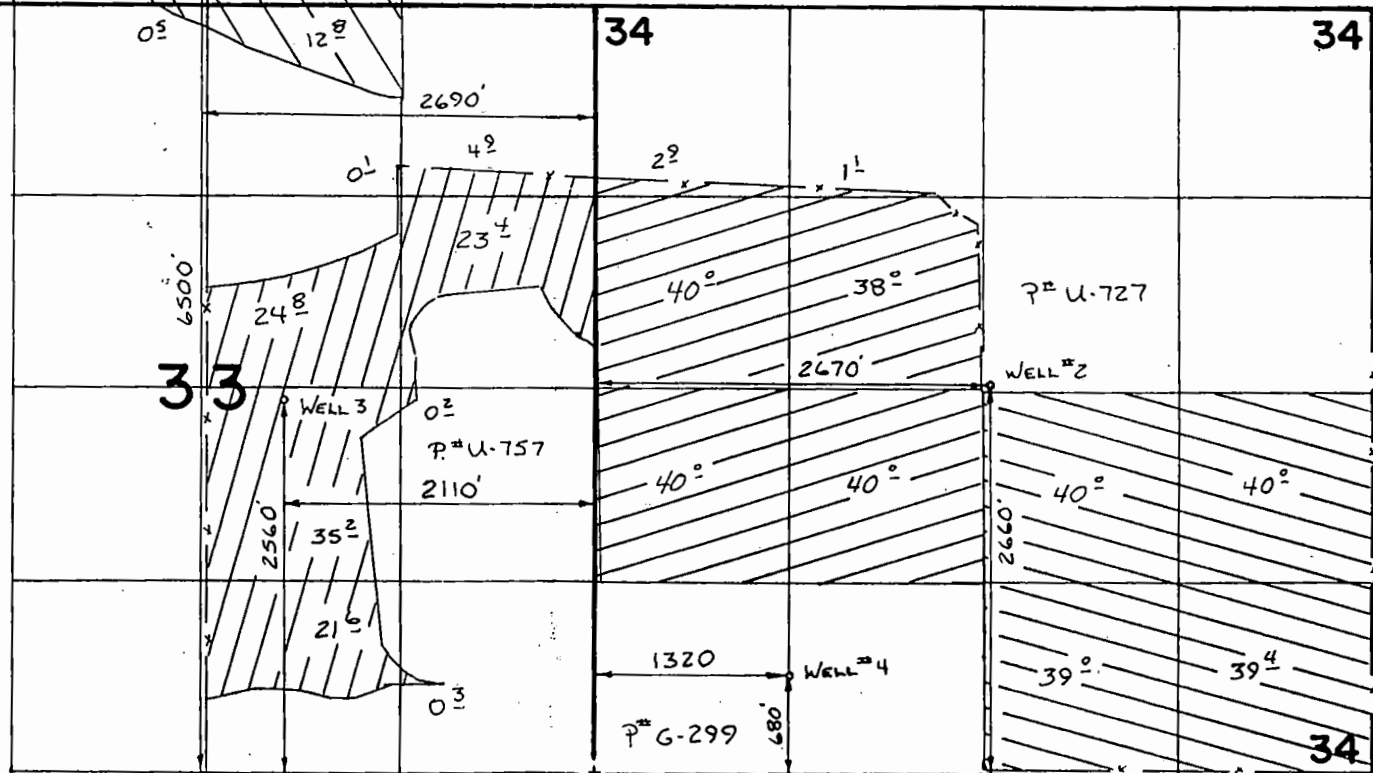
JUN 27 2000

WATER RESOURCES DEPT.
SALEM, OREGON



SCALE 1" = 1320'

-  WELL #2
-  WELL #5
-  WELL #4
-  WELL #3

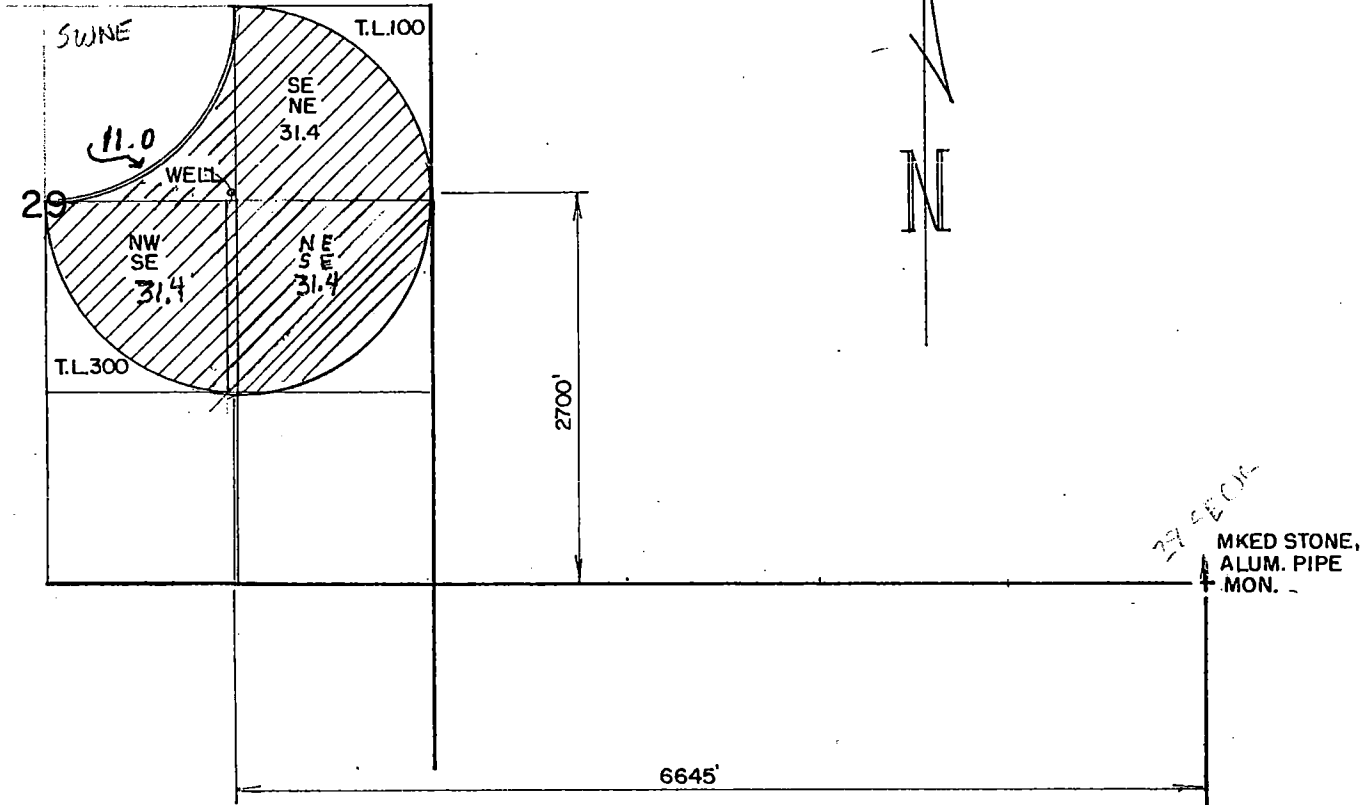


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APR 1 1999

WATER RESOURCES DEPT.
SALEM, OREGON

T 26 S, R 33 E, WM



Application No. G-14960

Permit No. 33

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP.

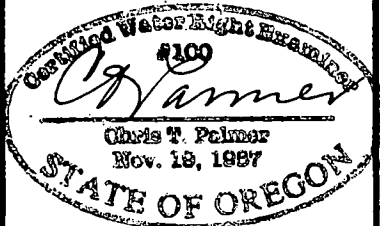
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JUN 27 2000

WATER RESOURCES DEPT.
SALEM, OREGON

WATTS

WATER RIGHT APPLICATION MAP



RENEW 1-1-1999

Scale: 4" = 1 MILE

Date: NOV. 1998

Job: 1802

Dsn:



M. A. PALMER & SONS, INC.

Sht. No.

Drn: CHRIS

ENGINEERING & SURVEYING

Ckd:

254 N. Alder - Box 61

Burns, Oregon 97720

of 1

STATE OF OREGON
COUNTY OF HARNEY
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARIE WATTS
510 W. 13th
THE DALLES, OR 97058

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for IRRIGATION of 643.8 ACRES.

The right was perfected under PERMIT G-9324. The date of priority is APRIL 7, 1981. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purposes and shall not exceed 8.055 CUBIC FOOT PER SECOND; being 1.98 cfs from WELL #2, 1.38 cfs from WELL #3, 2.03 cfs from WELL #4, and 2.665 cfs from WELL #5, or its equivalent in case of rotation measured at the well.

The wells are located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33; SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T 26 S, R 33 E, W.M.; WELL #2 — 2660 feet north and 2670 feet east, WELL #3 — 2560 feet north and 2110 feet west, WELL #4 — 680 feet north and 1320 feet east, WELL #5 — 6500 feet north and 2690 feet west, all from the southeast corner of Section 33.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall further be limited to a diversion of not to exceed 3.0 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:

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$		39.2 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		35.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$		25.2 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$		38.8 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		39.6 ACRES
SECTION 28		
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.		

