WATER-RIGHT DOCKET

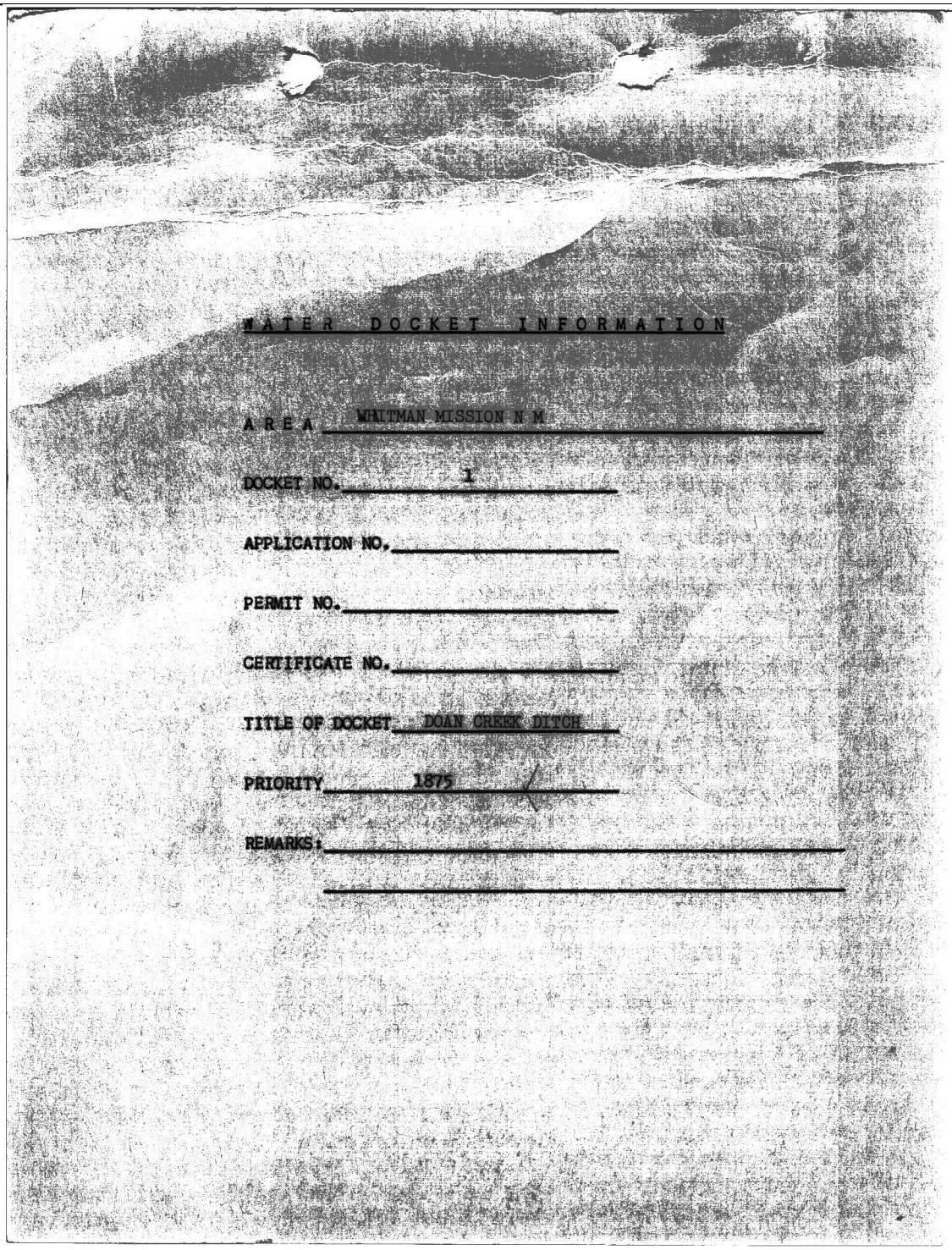
Whitman Mission National Historic Site

Docket No: 1

DOAN CREEK DITCH

Preliminary Docket Information

00-00-0000: water docket information



WATER DOCKET INFORMATION

AREA WHITMAN MISSION N M

DOCKET NO. 1

APPLICATION NO.

PERMIT NO.

CERTIFICATE NO.

TITLE OF DOCKET DOAN CREEK DITCH

PRIORITY 1875

REMARKS:

Land History

JUL 2 '80

NPS-PNRO	Init.
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DD	
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OPA	
DEO	
Central File	
Action Take	

United States Department of the Interior

NATIONAL PARK SERVICE
Whitman Mission National Historic Site
Route 2
Walla Walla, Washington 99362

IN REPLY REFER TO:
L1429(PNR-AC)

June 27, 1980

Memorandum

To: Associate Regional Director, Administration
Pacific Northwest Region

From: Acting Superintendent, Whitman Mission National Historic Site

Subject: Reconciliation of Whitman Mission NHS Land Account

(1) A search of our records and the records on file at the Walla Walla County Courthouse with the following results:
In reference to item #1, Water Right Application no. 5904, Permit no. 565 dated 7/10/63.
Master Deed Listing, not listed; the records at Whitman Mission contain a copy of the application , as well as the Permit to appropriate Public Ground Waters of the State of Washington. Copies of these are enclosed.

(2) We tried to reconsile the other items with only moderate success. A search was made of the County records with the results listed as follows:
NPS/PNRO Property Records Deed 3, Decreed Water Right, Doan Creek, Priority of 1875-$100.00 cost.
Master Deed Listing Deed 3, Tract 3, Donated Water Right, Centennial Corp. 1923 - N/C.
No record of cost was found.

(3) NPS/PNRO Property Records - Deed 4, Water Right - Well appurtenant to land described in Deed No. 2 - $50.00 cost.
Master Deed Listing - Deed 4 - Landowner's name unknown - 02-31-00 - N/C.
No record was found.

(4) Deed 1, Tract 01-101: MDL shows donated at N/C; PR (Property Records) show donated at cost of $10,000.00.

The deed as recorded at Walla Walla County Court House says in part: "Grants - Whitman Centennial, Incorperated, a Corporation, organized and existing under and by virtue of the laws of the state of Washington, for and in consideration of the sum of ten dollars, does hereby convey and warrant to the United States of American, the following described real estate in the County of Walla Walla, State of Washington."

No mention of $10.000.00 is made. After checking with the County Treasurer, it seems that since government property is exempt from taxes, there is no record in the County records of actual cost of the land. Those spoken to at

the Auditor's Office, were of the opinion that the $10.00 mentioned was the cost and in effect the land was donated.

(5) Deed 2, Tract 01-102: MDL shows donated at N/C; PR shows donated at $217.75 cost.

Deed #2 says that the "Walla Walla Trust Foundation, which decree is by reference made a part hereof, do hereby Grant, Bargain, Sell, and Convey unto the United States of America the following described real estate"....It gives the land description and then ends, "Together with all water and water rights appurtenant thereto."

This last statement could also resolve item #3.

Here again the opinion of those at the Auditor's office is that the land was donated at no charge.

(6) Deed 6, Tract 01-104: MDL shows donated at N/C; PR shows donated at $3,260 cost.

The deed as recorded says the county gave the land for the road into the park for the sum of $1.00. After reading the deed, talking to a gentleman in the County Treasurers Office, who checked the County Commissioners proceedings for August, 1961, being introduced to the County Engineer, who opened his files, there is no doubt that the County purchased 8 parcels of land, and donated them for the sum of one dollar to the U.S.A..

Although we have not been able to reconcile all the discrepancies in the property listings, we hope we have been of some help.

David E. McGinnis

03-26-1980: memorandum to superintendent from associate regional director regarding reconciliation of whitman mission national

United States Department of the Interior

NATIONAL PARK SERVICE

Pacific Northwest Region
Fourth and Pike Building
Seattle, Washington 98101

IN REPLY REFER TO:
L1429(PNR-AC)

March 26, 1980

DATE
K 3/28
Don 6/15
file
DATE REC'D MAR 28 1980

Memorandum

To: Superintendent, Whitman Mission National Historical Site

From: Associate Regional Director, Administration, Pacific Northwest Region

Subject: Reconciliation of Whitman Mission National Historical Site Land Account

We would like to solicit your cooperation in reconciling the General Ledger Account 200, Real Property Records, with the data contained in the Master Deed Listing.

In the matter of acreage quantities, the Master Deed Listing and the property card total, as reported on GSA Form 1166 "Annual Report of Real Property Owned by the United States," are in agreement. There are, however, discrepancies in land costs and other differences, particulars of which are as follows:

(1) NPS/PNRO Property Records
Water Right Application No. 5904, Permit No. 5655 Dated 07/10/63.

Master Deed Listing
Not listed.

(2) NPS/PNRO Property Records
Deed 3, Decreed Water Right, Doan Creek, Priority of 1875 - $100.00 cost.

Master Deed Listing
Deed 3, Tract 3, Donated Water Right, Centennial Corp. 1923 - N/C.

(3) NPS/PNRO Property Records
Deed 4, Water Right - Well appurtenant to land described in Deed No. 2 - $50.00 cost.

Master Deed Listing
Deed 4 - Landowner's name unknown - 02-31-00 - N/C

Year of the Visitor

(4) Deed 1, Tract 01-101: MDL shows donated at N/C; PR (Property Records) show donated at cost of $10,000.00.

(5) Deed 2, Tract 01-102: MDL shows donated at N/C; PR shows donated at $217.75 cost.

(If (3) above stems from this transaction, it should so reflect.)

(6) Deed 6, Tract 01-104: MDL shows donated at N/C; PR shows donated at $3,260 cost.

By copies of this letter, we are asking for assistance from the Regional Land Acquisition Office and from the Washington Office in the event you are not able to furnish the required information.

Please refer any questions to A. Hansvold, Property Management Branch, FTS 399-5409, commercial 206-442-5409.

W. C. Quick

P46

CERTIFICATE OF TITLE

Whitman Mission

WASHINGTON TITLE INSURANCE COMPANY

719 Second Avenue
Seattle 4, Washington

NO. Y-4253

TO THE UNITED STATES OF AMERICA:

The Washington Title Insurance Company, a Corporation, organized and existing under the laws of the State of Washington, with its principal office in the City of Seattle, State of Washington, hereby certifies that it has made a thorough search of the title to the property described in SCHEDULE "A" hereof, and that the title to said property was indefeasibly vested in fee simple of record in:

UNITED STATES OF AMERICA,

by deed recorded in volume 299 of deeds, page 170, under auditor's file No. 432600,

as of the 18th day of December, 19 61, at 8 o'clock A. M., free and clear of all encumbrances, defects, interests and all other matters whatsoever, either of record or otherwise known to the Corporation, impairing or adversely affecting the title to said property, except as shown in SCHEDULE "B" hereof.

The maximum liability of the undersigned under this certificate is limited to the sum of

ONE THOUSAND EIGHTY-FIVE DOLLARS.

In consideration of the premium paid, this certificate issued for the use and benefit of the United States of America.

IN WITNESS WHEREOF, said Corporation has caused these presents to be signed in its name and behalf, sealed with its corporate seal, and delivered by its proper officers thereunto duly authorized as of the date last above mentioned.

WASHINGTON TITLE INSURANCE COMPANY

By: W. J. Noel
Vice President

Attest:
E. S. Dean
Assistant Secretary

This certificate consists of pages which are numbered at end of each page

Page 1 of Certificate No. Y-4253

P46-1

WASHINGTON TITLE INSURANCE COMPANY

SCHEDULE "A"

The property covered by this certificate is accurately and fully described as follows:

The following described real estate, situate and being in the County of Walla Walla, State of Washington, to wit:

PARCEL a:

Beginning at the point of intersection of the west line of Section 32 in Township 7 north, of Range 35 east of the Willamette Meridian, with the southerly right of way line of Primary State Highway No. 3, and running thence westerly, along the southerly right of way line of said State Highway, a distance of 37.6 feet to a point which is the true point of beginning for this description; thence south 00° 15' west, parallel to the west line of said Section 32, a distance of 610.1 feet; thence north 2° 05' west to a point in the southerly right of way line of said Primary State Highway No. 3, which is 31.5 feet westerly, along said southerly right of way line, from the said true point of beginning; thence easterly, along said southerly right of way line, a distance of 31.5 feet to the true point of beginning.

PARCEL b:

Beginning at the point of intersection of the southerly right of way line of Primary State Highway No. 3 with the east line of Section 31 in Township 7 north, of Range 35 east of the Willamette Meridian, which point is 365.9 feet south, measured along said east line, from the northeast corner of said Section 31, and running thence south 00° 15' west, along the east line of said Section 31, a distance of 1199.4 feet; thence northerly to a point which is 35.0 feet westerly at right angles from said east line of said Section 31, said point being 989.7 feet south of said northeast corner of said Section 31; thence northerly, along a line which is parallel to and 35 feet westerly, measured at right angles to said east line of said Section 31, a distance of 610.1 feet, to a point in the southerly right of way line of Primary State Highway No. 3; thence easterly, along said southerly right of way line, a distance of 37.6 feet, more or less, to the true point of beginning.

PARCEL c:

Beginning at the point of intersection of the west line of Section 32 in Township 7 north, of Range 35 east of the Willamette Meridian, with the northerly right of way line of the Oregon-Washington Railroad & Navigation Company, which point is

1734.7 feet south, measured along said section line, from the northeast corner of said Section 32, and running thence easterly, along the northerly right of way line of said Railroad, a distance of 90.4 feet; thence north 9° 42' west 13.74 feet; thence on a curve to the right having a radius of 2835.0 feet, through a central angle of 6° 29' a distance of 320.8 feet; thence on a tangent to the aforementioned curve, north 3° 13' west, a distance of 356.74 feet; thence on a curve to the right having a radius of 5700.0 feet through a central angle of 1° 08' a distance of 112.73 feet; thence on a tangent to said curve, north 2° 05' west, a distance of 565.2 feet, more or less, to a point in the southerly right of way line of Primary State Highway No. 3; thence westerly, along the southerly right of way line of said highway to a point where the same intersects the west line of said Section 32; thence south 00° 15' west, along the west line of said Section 32, a distance of 1368.8 feet, more or less, to the point of beginning.

There is excepted therefrom a triangular strip of land lying westerly of the westerly right of way line of said Whitman National Monument Road, a 60 foot wide County Road No. 938, and northerly of the northerly right of way line of the Oregon-Washington Railroad & Navigation Company and easterly of the west section line of said Section 32.

PARCEL d:

Beginning at the point of intersection of the southerly right of way line of the Oregon-Washington Railroad & Navigation Company with the west line of Section 32 in Township 7 north, of Range 35 east of the Willamette Meridian, which point is 1794.7 feet south, measured along said west line, from the northwest corner of said Section 32; thence easterly, along the southerly right of way line of said railroad, a distance of 39.34 feet to a point in the westerly right of way line of the Whitman National Monument Road which is the true point of beginning for this description; thence south 9° 42' east, along the westerly right of way line of the aforesaid road, a distance of 1000.8 feet; thence on a curve to the right having a radius of 1607.1 feet, a distance of 479.3 feet; thence easterly at right angles from a tangent ahead which bears south 7° 26' west, a distance of 30.0 feet; thence north 00° 45' east 571.0 feet, to the point of intersection with the easterly right of way line of the aforesaid road; thence north 9° 42' west, along said easterly right of way line, a distance of 154.0 feet; thence easterly at right angles from said easterly right of way line,

a distance of 30.0 feet; thence north 00° 45' east a distance of 52.0 feet; thence southwesterly a distance of 39.0 feet to a point on said easterly right of way line of the aforesaid road; thence north 9° 42' west a distance of 697.45 feet to the southerly right of way line of the aforesaid railroad; thence westerly, along the southerly right of way line of said railroad, a distance of 60.72 feet, more or less, to the said true point of beginning.

There is excepted therefrom all that portion of land lying southerly of a line, said line being the westerly extension of the southerly right of way line of Eell's Road a 60 foot wide County Road No. 13; there is also excepted therefrom all that portion of land lying easterly of the easterly right of way line of Whitman National Monument Road, a 60 foot wide County Road No. 938.

PARCEL e:

Beginning at the point of intersection of the west line of Section 32 in Township 7 north, Range 35 east of the Willamette Meridian, with the southerly right of way line of the Oregon-Washington Railroad and Navigation Company, which point is 1794.7 feet south, measured along said section line, from the northwest corner of said Section 32, and running thence easterly, along the southerly right of way line of said railroad, a distance of 266.0 feet; thence south 00° 45' west 897.1 feet to the point of intersection with the easterly right of way line of the Whitman National Monument Road, which point of intersection is the true point of beginning for this description; thence south 9° 42' east 84.0 feet; thence on a curve to the right having a radius of 1667.1 feet, a distance of 216.0 feet; thence south 86° 24' east a distance of 256.4 feet; thence in a westerly direction on a curve to the left having a radius of 316.5 feet, a distance of 375.0 feet; thence north 00° 45' east 496.0 feet, more or less, to the said true point of beginning.

There is excepted therefrom all that portion of land lying southerly of a line, said line being the easterly extension of the northerly right of way line of EEll's Road, a 60 foot wide County Road No. 13.

The southerly 30 feet of the following described tract of land, said 30 feet being the northerly 30 feet of the EEll's County Road No. 13, to wit: beginning at a point in the south line of the O.W.R.& N. Co.'s right of way which bears south 19.78 chains and south 88° 12' west 25.92 chains from the

northeast corner of the Whitman Mission Donation Claim No. 38 in Section 32 of Township 7 north, Range 35 east of the Willamette Meridian, and running thence south 88° 12' west, along the south line of said right of way a distance of 30 feet at right angles from the center line of railroad track, a distance of 20.18 chains; thence south 0° 8' east (Deed Br.) (Engr. Br. S. 0° 45') 18.96 chains; thence south 87° 56' east 20.14 chains, more or less, to a point in a line drawn parallel to the east line of said Whitman Mission Claim and through the point of beginning; thence north on said parallel line a distance of 20.20 chains to the point of beginning.

PARCEL f:

The northerly 30 feet, being 17.44 chains in length lying easterly of the westerly line of the following described parcel of land, said 30 feet wide strip being the southerly half of Eell's Road, County Road No. 13, to wit: beginning at a point which bears north 20.0 chains and south 89° 06' west 24.4 chains from the southeast corner of Whitman Mission Claim No. 38 in Section 32 of Township 7 north, Range 35 east of the Willamette Meridian, and running thence south 89° 06' west, parallel with and distant 20.00 chains at right angles from south line of said Claim, 18.90 chains; thence north 00° 20' west 20.65 chains; thence south 87° 56' east 17.44 chains; thence south 50 links; thence south 87° 26' east 1.5 chains; thence south, parallel with east line of said Claim, 19.23 chains to the true point of beginning.

The northerly 30 feet of the following described parcel of land, said 30 feet being the southerly half of the Eell's County Road No. 13, to wit: Begin at a point in the south line of O. W. R. & N. Co.'s right of way which bears south 88° 12' west 25.92 chains from a point on the east line of Whitman Mission Claim No. 38, in Section 32 of Township 7 north, Range 35 east of the Willamette Meridian, which is 19.78 chains south of northeast corner of said Donation Claim; thence south 88° 12' west, along south line of said right of way a distance of 30 feet south at right angles from the center of the railroad track, a distance of 20.18 chains; thence south 0° 8' east (Deed Br.) Engr. Br. S. 0° 45' W.) 18.96 chains to a point, which is true point of beginning for tract described. From the true point of beginning so ascertained run south 00° 20' east 20.67 chains to a point 20 chains north of south line of said Donation Claim; thence north 89° 06' east, parallel with and distant 20 chains

north at right angles from said south line, a distance of 2.70 chains; thence north 00° 20' west 20.65 chains; thence west 2.70 chains, more or less, to the point of beginning.

P46-2

WASHINGTON TITLE INSURANCE COMPANY

SCHEDULE "B"

The property described in SCHEDULE "A" hereof is free and clear from all interests, encumbrances and defects of title and all matters whatsoever, of record, or which, though not of record, are known to the Corporation to exist impairing or adversely affecting the title to said property, except the following:

1. All taxes including any special assessments against the foregoing land, up to and including the year 1961, have been paid, except as follows:

2. Easement as granted by Lucinda Swegle, for herself and as guardian of Albert J. Swegle, a minor, and M. W. Swegle, to F. D. Boyer by deed recorded May 22, 1893, in volume 53 of deeds, page 557, as follows:

A right of way thirty feet wide, beginning at a point at or near the mouth of Mill Creek, and a right to construct and maintain a ditch, canal or flume for the purpose of conveying water over and across the following described land situate, lying and being in the County of Walla Walla and State of Washington, to wit: 640 acres known as the Whitman Mission Farm, commencing at a point 5.75/100 chains south of the half mile or quarter section stake on the south side of Section 31, Township 7 north, of Range 35 east; thence running east 90 chains; thence north 80 chains; thence west 50 chains; thence south 20 chains; thence west 40 chains; thence south 60 chains to the place of beginning, upon the payment of the further sum of one hundred dollars per acre, for the amount of land actually occupied by said ditch and right of way, said amount to be paid at the time construction is begun upon the said ditch and the right to take the water from the Walla Walla River or its tributaries at the said point or on or above the above described lands to supply said, or any other ditch, canal, or flume with water for the purpose of irrigation.

To have and to hold the same and every part thereof unto said party of the second part, his heirs, executors and assigns forever. And the right to pass and repass over and across the said premises, or any part thereof in building, using or repairing said ditch, canal or flume, reserving, however, to the said parties of the first part the right to take any or all of the water required to irrigate the above described land, and also agreeing and binding the party of the second part to build and maintain a bridge forever of sixteen feet in width over said ditch or canal when constructed.

(Affects Parcel e)

3. Easement as granted by V. E. Brown and Jennie Brown, husband and wife, to Howard R. Keylor by deed dated June 7, 1900, filed for record May 9, 1902, and recorded in volume 82 of deeds, page 521, a copy of which is hereto attached.
(Affects Parcel c)

4. Easement as granted by Verner Brown and Jennie Brown, his wife, to J. L. Barrett, by deed dated May 16, 1904, recorded January 10, 1906, in volume 99 of deeds, page 321, a copy of which is hereto attached.
(Affects Parcel c)

5. Easement as granted by Margaret J. Smith, a widow, to H. R. Keylor by deed dated May 20, 1903, recorded January 13, 1906, in volume 93 of deeds, page 174, as follows:
A strip of land 5 feet in width, being $2\frac{1}{2}$ feet on either side of the center line: commencing at the Section line between Sections 31 and 32 in Tp. 7 N., R. 35 E.W.M., and running thence west on the line as surveyed and located over, through and across Lots 5 and 6 of Sec. 31 in Tp. 7 N., R. 35 E.W.M.
It is the intention of the parties hereto to grant to the said second party a right of way for an irrigation ditch, over, through and across the above described lands, together with right of ingress and egress at all times along said right of way to keep said ditch in repair. The said second party or his heirs, executors and assigns, shall at all times, at his own costs and expense keep said ditch in repair, and he shall not cause or suffer to be caused or done any waste or damage by over flow or otherwise. And said first party reserves at all times an undivided one-half interest in the said irrigation ditch, and the water tobe flowed therein. Provided that in the event of first party desiring to flow water in the said ditch, and the same is required to be enlarged, one-half of the additional costs of enlarging and maintaining shall be borne by first party.
And when the said strip of land shall cease to be used for an irrigation ditch, then the same shall revert to and revest in first party, her heirs and assigns.
(Affects Parcels a and b)

6. Provisions contained in that certain water contract dated February 26, 1919, made by Homer M. Brown and Carlotte Brown (who signs as Carlotta E. Brown), his wife, to V. E. Brown,

C. E. Coffin, Grace Brown, a widow, R. Stiller, and Henry E. Brown, recorded May 20, 1919, in volume 149 of deeds, page 108, under auditor's file No. 99607, a copy of which is hereto attached.