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SE $\frac{1}{4}$		8.6 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		1.6 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$		11.4 ACRES
SECTION 29		

	<u>WELL #3</u>	<u>WELL #5</u>
NE¼ NE¼	4.9 ACRES	
NW¼ NE¼	0.1 ACRES	12.8 ACRES
SW¼ NE¼	24.8 ACRES	
SE¼ NE¼	23.4 ACRES	
NE¼ NW¼		0.5 ACRES
NE¼ SE¼	0.2 ACRES	
NW¼ SE¼	35.2 ACRES	
SW¼ SE¼	21.6 ACRES	
SE¼ SE¼	0.3 ACRES	
SECTION 33		

	<u>WELL #2</u>	<u>WELL #4</u>
NE¼ NW¼		1.1 ACRES
NW¼ NW¼		2.9 ACRES
SW¼ NW¼		40.0 ACRES
SE¼ NW¼		38.8 ACRES
NE¼ SW¼		40.0 ACRES
NW¼ SW¼		40.0 ACRES
NE¼ SE¼	40.0 ACRES	
NW¼ SE¼	40.0 ACRES	
SW¼ SE¼	39.0 ACRES	
SE¼ SE¼	39.4 ACRES	
SECTION 34		

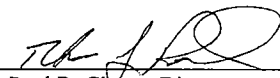
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 64340, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered May 2, 2001, and recorded at Special Order Volume 55, Page 398, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed MAY 02 2001


 Paul R. Cleary, Director

STATE OF OREGON
COUNTY OF HARNEY
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HERB DAVIS AND SONS
H.C. 72, BOX 120E
PRINCETON, OREGON 97721

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for the purpose of IRRIGATING 677.8 ACRES.

The right has been perfected under Permit G-9324. The date of priority is APRIL 7, 1981. The right is limited to not more than 8.48 cubic feet per second, being 1.98 cfs from well 2, 1.38 cfs from well 3, 2.03 cfs from well 4, and ~~3.09 cfs~~ from well 5, or its equivalent in case of rotation, measured at the well. 2.66 cfs

The wells are located as follows:

SE 1/4 SW 1/4, SECTION 28, NW 1/4 SE 1/4, SECTION 33, SW 1/4 NE 1/4, SW 1/4 SW 1/4, SECTION 34, T 26 S, R 33 E, W.M.; WELL 2 - 2660 FEET NORTH AND 2670 FEET EAST, WELL 3 - 2560 FEET NORTH AND 2110 WEST, WELL 4 - 680 FEET NORTH AND 1320 FEET EAST, WELL 5 - 6500 FEET NORTH AND 2690 FEET WEST, ALL FROM THE SOUTHEAST CORNER OF SECTION 33.

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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right 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:

<u>WELL #3</u>	<u>WELL #5</u>
NE 1/4 SW 1/4	39.2 ACRES
NW 1/4 SW 1/4	35.2 ACRES
SE 1/4 SW 1/4	25.2 ACRES
NW 1/4 SE 1/4	38.8 ACRES
SW 1/4 SE 1/4	39.6 ACRES
SECTION 28	
TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.	

SEE NEXT PAGE

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JUN 27 2000

WATER RESOURCES DEPT.
SALEM, OREGON

	<u>WELL #3</u>	<u>WELL #5</u>
NE 1/4 SE 1/4		40.0 ACRES
NW 1/4 SE 1/4		2.6 ACRES
SW 1/4 SE 1/4		1.6 ACRES
SE 1/4 SE 1/4		11.4 ACRES
SECTION 29		

- 31.4 = 8.6

NE 1/4 NE 1/4	4.9 ACRES	
NW 1/4 NE 1/4	0.1 ACRE	12.8 ACRES
SW 1/4 NE 1/4	24.8 ACRES	
SE 1/4 NE 1/4	23.4 ACRES	
NE 1/4 NW 1/4		0.5 ACRE
NE 1/4 SE 1/4	0.2 ACRE	
NW 1/4 SE 1/4	35.2 ACRES	
SW 1/4 SE 1/4	21.6 ACRES	
SE 1/4 SE 1/4	0.3 ACRE	
SECTION 33		

	<u>WELL #2</u>	<u>WELL #4</u>
NE 1/4 NW 1/4		1.1 ACRES
NW 1/4 NW 1/4		2.9 ACRES
SW 1/4 NW 1/4		40.0 ACRES
SE 1/4 NW 1/4		38.0 ACRES
NE 1/4 SW 1/4		40.0 ACRES
NW 1/4 SW 1/4		40.0 ACRES
NE 1/4 SE 1/4	40.0 ACRES	
NW 1/4 SE 1/4	40.0 ACRES	
SW 1/4 SE 1/4	39.0 ACRES	
SE 1/4 SE 1/4	39.4 ACRES	
SECTION 34		

TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director, affixed this date JUNE 25, 1990.

/s/ WILLIAM H. YOUNG

Water Resources Director

Recorded in State Record of Water Right Certificates numbered 64340.

G-10258.VC

RECEIVED

JUN 27 2000

WATER RESOURCES DEPT.
SALEM, OREGON

READY TO FINALIZE SIMULTANEOUSLY w/
ISSUANCE OF PERMIT

00-00-0000

GREG NELSON

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
HARNEY COUNTY

IN THE MATTER OF CANCELLATION OF A)
PORTION OF A WATER RIGHT IN THE) ORDER
NAME OF HERB DAVIS AND SONS)

Draft

The Water Resources Department (Department) received an affidavit from the owners of lands stating that they have abandoned the water right appurtenant to their land and requesting the cancellation of the certificate. Whenever the owner of a perfected and developed water right abandons the right, an order canceling the right shall be entered. The Water Resources Director has reviewed the affidavit and makes the following disposition of the request:

STATEMENT OF FACTS

The Department received an affidavit from Marie Watts stating she is the owner of lands and the water right appurtenant as evidenced by a portion of Certificate 64340, State Record of Water Right Certificates. The affidavit further states that the portion of the right appurtenant to her property has been abandoned and requests that portion of the certificate be canceled.

Certificate 64340 allows for the use of not more than 8.48 cubic feet per second (cfs) of water from four wells in the Malheur Lake Basin; being 1.98 cfs from Well #2, 1.38 cfs from Well #3, 2.03 cfs from Well #4, and 3.09 cfs from Well #5, for irrigation of 677.8 acres with a date of priority of April 7, 1981.

The portion of Certificate 64340 which has been abandoned is for the use of 0.425 cfs of water from Well #5, for irrigation of 34.0 acres located:

NE¼ SE¼ 31.4 Acres
NW¼ SE¼ 2.6 Acres
Section 29
Township 26 South, Range 33 East, W.M.

CONCLUSIONS OF LAW

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 (ORS 540.621).

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

ORDER

IT IS ORDERED that the right described by Certificate 64340, State Record of Water Right Certificates, allowing for the use of not more than 8.48 cubic feet per second (cfs) of water from four wells in the Malheur Lake Basin; being 1.98 cfs from Well #2, 1.38 cfs from Well #3, 2.03 cfs from Well #4, and 3.09 cfs from Well #5, for irrigation of 677.8 acres with a date of priority of April 7, 1981, is canceled and a new certificate of water right describing that portion of the water right not canceled by the provisions of this order be issued.

Dated _____.

Martha O. Pagel, Director

STATE OF OREGON
~~COUNTY OF UMATILLA~~
HARNEY
COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MARIE WATTS
510 W. 13th
THE DALLES, OR 97058

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for IRRIGATION of 643.8 ACRES.

The right was perfected under PERMIT G-9324. The date of priority is APRIL 7, 1981. The amount of water to which such right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purposes and shall not exceed 8.055 CUBIC FOOT PER SECOND; being 1.98 cfs from WELL #2, 1.38 cfs from WELL #3, 2.03 cfs from WELL #4, and 2.665 cfs from WELL #5, or its equivalent in case of rotation measured at the well.

The wells are located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28; NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33; SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T 26 S, R 33 E, W.M.; WELL #2 — 2660 feet north and 2670 feet east, WELL #3 — 2560 feet north and 2110 feet west, WELL #4 — 680 feet north and 1320 feet east, WELL #5 — 6500 feet north and 2690 feet west, all from the southeast corner of Section 33.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall further be limited to a diversion of not to exceed 3.0 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:

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$		39.2 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		35.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$		25.2 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$		38.8 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		39.6 ACRES
SECTION 28		

TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ SE $\frac{1}{4}$		8.6 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		1.6 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$		11.4 ACRES
SECTION 29		

SEE NEXT PAGE

	<u>WELL #3</u>	<u>WELL #5</u>
NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.9 ACRES	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.1 ACRES	12.8 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$	24.8 ACRES	
SE $\frac{1}{4}$ NE $\frac{1}{4}$	23.4 ACRES	
NE $\frac{1}{4}$ NW $\frac{1}{4}$		0.5 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$	0.2 ACRES	
NW $\frac{1}{4}$ SE $\frac{1}{4}$	35.2 ACRES	
SW $\frac{1}{4}$ SE $\frac{1}{4}$	21.6 ACRES	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	0.3 ACRES	
SECTION 33		

	<u>WELL #2</u>	<u>WELL #4</u>
NE $\frac{1}{4}$ NW $\frac{1}{4}$		1.1 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$		2.9 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$		40.0 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$		38.8 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$		40.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		40.0 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0 ACRES	
NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0 ACRES	
SW $\frac{1}{4}$ SE $\frac{1}{4}$	39.0 ACRES	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	39.4 ACRES	
SECTION 34		

TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 64340, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered _____, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed _____.

Martha O. Pagel, Director



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

January 11, 2000

John Watts
HC 72 Box 128
Princeton, OR 97221

Dear Mr. Watts:

I have enclosed an affidavit for Marie Watts to sign. Although we previously received an affidavit from her attesting to ownership of the land on which you seek to cancel a portion of a water right, the affidavit was not notarized. As was discussed in our telephone conversation, the warranty deed lists Marie Watts as the grantee. With her signed and notarized affidavit we can proceed to cancel the portion of the water right which conflicts with your pending water use permit application G-14960.

I have enclosed materials which describes the calculations I used to describe the portion of the water right you seek to cancel. I also included a copy of the warranty deed submitted with your affidavits, a computerized copy of the Davis water right certificate, and the Davis final proof survey map and your water use permit application map. I highlighted significant information and made notations on the enclosures. With this information in hand, I hope you can understand why I filled-out the affidavit as I did.

I left blanks on the affidavit for you to fill-in. Since Marie Watts is the deed grantee, please include her address and telephone number. However, I suggest you attach a note indicating that you and other family members are the appropriate contact for questions about the cancellation because you are the farm operators. In addition, you may want to check with the county assessors office to verify the tax lot numbers covered by the proposed cancellation, and add those to the affidavit in the space provided. It is also important to note that you need to indicate whether there are any lien/mortgage holders (and include their mailing address) for the parcels on which you intend to cancel the water right. Our process has us notify them of an action which may affect their interest in the property. Please be sure to complete that portion of the affidavit as well.

If you have any questions, please do not hesitate to contact me at 1-800-624-3199, extension 285.

Sincerely,

Greg Nelson
Field Services Division

enclosures



RECEIVED

980740

APR 1 1999

WARRANTY DEED

WATER RESOURCES DEPT. SALEM, OREGON

HERB DAVIS & SONS, an Oregon partnership, aka HERB DAVIS AND SONS, called Grantors herein, hereby convey and warrant to MARIE WATTS, called Grantee herein, the following described real property in Harney County, Oregon:

See attached Exhibit "A"

Tax: Code 4-2, Map Nos. 26-33, 26-33-29
Lots 5600, 100, 6900, 300, 7000, 3400, 3501, 3700, 201,
Ref. Nos. 10575, 10579, 10573, 11061, 10577, 10535, 92311,
10605, 12282

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this transfer is \$ 600,000.00, paid to an accommodator pursuant to an I.R.C. §1031 exchange.

Dated: April 24, 1998

Until further notice, send all tax statements to: Marie S. Watts

HERB DAVIS & SONS

By: Herbert C. Davis

By: Herbert G. Davis

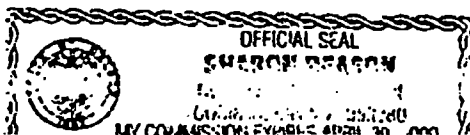
By: Thomas R. Davis

STATE OF OREGON)
) ss April 24, 1998.
County of Harney)

(For Recorder's Use)

This instrument was acknowledged before me by Herbert C. Davis and Herbert G. Davis and Thomas R. Davis, as partners of Herb Davis & Sons, the within named partnership on whose behalf this instrument was executed.

Notary Public for Oregon
My commission expires 06-30-00



STATE OF OREGON
County of Harney
I certify that the within instrument was received for record on the 29th day of April, 1999, at 9:20 AM, and recorded Mich. # 980740.
By: Marie Watts, County Clerk Deputy

980740

RECEIVED

APR 1 1999

EXHIBIT "A"

WATER RESOURCES DEPT.
SALEM, OREGON

Herb Davis & Sons to Watts

Land in Harney County, Oregon, as follows:

In Twp. 26 S., R. 33 E., W.M.:

- Sec. 19: SE~~X~~
- Sec. 28: SW~~X~~, W~~X~~SE~~X~~
- Sec. 29: E~~X~~NW~~X~~, W~~X~~N~~X~~E~~X~~, SE~~X~~N~~X~~E~~X~~, E~~X~~SE~~X~~, NW~~X~~SE~~X~~:
- Sec. 33: E~~X~~, NE~~X~~NW~~X~~.

*E 1/2 of the SE 1/4
is the same as NE 1/4 SE 1/4
and SE 1/4 SE 1/4*

SUBJECT TO: rights of the public in road and highways; right of way for road in favor of Harney County, Oregon; mineral reservations as reserved in deed from The Union Central Life Insurance Company recorded January 25, 1939, Book 38, Page 33, Harney County Deed Records; right of way for road in favor of harney County, Oregon, recorded January 8, 1954, Book 57, Page 497, Harney County Deed Records; mineral reservations as reserved in deed from James E. Dunn and Elizabeth M. Dunn recorded January 13, 1956, Book 61, Page 284, Harney County Deed Records; and geothermal reservations as reserved in deed from Kenneth M. Howser recorded January 11, 1990, Instrument No. 900051, Harney County Deed Records.

The above described property has been assessed for ad valorem tax purposes under the Farm Deferral method and Grantee covenants and agrees that should she fail to make application to continue the Farm Deferral method or should the property hereafter fail to qualify for Farm Deferral tax treatment or if for any reason a retroactive assessment of taxes with respect to the property is made, Grantee shall pay the same and shall hold Grantor and Grantor's predecessors harmless from any claim and demand for payment arising out of such retroactive assessment of taxes with respect to the property, whether or not such additional taxes, penalties or interest apply to tax years prior to the date of this deed.

STATE OF OREGON

COUNTY OF HARNEY

PROPOSED CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HERB DAVIS AND SONS
H.C. 72, BOX 120E
PRINCETON, OREGON 97721

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for the purpose of IRRIGATING 677.8 ACRES.

The right has been perfected under Permit G-9324. The date of priority is APRIL 7, 1981. The right is limited to not more than 8.48 cubic feet per second, being 1.98 cfs from well 2, 1.38 cfs from well 3, 2.03 cfs from well 4, and 3.09 cfs from well 5, or its equivalent in case of rotation, measured at the well.

The wells are located as follows:

SE 1/4 SW 1/4, SECTION 28, NW 1/4 SE 1/4, SECTION 33, SW 1/4 NE 1/4, SW 1/4 SW 1/4, SECTION 34, , T 26 S, R 33 E, W.M.; WELL 2 - 2660 FEET NORTH AND 2670 FEET EAST; WELL 3 - 2560 FEET NORTH AND 2110 WEST; WELL 4 - 680 FEET NORTH AND 1320 FEET EAST, WELL 5 - 6500 FEET NORTH AND 2690 FEET WEST; ALL FROM THE SOUTHEAST CORNER OF SECTION 33.

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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right 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:

<u>WELL #3</u>	<u>WELL #5</u>
NE 1/4 SW 1/4	39.2 ACRES
NW 1/4 SW 1/4	35.2 ACRES
SE 1/4 SW 1/4	25.2 ACRES
NW 1/4 SE 1/4	38.8 ACRES
SW 1/4 SE 1/4	39.6 ACRES
SECTION 28	

SEE NEXT PAGE

CALCULATION FOR RATE (CFS)

- 1) 246.9 AC irrigated by 3.09 cfs from Well # 5
- 2) Allowed to divert 1 cfs per 80 A PAGE TWO (limited to 180 cfs rate)
- 3) $246.9 \div 80 = 3.08625$ cfs round off to 3.09
- 4) $31.4 \div 80 = 0.3925$ cfs (or 0.392)
- 5) $2.6 \div 80 = 0.0325$ cfs (or 0.032)



WELL #3

Haris Watts Deed ←
 NE 1/4 SE 1/4
 NW 1/4 SE 1/4
 SW 1/4 SE 1/4
 SE 1/4 SE 1/4
 SECTION 29

NE 1/4 NE 1/4 4.9 ACRES
 NW 1/4 NE 1/4 0.1 ACRE
 SW 1/4 NE 1/4 24.8 ACRES
 SE 1/4 NE 1/4 23.4 ACRES
 NE 1/4 NW 1/4
 NE 1/4 SE 1/4 0.2 ACRE
 NW 1/4 SE 1/4 35.2 ACRES
 SW 1/4 SE 1/4 21.6 ACRES
 SE 1/4 SE 1/4 0.3 ACRE
 SECTION 33

WELL #5

40.0 ACRES cancel 31.4 AC = -0.3925 cfs
 2.6 ACRES cancel 2.6 AC = -0.0325 cfs
 1.6 ACRES
 11.4 ACRES

 0.425 cfs

12.8 ACRES

0.5 ACRE

WELL #2

NE 1/4 NW 1/4
 NW 1/4 NW 1/4
 SW 1/4 NW 1/4
 SE 1/4 NW 1/4
 NE 1/4 SW 1/4
 NW 1/4 SW 1/4
 NE 1/4 SE 1/4 40.0 ACRES
 NW 1/4 SE 1/4 40.0 ACRES
 SW 1/4 SE 1/4 39.0 ACRES
 SE 1/4 SE 1/4 39.4 ACRES
 SECTION 34