(Affects Parcel c)

7. Easement or right of way for an electric transmission and distributing line of one or more wires and all necessary or desirable appurtenances along the course as now located and constructed by the grantee over, across and upon the NW¼NE¼, NE¼NW¼, that part of the SE¼NW¼ lying north of the O.W.R.&N. Company's right of way and Lots 1, 5 and 6 of Sec. 31, Tp. 7 N., R. 35 E.W.M., together with the right of ingress and egress over adjacent lands of the grantors for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing said lines and appurtenances and exercising other rights hereby granted; as granted to Pacific Power & Light Company, a corporation, by deed dated December 14, 1928, recorded December 20, 1928, in volume 177 of deeds, page 389, under auditor's file No. 176119.

(Affects Parcels a and b)

8. Easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances at or near the location and along the general course now located and staked out by the grantee over, across and upon said premises, together with the right of ingress and egress over the adjacent lands of the grantors for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted; as granted to Pacific Power & Light Company, a corporation, by instrument dated May 21, 1953, recorded June 3, 1953, in volume 265 of deeds, page 387, under auditor's file No. 363875.

(Affects Parcel c)

9. Right to withdraw ground waters from a well located within Whitman Mission D.L.C. No. 38, Sec. 32, Tp. 7 N., R. 35 E.W.M. not to exceed 150 gallons per minute, 133 acre-feet per year for irrigation of 33 1/3 acres, under State certificate issued February 29, 1956, to C. M. and C. Harold Bowers, recorded under auditor's file No. 385415.

(Affects Parcel c)

10. Easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances, at or near the location and along the general course now located and staked out by the grantee over, across and upon said premises, together with the right of ingress and egress over the adjacent lands of the grantor for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted; as granted to Pacific Power & Light Company, a corporation, by instrument dated November 2, 1956, recorded December 3, 1956, in volume 279 of deeds, page 325, under auditor's file No. 391686.
(Affects Parcel f)

11. Right to withdraw ground waters from a well located within the Whitman D.L.C. (NE¼) Sec. 31, Twp. 7 N., R. 35 E.W.M., not to exceed 160 gallons per minute, 100 acre-feet per year for the irrigation of 25 acres, under State certificate issued March 31, 1958, to Kenneth E. Wasser, recorded under auditor's file No. 402117.
(Affects Parcel d)

12. Easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances at or near the location and along the general course now located and staked out by the grantee over and across said premises, together with the right of ingress and egress over adjacent lands of the grantors for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing said lines and appurtenances and exercising other rights hereby granted; as granted to Pacific Power & Light Company, a corporation, by deed dated October 17, 1960, recorded December 7, 1960, in volume 296 of deeds, page 336, under auditor's file No. 425895.
(Affects Parcel a)

Warranty Deed

V. E. Brown and Jennie Brown, husband and wife, -to- Howard R. Keylor

Recorded May 9, 1902, in Vol. "82" of Deeds, page 521.

--:--

(Conveys) An undivided one-half interest in and to that certain water ditch or irrigation right of way as now laid out and located and running across the following lands, to wit:

Commencing at the northeast corner of the "Whitman Mission Claim" in Section 32 in Township 7 north, of Range 35 east of W.M. and running thence west on the north line of the said "Whitman Mission Claim" 184 rods; thence at right angles south 80 rods, more or less, to the north line of the O.R.& N. Company's right of way; and running thence east on the north line of said O.R.& N. Company's right of way, 184 or more rods to the east line of the said "Whitman Mission Claim" and running thence north on the said east line of the said "Whitman Mission Claim" to the place of beginning.

It being understood herein that said grantee is to have a perpetual right of way for water across said lands as now laid out and located to the extent of one-half of the water obtained by parties hereto, or assigns for said water ditch.

It being further understood that second party is not to lower the head ditch at point of diversion from Creek or at point where said water intersects the lands of grantors.

It being further conditioned herein that said second party is to forever maintain said ditch and keep the same in proper repair, if in use by said second party, and in the event that said second party fails to keep the same in proper repair, first parties, or assigns, can put said ditch in shape and assess reasonable damages against second party for the work and material required in so repairing and putting in shape said right of way; it being further understood that second party has the right to go upon the lands of first parties at any and all times, to repair said ditch; but in no event to damage or destroy, or interfere with the crops of first parties, and not at any time to go upon said lands with a team or vehicle or other farm implements requiring team attachments, except during time that no crops are growing thereon.

WARRANTY DEED

Verner Brown and Jennie Brown, -to- J. L. Barrett
his wife,

Dated May 16, 1904.

Recorded January 10, 1906, in Vol. 99 of Deeds, page 321.

--:--

(Conveys) The following described premises, situate, lying and being in the County of Walla Walla, State of Washington, to wit:

A strip of land for perpetual irrigation ditch and water right of way purposes, beginning on the westerly bank of Mill Creek in the northwest quarter of Section 32 in Township 7 north, of Range 35 east of the W. M., immediately north of the line of the O.R.&N.Co's. railroad right of way, and extending westerly along the north line of said R.R. right of way to the west line of said grantors' land, veering northwesterly at the westerly line of said grantors' land; said right of way to be one rod wide the entire length; with right at all times to ingress and egress to repair the same.

Also the right to the waters of Mill Creek, so far as the interests of first parties are concerned, flowing past the point of beginning of said ditch right of way, however first parties do not warrant any title to said water.

Second party, heirs or assigns to properly fence said right of way where requested so to do by first parties, heirs or assigns; also to erect a substantial 16 foot wagon bridge across said ditch right of way where required by first parties, heirs or assigns, and forever keep the same in proper repair.

--:--

WATER CONTRACT.

Homer M. Brown and Carlotte Brown, his wife, -to- V. E. Brown, C. E. Coffin, Grace Brown, a widow, R. Stiller and Henry E. Brown

Dated February 26, 1919.
Recorded May 20, 1919, in Vol. 149 of Deeds, page 108.

--:--

WITNESSETH:

Whereas the first parties are the owners of a tract and parcel of land through which runs Mill Creek, a tributary of the Walla Walla River, and which tract and parcel of land is situated in the County of Walla Walla, in the State of Washington, to wit:

The northeast quarter of the southwest quarter, and commencing at a point in the channel of Mill Creek distant 1270 feet north of the quarter corner on the south side of Section 28, Township 7 north, Range 35 E.W.M., thence south 18° 26' west 31.6 feet; thence south 75 feet; thence south 60° west 150 feet; thence south 49° 18' west 131.5 feet; thence south 78° 40' west 132.5 feet; thence north 66° 42' west 141 feet; thence west 140 feet; thence south 65° 54' west 208.5 feet; thence north 39° west 135 feet; thence south 71° 28' west 188.5 feet; thence north 40° 15' west 179.5 feet; thence south 21° 32' west 163.5 feet; thence west 60.5 feet; thence north 342 feet; thence east 1330.5 feet, more or less, to a point distant 50 feet north of point of beginning; thence south 50 feet to point of beginning.

And also beginning at a point distant 1320 feet north of quarter corner on south side of Section 28, Township 7 north, Range 35 E.W.M.; thence north 750 feet more or less, to center of Walla Walla and Wallula County road as now laid out; thence south 84° east along the center line of said road 326 feet, more or less, to its intersection of the center line of a row of trees which is produced northerly about 50 feet would intersect said road at said point; thence southerly following the center line of said row of trees 474 feet, more or less; thence easterly at right angles 120 feet; thence south to south line of the northwest quarter of the southeast quarter of Section 28, Township 7 north, Range 35 E.W.M., thence to place of beginning, all of said land being in said Section, Township and Range.

And whereas the second parties are the owners of lands to which water can be carried by gravity flow over and across the

aforesaid lands from the said Mill Creek, for domestic use and for the irrigation of the lands of the said second parties; and that second parties have been using in common with first parties and others an irrigation ditch right of way now plainly established there across, for the purposes aforesaid, and in regards to which seek from first parties a recognized recorded title to such easements and right of way to divert waters by a dam in said Mill Creek through the said ditch for the purpose of irrigation of their lands and for domestic use.

Now therefore in consideration of the sum of One Dollar in hand paid by the second parties to first parties, the receipt of which is hereby acknowledged upon the delivery of this indenture, the first parties have, and do hereby transfer and convey to second parties an easement as now used by a ditch right of way, the right to dam the waters of Mill Creek and divert water therefrom through and over the course of the present ditch across the aforesaid land of first parties; with the right to enlarge said ditch properly for the practical conversion of all waters obtainable for the use of the second parties, with the perpetual right to go upon, over and across the lands of the first parties to keep installed a proper dam in said Mill Creek and to reconstruct, enlarge and properly repair and keep in order the ditch for the diversion of said waters obtainable for the use of the said second parties; all work, however, except in actual emergency repairs is to be carried on during such season of the year that will least damage any crops on the lands of the first parties; further conditioned that second parties are liable at all times for damages for breakage of canal, or by any manner of diversion of water there through, whereby first parties shall by reason of the waters leaving said ditch or canal, be materially damaged.

It is further conditioned that the easement and conveyance hereby made does not carry therewith any guarantee or warranty as to right to any material amount of water, or to any water, and only as second parties may by law or adverse use have or will gain vested title therein; and it is further understood and agreed herein that this conveyance is accepted with the proviso and agreement that the same is in every respect inferior, subservient to, and secondary to the rights of first parties and the rights of Henry E. Brown and Charles A. Walters and wife, and their heirs, representatives, successors, executors, administrators and assigns, embodied in that certain deed and contract for easement show of record by a deed of easement and indenture dated February 19th, 1919, and recorded in book 145 of Deeds records, at page 559 of the Walla Walla County records, and that all of the reservations made by the first parties therein in their favor, and in favor of their heirs and assigns, and in favor of the aforesaid mentioned parties, grantees therein, their

heirs and assigns, are to be read into this indenture of deed and easement, as prior rights to any manner of rights granted herein, or that may by reason of continous use by second parties by otherwise acquired by reason of the statutes running in favor of the second parties as against the said first and said other parties, through their failure to properly apply to their use waters obtainable for their said lands obtainable through said ditch from said stream therefor.

The second parties hereby contracting to waive such statutes in their favor as a part of the consideration in securing from the first parties hereby a record title showing as to such easements.

It is mutually agreed that all the covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators and assigns of the respective parties.

P46

CERTIFICATE OF TITLE

WASHINGTON TITLE INSURANCE COMPANY

719 Second Avenue
Seattle 4, Washington

NO. Y-1705

TO THE UNITED STATES OF AMERICA:

The Washington Title Insurance Company, a Corporation, organized and existing under the laws of the State of Washington, with its principal office in the City of Seattle, State of Washington, hereby certifies that it has made a thorough search of the title to the property described in SCHEDULE "A" hereof, and that the title to said property was indefeasibly vested in fee simple of record in:

UNITED STATES OF AMERICA

as of the 19th day of January, 19 61, at 8 o'clock A. M., free and clear of all encumbrances, defects, interests and all other matters whatsoever, either of record or otherwise known to the Corporation, impairing or adversely affecting the title to said property, except as shown in SCHEDULE "B" hereof.

The maximum liability of the undersigned under this certificate is limited to the sum of

THIRTY-SIX THOUSAND SEVENTY-FIVE DOLLARS

In consideration of the premium paid, this certificate issued for the use and benefit of the United States of America.

IN WITNESS WHEREOF, said Corporation has caused these presents to be signed in its name and behalf, sealed with its corporate seal, and delivered by its proper officers thereunto duly authorized as of the date last above mentioned.

WASHINGTON TITLE INSURANCE COMPANY

By: W. J. Noel
Vice President

Attest:
George A. Finney
Assistant Secretary

This certificate consists of 4 pages which are numbered at end of each page

Page 1 of Certificate No. Y-1705

WASHINGTON TITLE INSURANCE COMPANY

SCHEDULE "A"

The property covered by this certificate is accurately and fully described as follows:

The following described real estate, situate and being in the County of Walla Walla, State of Washington, to wit:

Beginning at the intersection of the south line of the Oregon-Washington Railroad & Navigation Company's right of way with the east line of the Whitman Mission Donation Claim in Section 32, Township 7 north, of Range 35 east of the Willamette Meridian, at a point 19.78 chains south of the northeast corner of said Whitman Mission Donation Claim, and running thence south 88° 12' west, along the south line of said right of way, and distant 30 feet at right angles from the center line of the railroad track 25.92 chains; thence south, parallel with the east line of said Whitman Mission Donation Claim 20.70 chains; thence south 87° 26' east 10.72 chains; thence north 9.00 chains; thence east 9.47 chains; thence south 9.40 chains; thence south 87° 26' east 5.69 chains to the east line of said Whitman Mission Donation Claim; thence north 22.70 chains along said east line to the point of beginning.

SCHEDULE "B"

The property described in SCHEDULE "A" hereof is free and [illegible] all interests, [illegible] and defects [illegible] matters whatsoever of record or when [illegible] of record, are [illegible] to the Corporation [illegible] of [illegible] to said property except the following:

[illegible] 1960 [illegible]

2. Easement as granted by Lucinda Swegle, for herself and as guardian of Albert J. Swegle, a minor, and M. W. Swegle, to F. D. Moyer by deed recorded May 22, 1893, in volume 53 of Deeds, page 557, as follows:

A right of way thirty feet wide, beginning at a point at or near the South of Mill Creek, and a right to construct and maintain a ditch, canal or flume for the purpose of conveying water over and across the following described land situate, lying and being in the County of Walla Walla and State of Washington, to wit: 640 acres known as the Whitman Mission Farm, commencing at a point 5.75/100 chains south of the half mile or quarter section stake on the south side of Section 31, Township 7 north, of Range 35 east; thence running east 90 chains; thence north 30 chains; thence west 50 chains; thence south 20 chains; thence west 40 chains; thence south 60 chains to the place of beginning, upon the payment of the further sum of one hundred dollars per acre, for the amount of land actually occupied by said ditch and right of way, said amount to be paid at the [illegible] construction is begun upon the said ditch and [illegible] the water from the Walla Walla River or [illegible] at the [illegible] on or above the above described lands to supply said, or any other ditch, canal, or flume with water for the purpose of irrigation.

To have and to hold the same and every part thereof unto said party of the second part, his heirs, executors and assigns forever. And the right to pass and repass over and across the said premises, or any part thereof in building, using or repairing said ditch, canal or flume, reserving, however, to the said parties of the first part the right to take any or all of the water required to irrigate the above described land, and also agreeing and binding the party of the second part to build and maintain a bridge forever of sixteen feet in width over said ditch or canal when constructed.

(continued on following page)

3. Right to the waters of Doan Creek, a tributary of Walla Walla River, not to exceed 0.067 second feet for the irrigation of 5 acres of the lands described in "Schedule A", under State certificate issued December 29, 1923, recorded in Volume 170 of deeds, page 628, under auditor's file no. 163536.

4. Right to the waters of Doan Creek, a tributary of Walla Walla River, not to exceed 0.20 second feet for the irrigation of 15.0 acres of the lands described in "Schedule A", under State certificate issued December 29, 1923, recorded in Volume 170 of deeds, page 630, under auditor's file no. 163537.

11-18-1960: in the united states district court for the district of washington: united states of america vs. lyle franzinr; judgment nu

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF WASHINGTON
SOUTHERN DIVISION

FILED [illegible]
U. S. [illegible]
Eastern [illegible]

NOV [illegible]

LESLIE H. JOHNSON, [illegible]

UNITED STATES OF AMERICA, Plaintiff, vs. 46.71 ACRES OF LAND, more or less, in Walla Walla County, State of Washington, LYLE FRAZIER, et al LYLE FRAZIER, also known as Lyle C. Frazier, and GLADYS FRAZIER, husband and wife; and GLEN FRAZIER and VIRGINIA FRAZIER, husband and wife, Stipulating Defendants.	CIVIL NO. 1431 J U D G M E N T

Upon the annexed stipulation between the plaintiff, United States of America, and Lyle Frazier and Gladys Frazier, husband and wife, and Glen Frazier and Virginia Frazier, husband and wife, stipulating defendants, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. That at the time of filing of the declaration of taking herein on August 3, 1959, the defendants Lyle Frazier and Gladys Frazier, husband and wife, and Glen Frazier and Virginia Frazier, husband and wife, were the owners of the fee simple title to the lands described herein, having exclusive right, title, equity and interest in and to said lands and to the compensation to be paid for the taking herein; that as of said date there existed against said lands no liens, encumbrances, taxes, assessments, claims or charges of whatsoever nature, except subject to mortgage of record to the Prudential Insurance Company of America, a corporation, which said mortgage has subsequently been fully satisfied and released of record.

2. That the sum of FORTY FOUR THOUSAND and no/100 DOLLARS ($44,000.00), without interest upon any portion thereof, is hereby fixed and determined to be the fair value and just compensation for the taking of the fee simple title to the lands herein, including all damages of whatsoever nature arising from said

GPO 16—29995-1

taking.

3. That the sum of THIRTY SIX THOUSAND SEVENTY FIVE and no/100 DOLLARS ($36,075.00) has heretofore been deposited into the registry of this Court, credited to said tract of land, and of said amount the sum of THIRTY TWO THOUSAND FIVE HUNDRED and no/100 DOLLARS ($32,500.00) was on February 8, 1960, disbursed as advance payment of compensation to the defendants above named, by order of this Court; that there remains on deposit in the registry of this Court the sum of THREE THOUSAND FIVE HUNDRED SEVENTY FIVE and no/100 DOLLARS ($3,575.00); that the clerk of this Court is hereby directed to pay said balance of THREE THOUSAND FIVE HUNDRED SEVENTY FIVE and no/100 DOLLARS ($3,575.00) as follows:

TO: Lyle Frazier and Gladys Frazier,
husband and wife, and
Glen Frazier and Virginia Frazier, $3,575.00
husband and wife,
c/o Minnick & Hahner
Attorneys at Law
P. O. Box 218
Walla Walla, Washington

4. That a deficiency judgment be and the same is hereby entered against the United States of America and in favor of the stipulating defendants, in the sum of SEVEN THOUSAND NINE HUNDRED TWENTY FIVE and no/100 DOLLARS ($7,925.00), without interest upon any portion thereof, and that upon receipt of funds for the payment of such deficiency the clerk shall, without further order of the Court, pay said sum to said defendants in care of their aforesaid attorneys, in full satisfaction of said deficiency judgment.

5. That the full fee simple title in and to the lands described as

> Beginning at the intersection of the South line of the Oregon-Washington Railroad & Navigation Company's right of way with the East line of the Whitman Mission Donation Claim in Section 32, Township 7 North of Range 35 East of the Willamette Meridian, at a point 19.78 chains South of the Northeast corner of said Whitman Mission Donation Claim, and running thence South, 88°12' West, along the South line of said right of way, and distant 30 feet at right angles from the center line of the railroad tract 25.92 chains; thence South, parallel with the East line of said Whitman Mission Donation Claim 20.70 chains; thence South 87°26' East 10.72 chains; thence North 9.00 chains; thence East 9.47 chains; thence South 9.40 chains; thence South 87°26' East 5.69 chains to the East line of said Whitman Mission Donation Claim; thence North 22.70 chains along said East line to the point of beginning, together with all water rights awarded by court decree or otherwise, appurtenant to the land or any portion thereof.

The tract as herein described contains 46.71 acres, more or less, of land, all situate in the County of Walla Walla, State of Washington,

vested in the United States of America as of the date of filing of the declaration of taking herein, to-wit, August 3, 1959, subject only to existing easements for irrigation ditches, canals, and pipelines, streets, highways, alleys, sewer, gas, telephone and power lines and other public utilities, if any; that the taking of said lands herein described was necessary for the public use.

DATED this 18 day of November, 1960.

CHARLES L. POWELL
United States District Judge

APPROVED AS TO FORM:

Judgment entered in Civil Docket on 11-21-60 [illegible]

W. L. MINNICK
Of Minnick & Hahner
Attorneys for Defendants

PRESENTED BY:

RONALD R. HULL
Assistant United States Attorney

Certified to [illegible] copy of the [illegible]
Dated 11-21-60
[illegible]
By [illegible]

GPO 16—20995-1

06-29-1959: in the united states district court for the district of washington: united states of america vs. lyle c. frazier; declaration o

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

46.71 ACRES OF LAND, MORE OR LESS, IN THE COUNTY OF WALLA WALLA, STATE OF WASHINGTON, Lyle C. Frazier, et al.,

Defendants.

In the matter of the acquisition by the United States of America of a certain tract of land situate in the County of Walla Walla, State of Washington, for use in connection with the Whitman National Monument of the National Park Service, United States Department of the Interior.

FILED IN THE
U. S. DISTRICT COURT
Eastern District of Washington
AUG 3 1959
B. W. BLAKE, Clerk
Deputy

1431

DECLARATION OF TAKING

Pursuant to authority delegated on February 17, 1959, by the Secretary of the Interior under subparagraphs (6) and (7) of 210.2.2 Departmental Manual of the Department of the Interior (24 F.R. 1348) to the Solicitor of the Department of the Interior. I, George W. Abbott, Solicitor of the Department of the Interior, do hereby make and cause to be filed this Declaration of Taking under and in accordance with the act of Congress approved February 26, 1931 (46 Stat. 1421; 40 U.S.C., sec. 258a), and acts supplementary thereto and amendatory thereof, and declare that:

FIRST: (a) The land described herein is taken pursuant to and under the authority of the act of June 29, 1936 (49 Stat. 2028, 16 U.S.C. secs. 433k - 433m), the act of May 1, 1958 (72 Stat. 101), and the Department of the Interior and Related Agencies Appropriation Act, 1959 (72 Stat. 155), which makes funds available for such purposes.

(b) The land hereinafter described has been selected by me for acquisition by the United States for use in connection with the development of the Whitman National Monument administered by the National Park Service, Department of the Interior, and immediate vesting of title is required.

(c) In my opinion it is necessary, advantageous, and in the interest of the United States that said land be acquired by judicial proceedings as authorized by the act of August 1, 1888 (25 Stat. 357; 40 U.S.C., sec. 257), and acts supplementary thereto and amendatory thereof.

(d) The public use for which such lands are taken is as follows:

The land is needed for administration and development for national monument purposes so as to include within Whitman National Monument properties of national historical significance for the benefit and enjoyment of the visiting public.

SECOND: Pursuant to law, I have selected for acquisition for the purposes of the foregoing acts of Congress that certain tract of land described as follows:

> Beginning at the intersection of the South line of the Oregon-Washington Railroad & Navigation Company's right of way with the East line of the Whitman Mission Donation Claim in Section 32, Township 7 North of Range 35 East of the Willamette Meridian, at a point 19.78 chains South of the Northeast corner of said Whitman Mission Donation Claim, and running thence South 89°12' West, along the South line of said right of way, and distant 30 feet at right angles from the center line of the railroad tract 23.90 chains; thence South, parallel with the East line of said Whitman Mission Donation Claim 20.70 chains; thence South 87°26' East 10.72 chains; thence North 9.00 chains; thence East 9.47 chains; thence South 9.40 chains; thence South 87°26' East 5.69 chains to the East line of said Whitman Mission Donation Claim; thence North 22.70 chains along said East line to the point of beginning, together with all water rights awarded by court decree or otherwise, appurtenant to the land or any portion thereof.