WELL #4

1.1 ACRES
 2.9 ACRES
 40.0 ACRES
 38.0 ACRES
 40.0 ACRES
 40.0 ACRES

TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY UNDER

APPL. G-10258

PER. G-9324

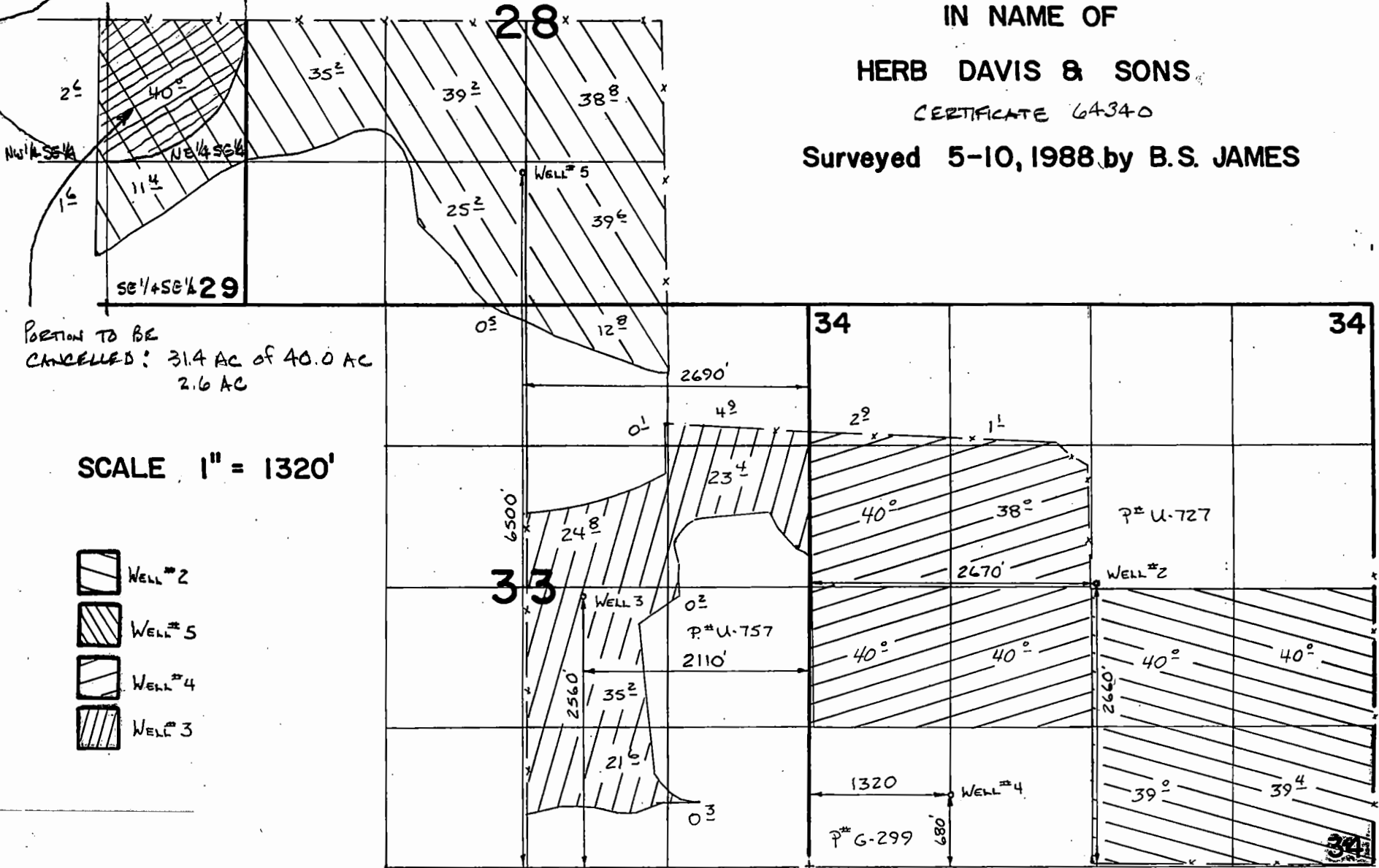
IN NAME OF

HERB DAVIS & SONS

CERTIFICATE 64340





Surveyed 5-10, 1988 by B.S. JAMES

APPLICATION
G-14960



PORTION TO BE
CANCELLED: 31.4 AC of 40.0 AC
2.6 AC

SCALE 1" = 1320'

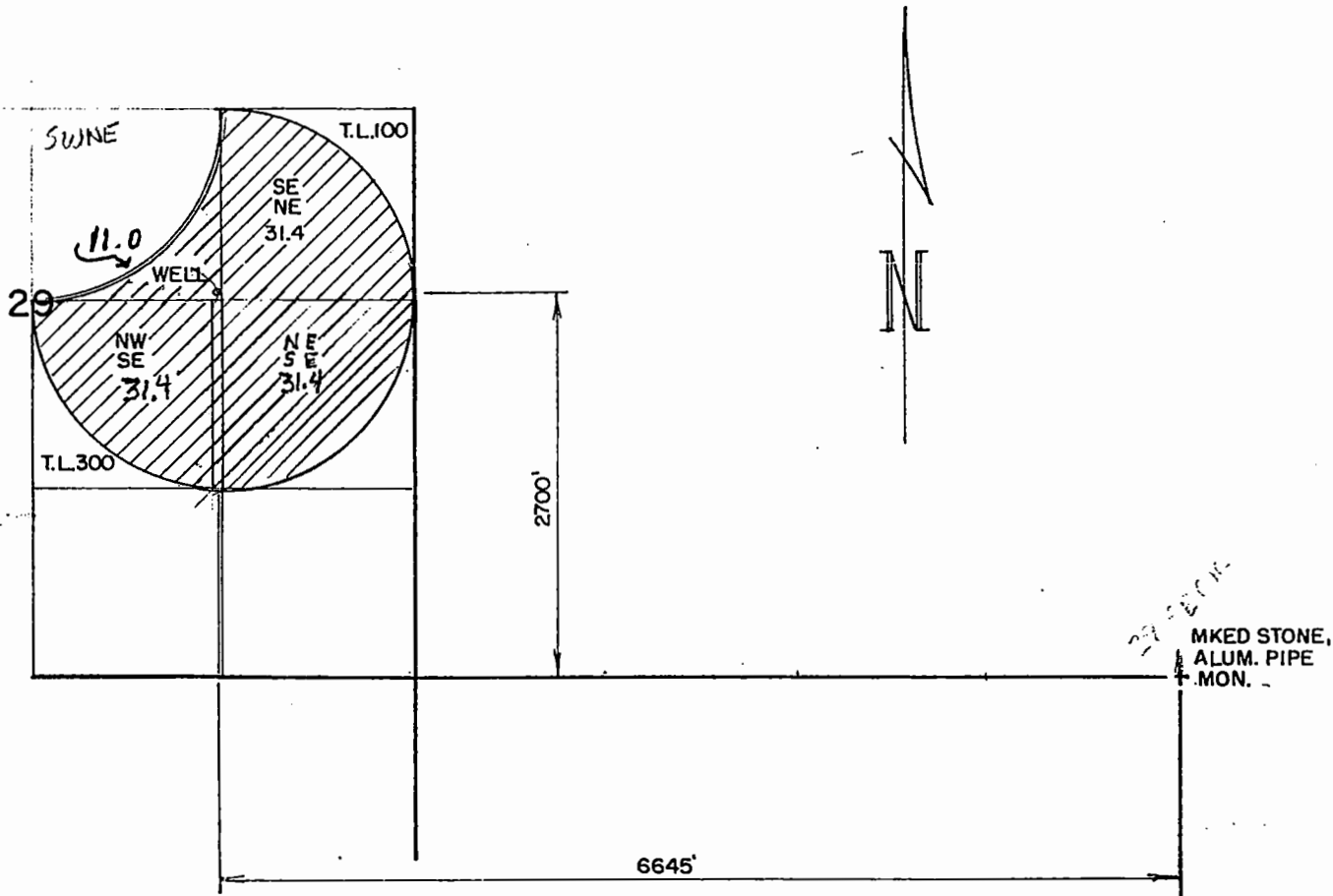
-  WELL #2
-  WELL #5
-  WELL #4
-  WELL #3

RECEIVED

APR 1 1999

WATER RESOURCES DEPT.
SALEM, OREGON

T 26 S, R 33 E, WM



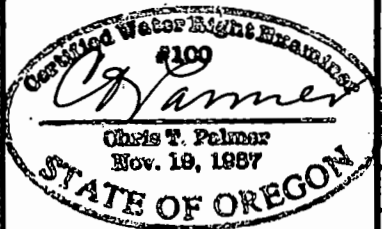
Application No. 16-14960

Permit No. 33

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP.

WATTS

WATER RIGHT APPLICATION MAP



RENEW 1-1-1999

Scale: 4" = 1 MILE

Date: NOV. 1998

Job: 1802

Dsn:



M. A. PALMER & SONS, INC.
ENGINEERING & SURVEYING
254 N. Alder - Box 61
Burns, Oregon 97720

Sht. No.

Drn: CHRIS

Ckd:

of 1

6-10258

RECEIVED

AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A WATER RIGHT CERTIFICATE

NOV 12 1999

WATER RESOURCES DEPT. SALEM, OREGON

State of Oregon)
County of HARNEY) ss

I/We, Elmer Wats & John Wats, residing at HC 72 Box 120 Prineville OR, phone (541) 493-4666, being first duly sworn deposes and say:

- 1. I/We are the legal owner(s) of the property described as tax lot number 5600, within the NE 1/4 SE 1/4, Section 29, Township 26 N, Range 33 E/W, of the Willamette Meridian, in HARNEY County, Oregon...
2. A portion of water right certificate number 64340 issued to HERB DAVIS, with a date of priority of 4-7-1981 for use of 0.69 cubic foot per second of water from 1 well (sources) for the purpose of IRRIGATION (uses) is appurtenant to my/our property;
3. I/We have abandoned any and all interest in the portion of this water right shown on the attached map and described as follows: The right to the use of cubic foot per second from 1 well for the irrigation of 31.4 acres located: NE 1/4 SE 1/4 31.4 Acres, 1/4 1/4 Acres, Section Township 26 N, Range 33 E/W, WM; and
4. I/We request that said portion of the right described above be canceled.
5. My/Our property is / is not within an irrigation district. If within, the name of the district is
6. There are/ are not encumbrance holders for my/our property. If there are, a list of encumbrance holders with their addresses is attached

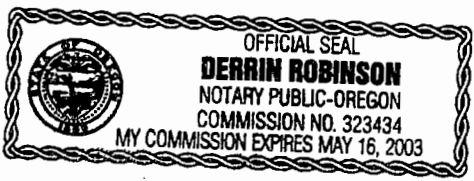
Signature of Legal Owner

11/3/99 Date

Signature of Co-Owner

11/3/99 Date

Subscribed and Sworn to Before Me this 3rd day of November 1999.