The tract as herein described contains 46.71 acres, more or less, of land, all situate in the County of Walla Walla, State of Washington.

A plat of the land marked Exhibit A is annexed hereto and make a part hereof.

THIRD: The estate taken for said public use is the full fee simple in and to said lands, subject to existing easements for irrigation ditches, canals, and pipelines, streets, highways, alleys, sewer, gas, telephone and power lines and other public utilities, if any.

FOURTH: The sum estimated as just compensation for the land taken hereunder is the sum of Thirty-six Thousand and Seventy-five Dollars ($36,075), which sum I hereby deposit in the Registry of the Court for the use and benefit of the parties entitled thereto. I am of the opinion that the ultimate award for said land will probably be within the limits of allocations and allotments made and provided for the purpose of acquiring the land.

IN WITNESS WHEREOF, I have signed this Declaration of Taking in the city of Washington, District of Columbia, this 29th day of June, 1959.

/s/ George W. Abbott
Solicitor of the Department
of the Interior of the United
States of America

Certified to be a true and correct copy
of the original filed in my office.
B. W. BLAKE, Clerk
By Thomas Granger Deputy

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF WASHINGTON
SOUTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. 46.71 ACRES OF LAND, more or less, in Walla Walla County, State of Washington, LYLE FRAZIER, also known as Lyle C. Frazier, and GLADYS FRAZIER, husband and wife; GLEN FRAZIER and VIRGINIA FRAZIER, husband and wife; OREGON PIONEER HISTORICAL SOCIETY; THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a corporation; WALTER G. COWAN and PEARL COWAN, husband and wife; DORWIN BROWN and JANE DOE BROWN, husband and wife; WALLA WALLA COUNTY, a municipal corporation, Defendants.	CIVIL NO. 1431 COMPLAINT

FILED IN THE
U. S. DISTRICT COURT
Eastern District of Washington
AUG 3 1959
B. W. BLAKE, Clerk
Deputy

COMES NOW the United States of America, by the undersigned attorneys, acting under and by direction of the Attorney General of the United States and alleges as follows:

1.

This is an action of a civil nature brought by the United States of America for the taking of property under power of eminent domain and for the ascertainment and award of just compensation to the owners and parties in interest.

2.

The authority for the taking is the Act of Congress approved February 26, 1931 (46 Stat. 1421; 40 U.S.C., sec. 258a), and acts supplementary thereto and amendatory thereof; and under the further authority of the Act of Congress approved June 29, 1936 (49 Stat. 2028, 16 U.S.C., secs. 433k - 433s), the Act of May 1, 1958 (72 Stat. 101), and the Department of the Interior and Related Agencies Appropriation Act, 1959 (72 Stat. 155), which makes funds available for such purposes; and as authorized by the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C., sec. 257), and acts supplementary thereto and amendatory thereof. That sufficient funds have been appropriated for said acquisition for the

3.

Said property to the extent herein described is required for use by the United States of America for administration and development for national monument purposes so as to include within Whitman National Monument properties of national historical significance for the benefit and enjoyment of the visiting public.

4.

The estate taken for said public use is the full fee simple title and estate in and to said lands, including all water and water rights thereto appurtenant, subject to existing easements for irrigation ditches, canals, and pipelines, streets, highways, alleys, sewer, gas, telephone and power lines and other public utilities, if any.

5.

The property sought to be taken is described as follows:

> Beginning at the intersection of the South line of the Oregon-Washington Railroad & Navigation Company's right of way with the East line of the Whitman Mission Donation Claim in Section 32, Township 7 North, of Range 35 East of the Willamette Meridian, at a point 19.78 chains South of the Northeast corner of said Whitman Mission Donation Claim, and running thence South 88°12' West, along the South line of said right of way, and distant 30 feet at right angles from the center line of the railroad tract 25.92 chains; thence South, parallel with the East line of said Whitman Mission Donation Claim 20.70 chains; thence South 87°26' East 10.72 chains; thence North 9.00 chains; thence East 9.47 chains; thence South 9.40 chains; thence South 87°26' East 5.69 chains to the East line of said Whitman Mission Donation Claim; thence North 22.70 chains along said East line to the point of beginning, together with all water rights awarded by court decree or otherwise, appurtenant to the land or any portion thereof.

6.

The persons having or claiming an interest in the property described, whose names are ascertainable by a reasonably diligent search of the records and those whose names have otherwise been learned are, as follows:

Lyle Frazier and Gladys Frazier, husband and wife, record owners,
1052 Boyer Avenue
Walla Walla, Washington

Glen Frazier and Virginia Frazier, husband and wife, record owners,
c/o Attorney W. L. Minick
303 Jones Building
Walla Walla, Washington

GPO 16—80005-1

Oregon Pioneer Historical Society, record owner, (portion)

The Prudential Insurance Company of America, mortgagee

Walter G. Cowan and Pearl Cowan, husband and wife, reservation of mineral rights,

Dorwin Brown and Jane Doe Brown, husband and wife, lessee

7.

Walla Walla County, a municipal corporation of the State of Washington, may have or claim an interest in the property aforesaid by reason of taxes and assessments due and exigible.

8.

That simultaneously with the filing of this petition, there has been filed in the above designated court and cause and as a part of this proceeding a declaration of taking covering the within described property and that there has been deposited simultaneously therewith in the registry of the court a sum of money estimated to be just compensation for the taking of said property, to-wit, the sum of Thirty-six Thousand and Seventy-five Dollars ($36,075.00).

WHEREFORE, the plaintiff demands judgment that the property, to the extent herein specified, be condemned and that just compensation for the taking thereof be ascertained and awarded and for such other relief as may be lawful and proper.

DALE M. TRUEN
United States Attorney

RONALD R. HULL
Assistant United States Attorney

Attorneys for Plaintiff
Address: 222 Federal Building
Yakima, Washington

Trial by jury of the issue of just compensation is demanded by plaintiff.

Certified to be a true and correct copy of the original filed in my office.

J. W. BLAKE, Clerk

By Thomas Granger Deputy

GPO 16—29095-1

08-03-1959: district court of the u.s.: certificate of the clerk: civil no. 1431

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF WASHINGTON
SOUTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. 46.71 ACRES OF LAND, more or less, in Walla Walla County, State of Washington, LYLE FRAZIER, also known as Lyle C. Frazier, and GLADYS FRAZIER, husband and wife; GLEN FRAZIER and VIRGINIA FRAZIER, husband and wife; OREGON PIONEER HISTORICAL SOCIETY; THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a corporation; WALTER G. COWAN and PEARL COWAN, husband and wife; DORWIN BROWN and JANE DOE BROWN, husband and wife; WALLA WALLA COUNTY, a municipal corporation, Defendants.	CIVIL NO. 1431 CERTIFICATE OF THE CLERK

I, B. W. BLAKE, Clerk of the United States District Court for the Eastern District of Washington do hereby certify that I received from the United States of America, the plaintiff herein, and deposited into the registry of the court the sum of Thirty-six Thousand and Seventy-five Dollars ($36,075.00), being the amount of estimated just compensation in this proceeding.

DATED this 3rd day of August, 1959.

B. W. BLAKE, Clerk
United States District Court
Eastern District of Washington

by Thomas L. Granger

GPO 16—20905-1

08-27-1959: letter to nps from dean-mclean abstract company regarding certificate of title insuring u.s., title insurance abstracts

THE DEAN-McLEAN ABSTRACT COMPANY

ESTABLISHED 1889

TITLE INSURANCE-ABSTRACTS

WASHINGTON AGENT FOR

~~NORTHWESTERN~~ TITLE INSURANCE COMPANY

WALLA WALLA, WASHINGTON

Refer to: No. Y-1705

United States Department of the Interior
National Park Service
180 New Montgomery Street
San Francisco 5, California

This is a report as of April 27, 1959, at 8:00 a. m. for certificate of title insuring United States of America, covering

The following described real estate, situate and being in the County of Walla Walla, State of Washington, to wit:

Parcel (a):

Beginning at the intersection of the south line of the Oregon-Washington Railroad & Navigation Company's right of way with the east line of the Whitman Mission Donation Claim in Section 32 Township 7 North, of Range 35 East of the Willamette Meridian, at a point 19.78 chains south of the northeast corner of said Whitman Mission Donation Claim, and running thence south 88° 12' west, along the south line of said right of way, and distant 30 feet at right angles from the center line of the railroad track 25.92 chains; thence south, parallel with the east line of said Whitman Mission Donation Claim 20.70 chains; thence south 87° 26' east 10.75 chains; thence north 9.00 chains; thence east 9.47 chains; thence south 9.40 chains; thence south 87° 26' east 5.69 chains to the east line of said Whitman Mission Donation Claim; thence north 22.70 chains along said east line to the point of beginning.

Excepting therefrom, however, such part of the following described tract conveyed to Oregon Pioneer Historical Society as lies within the boundaries of the tract above described:

Commencing at a point on the east line of the Whitman Mission Donation Claim distant 2262 feet south of the northeast corner of said Claim; thence south on said line 217 feet to a stake; thence west 483.35 feet to a stake; thence north 143.48 feet to a stake; thence north 85° 38' 55" east 488.91 feet to the place of beginning.

Parcel (b):

Such part of the following described tract conveyed

to Oregon Pioneer Historical Society as lies within the boundaries of the tract herein first above described:

Commencing at a point on the east line of the Whitman Mission Donation Claim 2262 feet south of the northeast corner of said Claim; thence south on said line 217 feet to a stake; thence west 483.35 feet to a stake; thence north 143.48 feet to a stake; thence north 85° 38' 55" east 488.91 feet to the place of beginning.

Title is vestes as follows:

Parcel (a) in LYLE FRAZIER and GLADYS FRAZIER, his wife, and GLEN FRAZIER and VIRGINIA FRAZIER, his wife, by deed recorded in volume 266 of deeds, page 282, under auditor's file No. 365340; and

Parcel (b) in OREGON PIONEER HISTORICAL SOCIETY, by deed recorded in volume X of deeds, page 92.

Subject to:

1. Last half general taxes for 1959 in the sum of $104.14.

2. Mortgage dated September 10, 1952, executed by E. B. Miller and Dorothy L. Miller, his wife, to The Prudential Insurance Company of America, a corporation, to secure payment of $15,000.00 with interest; recorded September 26, 1952, in volume 222 of mortgages, page 12, under auditor's file No. 357977.

Said mortgage is a re-record of mortgage recorded September 12, 1952, in volume 221 of mortgages, page 473, under auditor's file No. 357614.

3. Easement as granted by Lucinda Swegle, for herself and as guardian of Albert J. Swegle, a minor, and M. W. Swegle to F. D. Boyer by deed recorded May 22, 1893, in volume 53 of deeds, page 557, as follows:

A right of way thirty feet wide, beginning at a point at or near the mouth of Mill Creek, and a right to construct and maintain a ditch, canal or flume for the purpose of conveying water over and across the following described land situate, lying and being in the County of Walla Walla and State of Washington, to wit: 640 acres known as the Whitman Mission Farm, commencing at a point 5.75/100 chains south of the half mile or quarter section stake on the south side of Section 31, Township 7 North,

of range 35 East; thence running east 90 chains; thence north 90 chains; thence west 50 chains; thence south 30 chains; thence west 40 chains; thence south 60 chains to the place of beginning, upon the payment of the further sum of one hundred dollars per acre, for the amount of land actually occupied by said ditch and right of way said amount to be paid at the time construction is begun upon the said ditch and the right to take the water from the Walla Walla River or its tributaries at the said point or on or above the above described lands to supply said, or any other ditch, canal, or flume with water for the purpose of irrigation.

To have and to hold the same and every part thereof unto said party of the second part, his heirs, executors and assigns forever. And the right to pass and repass over and across the said premises, or any part thereof in building, using or repairing said ditch, canal or flume, reserving, however, to the said parties of the first part the right to take any or all of the water required to irrigate the above described land, and also agreeing and binding the party of the second part to build and maintain a bridge forever of sixteen feet in width over said ditch or canal when constructed.

4. Reservations contained in deed from Walter G. Cowan and Pearl Cowan, his wife, recorded in volume 262 of deeds, page 216, under auditor's file No. 357976, as follows:

Reserving, however, to the grantors, their heirs, executors, administrators and assigns forever, an undivided one-half interest in and to all oil, gas and minerals and all oil, gas and mineral rights upon and under all of the above described lands and the right to enter thereon and to use so much of the surface thereof as may be reasonable for the purpose of extracting the oil, gas and minerals thereon and thereunder.

5. Right to the waters of Doan Creek a tributary of Walla Walla River, not to exceed 0.067 second feet for the irrigation of 5 acres of the lands described in Parcel (a), under State certificate issued December 29, 1923, recorded in volume 170 of deeds, page 628, under auditor's file No. 163536.

6. Right to the waters of Doan Creek, a tributary of Walla Walla River, not to exceed 0.20 second feet for the irrigation of 15.0 acres of the lands described in Parcel (a), under State certificate issued December 29, 1923, recorded in volume 170 of deeds, page 630, under auditor's file No. 165537.

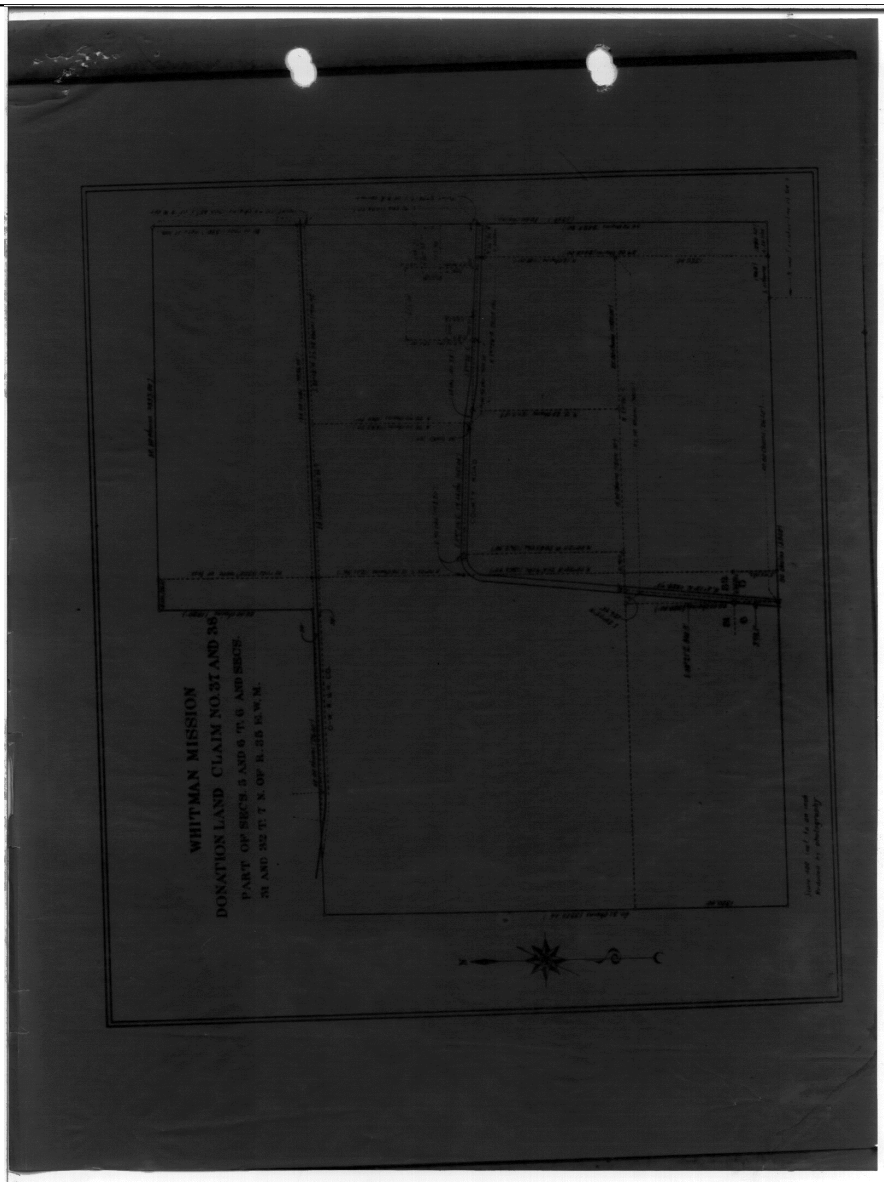
Title is to vest in the United States of America.

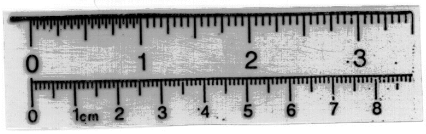
This report shall have no force or effect except as a basis for the certificate of title applied for.

WASHINGTON TITLE INSURANCE COMPANY

By E.B. Dean
Assistant Secretary

00-00-0000: map of whmi: donation land





02-12-1959: report on possessory rights certificate of inspection and possession

REPORT ON POSSESSORY RIGHTS CERTIFICATE OF INSPECTION AND POSSESSION

I, William J. Kennedy, a Superintendent, Whitman National Mon. of the Department of the Interior, hereby certify that on the 12th day of February, 19 59, I made a personal examination and inspection of that certain tract or parcel of land situated in the County of Walla Walla, State of Washington, designated as tract No. 11 and containing _____ acres, proposed to be acquired by the United States of America in connection with the desired acquisition of this property authorized by the Act of May 1, 1958, PL 85-500, for inclusion in the Whitman National Monument for necessary development; and in the condemnation proceeding entitled, _____ Civil No.

See Revision 1. That I am fully informed as to the boundaries, lines, and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with making of any repairs or improvements on said land; and that I made careful inquiry of the above-named vendors and of the occupants of said land and ascertained that nothing had been done on or about said premises within the past 3 months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.

See Revision 2. That I also made inquiry of the above-named vendors and of all occupants of said land as to their rights of possession and the rights of possession of any person or persons known to them and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of the above-named vendors or the United States of America.

See Revision 3. That I was informed by the above-named vendors and by all other occupants that to the best of their knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

See OVER 4 Revised ~~4. That to the best of my knowledge and belief after actual and diligent inquiry and physical inspection of said premises there is no evidence whatever of any vested or accrued water rights for mining, agricultural, manufacturing, or other purposes nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.~~

See Revision 5. That to the best of my knowledge and belief based upon actual and diligent inquiry made there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records.

See Revision 6. That said premises are now wholly unoccupied and vacant except for the occupancy of _____ as tenants at will, from whom disclaimers of all right, title, and interest in and to said premises executed on the _____ day of _____ 19 , have been obtained.

Date February 12, 1959.

William J. Kennedy

William J. Kennedy, Superintendent
Whitman National Monument

additional repairs in L 1925

Clause 1 (Revised). That I am fully informed as to the boundaries, lines and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with making of any repairs or improvements on said land except as stated below; and that I made careful inquiry of the above-named vendors and occupants of said land and ascertained that nothing had been done on or about said premises within the past 3 months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished excepting the partial preparation of about 12 acres for seeding to sugar beets in accordance with the execution by the owners on December 15, 1958 of a lease to Mr. Dorwin Brown, Route 1, Walla Walla, Washington of approximately 12 acres of land in Tract 11 for the planting, growing, and harvesting of sugar beets in the 1959 calendar year, the lease to terminate with the removal of the crop.

Clause 2 (Revised). That I also made inquiry of the above-named vendors and of all occupants of said land as to their reights of possession and the rights of possession of any person or persons known to them and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of the above-named vendors or the United States of America except Mr. Dorwin Brown, the leaseholder named in Clause 1 and those shown in Clause 4.

Clause 3 (Revised). That I was informed by the above-named vendors and by all other occupants that to the best of their knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises except that named in Clause 1.

Clause 4 (Revised). My inspection of such records as I have had access to shows the following:

(1) Reservation of certain water rights - Walla Walla County Book "S" of Deeds, pages 250, 251, 252. Deed: Moore to Fisk, February 6, 1878.

(2) Conveyance of small tract of land in Tract 11 to Oregon Pioneer Historical Society. As near as can be determined a portion of this tract is still in the ownership of the Oregon Pioneer Historical Society although the members of the Society are now said to be deceased. - Walla Walla County Book "X" of Deeds, pages 92, 93, 94. Deed: Swegle to Oregon Pioneer Historical Society, November 7, 1881.

(3) Conveyance of 30-foot right of way for irrigation ditch, canal, or flume - Walla Walla County Book 53 of Deeds, pages 557, 558, 559. Right of Way Deed: Swegle to Boyer, May 22, 1893.

(4) Reservation of oil, gas, and mineral rights and right to explore therefor - Walla Walla County Book 262 of Deeds, pages 218, 219, 220. Warranty Deed: Cowan to Miller, September 24, 1952.

(5) All of above reservations and exceptions - Walla Walla County Book 266 of Deeds, pages 282, 283, 284. Warranty Deed: Miller to Fraziers, August 14, 1953.

Clause 5 (Revised). That to the best of my knowledge and belief based upon actual and diligent inquiry made there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records (see Clause 4) and that of the lease mentioned in Clause 1, which is unrecorded. The Fraziers do have a recorded mortgage on the property with the mortgage held by the Prudential Insurance Company of America.

Clause 6 (Revised). That said premises are now wholly unoccupied and vacant except for the occupancy of Mr. and Mrs. Glen C. Frazier, co-owners of the property with Mr. and Mrs. Lyle C. Frazier, and with the occupation and use of approximately 12 acres for sugar beet farming during the 1959 season by Mr. Dorwin Brown.

Public Law 85-388
85th Congress, S. 1118
May 1, 1958

AN ACT

72 Stat. 101.

To facilitate the administration and development of the Whitman National Monument, in the State of Washington, by authorizing the acquisition of additional land for the monument, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of including within Whitman National Monument, Washington, certain properties that are of historic significance in connection with the monument area and which are needed to provide suitable monument facilities, the Secretary of the Interior is authorized to procure not to exceed fifty acres of land adjacent to the existing monument and a right-of-way thereto from United States Highway 410, using therefor any land acquisition funds available for purposes of the national park system, such property to be acquired in such manner as the Secretary shall consider to be in the public interest. Following the acquisition by the United States of land for addition to the monument pursuant to this Act, such addition shall be effective in each instance upon the publication of notice thereof in the Federal Register.

Whitman National Monument, Wash.

Publication in F. R.

Approved May 1, 1958.

63-0 201 39

08-14-1953: warranty deed

266 PAGE 252

365340

WARRANTY DEED

THIS INDENTURE WITNESSETH: That the Grantors, E. B. MILLER and DOROTHY MILLER, his wife, for and in consideration of Ten Dollars, in hand paid, do hereby CONVEY and WARRANT to LYLE FRAZIER and GLADYS FRAZIER, his wife, GLEN FRAZIER and VIRGINIA FRAZIER, his wife, the following described real estate, situated in the County of Walla Walla, State of Washington, to-wit:

Beginning at the intersection of the South line of the Oregon-Washington Railroad & Navigation Company's right of way with the East line of the Whitman Mission Donation Claim in Section 32, Township 7 North, of Range 35 East of the Willamette Meridian, at a point 19.78 chains South of the Northeast corner of said Whitman Mission Donation Claim, and running thence South 88° 12' West, along the South line of said right of way, and distant 30 feet at right angles from the center line of the railroad track 25.92 chains; thence South, parallel with the East line of said Whitman Mission Donation Claim 20.70 chains; thence South 87° 26' East 10.75 chains; thence North 9.00 chains; thence East 9.47 chains; thence South 9.40 chains; thence South 87° 26' East 5.69 chains to the East line of said Whitman Mission Donation Claim; thence North 22.70 chains along said East line to the point of beginning.