Notary Public for Oregon

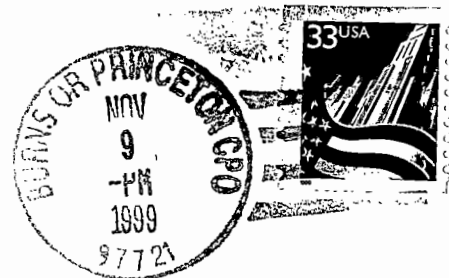
My Commission Expires 5/16/03

PLEASE ATTACH MAP AND DEED WITH LEGAL DESCRIPTION

entire w/ file G-14960



Mr. Elmer Watts
 HC 72 Box 120
 Princeton, OR 97721



Water Resources Dept,
 Commerce Building
 158 12th Street NE.
 Salem, OR 97301-4172

ATT.
 Anita Huffman

97301/4172



AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A WATER RIGHT CERTIFICATE

RECEIVED

APR 1 1999

WATER RESOURCES DEPT. SALEM, OREGON

State of Oregon)
County of Harney) ss

1/We, Marie, John, Elmer, Mary Watts, residing at HC 72 Box 12 B Princeton OR 97721, phone 541-493-4669 being first duly sworn depose and say:

- 4/We are the legal owner(s) of the property described as tax lot number 100, within the SE 1/4 1/4, Section 29, Township 26 N/S, Range 33 E/W, of the Willamette Meridian, in Harney County, Oregon, as shown on the attached map and described in the attached deed and legal description and made part of this affidavit;
- A portion of water right certificate number 64340 issued to Heub Davis & Sons, with a date of priority of 4-7-1981 for use of 0.007 cubic foot per second of water from Wells (sources) for the purpose of Irrigation (uses) is appurtenant to my/our property;
- 1/We have abandoned any and all interest in the portion of this water right shown on the attached map and described as follows:
The right to the use of .004 cubic foot per second from Wells for the irrigation of 34.0 acres located:
NE 1/4 SE 1/4 31.4 Acres
NW 1/4 SE 1/4 2.6 Acres
Section 29
Township 26 N/S, Range 33 E/W, WM; and
- 1/We request that said portion of the right described above be canceled.

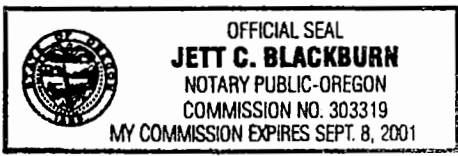
John D. Watts
Signature of Legal Owner

3-18-1999
Date

Elmer Watts
Signature of Co-Owner

3-18-1999
Date

Subscribed and Sworn to Before Me this 18 day of March, 1999.



Jett C. Blackburn
Notary Public for Oregon

My Commission Expires _____

PLEASE ATTACH MAP AND DEED WITH LEGAL DESCRIPTION

980740

APR 1 1999

WARRANTY DEED

WATER RESOURCES DEPT.
SALEM, OREGON

HERB DAVIS & SONS, an Oregon partnership, aka HERB DAVIS AND SONS, called Grantors herein, hereby convey and warrant to MARIE WATTS, called Grantee herein, the following described real property in Harney County, Oregon:

See attached Exhibit "A"

Tax: Code 4-2, Map Nos. 26-33, 26-33-29
Lots 5600, 100, 6900, 300, 7000, 3400, 3501, 3700, 201,
Ref. Nos. 10575, 10579, 10573, 11061, 10577, 10535, 92311,
10605, 12282

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this transfer is \$600,000.00, paid to an accommodator pursuant to an I.R.C. §1031 exchange.

Dated: April 24, 1998

Until further notice, send all tax statements to:
Marie S. Watts

HERB DAVIS & SONS

By: Herbert C. Davis
Herbert C. Davis

By: Herbert G. Davis
Herbert G. Davis

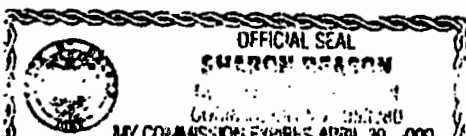
By: Thomas R. Davis
Thomas R. Davis

STATE OF OREGON)
) ss April 24, 1998.
County of Harney)

(For Recorder's Use)

This instrument was acknowledged before me by Herbert C. Davis and Herbert G. Davis and Thomas R. Davis, as partners of Herb Davis & Sons, the within named partnership on whose behalf this instrument was executed.

Sharon Pearson
Notary Public for Oregon
My commission expires 04-30-00



STATE OF OREGON)
County of Harney)
I certify that the within instrument was received for record on the 19 day of April, 1998, at 9:20 o'clock A.M. and recorded Mich. film number 980740 in the records of said County.
By: Marie Watts Deputy

980740

RECEIVED

APR 1 1999

EXHIBIT "A"

WATER RESOURCES DEPT.
SALEM, OREGON

Herb Davis & Sons to Watts

Land in Harney County, Oregon, as follows:

In Twp. 26 S., R. 33 E., W.M.:

Sec. 19: ~~SE~~

Sec. 28: ~~SW~~, ~~WSE~~

Sec. 29: ~~E~~~~NW~~, ~~W~~~~NE~~, ~~SE~~~~NE~~, ~~E~~~~SE~~, ~~NW~~~~SE~~

Sec. 33: ~~E~~, ~~NE~~~~NW~~.

SUBJECT TO: rights of the public in road and highways; right of way for road in favor of Harney County, Oregon; mineral reservations as reserved in deed from The Union Central Life Insurance Company recorded January 25, 1939, Book 38, Page 33, Harney County Deed Records; right of way for road in favor of harney County, Oregon, recorded January 8, 1954, Book 57, Page 497, Harney County Deed Records; mineral reservations as reserved in deed from James E. Dunn and Elizabeth M. Dunn recorded January 13, 1956, Book 61, Page 284, Harney County Deed Records; and geothermal reservations as reserved in deed from Kenneth M. Howser recorded January 11, 1990, Instrument No. 900051, Harney County Deed Records.

The above described property has been assessed for ad valorem tax purposes under the Farm Deferral method and Grantee covenants and agrees that should she fail to make application to continue the Farm Deferral method or should the property hereafter fail to qualify for Farm Deferral tax treatment or if for any reason a retroactive assessment of taxes with respect to the property is made, Grantee shall pay the same and shall hold Grantor and Grantor's predecessors harmless from any claim and demand for payment arising out of such retroactive assessment of taxes with respect to the property, whether or not such additional taxes, penalties or interest apply to tax years prior to the date of this deed.

	<u>WELL #3</u>	<u>WELL #5</u>
NE 1/4 SE 1/4		40.0 ACRES
NW 1/4 SE 1/4		2.6 ACRES
SW 1/4 SE 1/4		1.6 ACRES
SE 1/4 SE 1/4		11.4 ACRES
SECTION 29		

NE 1/4 NE 1/4	4.9 ACRES	
NW 1/4 NE 1/4	0.1 ACRE	12.8 ACRES
SW 1/4 NE 1/4	24.8 ACRES	
SE 1/4 NE 1/4	23.4 ACRES	
NE 1/4 NW 1/4		0.5 ACRE
NE 1/4 SE 1/4	0.2 ACRE	
NW 1/4 SE 1/4	35.2 ACRES	
SW 1/4 SE 1/4	21.6 ACRES	
SE 1/4 SE 1/4	0.3 ACRE	
SECTION 33		

	<u>WELL #2</u>	<u>WELL #4</u>
NE 1/4 NW 1/4		1.1 ACRES
NW 1/4 NW 1/4		2.9 ACRES
SW 1/4 NW 1/4		40.0 ACRES
SE 1/4 NW 1/4		38.0 ACRES
NE 1/4 SW 1/4		40.0 ACRES
NW 1/4 SW 1/4		40.0 ACRES
NE 1/4 SE 1/4	40.0 ACRES	
NW 1/4 SE 1/4	40.0 ACRES	
SW 1/4 SE 1/4	39.0 ACRES	
SE 1/4 SE 1/4	39.4 ACRES	
SECTION 34		

TOWNSHIP 26 SOUTH, RANGE 33 EAST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

STATE OF OREGON

COUNTY OF HARNEY

PROPOSED CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HERB DAVIS AND SONS
H.C. 72, BOX 120E
PRINCETON, OREGON 97721

confirms the right to use the waters of 4 WELLS in the MALHEUR LAKE BASIN for the purpose of IRRIGATING 677.8 ACRES.

The right has been perfected under Permit G-9324. The date of priority is APRIL 7, 1981. The right is limited to not more than 8.48 cubic feet per second, being 1.98 cfs from well 2, 1.38 cfs from well 3, 2.03 cfs from well 4, and 3.09 cfs from well 5, or its equivalent in case of rotation, measured at the well.

The wells are located as follows:

SE 1/4 SW 1/4, SECTION 28, NW 1/4 SE 1/4, SECTION 33, SW 1/4 NE 1/4, SW 1/4 SW 1/4, SECTION 34, , T 26 S, R 33 E, W.M.; WELL 2 - 2660 FEET NORTH AND 2670 FEET EAST; WELL 3 - 2560 FEET NORTH AND 2110 WEST; WELL 4 - 680 FEET NORTH AND 1320 FEET EAST, WELL 5 - 6500 FEET NORTH AND 2690 FEET WEST; ALL FROM THE SOUTHEAST CORNER OF SECTION 33.

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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right 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:

<u>WELL #3</u>	<u>WELL #5</u>
NE 1/4 SW 1/4	39.2 ACRES
NW 1/4 SW 1/4	35.2 ACRES
SE 1/4 SW 1/4	25.2 ACRES
NW 1/4 SE 1/4	38.8 ACRES
SW 1/4 SE 1/4	39.6 ACRES
SECTION 28	

SEE NEXT PAGE

T. 26S., R. 33E., W.M.

FINAL PROOF SURVEY UNDER

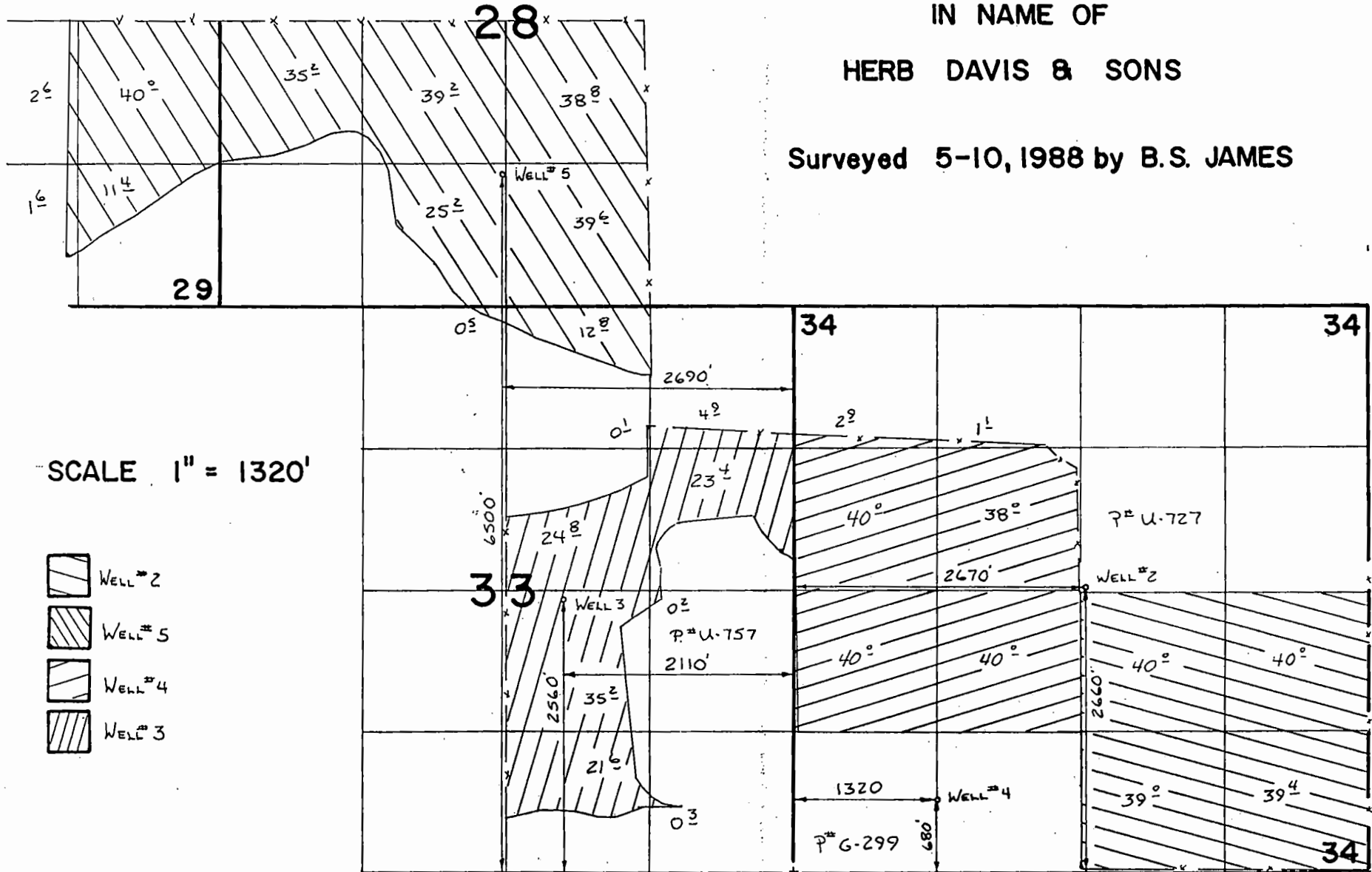
APPL. G-10258

PER. G-9324





IN NAME OF

HERB DAVIS & SONS

Surveyed 5-10, 1988 by B.S. JAMES



SCALE 1" = 1320'

-  WELL #2
-  WELL #5
-  WELL #4
-  WELL #3

MD
179-289D
86159

Application No. G-10258

Permit No. G 9324

RECEIVED
APR 7 1981
RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Ground Water

I, HERB DAVIS & SONS

H.C. 72 (Name of Applicant)

of P. O. BOX 120 E, PRINCETON

State of OREGON, 97721 (Zip Code) Phone No. 493-2538 do hereby

make application for a permit to appropriate the following described ground waters of the State of Oregon:

1. The development will consist of 4 wells

(Give number of wells, tile lines, infiltration galleries, etc.)

having a diameter of 2 - 90" N and an estimated depth of 3 - 2400 ft. W feet.

2. The well or other source is to be located 3 - 2400 ft. N and 130 ft. E

(N. or S.)

(E. or W.)

from the center S.E. corner of Section 34

(Public Land Survey Corner)

4 725' N 1390' E From the SW CORNER SECTION 34 being within

5 1300' N 2600' W From the SE CORNER SECTION 28 being within

SE 1/4 SW 1/4 SEC. 34 T26S R33E (If there is more than one well, each must be described)

SW 1/4 SE 1/4 SEC. 28 T26S R33E being within the SW NE

Sec. 34 Tp. 26 S R. 33 E, W. M., in the county of HARNEY

3. Location of area to be irrigated, or place of use if use other than irrigation.

Township	Range	Section	List 1/4 1/4 of Section	List use and/or number of acres to be irrigated
T26S	R33E	28	W 1/2 SE 1/4	80.0
"	"	"	NE 1/4 SW 1/4	37.5
"	"	"	NW 1/4 SW 1/4	28.0
"	"	"	SE 1/4 SW 1/4	24.2
"	"	29	NE 1/4 SE 1/4	40.0
"	"	"	SE 1/4 SE 1/4	14.0
"	"	33	NW 1/4 NE 1/4	12.0
"	"	"	SW 1/4 NE 1/4	18.4
"	"	"	SE 1/4 NE 1/4	23.4
"	"	"	NE 1/4 NW 1/4	1.0
"	"	"	NW 1/4 SE 1/4	35.2
"	"	"	SW 1/4 SE 1/4	38.4
"	"	"	SE 1/4 SE 1/4	9.2
"	"	34	S 1/2 NW 1/4	80.0
"	"	"	N 1/2 SW 1/4	80.0
"	"	"	SE 1/4	160.0
Total				681.3

well #1
well #3
well #5
well #4
well #2

4. It is estimated that 2 - 40" feet of the well will require 2 - 16" steel casing.

5. Depth to water table is estimated 3 - 30" Well drilled by Rich Norblack (ind)

(Feet)

41025-179-2892
5-10-81 B5D

Permit to Appropriate the Public Waters of the State of Oregon

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING MINIMUM FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 8.5 cubic feet per second measured at the point of diversion from the well or source of appropriation, or its equivalent in case of rotation with other water users, from four wells, being 2.0 cfs from Well 2, 1.55 cfs from Well 3, 2.0 cfs from Well 4 and 2.95 cfs from Well 5.

The use to which this water is to be applied is irrigation

If for irrigation, this appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year;

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

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

The works constructed shall include an air line and pressure gauge or an access port for measuring line, adequate to determine water level elevation in the well at all times.

The permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn.

The priority date of this permit is April 7, 1981

Actual construction work shall begin on or before June 15, 1982 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1982

Complete application of the water to the proposed use shall be made on or before October 1, 1983

WITNESS my hand this 15th day of June, 1981

James E. Seaman
Water Resources Director

01
2604
492

RAY B

G-10258

PERMIT G-9324

INFO: HERB DAVIS GAVE US TOUR OF COMPLETED OPERATION.

PUMP FROM EACH WELL TO EACH AREA AS DESCRIBED ON ADDL. MAP.

AREA IN SW⁴ SE⁴, SOUTH END IS FEED LOT ; CORRAG. MR. DAVIS REQUESTED THIS BE TAKEN OUT. ALSO, DRY AREA IN SE⁴ NW⁴ (NE COR. OF 40) IS SAGE BRUSH, REVISED ADDRESS IS: H.C. 72 BOX 120E.

SOURCES: 4 WELLS. = #2, #3, #4, #5

WELLS:

	#2	#3	#4	#5
CASING:	16"	14"	12"	16" ORIGINAL DRILL @ 250' 55' NOW
DEPTH:	100'	110'	95'	12'
S.W.L.:	28'	28'	20'	12'
Q-FLOW:	1800 gpm	1160 gpm	1060 gpm	1320 gpm
BOWLS:	@ 65'	@ 65'	@ 45'	@ 45'
DRILLED BY:	NORBLOCK	JACK McCLORE	→	→
YEAR DRILLED:	1955	1954	1955	1955

WELLS # 2 ; #3 ARE TEST WELLS AND MEASURED BY WATERMASTER FOR WELL NET - OWNER STATED.

ALL WELLS HAVE ACCESS PORT FOR MEASURING.

PUMP DIRECT FROM ~~WELLS~~ WELLS THRU MAIN LINES TO WHEEL LINES WITH SPRINKLERS.

TRUBINE

BOOSTER.

MOTORS: G.E., 30 H.P. @ 1765 rpm. (#2 WELL + ~~2~~ 30 H.P. @ 3450 C.P.D. TRUBINE BOOSTER
 #3) " , 25 H.P. @ 3450 rpm. , + 30 H.P. @ 3450 C.P.D. (#3 WELL BOOSTER
 #4) G.E., TRUBINE, 30 H.P. @ 3450 rpm, + BOOSTER 30 H.P., C.P.D. (#4 WELL
 #5 G.E., TRUBINE, 25 H.P. @ 1765. NO BOOSTER.

PUMPS: #2) JOHNSON, TRUBINE, 8" OUTLET ; BOOSTER, BERKELEY, 5" X 4", C.P.D.
 #3) BERKELEY, " 8" OUTLET ; C.P.D. 5" X 4"
 #4) BERKELEY, " 8" OUTLET ; C.P.D. 5" X 4"

PUMPS (CONT.): #5) JOHNSON, TURBINE, 4" OUTLET.