Excepting therefrom, however, such part of the following described tract conveyed to Oregon Pioneer Historical Society as lies within the boundaries of the tract above described: Commencing at a point on the East line of the Whitman Mission Donation Claim distant 2262 feet South of the Northeast corner of said Claim; thence South on said line 217 feet to a stake; thence West 483.35 feet to a stake; thence North 143.48 feet to a stake; thence North 85° 38' 55" East 488.91 feet to the place of beginning.

Also, Beginning at a point in the South line of the Oregon-Washington Railroad & Navigation Company's right of way which bears South 19.78 chains and South 88° 12' West 25.92 chains from the Northeast corner of Whitman Mission Donation Claim No. 38 in Section 32 in Township 7 North, of Range 35 East of the Willamette Meridian, and running thence South 88° 12' West, along the South line of said right of way and

08-14-1953: warranty deed

distant 30 feet at right angles from the center line of the railroad track, a distance of 20.18 chains; thence South 00° 08' East 18.96 chains; thence South 87° 56' East 20.14 chains, more or less, to a point in a line drawn parallel to the East line of said Whitman Mission Claim and through the point of beginning; thence North on said parallel line a distance of 20.20 chains to the point of beginning.

Subject to reservations and easements of record in deed recorded in Book "S" of Deeds at page 250, in deed of record in Book 53 of Deeds at page 557, and in deed of record in Book 262 of Deeds at page 218, records of said Walla Walla County. Also, subject to that certain mortgage of record in Book 221 of Mortgages at page 473 and re-recorded in Book 222 of Mortgages at page 12, records of said Walla Walla County.

Dated this 14th day of August, 1953.

G B Miller

Dorothy Miller

REAL ESTATE EXCISE TAX
PAID
AUG 1 1953
AMT. 380.00 NO 4437
WALLA WALLA COUNTY
By FANNIE DUNWOODIE, Treasurer

STATE OF WASHINGTON,)
County of Walla Walla.) ss.

I, the undersigned, a Notary Public in and for said County and State do hereby certify that on this 14th day of August, 1953, personally appeared before me the within named, E. B. Miller and Dorothy Miller, his wife, personally known to me to be the individuals described in and who executed the foregoing instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above in this certificate written.

Robert Bringhurst
Notary Public for Washington,
residing at Walla Walla.

Filed for record [illegible] 1953 at 1:30 P M
By DEAN McLEAN ABSTRACT CO.
WALTER KIMMERLY, County Auditor

I hereby certify that this photograph is a true copy
of WARRANTY DEED from E. B. MILLER ET UX
to KYLE FRAZIER ET UX & GLEN FRAZIER ET UX, recorded on Page 282
Volume 266 of "DEEDS", Records of Walla Walla
County, State of Washington.
GLADYS GILMAN, County Auditor
By Frances Fox, Deputy

09-24-1952: warranty deed

Vol. 262 Page 218

357976

WARRANTY DEED

THIS INDENTURE WITNESSETH: That the Grantors, WALTER O. COWAN and PEARL COWAN, his wife, for and in consideration of Ten Dollars, in hand paid, do hereby CONVEY and WARRANT to E. B. MILLER and DOROTHY MILLER, his wife, the following described real estate, situated in the County of Walla Walla, State of Washington, to-wit:

Beginning at the intersection of the South line of the Oregon-Washington Railroad & Navigation Company's right of way with the East line of the Whitman Mission Claim in Section 32, Township 7 North, of Range 35, East of the Willamette Meridian, at a point 19.78 chains South of the Northeast corner of said Whitman Mission Claim, and running thence South 88° 12' West, along the South line of said right of way, and distant 30 feet at right angles from the center line of the railroad track 25.92 chains; thence South, parallel with the East line of said Whitman Mission Claim 20.70 chains; thence South 87° 26' East 16.75 chains; thence North 9.00 chains; thence East 9.47 chains; thence South 9.40 chains; thence South 87° 26' East 5.69 chains to the East line of said Whitman Mission Claim; thence North 22.70 chains along said East line to the point of beginning. Excepting therefrom, however, such part of the following described tract conveyed to Oregon Pioneer Historical Society as lies within the boundaries of the tract above described: Commencing at a point on the East line of the Whitman Mission Claim distant 2262 feet South of the Northeast corner of said Claim; thence South on said line 217 feet to a stake; thence West 483.35 feet to a stake; thence North 143.48 feet to a stake; thence North 85° 38' 55" East 486.91 feet to the place of beginning.

Subject, however, to the reservations contained in a deed dated February 6, 1878, from Charles Moore and wife to M. Fisk, now of record in the office of the County Auditor of Walla Walla County in Book "S" of Deeds at page 250, and also subject to right of way and easements conveyed to F. D. Boyer by deed now of record in the office of said County Auditor at page 557 of Book 53 of Deeds.

And Also,

Beginning at a point in the South line of the Oregon-Washington Railroad & Navigation Company's

09-24-1952: warranty deed, page 2cont

right of way which bears South 19.78 chains and South 88° 12' West 25.92 chains from the Northeast corner of Whitman Mission Claim No. 37 in Section 32 in Township 7 North, of Range 36 East of the Willamette Meridian, and running thence South 88° 12' West, along the North line of said right of way and distant 33 feet at right angles from the center line of the railroad track, a distance of 20.18 chains; thence South 00° 08' East 18.96 chains; thence South 89° 56' East 20.14 chains, more or less, to a point in a line drawn parallel to the East line of said Whitman Mission Claim and through the point of beginning; thence North on said parallel line a distance of 20.20 chains to the point of beginning.

Subject, however, to the reservations contained in a deed dated February 6, 1878, from Charles Moore and wife to M. Fisk, now of record in the office of the County Auditor of Walla Walla County in Book "D" of Deeds at page 250, and also subject to right of way and easements conveyed to F. J. Boyer by deed now of record in the office of said County Auditor at page 557 of Book 93 of Deeds; subject further to the reservations contained in a deed dated February 7, 1878, filed for record February 7, 1878, and recorded in Book "D" of Miscellaneous Records at page 426 in which Charles Moore and Julia A. Moore, his wife, were grantors, and the Walla Walla and Columbia River Railroad Company were grantees.

RESERVING, however, to the grantors, their heirs, executors, administrators and assigns forever, an undivided one-half interest in and to all oil, gas and minerals and all oil, gas and mineral rights upon and under all of the above described lands and the right to enter thereon and to use so much of the surface thereof as may be reasonable for the purpose of extracting the oil, gas and minerals thereon and thereunder.

Together with all water rights appurtenant to said lands.

DATED THIS 24th day of September, 1952.

Hattie H. Cowan

Pearl Cowan

BOOK 262 PAGE 220

STATE OF WASHINGTON,
County of Walla Walla. } ss.

I, the undersigned, a Notary Public in and for said County and State do hereby certify that on this 24th day of September, 1952, personally appeared before me the within named Walter G. Cowan and Henri Cowan, his wife, personally known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above in this certificate written.

Notary Public for Washington,
residing at Walla Walla.

NOTARY PUBLIC

Filed for record Sept 26 1952 at 12:36 P M
WALLA WALLA TITLE CO.
By
WALTER KIMMERLY, County Auditor

I hereby certify that this photograph is a true copy of WARRANTY DEED from WALTER G. COWAN ET UX to E. B. MILLER, ET UX recorded on Page 218 Volume 262 of DEEDS, Records of Walla Walla County, State of Washington.

GLADYS GILMAN, County Auditor
By Deputy

04-26-1944: field notes of the dependent resurvey of the south boundary of whitman mission donation claim in secs. 5 and 6, t6n,

9696

4—879
(April 1938)

A

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

PUBLIC SURVEY OFFICE
RECEIVED
JUN - 9 1944
PORTLAND, OREGON

FIELD NOTES

OF THE

DEPENDENT RESURVEY OF THE SOUTH BOUNDARY OF WHITMAN MISSION DONATION CLAIM IN SECS. 5 AND 6, T. 6 N., R. 35 E.,

AND

METES AND BOUNDS SURVEY OF TRACTS NOS. 37 and 38, WHITMAN NATIONAL MONUMENT, IN SEC. 32, T. 7 N., R. 35 E.

Of the WILLAMETTE *Meridian,*

In the State of WASHINGTON

EXECUTED BY

George F. Rigby — Associate Cadastral Engineer

Under special instructions dated December 10, *19* 43, *which provided for the surveys included under Group No.* 186, *bearing the approval of the Commissioner of the General Land Office under date of* January 14, 1944 *and assignment instructions dated* April 1, *19* 44

Survey commenced April 22, *19* 44

Survey completed April 26, *19* 44

U. S. GOVERNMENT PRINTING OFFICE 0—151

1st Carbon
TSB.

1

00-00-0000: index diagram

INDEX DIAGRAM.

Township ----------, *Range* ----------

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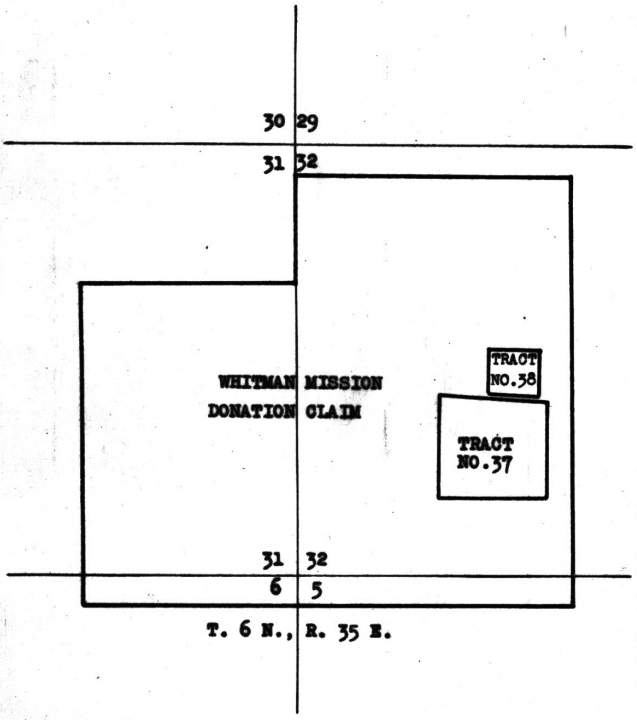
00-00-0000: index diagram

4—678b

Township 7 North, Range 35 East.

Whitman National Monument.

INDEX DIAGRAM.



Dependent resurvey of S. bdy. of Whitman Mission donation claim, page 3.

Metes and bounds survey Tract No.37, page 4.

Metes and bounds survey Tract No.38, page 6.

U. S. GOVERNMENT PRINTING OFFICE 0—81.55

3

4—6781b

Township 7 North, Range 35 East.

Whitman National Monument.

These surveys were executed with a solar transit made by W. and L. E. Gurley, Serial No.2350, constructed in accordance with the standard specifications of the General Land Office. The horizontal circle has a diameter of 5½ ins., with two double opposite verniers reading to single minutes; the vertical circle has a diameter of 4 ins., with one double vernier reading to single minutes; the telescope has fixed stadia wires, ratio 1:132, with a focal constant of 1.2 lks. The instrument is equipped with the improved Smith solar attachment; radius of latitude arc 2½ ins., and of declination arc 4 ins., each with verniers reading to single minutes. The instrument was in good condition, and having been placed in satisfactory adjustment prior to beginning the survey, and tested and found free from appreciable error, was approved by the district cadastral engineer on April 1, 1944. I examined all the instrumental adjustments before making the field tests hereinafter recorded.

The directions of the lines were determined from the true meridian, established by direct solar observations and carried forward by deflection angles and back and fore sight methods, and using the indications of the solar attachment as a check on all azimuth determinations. The measurements were made with a Lallie steel tape, 5 chains in length, graduated every link for the first 100 links, and the balance at intervals of 10 links. The tape was tested by comparison with a Lufkin standard and found correct. The measurements were made on the slope, and the vertical angle of each interval was ascertained by a clinometer in good adjustment; the horizontal equivalents are entered in the field note record.

April 22, 1944, at a transit point near Whitman Memorial Obelisk, on hill, near center of sec. 32, T. 7 N., R. 35 E. in latitude 46° 02½' N., and longitude 118° 27½' W., as determined from an accurate map, at 8h 42m a.m., app.t., I make a series of three altitude observations upon the sun for azimuth, as follows: three observations of the sun's left and lower limbs, with the telescope in direct position, then, after reversal of the instrument, three observations of the sun's right and upper limbs. The first and sixth observations are combined for one series, the second and fifth, etc. Time of the first and sixth observations is observed and the mean time of the entire series used in determination of the sun's declination. The horizontal deflection angle is read from the epi of water tower of Walla Walla Farm Labor Camp about 5½ miles distant to the SE., NE. to the sun.

Telescope	Sun	Time a.m.	Vert. Angle	Hor. Angle	Vert. Angle	Hor. Angle	Vert. Angle	Hor. Angle
Direct	☉	8:39	35°22'	13°55'	35°44'	13°23'	35°54'	13°09'
Reversed	☉	8:45	37°14½'	11°08'	36°57'	11°33'	36°45½'	11°49½'
Mean		8:42	36°18½'	12°31½'	36°20½'	12°28'	36°19⅝'	12°29½'

By first observation epi bears S. 55° 07' 43" E.
By second observation epi bears S. 55° 08' 02" E.
By third observation epi bears S. 55° 07' 52" E.

Mean bearing of epi S. 55° 07' 52" E.

I now turn a deflection angle by the method of repetition from epi to a reference point on the south boundary of Whitman Mission donation claim, 4.40 chs. westerly from SE. corner of claim, 51° 37' 20" to the right.

Bearing of line from transit point to reference point on S. bdy. of Whitman Mission donation Claim is S. 3° 30' 32" E.

U. S. GOVERNMENT PRINTING OFFICE 6—8155

4—673 b

Township 7 North, Range 35 East.

Whitman National Monument.

April 22, 1944, at a reference point on the S. bdy. of Whitman Mission donation claim, 4.40 chs. westerly from SE. corner of claim, in sec. 5, T. 6 N., R. 35 E., in latitude 46° 02' N., and longitude 118° 27½' W., at 4h 37m p.m., app.t., I make a series of three altitude observations upon the sun for azimuth, as follows: three observations of the sun's right and lower limbs with the telescope in direct position, then, after reversal of the instrument, three observations of the sun's left and upper limbs. The first and sixth observations are combined for one series, the second and fifth, etc. Time of the first and sixth observations is observed and the mean time of the entire series used in determination of the sun's declination. The horizontal deflection angle is read from transit point, now marked with a flag, near Whitman Memorial Obelisk, about 43 chs. northerly, SW. to sun.

Telescope	Sun	Time p.m.	Vert. Angle	Hor. Angle	Vert. Angle	Hor. Angle	Vert. Angle	Hor. Angle
Direct	☉	4:34	22°33'	91°52'	22°28'	91°47'	22°21'	91°40'
Reversed	☉	4:40	22°14'	91°34'	22°17'	91°40'	22°27'	91°49'
Mean		4:37	22°23½'	91°43'	22°22½'	91°43½'	22°24'	91°44½'

By 1st obsn. flag on transit point bears N. 3° 30' 56" W.
By 2d obsn. flag on transit point bears N. 3° 29' 30" W.
By 3d obsn. flag on transit point bears N. 3° 30' 07" W.

Mean bearing of line by this series of observations is N. 3° 30' 11" W.

Mean bearing of line by combination of a.m. and p.m. observations is N. 3° 30' 22" W. which I adopt as the true meridian.

Apr.22, 1944, in order to verify the latitude of my transit station near Whitman Memorial Obelisk, and the reading of my watch, I make a meridian observation of the sun, first setting on the lower limb and noting the transit of the west limb, then, after reversal of the instrument, setting on the upper limb and noting the transit of the east limb, as follows:

Mean observed altitude	56° 19' 30"
Reduced latitude	46° 02' 25"
Mean watch time of observation	1h 07m 45s
Watch fast of l.m.t.	53m 50s
Same, by reference to radio time signals and calculated difference in longitude	53m 50s

The observed magnetic declination is 22° 00' E.

Every 30 min. from 6 to 10.30 a.m. and from 1.30 to 6 p.m., app.t., I make proper settings on the arcs of the solar attachment and ascertain that the resulting orientations of the instrument, when compared with the meridian established by direct solar observations, have maximum errors of less than 1' 30".

I repeat the tests of the arcs daily by noon observation, and verify the meridional indications at frequent intervals throughout the survey.

The following survey of Tracts Nos. 37 and 38 in T. 7 N., R. 35 E., Willamette Meridian, Washington, is based upon the Order of the Superior Court of the State of Washington in and for the County of Walla Walla, dated February 8, 1919, in the partition suit of May Swegle Sheldon vs. Alice

U. S. GOVERNMENT PRINTING OFFICE 6—R1.5A

5

Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	Swegle, Irene Swegle, et al.
	SOUTH BOUNDARY OF WHITMAN MISSION DONATION CLAIM.
	The locus of the SE. cor. of the Whitman Mission donation claim (Claim No.37, secs. 5 and 6, T. 6 N., R. 35 E., and Claim No.38, secs. 31 and 32, T. 7 N., R. 35 E.) is determined by reference to an acceptable reference point duly recorded in the records of the County Engineer of Walla Walla County, Washington.
	At point for corner,
	Set an iron post, 3 ft. long, 1 in. diam., 44 ins. in the ground, for SE. cor. of Whitman Mission donation claim, with brass cap mkd.
	CL 37 | 85 T6N R35E 1944
	from which
	The County Engineer's reference point, bears S.89°56'W., 4.40 chs. dist., an unmarked basalt stone, 16x7x7 ins., firmly set 2 ins. below surface of ground, at angle of dilapidated fences extending N. and W. I now re-monument this reference point as follows: Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, with unmarked basalt stone deposited at the base, for reference point, with brass cap marked
	R P S 5 1944
	A cottonwood, 14 ins. diam., bears N.18½°E., 251 lks. dist., mkd. T 6 N R 35 E C L 37 B T.
	The Whitman Memorial Obelisk, bears N.9°19'W., 43.65 chs. dist.
	The geographic position of SE. cor. of Whitman Mission donation claim is lat. 46°02'N., and long. 118°27½'W.
	Thence
	S. 89° 56' W., on S. bdy. of Whitman Mission donation claim.
	Over level bottom land, through alfalfa field.
4.40	Corner of dilapidated fences extending N. and W. and the reference point heretofore described.
10.00	A paved county road, at bend, bears S. and W.
45.50	Little Walla Walla River, 15 lks. wide, course N., in large double culvert beneath road.
50.00	A paved county road, extends N.6°E.
81.70	Leave paved county road, at curve, bears NW. and E.
85.40	A wire fence, bears NW. and SE.; leave bottom land, bears NW. and SE.; asc. 25 ft. over NE. slope through pasture.
89.91	The SW. corner of Whitman Mission donation claim, a basalt stone, 14x10x8 ins., firmly set 12 ins. below surface of

Chains.

ground, marked X on top, as described in the records of the County Engineer of Walla Walla County.

At point for corner,

Set an iron post, 3 ft. long, 1 in. diam., 32 ins. in the ground, with marked stone deposited at the base, for SW. cor. of Whitman Mission donation claim, with brass cap marked

S6 | CL
37
T6N R35E
1944

from which

Whitman Memorial Obelisk bears N.62°29'E., 93.47 chs. distant.

A locust, 18 ins. diam., bears N.56¼°W., 148 lks. dist., mkd. T 6 N R 35 E C L 37 B T.

Land, level and rolling.
Soil, loose sandy loam; 1st rate.
Timber, a few cottonwood, hawthorn, and locust trees along streams and fences; undergrowth, willow and cherry along streams and fences.

METES AND BOUNDS SURVEY OF TRACT NO.37.

Beginning at SE. corner of parcel of land partitioned to Irene Swegle, a basalt stone, 18x10x6 ins., firmly set flush with surface of ground, marked X on top, and located beneath a wire fence

Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, with marked stone deposited at the base, for angle point No.1, with brass cap marked

TR 37 | S 32
A P 1
T 7 N R 35 E
1944

from which

The SE. corner of Whitman Mission donation claim in sec. 5, T. 6 N., R. 35 E., Willamette Meridian, bears S.11°46'E., 20.41 chs. dist.; heretofore described.

A cottonwood, 9 ins. diam., bears N.68°W., 62 lks. dist., mkd. A P 1 T R 37 B T.

A sumac, 5 ins. diam., bears N.8°W., 35 lks dist., mkd. A P 1 T R 37 B T.

Thence N. 0° 31' E., along E. bdy. of Tract No.37.

Over level bottom land, through heavy timber and dense undergrowth, along wire fence.

4.00 Leave heavy timber and dense undergrowth and enter open pasture, bears E. and W.

17.29 A rail fence, bears E. and W.

17.66 A paved county road, at curve, bears E. and W.

Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
18.00	The NE. corner of parcel of land partitioned to Irene Swegle, a basalt stone, 16x10x5 ins., firmly set flush with surface of ground, marked X on top. At point for corner, Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, with marked stone deposited at the base, for angle point No.2, with brass cap mkd. T 7 N R 35 E A P 2 | S 32 TR 37 | 1944 from which A granite stone, 5x5 ins., mkd. X on top, firmly set flush with top of ground, at angle of wire fences extending N. and SE., on E. bdy. of Whitman Mission donation claim, bears S.72°55'E., 460 lks. dist. A wagon skein, 2 ins. diam., firmly set flush with top of ground, 1½ lks. NW. of cor. of fences extending approximately E., S., and W., bears S.1°17'E., 68 lks. dist. A brass rod, ½ in. diam., in center of an iron box 6 ins. diam. with removable lid flush with paved surface, which marks a point of tangent in alinement of paved county road bears S.74°39'W.,116 lks. dist. Thence N. 86° 34' W., along N. bdy. of Tract No.37. Along N. side of paved county road.
3.60	A graveled road, extends NW.
4.10	An irrigation ditch, 4 lks. wide, bears N. and S., in culvert beneath road.
18.40	Center of paved county road, at curve, bears N.80°W. and S.80°E.
20.00	The NW. corner of parcel of land partitioned to Irene Swegle, identical with angle point No.3 of Tract No.37, a concrete block, 12x10 ins. upper dimension, marked X on top, firmly set 8 ins. below surface of ground at S. edge of paved surface of county road, at E. edge of road to Sheldon's ranch; from which The SW. corner of an adobe brick building bears S.31°53'E., 7.15 chs. dist. From angle point No.3, S.34°15'E., 68 lks. dist., set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for reference point, with brass cap mkd. RP S32 1944 From angle point No.3, N.34°15'W., 68 lks. dist., set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for reference point, with brass cap mkd.