PIPE: #2 = 8 WHEEL LINES @ 1320' WITH 33 SPRINKLERS
ON EACH LINE RUNNING @ 5 G.P.M.
PSI @ ±30. RB 30'S = $\frac{3}{16} \times \frac{5}{32}$ NOZZLES

*3 = 5 WHEEL LINES @ 1320' WITH 33 SPRINKLERS
ON EACH LINE RUNNING @ 5 G.P.M. +
22 HAND LINE SPRINKLERS.
RB-30'S = $\frac{3}{16} \times \frac{5}{32}$

*4 = 6 WHEEL LINES @ 1320' WITH 33 SPRINKLERS
ON EACH LINE RUNNING @ 5 G.P.M.
RB-30'S = $\frac{3}{16} \times \frac{5}{32}$

*5 = 8 WHEEL LINES @ 1320' WITH 33 SPRINKLERS
ON EACH LINE RUNNING @ 5 G.P.M.
RB-30'S = $\frac{3}{16} \times \frac{5}{32}$. AVERAGE 30 PSI @ PUMP.

MAIN LINE: 12" PVC @ WELL #2
8" & 5" PVC @ WELL #3
6" @ WELL #4
8", 6" & 5" @ WELL #5

$$Q_{ACRES} = \frac{211.7}{80} = 2.64$$

$$Q_P = \frac{75(7.07)}{15 + 1.1(2.7)(30)} = 5.8$$

$$Q_H \text{ 1320} = 2.9$$

$$Q_{ALLOW} = 2.64$$

$$Q_4 = \frac{162}{80} = 2.02$$

$$Q_P = \frac{60(204)}{20 + 1.1(2.7)(45)} = 3.1$$

$$Q_H \text{ 1060} = 2.3$$

$$Q_{ALLOW} = 2.0$$

$$Q_3 = \frac{110.5}{80} = 1.38$$

$$Q_P = \frac{55(7.04)}{30 + 1.1(2.7)(55)} = 2.2$$

$$Q_H \text{ 1160} = 2.58$$

$$Q_{ALLOW} = 1.38$$

$$Q_{H.2} = \frac{188.4}{80} = 2.35$$

$$Q_P = \frac{110(204)}{30 + 1.1(2.7)(55)} = 4.5$$

$$Q_H \text{ 1800} = 4$$

$$Q_{ALLOW} = 2.198$$

USE: PASTURE, HAY, & ALFALFA.

LIFT: SEE WELL INFO.

DISCHARGES ALL @ GROUND LEVEL

TIE: 41025-179-2896

Blue Jay
F.I.



CASIN: 16"
 Q PLAN: 1320 GPM.
 WHEEL: SNL: 12', LIFT: 55'

DEPTH: 250' ORIGINAL
 (55') (SAND FILL)
 1955
 ORIGINAL
 51000
 1955
 McClellan
 411

T265 R33E
 1" = 1320'
 HARNEY CO.

HERB DAVIS & SONS

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 APR 7 1981

WATER RESOURCES DEPT
 SALEM, OREGON
 LIFT: PUMP: 30'

S.M.C.: 28'
 Well No 2

Well No 3

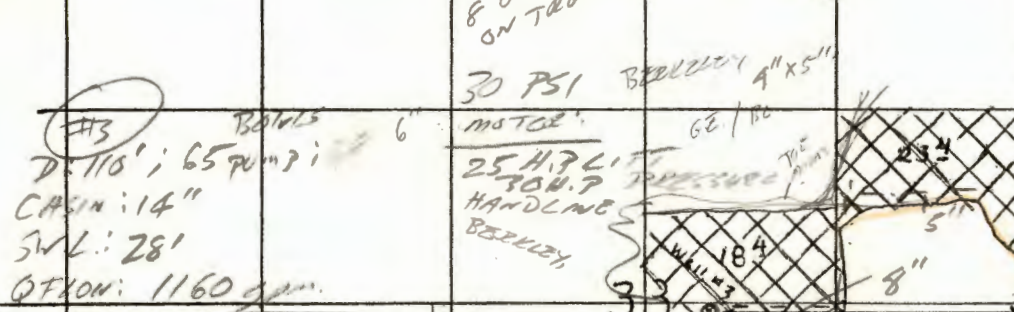
Well No 4

Well No 5



30 PAVEMENT
 (50 H.P. PUMP)
 BONAS @ 65'

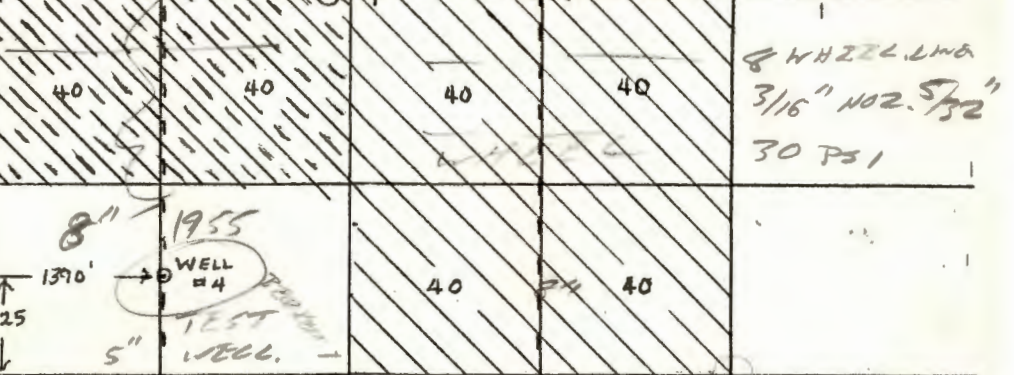
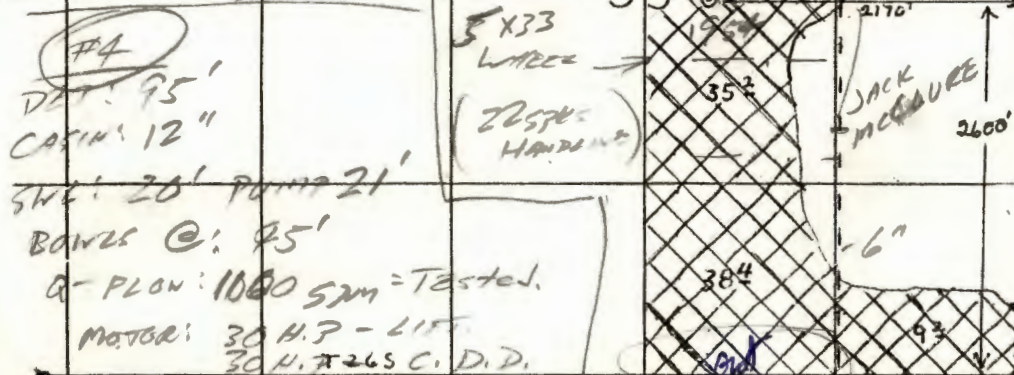
100' Depth
 CAS - 16" 65'
 1800 GPM.



33 X 5 1/2" X 6"
 (5 G.P.M.)
 6 WHEELS - 30 PSI

70' N
 130' E
 From Center
 sec 34
 WELL # 2
 6" - 12"

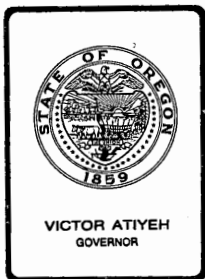
TEST,
 (WELL NOT #2)
 (NOBNOCK)
 30 H.P. G. P.D.
 (1955)



RECEIVED
 APR 20 1981
 WATER RESOURCE DEPT
 SALEM, OREGON

Application No. G 10258
 Permit No. G 9324

Well #1



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8508 or
1-800-452-7813

June 5, 1981

Herb Davis and Sons
Princeton, OR 97721

Gentlemen:

Your Application G-10258, describing the use of 8.5 cubic feet per second of water from four wells for the irrigation of 681.3 acres, map and fees of \$225.60, has been reviewed. Our Receipt 23537 is enclosed.

It will be necessary for you to define which wells serve which lands on the application and map. I have indicated in pencil which lands are served by which wells on your application and map per our telephone conversation of June 1, 1980. You should examine the corrections carefully. If you agree you should make the corrections in ink.

Also the duty of water described by Item 6 should further define the amount from wells 3 and 5 to the hundredth of a cubic foot per second being 1.55 cfs from Well 3 and 2.95 cfs from Well 5.

I am returning your application and map for correction and completion. This application is endorsed so that in order to retain its priority date it must be received in this office on or before August 5, 1981.

Sincerely,

STEPHEN C. BROWN
Water Rights Engineer

DRB:wpc
enclosures
5326A

COPY

June 19, 1981

Herb Davis and Sons
PO Box 120 E
Princeton, Oregon 97721

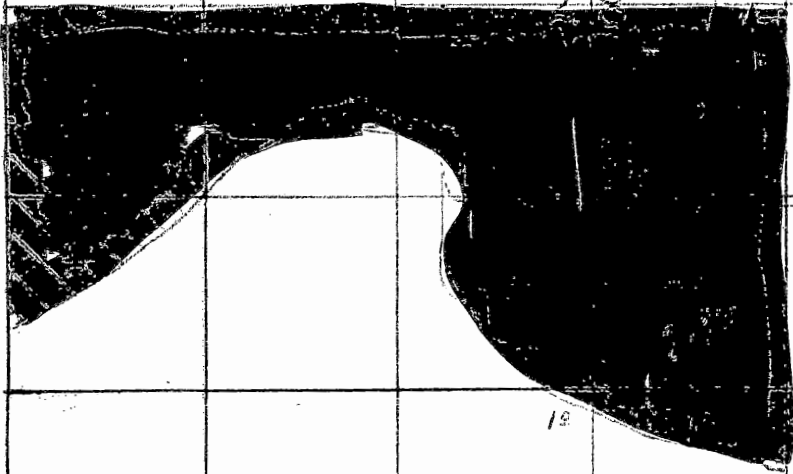
G-10258

G-9324.

HERB DAVIS & SONS

T26S R33E
1" = 1320'
HARNEY CO.

File
COPY



27

Well #1

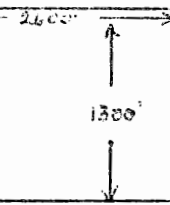
Well #3

Per PHONE
CALL 6-1-81

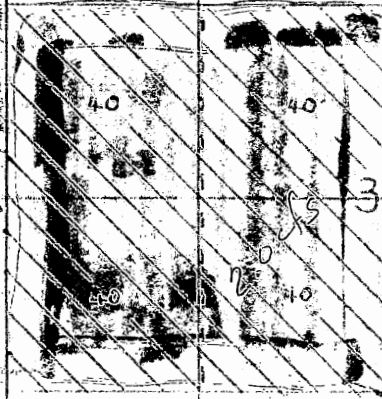
Well #4

Alphon

Well #2

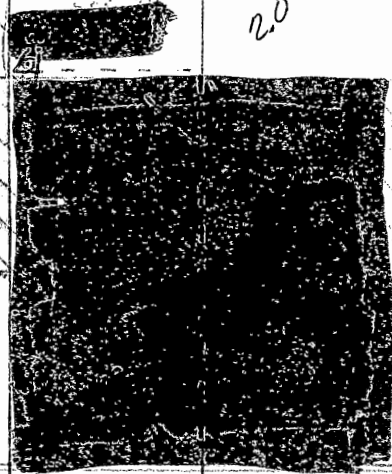


19

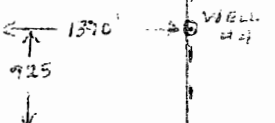


70' W
130' E
From Center

20 cfs



T26S
R279



County Road

Application No. G 16238
Permit No. G 9324

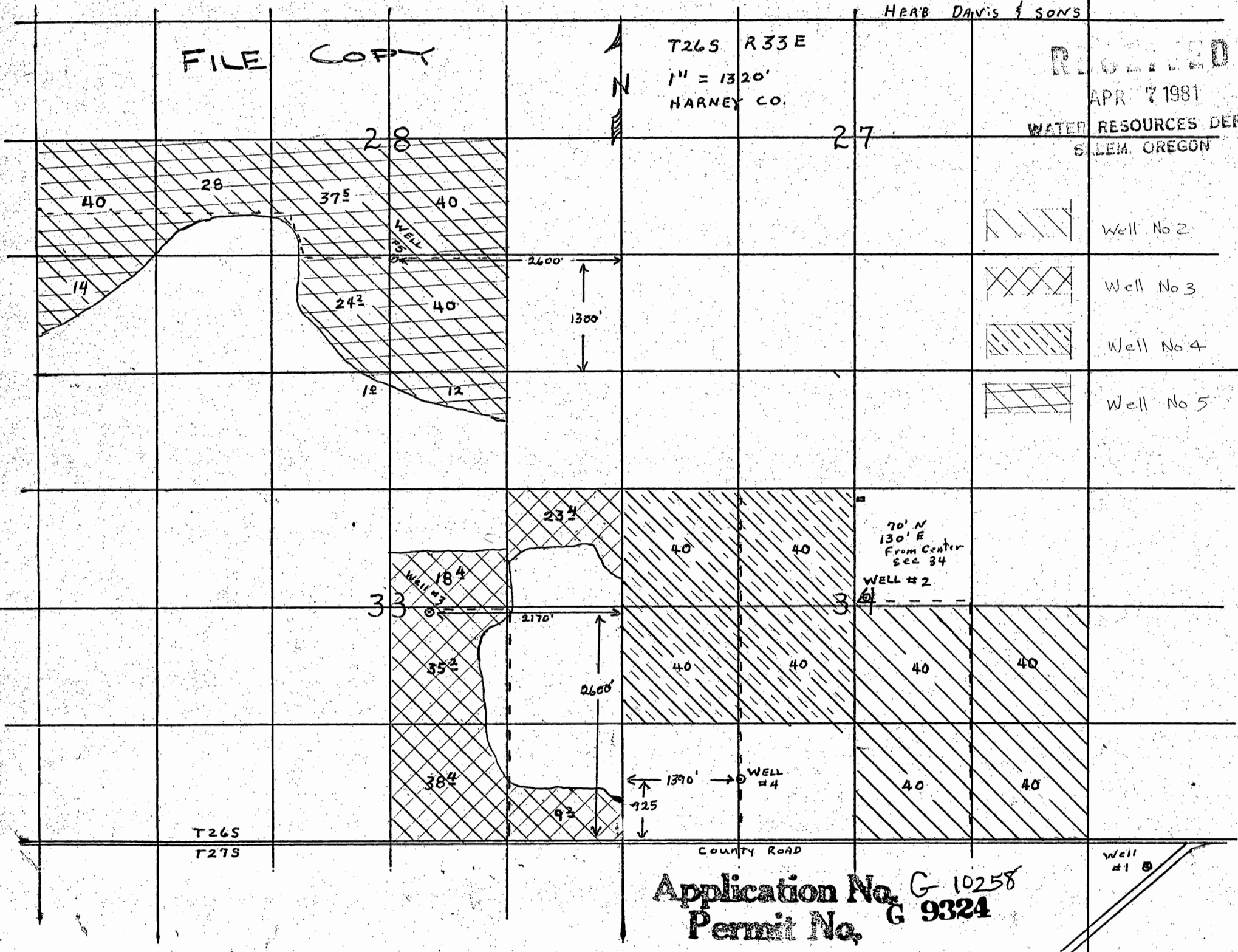
Well #1

FILE COPY

T26S R33E
1" = 1320'
HARNEY CO.

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APR 7 1981

WATER RESOURCES DEPT
SELEM. OREGON



T26S
T27S

COUNTY ROAD

Application No. G 10258
Permit No. G 9324

Well #1

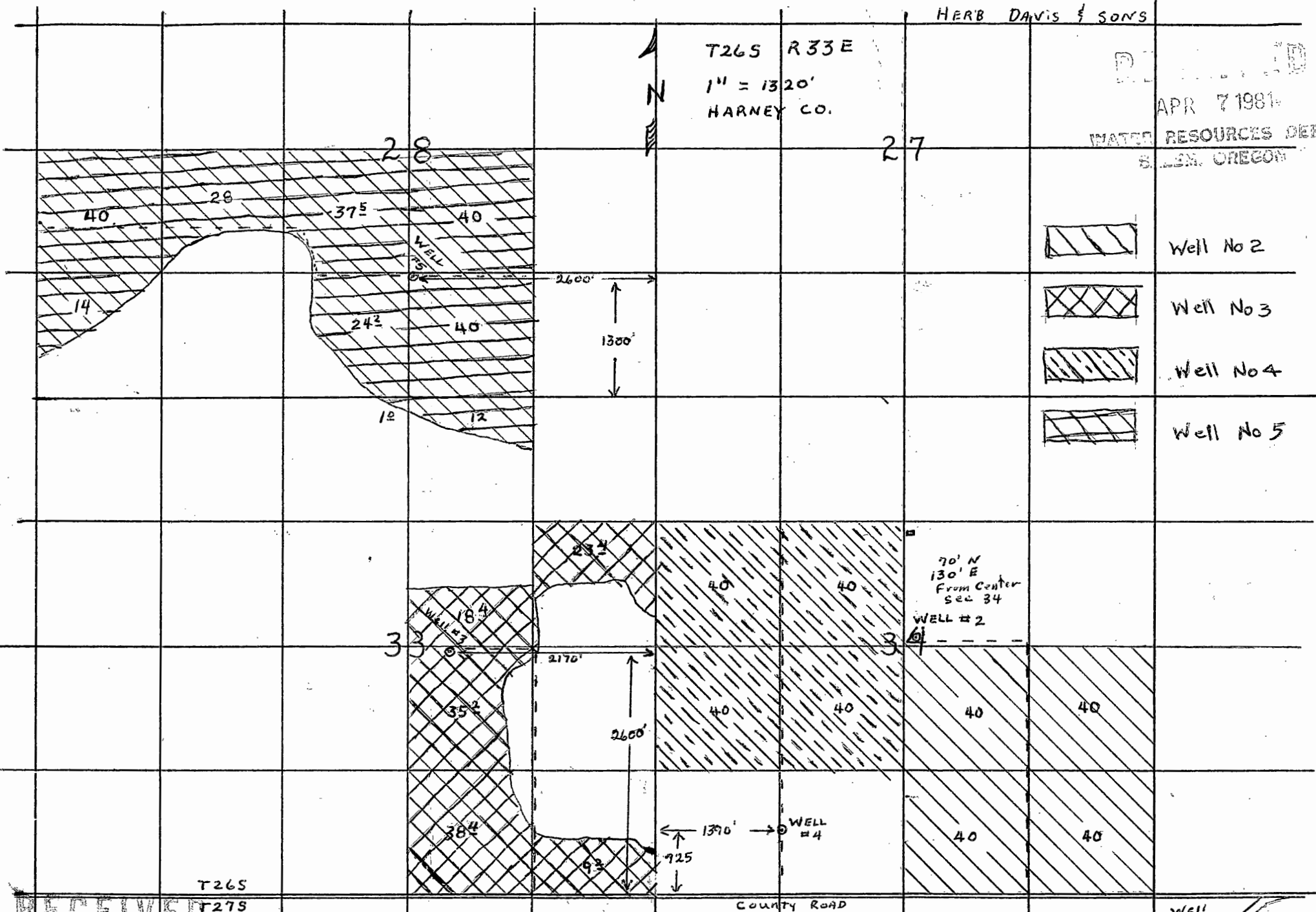
HERB DAVIS & SONS

T26S R33E
1" = 1320'
HARNEY CO.

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APR 7 1981

WATER RESOURCES DEPT
S. LEM. OREGON



RECEIVED

JUN 20 1981

WATER RESOURCES DEPT

Application No. G-10258
Permit No. G-9324

Well #1