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Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
	RP S32 1944
	Thence S. 0° 38' W., along W. bdy. of Tract No.37.
	Along a wire fence and E. side of graveled road to Sheldon's ranch.
12.30	Enter heavy timber and dense undergrowth, bears NE. and S.15°W.; end of road and continue along wire fence.
19.20	The proportional point for SW. corner of parcel of land partitioned to Irene Swegle and angle point No.4 of Tract No.37.
	Set an iron post, 3 ft. long, 1 in. diam., 30 ins. in the ground, for angle point No.4, with brass cap mkd. S32 | TR 37 | A P 4 T 7 N R 35 E 1944
	from which
	A cottonwood, 18 ins. diam., bears N.10½°E., 81 lks. dist., mkd. A P 4 T R 37 B T.
	A cottonwood, 14 ins. diam., bears N.64°E., 81 lks. dist., mkd. A P 4 T R 37 B T.
	From angle point No.4, the SW. corner of parcel of land partitioned to Florence Swegle bears West, 18.92 chs. dist.; an iron boxing, 3 ins. diam., firmly set 6 ins. below surface of ground, under a wire fence bears E. and W.
	From angle point No.4, East along the S. bdy. of Tract No.37.
13.00	An old channel of Walla Walla River, 30 lks. wide, course S.
19.20	Same old channel of Walla Walla River, 40 lks. wide, course N.
20.02	Angle point No.1, place of beginning.
	Land, level. Soil, deep sandy loam; 1st rate. Timber, cottonwood, birch, willow, cherry, and sumac. Undergrowth, wild rose, willow, and grape vines.

METES AND BOUNDS SURVEY OF TRACT NO.38.

Beginning at angle point No.2 of Tract No.37,

Thence N. 86° 34' W., along N. bdy. of Tract No.37.

1.29 Record measurement, from court order survey, set temp. pt.

Thence

N. 0° 52' E., (A bearing derived by turning from the N. bdy. of Tract No.37 a deflection angle identical with the one used in court order survey.)

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Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
0.084	A point in right of way fence on N. side of, and, 30 ft. distant northerly from center line of paved county road. Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for angle point No.1 of Tract No.38, with brass cap marked TR 38 | S 32 A P 1 T 7 N R 35 E 1944 from which The SE. corner of Whitman Mission donation claim in sec. 5, T. 6 N., R. 35 E., Willamette Meridian, bears S.7°54'E., 38.50 chs. dist.; heretofore described. Angle point No.2 of Tract No.37 bears S.82°50'E., 1.297 chs. dist., heretofore described. A wagon skein, 2 ins. diam., firmly set flush with top of ground, 1½ lks. NW. of corner of fences extending approximately E., S., and W., bears S.57°00'E., 154 lks. dist. A brass rod, ¼ in. diam., in center of an iron box 6 ins. diam. with removable lid flush with paved surface, which marks a point of tangent in alinement of paved county road, bears S.19°00'E., 49½ lks. dist. Thence N. 0° 52' E., with new measurement along E. bdy. of Tract No.38. Ascend 84 ft. over open broken S. slope.
5.60	Top of hill, bears N.60°E. and S.60°W.; desc. 41 ft. over NW. slope.
9.34	Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for angle point No.2, with brass cap marked T 7 N R 35 E A P 2 TR 38 | S 32 1944 from which The center of Whitman Memorial Obelisk on top of hill, a tapered granite shaft, 25 ft. high, inscribed W H I T M A N on W. face, bears S.23°33'W., 4.805 chs. dist. The SE. corner of an outside full length chimney on E. side of house bears N.75°08'W., 9.754 chs. dist. Thence N. 89° 08' W., on N. bdy. of Tract No.38, normal to the E. bdy. of Tract No.38. Descend 47 ft. over open NW. slope.
5.10	An irrigation ditch, 4 lks. wide, bears N.70°E. and S.70°W. with a narrow strip of deciduous trees and dense under-

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Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
	growth along the S. bank.
8.00	Enter flat, bears N.70°E. and S.70°W.
9.10	Same irrigation ditch, bears N. and S.
9.29	A graveled road, bears N. and S.
9.47	Record measurement, from court order survey.

Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for angle point No.3, with brass cap mkd.

T 7 N R 35 E
S 32 | A P 3
TR. 38.
1944

from which

The SE. corner of an outside full length chimney on E. side of house, bears N.0°54'E., 2.355 chs. dist.

The center of N. side of well housing bears S.84°48'E., 3.37 chs. dist.

The center of Gray Memorial Monument, a tapered white marble obelisk 10 ft. high, on a gray granite base 36 ins. square 22 ins. above ground, bears S.49°33'E., 160 lks. dist., inscribed as follows:

WILLIAM HENRY GRAY

BORN NEW YORK SEPT. 10, 1810

DIED PORTLAND NOV. 14, 1889

MARY AGUSTA DIX

BORN CHAMPLAIN NEW YORK

JAN. 2, 1810

DIED KLASKANI FARM CLATSOP

CO. OREGON DEC. 8, 1881

The NE. corner of Whitman Massacre Memorial Tablet, a gray and blue marble slab 11.5 ft. NE. and SW. by 5.2 ft. NW. and SE., 20 ins. above ground, on concrete base, bears S.50°32'E., 169 lks. dist., inscribed as follows:

SACRED TO THE MEMORY OF

MARCUS WHITMAN
NARCISSA PRENTISS WHITMAN
ANDREW ROGERS, JR.
JAMES YOUNG, JR.
LUCIEN SAUNDERS
NATHAN KIMBALL
CROCKETT A. HEWLEY
ISAAC GILLEN
JOHN SAGER
FRANCIS SAGER
JACOB HOFFMAN MARSH
AMOS SALES
JACOB D. HALL

U. S. GOVERNMENT PRINTING OFFICE 0—61155

←673b

Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
	MASSACRED NEAR THIS SPOT BY CAYUSE INDIANS NOV. 29-30, 1847.
	Thence
	S. 0° 52' W., on W. bdy. of Tract No.38, parallel with E. bdy. of Tract No.38.
	Descend 4 ft. over rolling S. slope, along wire fence.
0.37	A power line, bears E. and W.
0.50	An irrigation ditch, 4 lks. wide, bears NW. and SE.
2.00	Enter level bottom land, bears NW. and SE.
8.78½	Corner of right of way fence along N. side of paved county road and fence extends N.0°52'E.
8.88½	A point 30 ft. distant northerly from center line of paved county road, and, 0.11½ chs. distant northerly from N. bdy. of Tract No.37.
	Set an iron post, 3 ft. long, 1 in. diam., 28 ins. in the ground, for angle point No.4, with brass cap mkd.
	S 32 | TR 38 A P 4 T 7 N R 35 E 1944
	from which
	A brass rod, ¼ in. diam., in center of an iron box 6 ins. diam., with removable lid flush with paved surface, which marks the W. end of tangent and point of curve in alinement of paved county road, bears S.87°33'W., 436 lks. dist.
	A fence corner bears N.2°30'W., 10 lks. dist.
	Thence
	S. 86° 23' E., on S. bdy. of Tract No. 38, parallel with, and, 30 ft. distant northerly from center line of paved county road.
	Over level bottom land, in ditch.
6.67	An irrigation ditch, 4 lks. wide, bears N. and S. in culvert beneath road.
7.10	A graveled road, bears NW. and SE.; leave level bottom land, bears NW. and S.80°E.; ascend 8 ft. along broken S. slope along road right of way fence.
9.48	Angle point No.1, place of beginning.
	Land, level and rolling mountainous. Soil, loose sandy loam; 1st rate. Timber, willow, cottonwood, cherry, birch, and sumac. Undergrowth, willow and sage.

GENERAL DESCRIPTION.

Most of the area embraced in this survey consists of level bottom land near the Walla Walla River. The ap-

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Township 7 North, Range 35 East.

Whitman National Monument.

Chains.	
	proximate elevation above mean sea level is 600 ft. Part of Tract No.38 is situated on a hill about 100 ft. high where a monument has been erected and dedicated to the memory of the Whitman Pioneers. This monument, which is visible for many miles, is a tapered gray granite obelisk, 25 ft. high, enclosed in an ornamental iron picket fence. Access to this monument is possible over a steep narrow graded and graveled road. A small area near the NW. corner of Tract No.38 has been sodded and landscaped. A marble slab dedicated to the memory of the pioneers slain in the Whitman Massacre, a marble obelisk erected to the memory of William Henry Gray and Mary Agusta Dix, and several graves are found in this beautiful grassy spot. A well with electically driven pump, located inside and near the N. bdy. of this tract, furnishes an ample water supply for this beautiful sanctuary. Other small improvements, for public convenience, have been constructed nearby on this tract. A paved county road, 60 ft. right of way, located along N. bdy. of Tract No.37 and S. bdy. of Tract No.38, furnishes public access to this area. A narrow graded and graveled road crosses Tract No.38 almost diagonally from NW. to SE. This road supplies access to the items of interest found in Tract No.38, and, access to a set of farm buildings located NW. of the NW. cor. of Tract No.38. An adobe brick building is found near the site of old Whitman Mission buildings near the NW. corner of Tract No.37. The soil of this area is a very fertile deep fine sandy loam which sustains vegetation in great abundance with the aid of irrigation. An old channel of the Walla Walla River is found in the southern portion of Tract No.37. Heavy cottonwood, birch, willow, cherry, and sumac timber and a dense undergrowth, consisting of wild rose, willow, and wild grape vines, is found in the visinity of this old channel. No evidence of mineral was noted in this area. The mean magnetic declination is 22° 00' E. There is a range of 1° in local attraction.

CERTIFICATE OF SURVEYOR

I, Geo. F. Rigby, Assoc. Cadastral Engineer, HEREBY CERTIFY upon honor that, in pursuance of special instructions bearing date of the 10th day of December 1943, received from the district cadastral engineer for Washington, with assignment instructions dated April 1, 1944, I have ~~surveyed~~ dependently resurveyed the S. bdy. of Whitman Mission donation claim in secs. 5 and 6, T. 6 N., R. 35 E., and executed a notes and bounds survey of Tracts Nos. 37 and 38, Whitman National Monument, in sec. 32, T. 7 N., R. 35 E. of the Willamette Meridian, in the State of Washington, which are represented in the foregoing field notes as having been executed by me and under my direction; and that said survey has been made in strict conformity with said instructions, the Manual of Instructions for the Survey of the Public Lands of the United States, and in the specific manner described in the foregoing field notes.

Portland, Oregon.
May 3, 1944.

Geo. F. Rigby
Assoc. Cadastral Engineer.

CERTIFICATE OF APPROVAL

OFFICE OF SUPERVISOR OF SURVEYS,
Denver, Colorado, December 4, 1944.

The foregoing field notes of the ~~survey of~~ dependent resurvey of S. bdy. of Whitman Mission donation claim, secs. 5 and 6, T. 6 N., R. 35 E., and notes and bounds survey of Tracts Nos. 37 and 38, Whitman National Monument, in sec. 32, T. 7 N., R. 35 E. of Willamette Meridian, Washington executed by Geo. F. Rigby, Assoc. Cadastral Engineer, under special instructions dated December 10, 1943, and assignment instructions dated April 1, 1944, having been critically examined, and the necessary corrections made prior to their certification by the engineer, the said field notes, and the survey therein described, are hereby approved.

A. C. HORTON, JR.
Supervisor of Surveys.

CERTIFICATE OF TRANSCRIPT

I CERTIFY that the foregoing transcript of the field notes of the above-described surveys in Tps. 6 and 7 N., R. 35 E., W.M., Wash., is a true copy of the original field notes on file in the public survey office.

Supervisor of Surveys.

U. S. GOVERNMENT PRINTING OFFICE 6—6412

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00-00-0000: engineers assisting

4-020
(Revised May 1934)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

ENGINEERS ASSISTING
[redacted]

NAMES	CAPACITY
Joseph A. Ganong	District Cadastral Engineer
Norman D. Price	Associate Cadastral Engineer

6—6413

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05-11-1940: memorandum to washington office and all field offices from director regarding whmi under general supervision of sup

Mr. Taylor, Reg. V

101359

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service
Washington

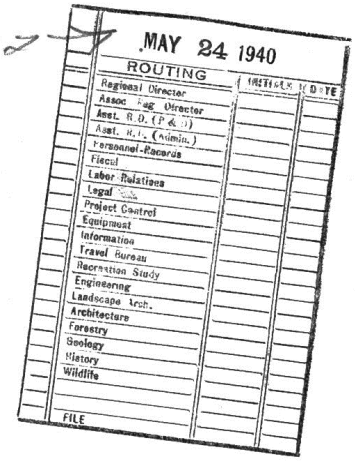
Miss Hicks
Please note

May 11, 1940.

MEMORANDUM for the Washington Office and All Field Offices:

Until further notice, Whitman National Monument in the State of Washington is to be under the general supervision of Superintendent Tomlinson of Mount Rainier National Park. Copies of all communications, except those of a purely routine nature, addressed to others within and outside of the Service, relating to that Monument should be sent to Superintendent Tomlinson.

Arno B. Cammerer
Director.



MAY 24 1940

ROUTING	INITIALS	DATE
Regional Director		
Assoc. Reg. Director		
Asst. R.D. (P & D)		
Asst. R.D. (Admin.)		
Personnel-Records		
Fiscal		
Labor Relations		
Legal		
Project Control		
Equipment		
Information		
Travel Bureau		
Recreation Study		
Engineering		
Landscape Arch.		
Architecture		
Forestry		
Geology		
History		
Wildlife		
FILE		

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

April 5, 1940.

Memorandum for Mr. Wirth:

We have received an informal request from your office to prepare an order for the signature of the Secretary to designate the area acquired for the Whitman National Monument, Washington.

There is no provision in the Act of June 29, 1936 (49 Stat. 2028) providing for a designation by the Secretary. In the absence of such a provision, it appears that the act of Congress, together with the acquisition of the lands, results in the establishment of the monument without further formality. The public will be informed through the usual methods of giving publicity to National Park Service areas, and the monument boundaries will be marked on the ground. The order which you propose is without precedent, and it appears undesirable to set such a precedent at this time.

(Sgd.) G. A. MOSKEY

Chief Counsel.

Copies to Director, Region Four, and
Supt. Mt. Rainier (2), 4/19/43.

Mr. Taylor

REC'D SEP 25 1939

WHITMAN NATIONAL MONUMENT

Report on
PRESENT POSSESSORY RIGHTS

Tract No._____ Owner United States of America Contract No._____

1. (a) If occupied, name of occupant of premises:
Mr. Ray Sheldon, R.F.D., Walla Walla, Wn.

(b) Nature of occupant's right to possession:
Under lease expiring Jan. 4, 1940

2. (a) Evidence of recent building construction:
None

(b) Outstanding recorded mechanic's, laborer's or materialmen's liens:
None

3. Do the physical boundaries of the property conform generally with the description in the deeds of conveyance? Yes

4. Water rights, if any, vested in third persons that may in any way affect the property:
Only necessity of passing Doan Creek irrigation water through property to users below

5. (a) If the property is affected by an easement, the nature of such easement:
None of record, but following through common usage:
a-County road dividing property.
b-Doan Creek irrigation ditch traversing property.

(b) Public or private? Public

If private, the names of those entitled to enjoy same?

6. Other reasons, if any, together with full explanations, why the United States is not entitled to unrestricted possession of the property upon acceptance of title:
Farmer whose lands abutt property on north may have right of access to county road over private road leading from county road to graves shrine.

Date: Sept. 16, 1939

Sighed C. E. Drysdale
Associate Engineer

FIELD ENGINEERING COMMENTS

FOR PRELIMINARY MASTER PLAN

WHITMAN NATIONAL MONUMENT

C. E. Drysdale, Associate Engineer Sept. 16, 1939

GENERAL--This area was visited September 6, 7, and 8, 1939, in company with Regional Landscape Architect Davidson and Regional Historian Hagen. The area deeded to the United States of American for National Monument purposes was found to consist of two tracts separated by a county road.

The northern tract, known as the Whitman Monument Tract, contains about 8.2 acres, of which 3½ acres are low meadow land, while the balance rises in a hill 105 feet above the surrounding bottom land, and is surrmounted by the stone shaft of the Whitman Monument. Along the north base of this hill are graves of the victims of the Whitman massacre and of other pioneer settlers, a well and pump and hydrants for sprinkling, and two latrines. A one-way road leads from the county road along the west base of the hill to the graves where it divides, one branch ascending the hill to the monument at the summit, while the other branch provides access to the county road for the farmer living to the north. Just north of this tract flows the Doan creek irrigation ditch, carrying 1.5 cfs when full. This ditch turns south at the northwest corner of the tract and flows parallel to and about 20 feet west of the enterance road, to the county road, which it crosses to the Mission Tract. This ditch flows at an elevation considerable above that of the lower pasture land, and since its channel is not impervious, tends to saturate it to some extent.

The 37.2 acre tract lying to the south of the county road, known as the Mission Tract, consists wholly of bottom land, with only slight variations as to elevation. It contains considerable marshy land which is occasionally flooded. Since the differences in elevation of this tract are relatively slight, the five foot contour interval shown on the accompanying sketch plan is too great to give a true picture of its topography. The county road traverses the north boundary of this tract while the Doan Creek irrigation ditch is located approximately parallel to and 100 feet south of the north boundary.

SURVEYS--Before any development plans can be prepared for this area, an accurate topographical survey is necessary. The topography shown on the accompanying map was sketched in and is only approximate. Accurate ground water topography as well as surface topography is particularly essential before a sewage disposal system can be located.

UTILITIES--In treating of utilities, the assumption is made that any development such as caretaker's house, comfort station, and museum will be located on the 3½ acres of meadow land in the Monument Tract. Any possible ultimate restoration of the Mission Tract is treated below under "Restoration."

a--Water System: The existing water system is used for lawn sprinkling only, and consists of a shallow well with electric-powered centrifugal pump in concrete vault, a short run of pipe, and two

hydrants. Since it is presumed that potable water must eventually be supplied, a deep well cases through the upper water table and supporting impervious strata is strongly recommeded. With the high ground water elevation in this area, any shallow well is subject to pollution. This recommendation is supported by Washington State Sanitary Engineer Harris and Walla Walla Water Superintendent McClain. Artesian water under sufficient pressure to flow to the ground level has been found within a mile of this location at a depth of 350 feet, and discussions with qualified men inclines to the belief that it could be tapped at this location. Such a well, located near the present shallow well, could be supplemented by a small pumphouse or vault, a 5,000 to 10,000 galon concrete underground reservoir located atop the monument hill, and suitable gravity pipe lines to the development location.

b--Sewage Disposal System:

The need for sewage disposal will be limited to caretaker's house and five place latrine or equivalent. A standard system consisting of septic tank and filter trench will meet this need, PROVIDED, that these buildings are located at sufficient elevation to allow the bottom of the filter trench to be located at a minimum elevation of 103 as shown on accompanying sketch, with surface elevtion at 106. This is necessary to prevent contamination of ground water table and shallow wells in the neighborhood. If the dictates of building location require sewer lines at a lower elevation, chlorination of effluent will probably be necessary.

c--Electrical Power:

The power line abutting on the property and serving the existing well pump is available with 220-110 volt power.

WATER RIGHTS--The Monument Tract has no water rights. The Mission Tract is entitled to 0.033 cfs or 15 gpm from Doan Creek, as shown in accompanying copy of adjudication.

EASEMENTS--No easements are of record, but through common usage the following rights of way must be granted:

a--County Road:

While the Monument Tract abuts on the north boundary of the county road, the Mission Tract contains approximately three-fourths of the 60 foot right of way for this road.

b--Monument Road:

This road provides access not only to the monument area but to the farm abutting this property on the north. The Service may be entitled to deny this farm owner access through the Monument Tract, inasmuch as he has property to the west that abutts on the county road, but this is a moot question.

c--Irrigation Ditch:

The Doan Creek irrigation ditch traverses both the Monument and Mission Tracts. The Service is bound to respect this right of way, but if appearance or seepage problems dictate, could change the form and location as necessary by providing a lined channel or tight pipeline to care for the 1.5 to 2 cfs maximum flow. A change in location by digging an alternate ditch would leave the Service liable for any excessive seepage that might be occasioned.

ROADS--The county road is now the only access to the area from Walla Walla and Highway #410. Cooperation of the county in bringing this gravelled road to a somewhat higher standard has been promised. The need

for a better access road from Highway #410 has been discussed, but no decision was reached.

It is proable that the excessively steep and dangerous road branch from the graves shrine to the monument base should be obliterated and be replaced with a well graded trail. The 23% pitch on this road and the dangerous condition at the top make this road exceedingly hazardous as well as hard to maintain.

It may be preferable to relocate the acess road from county road to graves shrine along the edge of the meadow and thus adjacent to the proposed parking area.

TRAILS--A trail now exists from the graves shrine to monument base, paralleling the branch road. This should be reconstructed and possible supplemented by a return loop from monument base to junction of county and monument roads.

PARKING AREA--A parking area is proposed in the Monument Tract meadow. If space can be found above elevation 100 as shown on attached plan a suitable foundation should be found. If it is necessary to place the parking area on land lying be low elevation 100, an underdrained fill section should be provided.

PROTECTION--The Walla Walla river has shown a tendency to cut into the southern area of the Mission Tract. Negotiations should be undertaken with the Army Engineers now engaged in flood protection work in this area to protect this section.

Sufficient reservoir storage should be provided and adequate main capacity specified to make fire streams available as protection for any proposed development.

RESTORATION--If any restoration of the Mission Tract undertaken is to include restoration of the mill pond and raceway, the only sufficient flow of water available is from the Walla Walla River. To obviate excessive seepage and evaporation losses from this river whose waters are conserved for irrigation purposes, the necessary flow (one to two cfs) should be brought to the pond and discharged from the pond back to the river in closed conduits. The evaporation loss in the pond could be approximately replaced by the 15 gpm allotted the property from Doan Creek.

The old dikes to bound this pond could be reconstructed without excessive labor. Waste due to seepage losses occurring during resedimentation could be held to a minimum by first flooding pond at the end of the irrigating season.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR WALLA WALLA COUNTY

Whitman Centennial, Incorporated, a Washington corporation, and First National Bank of Walla Walla, a corporation, as trustee for the Walla Walla Trust Foundation,

Plaintiffs,

vs.

Oregon Pioneer Historical Society, a corporation, Oregon Pioneer Historical Society, an unincorporated association, the living trustees and members of Oregon Pioneer Historical Society, a corporation, and those of Oregon Pioneer Historical Society, an unincorporated association; George H. Himes, The State of Washington; Emma M. Bender (also known as Emma May Jane Belsora Bender) and John Doe Bender, her husband (the full and true name of said husband being to plaintiffs unknown), F. D. Boyer and Jane Doe Boyer, his wife, (the full and true name of said wife being to plaintiffs unknown), Charles Moore and Julia A. Moore, hiswife, Irene Swegle (also known as Irene Swegle Shelden), Irene Willougy, Florence Kandel, Floyd Swegle, Jesse Swegle, Alice Swegle Bevans, May Shelden, The Congregational Church Building Society, a corporation, M. Fisk and Josephine Fisk, his wife, Luis Schwabacher, Sigmund Schwabacher, Emma M. Bender and L. A. Bender, her husband (also known as Leonard A. Bender), Olivia E. Holmes and H. R. Holmes, her husband, Charles A. Brown, Frank F. Brown, Susannah Brown, Albert Swegle, and Louisa Swegle, his wife, the unknown heirs of any of the above named persons, if deceased, the unknown heirs of Frank Swegle, deceased, the unknown heirs of Libbie Swegle, deceased, also all other persons or parties unknown claiming any right, title, estate, lien or interest in the real estate described in the complaint herein,

Defendants.

Filed Apr 24 1939
Walter Kimmerly, Clerk.
By:Geo.H.Livengood,Deputy

No. 28081

DECREE

Recorded Vol.27, Page 431

This matter coming on for trial this day, plaintiffs appearing by Pedigo, Watson & Gose, and Cameron Sherwood, their attorneys, and none of the defendants appearing except as may be infants, incompetents or suffering under any manner of disability, and they appearing by Judd D. Kimball, Esq., their duly appointed, qualified and acting attorney and guardian ad litem, and it appearing to the court, and the court finding as a matter of fact that each and all of the defendants have been duly served with summons and complaint herein, as required and prescribed by law, either personally or by publication, returns of such service and proof of publication of such summons having been duly filed herein, and that more than sixty days have elapsed since said service and since the first day of publication of summons herein, exclusive of the day of service, and it further appearing that the defendant Alice Swegle Bevans has duly filed herein her disclaimer, and that the defendant, the State of Washington, having filed its receipt in full and waiver as for all claims in or to any of the real property described in the complaint herein, or any portion thereof, and having disclaimed further interest therein or thereto, and it further appearing to the court that Irene Swegle (also known as Irene Swegle Shelden) is one and the same person as the defendant Irene Willougy, ample proofs of such fact having been to the court submitted, and it appearing that the plaintiffs at the time of the commencement of this action and immediately after filing their complaint herein, and before the commencing of publication of summons in this cause, filed in the office of the County Auditor of Walla Walla County, Washington,

good and sufficient notice of Lis Pendens herein, and each and all of the defendants having heretofore been adjudged in default, save only those defendants appearing and represented by attorney and guardian ad litem herein, he being Judd D. Kimball, Esq., and the court having jurisdiction over the parties and subject matter of this action, and being fully advised in the premises, it is now, therefore,

ORDERED, ADJUDGED AND DECREED as follows:

1. That the defendant, State of Washington, having duly filed herein its receipt reflecting full payment of all inheritanse taxes which might be claimed as a lien upon the real property described in the complaint herein, or any portion thereof, and having disclaimed further interest therein or thereto, has no further right, title, lien or interest in or right of redemption in or to the lands and premises hereinafter particularly described and described in the complaint herein, or any part of the same.

2. That this court has full and complete jurisdiction over all and every of the parties to this action and all and singular the premises and property rights involved herein sufficient in law and in equity to make and enter this decree, and for the same henceforth to be binding and effective, according to its terms against each and all of the parties hereto, as well as against each and all of the parties, party, person or persons claiming or to claim any right, title, estate, lien or interest in or right of redemption in or to the lands and premises hereinafter particularly described and described in the complaint herein, or any part thereof, by, through or under any of said parties to this action or otherwise.

3. That it is adjudged that the defendant Irene Swegle (also known as Irene Swegle Shelden) is one and the same person as the defendant Irene Willougy, and that they were inadvertently named as separate defendants herein, when in truth and in fact, as the court now finds, they are one and the same person, namely Irene Willougy, who has heretofore been adjudged in default herein, as more particularly appears in the order of default upon file herein, the said defendant having no claim to any right, title, estate, lien or interest in or right of redemption in or to the lands and premises hereinafter particularly described and described in the complaint herein, or any part thereof.

4. That the plaintiff Whitman Centennial, Incorporated, a Washington corporation, is now the legal and equitable owner in fee simple, and as such is entitled to the exclusive ownership, possession, occupancy and enjoyment of the following described lands and premises, situate, lying and being in Walla Walla County, State of Washington, to-wit:

> Beginning at a point which bears North 20.00 chains and South 89° 06' West 4.4 chains from the Southeast corner of the Whitman Mission Claim in Section Thirty-two (32) in Township Seven (7) North, of Range Thirty-five (35) East of the Willamette Meridian, and running thence South 89° 06' West, parallel with and distant 20.00 chains at right angles from the South line of said Claim, a distance of 20.00 chains; thence North, parallel with the East line of said Claim, 19.23 chains; thence South 87° 26' East 20.02 chains; thence South, parallel with the East line of said Claim 18.00 chains to the point of beginning.

together with the hereditaments, improvements and appurtenances of every kind and nature thereunto belonging, free and clear of any right of redemption, lien or encumbrance or any right, title, claim, interest or demand of the defendants, or any of them, or of any person or party claiming by, through or under any of the defendants named in this action or otherwise.

5. That title in the plaintiff Whitman Centennial, Incorporated, a Washington corporation, in and to the lands and premises aforesaid, and every part and parcel thereof, is hereby quieted and declared to be absolute and in fee simple against the defendants herein, and each of them, and all persons whomsoever and parties claiming or to claim any right, title, estate, right of redemption, lien or interest therein or thereto, through or under the said defendants or any of them.

6. That plaintiff First National Bank of Walla Walla, a corporation organized and existing under the national banking laws of the United States, as the duly authorized, acting and appointed trustee for the Walla Walla Trust Foundation, is now the sole, legal and equitable owner in fee simple, and as such is entitled to the exclusive ownership, possession, occupancy and enjoyment of the following described lands and premises, situate, lying and being in Walla Walla County, State of Washington, to-wit:

> Beginning at a point 2738 feet South and 800 feet West of the Northeast corner of the Whitman Mission Claim No. 38, in Sections Five (5) and Six (6) in Township Six (6) and Sections Thirty-one (31) and Thirty-two (32) in Township Seven (7) North, of Range Thirty-five (35) East of the Willamette Meridian, and running thence North 89° 41' West 300.30 feet along the North line of the County Road; thence North 562.30 feet; thence at right angles Easterly 625.00 feet; thence at right angles Southerly to the North side of the present County Road; thence West along the North side of said County Road to the point of beginning.

together with the hereditaments, improvements and appurtenances of every kind and nature thereunto belonging, free and clear of any right of redemption, lien or encumbrance or any right, title, claim or demand of the defendants or any of them.

7. That title in the plaintiff First National Bank of Walla Walla, a corporation, as trustee for the Walla Walla Trust Foundation, in and to the lands and premises aforesaid and last

mentioned herein, and every part and parcel thereof, is hereby quieted and declared to be absolute and in fee simple against the defendants herein, and each of them, and all persons whomsoever and parties claiming or to claim any right, title, estate, right of redemption, lien or interest therein or thereto, through or under the said defendants, or any of them.

8. And it is further ORDERED, ADJUDGED AND DECREED that Judd D. Kimball, having appeared and resisted the entry of the decree herein as attorney and guardian ad litem for defendants herein who are or may be infants, incompetents, or suffering under any legal disability, be and he hereby is discharged as such attorney and guardian ad litem, he having resisted entry of the decree herein and approved the same as to form.

Done in opn court this 24th day of April, 1939.

Timothy A. Paul
JUDGE

Presented by

CAMERON SHERWOOD
Of counsel for plaintiffs

Approved as to form

JUDD D. KIMBALL
Attorney and guardian ad litem

6

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF WALLA WALLA

WHITMAN CENTENNIAL, INCORPORATED,
A WASHINGTON CORPORATION, ET AL
Plaintiffs,
-vs-
OREGON PIONEER HISTORICAL SOCIETY,
A CORPORSTION, ETAL
Defendants.

No. 28081

STATE OF WASHINGTON,
County of Walla Walla } ss.

I, Walter Kimmerly *County Clerk of the County of Walla Walla, State of Washington, and ex-officio Clerk of the Superior Court of the State of Washington for Walla Walla County, do hereby certify that the within and foregoing is a full, true and correct copy of the original* DECREE

and of the whole thereof, as the same is now on file and of record in the above entitled cause in my office and custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Superior Court this 24th *day of* April, 19 39

Walter Kimmerly
County Clerk and Ex-officio Clerk of the Superior Court.

By Grace Shaughnessy, Deputy

7

DEED

THE GRANTORS, FIRST NATIONAL BANK OF WALLA WALLA, WASHINGTON, a corporation, as trustee for the Walla Walla Trust Foundation, and T. C. Elliott, F. M. Lowden, Jr., John F. Watson, F. A. Mallaghan, and A. C. Crecelius, as the Foundation Committee of the Walla Walla Trust Foundation, under and by virtue of the decree of the Superior Court of the State of Washington, in and for the County of Walla Walla, made and entered on the 17th day of May, 1938, in Cause No. 22049, entitled "In the Matter of the Walla Walla Trust Foundation", which decree is by reference made a part hereof, do hereby Grant, Bargain, Sell and Convey unto the United States of America the following described real estate situated and being within the County of Walla Walla, State of Washington, to-wit:

> Beginning at a point 2738 feet South and 800 feet West of the Northeast corner of the Whitman Mission Claim No. 38, in Sections Five (5) and Six (6) in Township Six (6) and Sections Thirty-one (31) and Thirty-two (32) in Township Seven (7) North, of Range Thirty-five (35) East of the Willamette Meridian, and running thence North 89° 41' West 200.30 feet along the North line of the County Road; thence North 562.30 feet; thence at right angles Easterly 625.00 feet; thence at right angles Southerly to the North side of the present County Road; thence West along the North side of said County Road to the point of beginning, together with all water and water rights appurtenant thereto.

And the said grantor, First National Bank of Walla Walla, as trustee for the Walla Walla Trust Foundation, for itself, its successors and assigns, does hereby covenant and agree to and with the said grantee, the United States of America, that it has not made, done, committed, executed or suffered any act or acts, thing or things whatsoever whereby the above-mentioned and described real estate, or any part or parcels thereof, now are or at any time

1-

hereafter may be, impeached, charged, or encumbered in any manner or way whatsoever.

And the said grantors, T. C. Elliott, F. M. Lowden, Jr., John F. Watson, E. A. Mallaghan, and A. C. Crecelius, as the Foundation Committee of the Walla Walla Trust Foundation, for themselves, their successors and assigns, executors and administrators, do hereby covenant and agree to and with the said grantee, the United States of America, that neither they nor any of them have made, done, committed, executed or suffered any act or acts, thing or things whatsoever whereby the above-mentioned and described real estate, or any part or parcels thereof, now are or at any time hereafter may be impeached, charged, or encumbered in any manner or way whatsoever.

Dated this 3rd day of May, 1939.

FIRST NATIONAL BANK OF WALLA WALLA,
a national banking corporation,
as Trustee for the Walla Walla Trust
Foundation,

By _____
As its president

By _____ (SEAL)
As its cashier

T. C. Elliott

F. M. Lowden

John F. Watson

E. A. Mallaghan

A. C. Crecelius

As the Foundation Committee of the
Walla Walla Trust Foundation.

2-

STATE OF WASHINGTON)
) ss.
County of Walla Walla)

On this 3rd day of May , 1939, before me, a Notary Public in and for the above named County and State, personally appeared Jno. A. Ankeny and H. E. Quist to me known to be the president and cashier respectively of FIRST NATIONAL BANK OF WALLA WALLA, a national banking corporation, as Trustee for the Walla Walla Trust Foundation, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

T. P. Jay
Notary Public in and for the
State of Washington, residing
at Walla Walla, Washington.

STATE OF WASHINGTON)
) ss.
County of Wal la Walla)

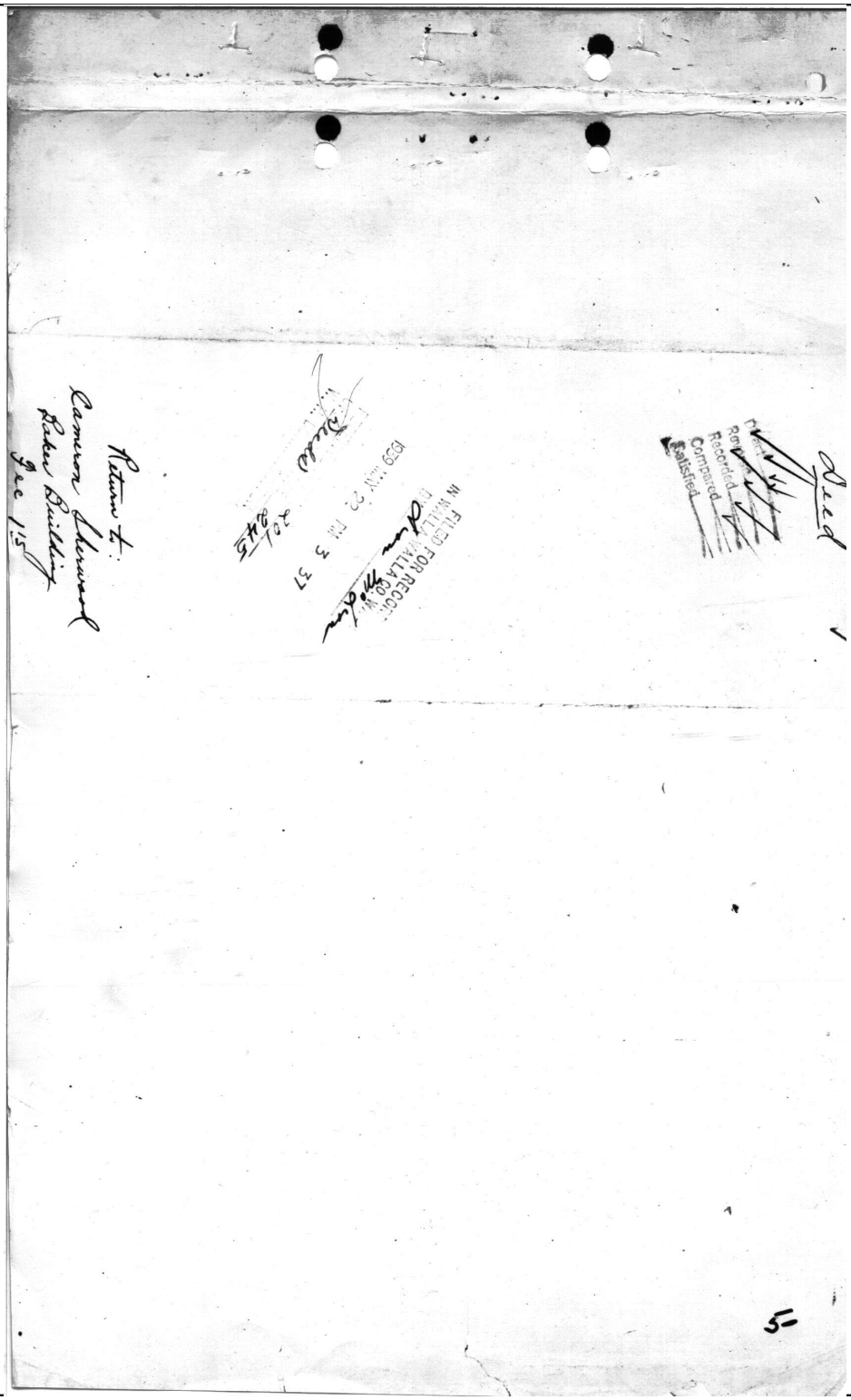
On this day personally appeared before me T. C. Elliott, Jr., F. M. Lowden, John F. Watson, E. A. Mallaghan, A. C. Crecelius, as the Foundation Committee of the Walla Walla Trust Foundation, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

3-

Given under my hand and official seal this 3rd day of May, 1939.

T. P. Gose
Notary Public in and for the State of Washington, residing at Walla Walla, Washington.

05-03-1939: deed -- case no. 22049, 'in th matter of the bella wells trust recreation', page 5cont



Deed

Direct
Reverse
Recorded
Compared
Satisfied

FILED FOR RECORD
IN WALLA WALLA CO. WA
BY Ann McLean
1939 MAY 22 PM 3 37

Deeds 201
245

Return to:
Cameron Sherwood
Baker Building
Fee 1.15

5

02-09-1937: warranty deed, bear witness to convey and warrant real estate

WARRANTY DEED

THIS INDENTURE WITNESSETH: That the Grantor, WHITMAN CENTENNIAL, INCORPORATED, a corporation organized and existing under and by virtue of the laws of the State of Washington, for and in consideration of the sum of Ten Dollars, does hereby CONVEY and WARRANT to the United States of America, the following described real estate in the County of Walla Walla, State of Washington, to-wit:

Beginning at a point which bears North 20.00 chains and South 89° 06' West 4.4 chains from the Southeast corner of the Whitman Mission Claim in Section Thirty-two (32) in Township Seven (7) North, of Range Thirty-five (35) East of the Willamette Meridian, and running thence South 89° 06' West, parallel with and distant 20.00 chains at right angles from the South line of said Claim, a distance of 20.00 chains; thence North, parallel with the East line of said Claim, 19.23 chains; thence South 87° 26' East 20.02 chains; thence South parallel with the East line of said Claim, 18.00 chains to the point of beginning. containing 37.22 acres more or less

IN WITNESS WHEREOF, the grantor has caused this instrument to be executed this 9th day of February, 1937.

WHITMAN CENTENNIAL, INCORPORATED

By Robert Ringold
Vice-President

Attest: Alfred McWay
Secretary

STATE OF WASHINGTON,)
) ss.
County of Walla Walla.)

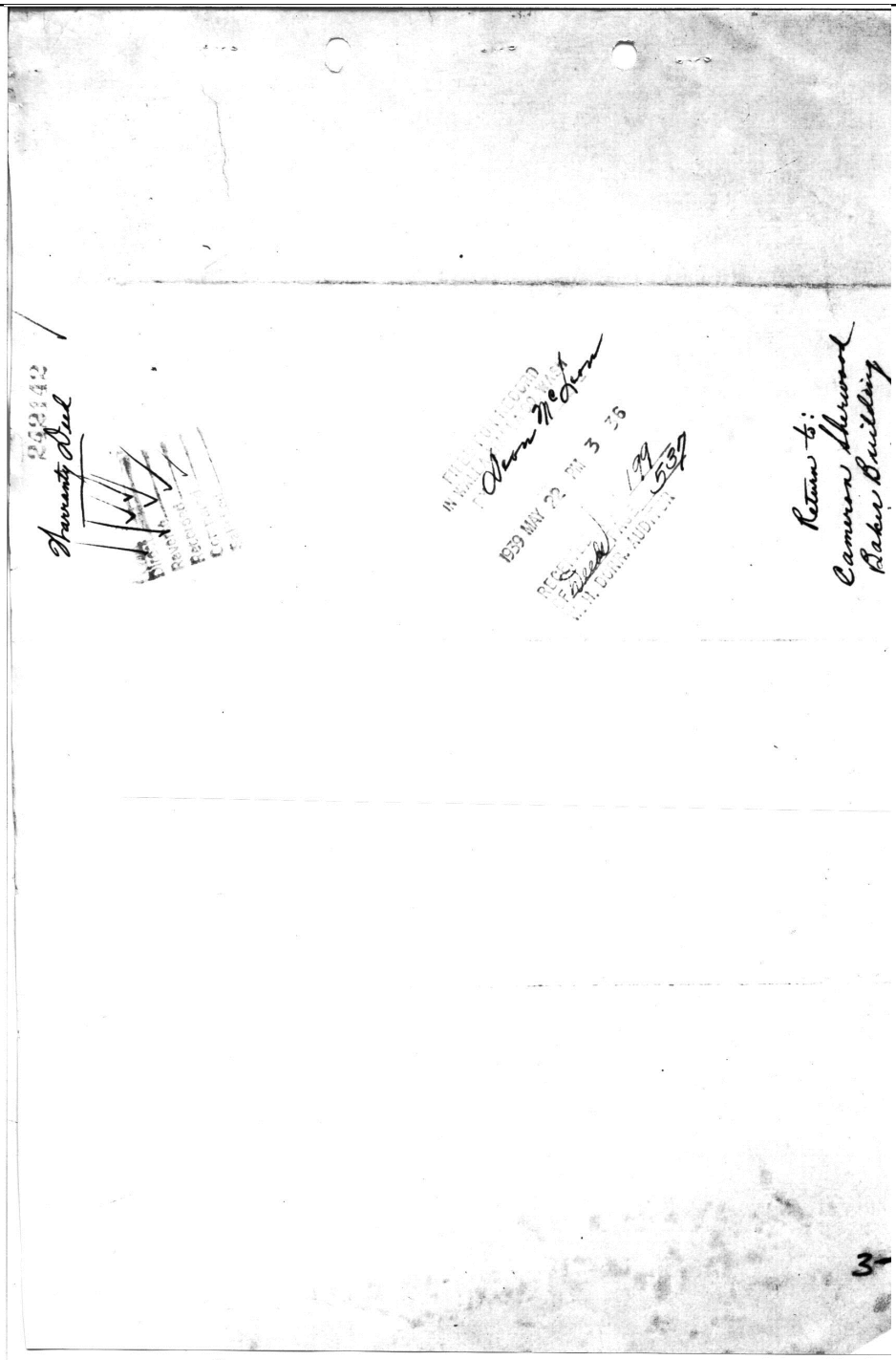
This is to certify that on this 9th day of February, 1937, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Herbert Ringhoffer and Alfred McVay, to me known to be the Vice-President and Secretary of Whitman Centennial, Incorporated, the corporation that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned and on oath stated that they were authorized to execute the said instrument and that said corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above in this certificate written.

Marvin Evans

Notary Public for Washington,
residing at Walla Walla.

2-


Warranty Deed
Aaron McLean
1939 MAY 22 PM 3 36
199
537
Return to:
Cameron Sherwood
Baker Building
3

160 & 161

UNITED STATES OF AMERICA, By the President: Calvin Coolidge, by Viola E.Pugh, Secretary, M. P. Lelley, Recorder of the General Land Office,

(Grantor)

163330 ----------to----------

American Board of Commissioners for Foreign Missions, a corporation,

(Grantee)

PATENT.

dated November 4th 1926.

Filed January 17th 1927, at 2:10 o'clock P. M.
Recorded Vol. "G" PAT'S., page 373.

Spokane 015hh5

THE UNITED STATES OF AMERICA:

To all to whom these presents shall come, GREETING:

WHEREAS, there has been deposited in the General Land Office of the United States, a certificate of the Register of the Land Office at Spokane, Washington, whereby it appears that in accordance with the Act of Congress approved June 21, 1926, (Private No. 196, 69th Congress) entitled "An Act Granting and relinquishing title to certain lands in the State of Washington to the American Board of Commissioners for Foreign Missions, and for other purposes", the American Board of Commissioners for Foreign Missions is entitled to a Patent for the private land claim known as the Whitman Mission embracing Claim No. 37 in Township six North, and Claim No. 38 in Township seven North, all in Range thirty-five East of the Willamette Meridian, Washington, containing six hundred forty-six acres and eighty-nine hundredths of an acre, according to the official Plats of the Survey of the said Lands, returned to the General Land Office by the Surveyor-General and approved May 28, 1868 and July 31, 1863.

NOW KNOW YE, that the United States of America, in consideration of the premises has given and granted, and by these presents does give and grant unto the said American Board of Commissioners for Foreign Missions, a corporation, its assigns and successors in interest, including equitable owners, the tracts of land above described.

TO HAVE AND TO HOLD the same together with all the rights, privileges, immunities and appurtenances of whatsoever nature, thereunto belonging, unto the said American Board of Commissioners for Foreign Missions, a corporation, its assigns and successors in interest, including equitable owners, forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of Courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States. Reserving also, to the United States, all minerals in said lands, together with all the right to prospect for, mine and remove the same.

-1-

(General Land Office seal is affixed.)

-1-

COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF WALLA WALLA

IN THE MATTER OF THE DETERMINATION OF THE RIGHTS TO THE USE OF THE WATERS OF DOAN CREEK IN WALLA WALLA COUNTY, WASHINGTON, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 117 OF THE SESSION LAWS OF 1917 OF THE STATE OF WASHINGTON and AMENDMENTS THERETO.

No._____

DECREE ON REMITTUR

THE STATE OF WASHINGTON,
Plaintiff,

vs.

L. E. McBEE, et al.,
Defendants.

This cause having heretofore come regularly on before the court for hearing on the 12th day of December, 1921 upon the several reports of the state supervisor of hydraulics, referee herein, pursuant to notice duly given as required by law and certain exceptions having been filed to said reports of the referee, and the parties filing said exceptions having appeared before the Court by their respective attorneys and the Court having heard the oral arguments on a said exceptions, and the matter having been submitted to the Court upon written briefs, and the Court being fully advised in the premises, thereafter made and entered a judgment in the above entitled matter, which said judgment was filed in the above entitled Court on the 1st day of June, 1922, and thereafter notice of appeal was properly served and filed by said respondents, appealing from the judgment hereinbefore referred to the Supreme Court of the State of Washington, and that thereafter such appeal came regularly on for hearing before the Supreme Court of the State of Washington, and said Court on the 14th day of May, 1923, entered its judgment reversing the lower Court in Certain particulars and thereafter sent its

remittitur to the Clerk of the Superior Court of the State of Washington for Walla Walla County to be filed in the above entitled case, and now in accordance with said remittitur, it is hereby ORDERED, ADJUDGED AND DECREED

1.

That the several reports of the State Supervisor of Hydraulics as referee herein be and they hereby are disapproved and disallowed as findings of fact herein, except as embodied in this decree, and this decree contains the findings of fact and conclusions of law, and all thereof herein.

11

That Doan Creek is an unnavigable natural watercourse tributary to the Walla Walla River; that said stream and the lands irrigated therefrom are situated in Walla Walla County, Washington.

111.

That all the lands involved in this proceeding were settled upon after 1846, and the patentees therefore took the same subject to appropriations of water previously made, the extend of such appropriations being hereafter stated.

IV.

That the duty of water for use of lands hereinafter described be and it is hereby fixed at one(1) cubic foot per second for each seventy-five acres of land.

V.

That the parties hereto and their successors in interest be and they hereby are entitled to divert from Doan Creek the amount of water specified in the classification hereinafter set forth for beneficial use upon their several lands described herein; that the rights

and priorities of such described land be and they hereby are as set forth in the said classifications and several paragraphs herein next following; that each and every defendant hereto and all persons claiming by, through or under them or any of them, be and they hereby are perpetually enjoined from interfering with the diversion and use upon said tracts of the amounts of water in said classifications and subsequent paragraphs specified, until lands having prior rights hereunder have been supplied their respective quotas.

VI.

That the classification of respective lands involved in this adjudication together with the dates of settlement and of first appropriation of water, the area of irrigable land and legal subdivision in which the same is located, together with the maximum amount of water to which the same is entitled be and the same hereby is fixed as follows:

DATE OF SETTLEMENT	DATE OF APPROPRIATION	NUMBER OF ACRES	AMOUNT OF WATER Cubic Feet Per SECOND	Miner's Inches 4 inch PRESSURE	DESCRIPTION OF LAND IN WHICH TRACT IS LOCATED Sec., Twp. N., R. E. W. M.
			CLASS 1A.		
M. W. SWEGLE, GUARDIAN OF ESTATE OF IRENE SWEGLE					
1846	1875	2.5	0.033	1.7	Beginning at a point which bears north 20 chains and south 89°6' west 4.4 chains from the southeast corner of the Whitman Mission Claim in Section Thirty-two (32) in Township Seven (7) North of Range thirty-five (35) E.W.M.; thence south 89°6' west, parallel with and distant 20 chains at right angles from the south line of said Claim, 20 chains; thence north, parallel with the east line of said Claim, 19.23 chains; thence south 87° 26' east 20.02 chains; thence south, parallel with the east line of said Claim, 18 chains to the point of beginning, containing 37.25 acres. (All the land described and mentioned in Classes 1A and 1B of this schedule, as belonging to M. W. Swegle, Guardian of Estate of Irene Swegle, is entitled to water from Walla Walla River, according to decree in the Superior Court of Walla Walla County in Case No._____. Records of the office of the County Clerk, filed in said Clerk's office on the 16th day of March, 1907).
Mission Tract					

M. W. SWEGLE, GUARDIAN OF
ESTATE OF FLORENCE SWEGLE

1846 1875 5.0 0.067 3.3 Beginning at a point which bears north 20 chains and south 89° 6' west 24.4 chains from the southeast corner of the Whitman Mission Claim, in Section thirty-two (32) in Township seven (7) North of Range thirty-five (35) E. W. M.; running thence south 89° 6' west, parallel with and distant 20 chains at right angles from the south line of said Claim, 18.9 chains; thence north 20' west 20.65 chains; thence south 87° 56' east 17.44 chains; thence south 50 links; thence south 87° 26' east 1.5 chains; thence south parallel with east line of said claim, 19.23 chains to the point of beginning, containing 38.12 acres.

MAY SWEGLE SHELDON

1846 1875 5. 0.067 3.3 Beginning at the intersection of the south line of the Oregon-Washington Railway and Navigation Company's right of way with the east line of the Whitman Mission Claim in Section thirty-two (32) in Township Seven (7) North of Range thirty-five (35) E. W. M.; 19.78 chains south from the northeast corner of said Claim, and running thence south 88° 12' west, along said south line of said right of way and distant 30 feet at right angles from the center line of the railroad tract, 25.92 chains; thence south, parallel with the east line of said claim, 20.7 chains thence south 87° 26' east 10.75 chains; thence north 9 chains thence east 9.47 chains; thence south 9.4 chains; thence south 87° 26' east 5.69 chains to the east line of said claim; thence north 22.7 chains to the point of beginning, containing 46.71 acres.

CLASS 1B

M. W. SWEGLE, GUARDIAN OF
ESTATE OF ALICE SWEGLE

1846 1914 10.0 0.133 6.7 Beginning at a point in the south line of the Oregon-Washington Railway and Navigation Company's right of way which bears south 19.78 chains and south 88° 12' west 25.92 chains from the northeast corner of the Whitman Mission Claim, in Section thirty-two (32) in Township Seven (7) North of Range thirty-five (35) E. W. M.; thence south 88° 12' west along the south line of said right of way and distant 30 feet at right angles from the center line of the railroad track 20.18 chains; thence south 8' east 18.96 chains; thence south 20' east 20.67 chains to a point 20 chains north of the south line of said claim; thence north 89° 5' east, parallel with and distant 20 chains at right angles from said south line of said Claim, 2.7 chains; thence north 20' west 20.65 chains; thence south 87° 56' east 17.44 chains; thence north parallel with the east line of said Claim 20.2 chains to the point of beginning, containing 44.93 acres.

M. W. SWEGLE, GUARDIAN OF
ESTATE OF FLORENCE SWEGLE

1846	1914	25.0	0.33	16.7	Beginning at a point on the south boundary of the Whitman Mission Claim 5.75 chains south and 4 chains east of the southwest corner of Section thirty-two (32) in Township seven (7) North of Range thirty-five (35) E. W. M. and running thence north 80.78 chains to the north boundary of said Whitman Mission Claim; thence west 4 chains to the west boundary of said Section thirty-two (32); thence south 20 chains; thence east 40 chains to the center line of Section thirty-one (31); thence south on said center line 5.75 chains, south of the quarter corner of the south boundary of Section thirtyone (31) and to the southwest corner of said Whitman Claim; thence east on the south boundary of said Whitman Mission Claim 44 chains to the point of beginning, containing 275.42 acres more or less.

MAY SWEGLE SHELDON

1846	1914	15.0	0.20	10.0	Beginning at the intersection of the south line of the Oregon-Washington Railway & Navigation Company's right of way with the east line of the Whitman Mission Claim in Section thirty-two (32) in Township seven (7) North, of Range thirty-five (35) E. W. M. 19.78 chains south from the northeast corner of said claim, and running thence south 88° 12' west, along said south line of said right of way and distant 30 feet at right angles from the center line of the railroad tracks, 25.92 chains; thence south, parallel with the east line of said claim, 20.7 chains; thence south 87° 26' east 10.75 chains; thence north 9 chains; thence east 9.47 chains; thence south 9.4 chains; thence south 87° 26' east 5.69 chains to the east line of said claim; thence north 22.7 chains to the point of beginning containing 46.71 acres.

CLASS 2

L. E. McBEE, GRANTEE OF M. C. MOORE & SONS
AND BAKER LOAN AND INVESTMENT COMPANY

1863	1871	60	0.80	40.0	$NW\frac{1}{4}$	33-7-35
					$S\frac{1}{2}$ $NE\frac{1}{4}$	33-7-35
					$N\frac{1}{2}$ $SE\frac{1}{4}$	33-7-35

CLASS 3

L. E. MC BEE, GRANTEE OF M. C. MOORE & SONS
AND BAKER LOAN AND INVESTMENT COMPANY

1863	1914	65	0.86	43.3	Same as in Class 2

CLASS 4

OAKLEY JOHNSON

1874	1907	20.0	0.266	13.3	Commencing at the southwest corner (SW cor.)

(continued) of the Northeast quarter of the Northwest quarter (NE¼ NW¼) of section thirty-five (35) in Township seven (7) north, of range thirty-five (35) East of the W. M.; thence south to the top of the hill line to the easterly line of the northwest quarter of section thirty-five (35); thence northerly to the southeast corner of the northeast quarter of the northwest quarter of said section; thence west along the southerly line of said northeast quarter of the northwest quarter of said section thirty-five (35) to the place of commencement. Containing about fifteen acres of land more or less.

Also commencing at the northeast corner (NE cor.) of the west half (W½) of the northwest quarter (NW¼) of Section thirty-five (35) in township seven (7) north of range thirty-five (35) east of the W. M.; thence west along the quarter section line one hundred and twenty (120) feet; thence at right angles south four hundred eleven and one-half (411.5 feet); thence east at right angles one hundred twenty (120) feet; thence north at right angles to the place of commencement four hundred eleven and one-half (411.5) feet.

Also the northeast quarter of the northwest quarter of section thirty-five (35) in township seven (7) north of range.

Lucinda Swegle) RIGHT OF WAY DEED
F. D. Boyer)

This Indenture made this 22nd day of May A.D. 1893 by and between Lucinda Swegle for herself and as guardian of Albert J. Swegle, a minor, and M. W. Swegle of the county of Walla Walla, State of Washington, parties of the first part and F. D. Boyer, party of the second part for and in consideration of the sum of one dollar to them in hand paid the receipt of which is hereby acknowledged have granted and hereby do grant, bargain, sell and convey unto the said party of the second part, his heirs, executors and assigns forever a right of way thirty feet wide beginning at a point at or near the mouth of Mill Creek and a right to construct and maintain a ditch, canal or flume for the purpose of conveying water over and across the following described land situate lying and being in the County of Walla Walla and State of Washington to wit 640 acres known as the Whitman Mission Farm commencing at a point 5 $\frac{75}{100}$ chains south of the half mile or quarter section stake on the South side of Section 31, Township 7 North of Range 35 East thence running East 90 chains, thence north 80 chains, thence west 50 chains, thence south 20 chains, thence west 40 chains, thence south 60 chains to the place of beginning upon the payment of the further sum of One hundred Dollars per acre for the amount of land actually occupied by said ditch and right of way said amount to be paid at the time construction is begun upon the said ditch and the right to take the water from the Walla Walla River or its tributaries at the said point or on or above the above described lands to supply said or any other ditch,canal, or flume with water for the purpose of irrigation to have and to hold the same and every part thereof unto said party of the second part, his heirs, executors and assigns forever and the right to pass and repass over and across the said premises or any part thereof in building, using or repairing said ditch canal or flume, reserving, however, to the said parties of the first part the right to take any or all of the water required to irrigate the above described land, and also agreeing and binding the party of the second part to build and maintain a bridge forever of sixteen feet in width over said ditch or canal when constructed.

In witness whereof the parties to this agreement have hereunto set our hands and seals the day and year in this agreement first above written in presence of

W. H. Kirkman) Mrs. Lucinda X (her mark) Swegle
J. G. Thomas) Albert J. Swegle, a minor by
Mrs. Lucinda X (her mark) Swegle, Guardian
M. W. Swegle
F. D. Boyer

State of Washington) ss
County of Walla Walla)

I, J. G. Thomas, a Notary Public in and for said State and County hereby certify that on this 22nd day of May, A.D., 1893, personally appeared the within named Lucinda Swegle, M. W. Swegle and F. D. Boyer, personally known to me to be the persons described in and who executed the foregoing instrument and acknowledged that they signed, sealed and executed the same freely and voluntarily and for the uses and purposes therein mentioned and I further certify that said time and place the said Mrs. Lucinda Swegle acknowledged to me that she executed said instrument as the Guardian of Albert J. Swegle, a minor, freely and voluntarily for the uses and purposes therein mentioned and as the act and deed of Albert J. Swegle, a minor. In witness whereof I have hereunto set my hand and affixed my Notarial Seal, the day and year in this certificate first above written.

J. G. Thomas
Notary Public in and for the State of Washington
Residing at Walla Walla

I hereby certify that all State and County taxes heretofore levied and which have become a charge on property described within according to the books and records of my office have been fully paid and discharged.

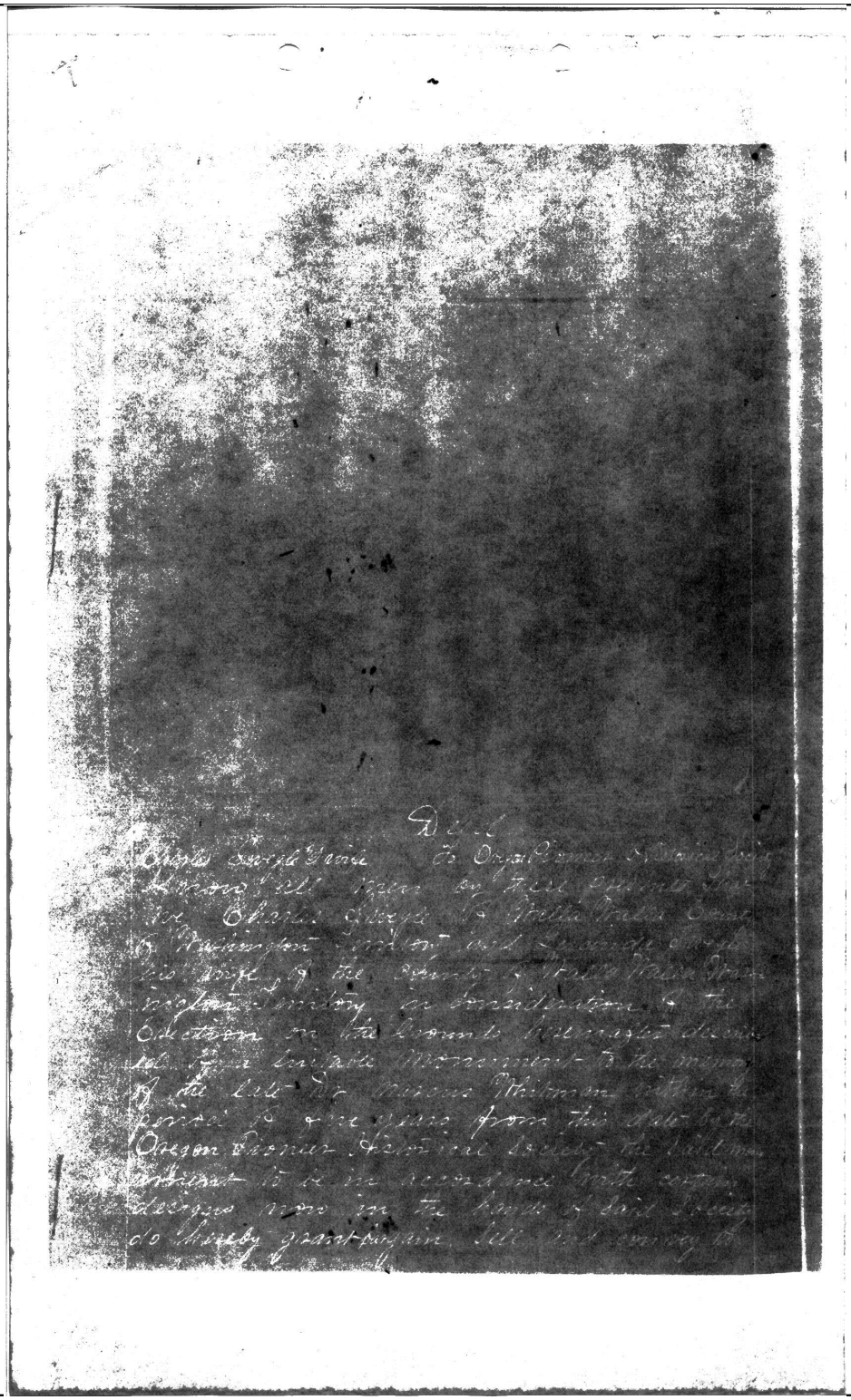
May 22, 1893 H. H. Hungate
Treasurer, Walla Walla County,
Washington

By J. W. McGlue, Jr., Deputy

Filed for record May 22, 1893 at 10:30 AM.
Recorded at request of F. D. Boyer.

W. B. Hawley, Auditor

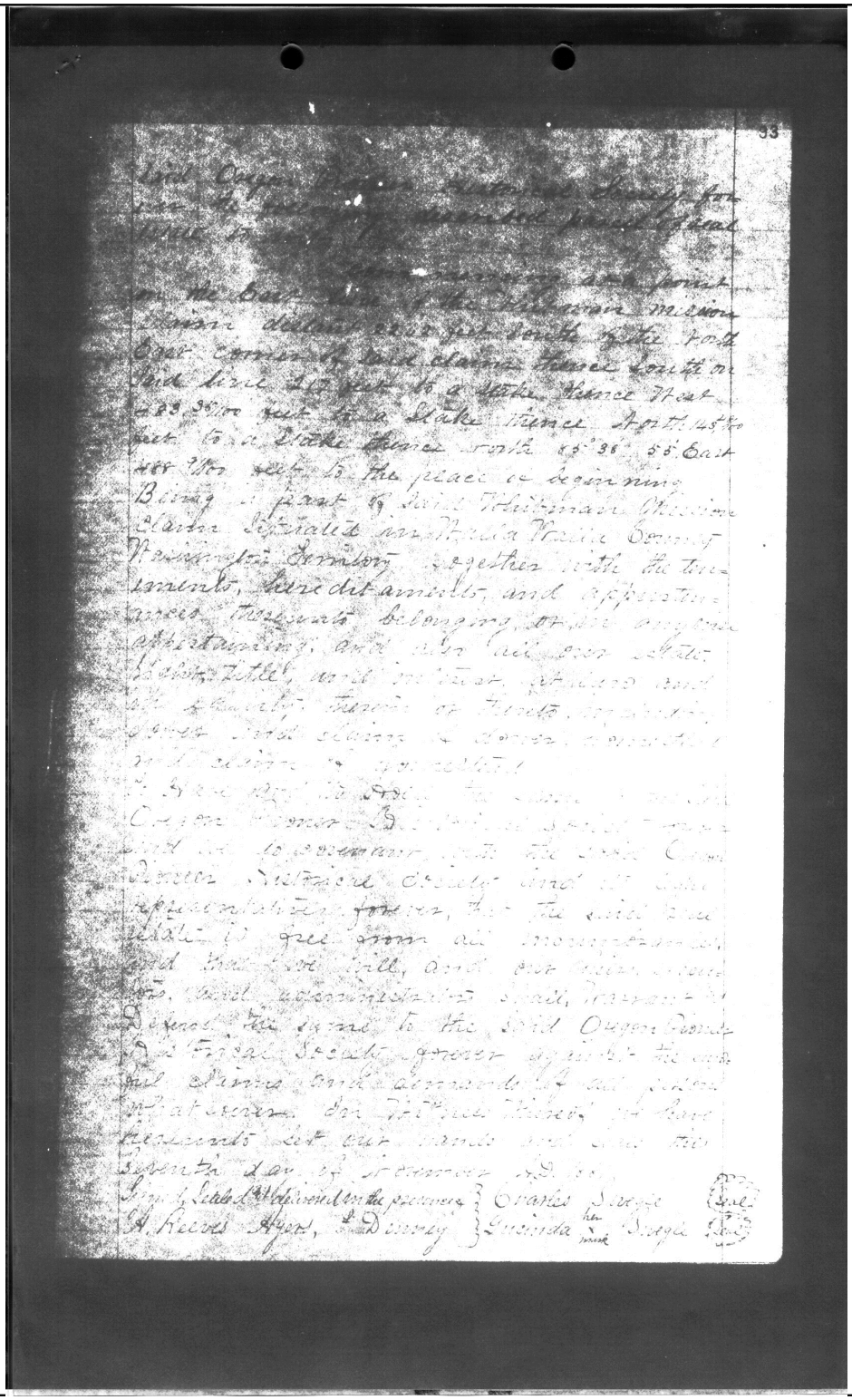
12-02-1881: deed



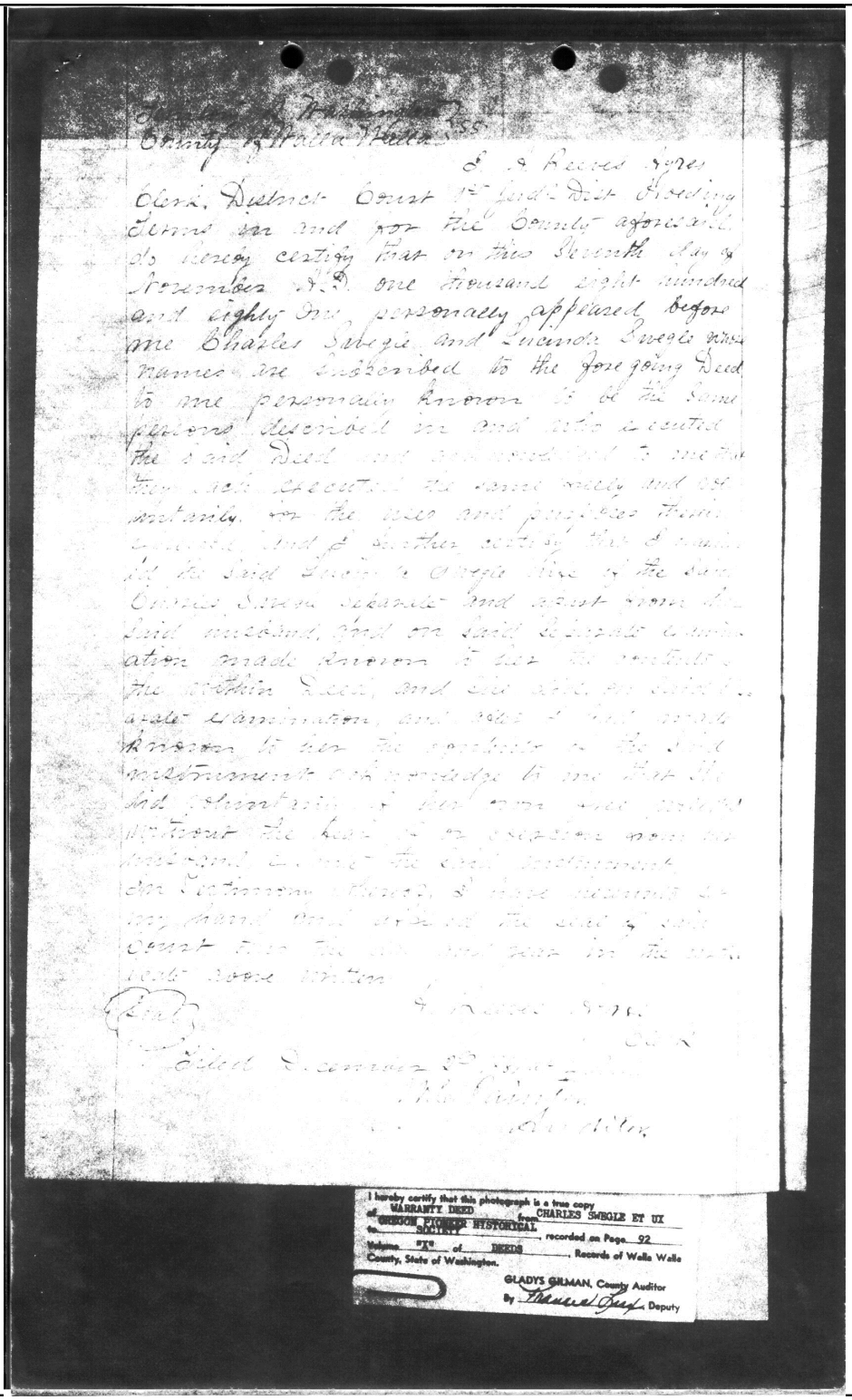
Deed

Charles Swegle & wife To Oregon Pioneer Historical Society

Know all men by these presents that
we Charles Swegle of Walla Walla County
of Washington Territory and Lucinda Swegle
his wife of the County of Walla Walla Wash-
ington Territory in consideration of the
Erection on the Grounds hereinafter described
of a suitable Monument to the memory
of the late Dr Marcus Whitman within the
period of five years from this date by the
Oregon Pioneer Historical Society the said mon-
ument to be in accordance with certain
designs now in the hands of said Society
do hereby grant bargain sell and convey to



12-02-1881: deed, page 3cont



Territory of Washington
County of Walla Walla } ss

I, A. Reeves Ayres
Clerk, District Court 1st Judl Dist Holding
Terms in and for the County aforesaid
do hereby certify that on this Seventh day of
November A.D. one thousand eight hundred
and eighty one personally appeared before
me Charles Swegle and Lucinda Swegle whose
names are subscribed to the foregoing Deed
to me personally known to be the same
persons described in and who executed
the said Deed and acknowledged to me that
they each executed the same freely and vol-
untarily for the uses and purposes therein
expressed, and I further certify that I examin-
ed the said Lucinda Swegle wife of the said
Charles Swegle separate and apart from her
said husband, and on said separate examin-
ation made known to her the contents of
the within Deed, and she did, on said se-
parate examination, and after I had made
known to her the contents of the said
instrument acknowledge to me that she
did voluntarily of her own free will and
without the fear of or coercion from her
husband, & sure the said instrument.
In Testimony whereof, I have hereunto set
my hand and affixed the seal of said
Court this the day and year in the certi-
ficate above written.

(Seal)

A. Reeves Ayres
Clerk

Filed December 2d 1881
[illegible]
Auditor

I hereby certify that this photograph is a true copy
of WARRANTY DEED from CHARLES SWEGLE ET UX
to OREGON PIONEER HISTORICAL SOCIETY, recorded on Page 92
Volume "X" of DEEDS, Records of Walla Walla
County, State of Washington.

GLADYS GILMAN, County Auditor
By Frances Lee, Deputy

COPY 9/8/60

D E E D

Charles Moore To Mr. Fisk. This indenture made the sixth day of February in the year of our lord One Thousand and Eight Hundred and Seventy eight between Charles Moore and Julia A. Moore the wife of said Charles Moore of Walla Walla County, Territory of Washington, parties of the first part and M. Fisk of the same place, the party of the second part. Witnesseth that the said parties of the first part for and in consideration of the sum of Six Thousand Seven Hundred Dollars ($6,700) to them in hand paid by the said party of the second part before the delivering of these presents the receipt whereof is hereby acknowledged have granted bargained sold and conveyed and by these presents do grant bargain sell and convey unto the said party of the second part and to his heirs and assigns forever the following described land situate lying and being in the County of Walla Walla, Territory of Washington, and bounded and particularly described as follows, to wit commencing at a point five and 72/100 chains (23 Rods) south of the half mile or quarter section stake on the South side of section Thirty one (31). Township seven (7) north of Range thirty-five (35) east thence running east ninety chains (360 Rods). THence, north Eighty chains-(80 chains)(320 Rods) thence, west fifty chains (200 Rods), thence, south twenty chains (80 Rods), thence west forty chains (160 Rods), thence south, sixty chains (240 Rods) to place of beginning containing Six Hundred and forty acres more or less. The above described land is known as the Whitman Mission Claim together with all and singular the tenemints, hereditaments and appurtenances thereunto, belonging or in any wise appertaining and also all the estate right, title, interest, dower, homestead claim, property possession claim and demand whatsoever as well in law as in equity of the said parties of the first part of in or to the said premises and every part and parcel thereof with the appurtenances excepting and reserving from the foregoing conveyance all the water of Mill Creek with following rights and privileges viz: The right to take any part or all the water of said Mill Creek from its channel and the right to convey it through the above described land on any line north of the railroad known as the Walla Walla and Columbia River railroad. The right to obstruct the channel of said Mill Creek sufficient to conveniently divert the water thereof into a race or channel and the right to convey said water back again to its channel along the west line of said Mission Claim, the right to enter upon the premises above named for the purpose of constructing flumes, waterways, ditches and other purposes necessary to the uses of and enjoyment of the foregoing reservation of water and water rights for Mechanical or other purposes, provided that in thus diverting the waters of Mill Creek adequate provisions be made to protect the farming and grazing land on said Mission Claim from overflow except in the immediate course of race waterway, flume or ditch excepting also an easement granted the Walla Walla and Columbia River Railroad of a right of way sixty feet wide and the easement to the public county roadways.

To have and to hold all and singular the said premises together with the appurtenances with the said party of the second part, his heirs and assigns forever and the said parties of the first part the said premises in the quiet and peacable possession of the said party of the second part his heirs and assigns against the said parties of the first part and their heirs and against all and every person or persons whomsoever lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed sealed and delivered
in presence of

J. D. Laiman
C. O. Knien

Charles Moore (Seal)
Julia A. Moore (Seal)

Territory of Washington)
County of Walla Walla) ss

On this sixth day of February A.D. 1878 before me a Justice of the Peace in and for the said county and Territory personally appeared Charles Moore and Julia A. Moore, his wife, whose names are subscribed to the foregoing instrument as the parties thereto personally known to me to be the same persons described in and who executed the said instrument who acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned and the said Julia A. Moore, wife of the said Charles Moore having been by me first made acquainted with the contents of said instrument upon an examination made by me separate and apart from her said husband acknowledged to me that she executed the same freely and without the fear of or coercion from her said husband.

In witness whereof I have hereunto set my hand the day and year in this certificate first above written.

J. D. Laman
Justice of the Peace

Filed December 1st, 1879

W. O. Pauitez, Auditor

By Wm T. Thornhein, Deputy

08-20-1963: auditor's certificate of certified copy

Auditor's Certificate of Certified Copy

STATE OF WASHINGTON } ss.
County of Walla Walla }

I, Gladys Gilman, Auditor of Walla Walla County, State of Washington, do hereby certify that the foregoing instrument is a true and correct copy of the original thereof now on file in my office.

IN VOLUME 307 PAGE 113 OF DEEDS.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of my office, at Walla Walla, Washington, this 20th day of AUGUST 1963

GLADYS GILMAN, Auditor
Walla Walla County, Washington
By Frances J. Lange
Deputy

AGREEMENT

BE IT REMEMBERED, That the United States of America, acting through the Regional Director of the National Park Service of the Department of the Interior, does hereby acknowledge to the present and future owners of the following described tract of land, formerly a part of the Whitman Mission Claim No. 38, in Township 7 North of Range 35 East of the Willamette Meridian, in Walla Walla County, State of Washington:

> Beginning at a point which bears North 20 chains, and South 89° 6' West 24.4 chains from the southeast corner of the Whitman Mission claim in Section thirty-two (32) in Township seven (7), North of Range thirty-five (35) E. W. M.; running thence South 89° 6' West parallel with and distant 20 chains at right angles from the South line of said claim, 18.9 chains; thence North 20' West 20.65 chains; thence South 87° 56' East 17.44 chains; thence South 50 links; thence South 87° 26' East 1.5 chains; thence south parallel with East line of said claim 19.23 chains to the point of beginning, containing 38.12 acres;

which tract hereinafter is designated as the May Swegle Shelden tract, that:

1. On February 9, 1937, the United States acquired title to the following described tract of land, also formerly a part of the Whitman Mission Claim No. 38, in Township 7 North of Range 35 East of the Willamette Meridian, in Walla Walla County, State of Washington:

> Beginning at a point which bears North 20 chains and South 89° 6' West 4.4 chains from the southeast corner of the said Whitman Mission claim; thence South 89° 6' West parallel with and distant 20 chains at right angles from the South line of said claim, 20 chains; thence North, parallel with the East line of said claim, 19.23 chains; thence South 87° 26' East 20.02 chains; thence South, parallel with the East line of said claim, 18 chains to the point of beginning, containing 37.25 acres,

hereinafter called the Irene Swegle tract.

2. That the West side of said Irene Swegle tract adjoins the East side of the May Swegle Shelden tract, and that for many years prior to and at the time of acquisition by the United States, waters of Doan Creek, a tributary of the Walla Walla River, were transported through a ditch over and across, and near the north line of said Irene Swegle tract, to said May Swegle Shelden tract and to a ditch serving other lands lying to the North and West of said Irene Swegle tract, for irrigation, stock water, and domestic purposes.

3. That in 1961 said ditch across the northerly part of said Irene Swegle tract was relocated and reconstructed by the National Park Service as a part of the restoration of the old Whitman Mission, and that such relocation and reconstruction was with the oral consent of the owners of water rights entitled to the use of said ditch, including the owners and occupants of said May Swegle Shelden tract.

4. That said ditch, as reconstructed, has a capacity equal to the prior ditch it replaced, and delivers water at the northwest corner of the Irene Swegle tract to the May Swegle Shelden tract, and to a continuation of said ditch to other water users at the same places as prior to such relocation and reconstruction, and said reconstructed and relocated ditch is intended to be and will be used to the present capacity of said ditch to serve the said May Swegle Shelden tract and other tracts North and West of the Irene Swegle tract having appurtenant water rights from Doan Creek as adjudicated under the decree of the Superior Court of the State of Washington for Walla Walla County, entered on remittitur of the Supreme Court of the State of Washington, dated May 14, 1923.

5. That the National Park Service will maintain, clean and keep said reconstructed and relocated ditch upon the said Irene Swegle tract in repair, including any culverts and division boxes, so that said ditch may be utilized to the maximum extent of its present capacity to carry to said water users available Doan Creek water for irrigation purposes.

6. That the water users entitled to carry water in said ditch, and the Water Master of Walla Walla County or his agents or employees, may enter upon the said Irene Swegle tract to inspect said ditch, to remove temporary obstructions to flow, and to control and change the flow of water through division boxes affecting the said water rights, but otherwise shall not enlarge, alter or disturb said relocated and reconstructed ditch or the Whitman Monument property over which it crosses.

7. The National Park Service retains the right to use said reconstructed and relocated ditch and other portions of said ditch to carry any Doan Creek water appurtenant to said Irene Swegle tract.

Book 307 Page 118

8. The National Park Service will cooperate in continuing the present or modified arrangements for rotation of water deliveries through said ditch, including the National Park Service right to Doan Creek water appurtenant to the Irene Swegle tract under the supervision and control of the Walla Walla County Water Master.

IN WITNESS WHEREOF, this instrument has been executed this 21st day of May, 1963.

UNITED STATES OF AMERICA

By (Sgd) Edward A. Hummel
Acting Regional Director, National Park Service, Department of the Interior

STATE OF CALIFORNIA)
City and : ss.
County of San Francisco)

BE IT REMEMBERED, That on this 21st day of May, 1963, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Edward A. Hummel, who is known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed the same on behalf of the United States freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this the day and year last in this certificate above written.

(Sgd) Vernon F. Smith
Notary Public for California

My commission expires Jan. 23, 1966

The undersigned owners of said May Swegle or Shelden tract of land acknowledge that the foregoing instrument does not convey any rights or interests in the Whitman National Monument property, but is intended to be and is only a confirmation of the rights to use of the relocated

Book 307 Page 115

north ditch over the Irene Swegle tract, now a part of the Whitman National Monument, that are appurtenant to the May Swegle or Shelden tract owned by us, and of portions of the former ditch over the said Irene Swegle tract and shall be maintained and operated by the National Park Service as is set forth therein.

Dated the 26 day of July, 1963.

(sgd) Neil M. Shelden
(Lessee)

(sgd) Flora C. Shelden
(Lessee)

(sgd) Ray C. Shelden
(Lessee)

(sgd) May Swegle Shelden Dicus
(Owner)

STATE OF WASHINGTON)
; ss.
County of Walla Walla)

BE IT REMEMBERED, That on this 26 day of July, 1963, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Ray Shelden, a divorced man, and Neil Shelden and _____ Shelden, his wife, who are known to me to be the identical persons described in and who executed the foregoing instrument and acknowledged to me that they executed the same freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this the day and year last in this certificate above written.

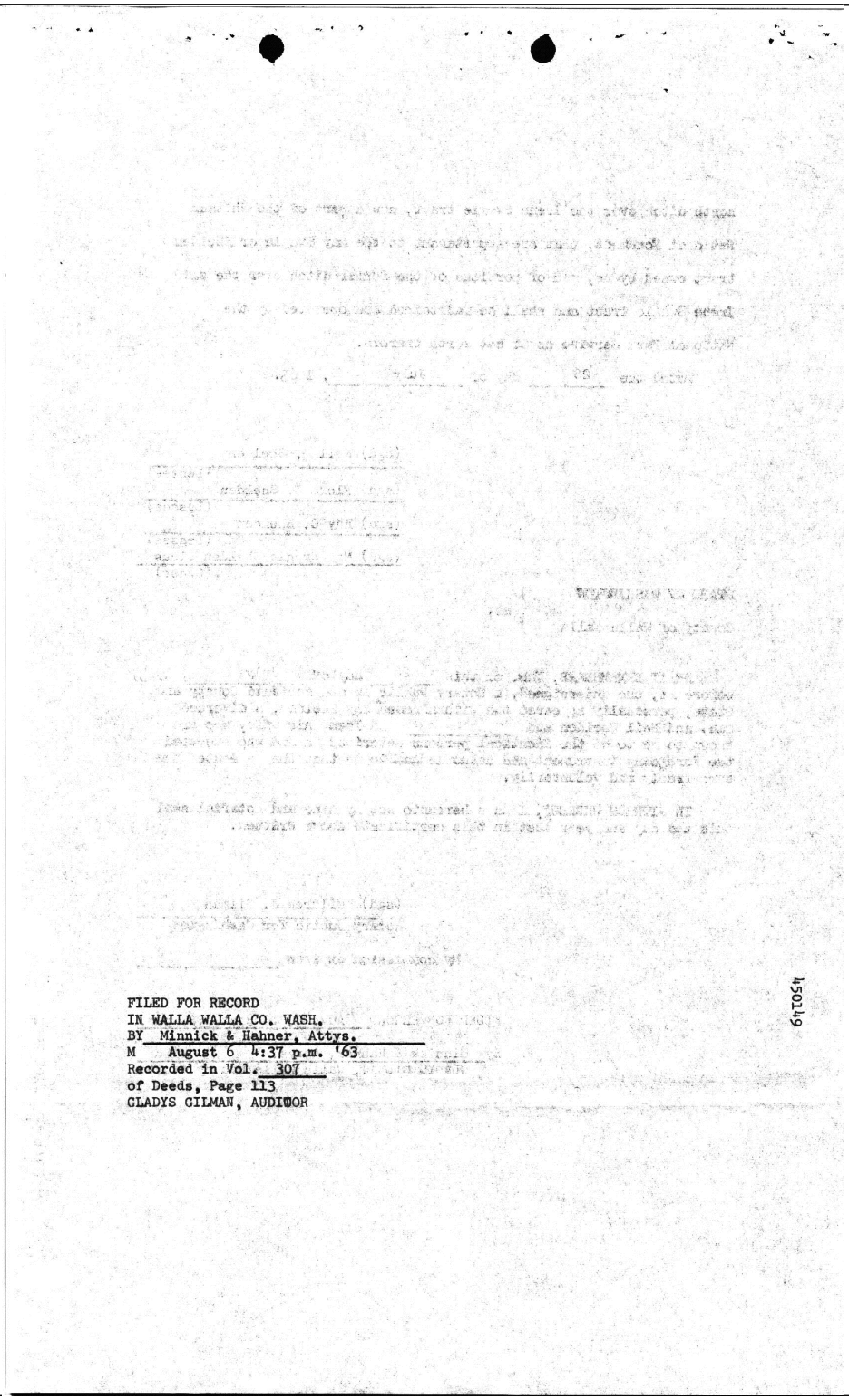
(sgd) Mildred J. Gilman
Notary Public for Washington

My commission expires _____

FILED FOR RECORD Aug. 6, 1963 at 11:37 a.m.
By Minnick & Hahner, Attys.
GLADYS GILMAN, Walla Walla County Auditor

Book 307 Page 116

08-20-1963: auditor's certificate of certified copy; in volume 307 page 113 of deeds



450149

FILED FOR RECORD
IN WALLA WALLA CO. WASH.
BY Minnick & Hahner, Attys.
M August 6 4:37 p.m. '63
Recorded in Vol. 307
of Deeds, Page 113
GLADYS GILMAN, AUDITOR

Other Supporting Information

MM

D3415(PNR)MM April 29, 1981

Memorandum

To: Superintendent, Whitman Mission National Historic Site

From: Associate Regional Director, Management and Operations, Pacific Northwest Region

Subject: Solicitor's Opinion--Maintenance of Irrigation Ditch

Enclosed is an opinion of the Regional Solicitor concerning legal obligations in maintaining the Doan Creek irrigation ditch. Legal review of our responsibilities had been requested by Superintendent Kowalkowski.

The final paragraph summarizes advice on recording the routine inspection and repair of the ditch. Let me know if you have further questions.

(SGD) Daniel R. Kuehn

Daniel R. Kuehn

Enclosure

NORDGREN:jer 4/29/81

United States Department of the Interior
OFFICE OF THE SOLICITOR
Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

April 24, 1981

Memorandum

To: Associate Regional Director, Management and Operations, Pacific Northwest Region, National Park Service

From: Office of the Regional Solicitor, Pacific Northwest Region

Subject: Maintenance of Irrigation Ditch - Whitman Mission National Historic Site

The prior Superintendent for the Whitman Mission requested a legal review of Park Service responsibility to maintain what is known as the Doan Creek Irrigation ditch. It is believed that the ditch was originally constructed from Doan Creek to the Mission site by Marcus Whitman around 1840. It has been in continual use since that time by landowners riparian to the ditch. At the time of the Superintendent's request adjoining landowners, Mr. and Mrs. M. W. Hanebut, complained that water was seeping from the ditch onto their land and which rendered useless for farming 2 to 4 acres of prime bottom land.

Subsequent to the Superintendent's inquiry and with oral advice from this office, the Park Service repaired diversion boxes by lowering them and cleared vegetation from the ditch. Apparently such action has solved the seepage problem and there have been no recent complaints from the Hanebuts. However, because of the continuing nature of the problem, you asked that we prepare a more comprehensive analysis of the rights and liabilities of the National Park Service in the Doan Creek Irrigation ditch.

Your file indicates that the Doan Creek Irrigation Ditch is an unlined dirt ditch used to divert and carry water from Doan Creek to the Whitman Mission and two private landowners, Richard Bughi and Neil Sheldon. It appears that the United States, Bughi, and Sheldon own the ditch, the rights to the water, and the land over which the ditch passes. All three landowners apparently use water from the ditch and share responsibilities for maintaining it as an artificial water course. The NPS maintains the portion of the ditch crossing the Whitman Mission land. Seepage from that portion of the ditch allegedly had caused damage to the Hanebut property.

Applicable Washington State and common law suggests that a ditchowner will be found liable for damages to adjoining land caused by ditch seepage if he has failed to use reasonable care in maintaining the ditch. The general rule is:

> "If through any fault or neglect of the owner of the ditch in not properly managing and keeping it in repair, the water overflows or breaks through the banks of the ditch and injures the lands or property of others, either by washing over the soil, covering the soil with sand flooding crops or doing any other injury to others, the law holds him responsible for his negligence."
> Vol. 2, p. 1,758, C. Kinney, A Treatise on the Law of Irrigation (2d ed. 1912) See also Colella v. King County, 433 P2d 154, 157 (Wash.S.Ct., 1967); Tope v. King County, 65 P2d 1283, 1287 (Wash. S.Ct. 1937); Noyes v Cosselman 70 P. 61, 62-63, 29 Wash. 635 (1902)

A ditchowner's duties will vary with particular circumstances, but generally must fall under the standard of "reasonable care and caution which an ordinarily prudent person would have used in the same situation." Kinney, Vol. 3, p. 3082. A ditchowner having notice of a defect in the ditch and does nothing to correct the defect is likely to be found negligent if damages result. Kinney, Vol. 3, p. 3084. See also Dalton v. Selah Water Users' Ass'n., 122 p. 4, 67 Wash. 589 (1912). However, ditchowners are not strictly liable as "insurers" against seepage, leakage, or overflows. Kinney, Vol. 3, p. 3080. See also Suter v. Wenatchee Water Power Co. 76 p. 298, 35 Wash. 1 (1904). A ditchowner is liable only for "actual negligence" for failing to maintain the ditch "as far as possible so that the water will not seep or percolate therefrom to the injury of the lands of others below." Kinney, Vol. 3, p. 3088.

The Park Service should continue to use reasonable care in maintaining the ditch by routine inspections and immediate repair of any defects. You should also monitor the effect of the lowered diversion box on the seepage problem. A record of such inspections, maintenance, repairs and improvements should be kept to document the reasonable care by NPS.

For the Regional Solicitor

C. Richard Neely

C. Richard Neely
Senior Attorney

11-29-1978: memorandum to associate regional director regarding ditch maitenance responsibilities

UNITED STATES GOVERNMENT

memorandum

DATE: November 29, 1978

REPLY TO ATTN OF: Associate Regional Director Reynolds

SUBJECT: Whitman Mission irrigation ditch and control structures

TO: Associate Regional Director Gallison, Deputy Director Kurtz, and Regional Director Dickenson

Enclosed is correspondence, including photographs, received from Mr. and Mrs. Mark W. Hanebut, neighboring landowner to Whitman Mission; a copy of the September 6 memorandum from Superintendent Kowalkowski requesting a legal opinion regarding our responsibilities for the canal; and a draft of a letter of response to Mr. and Mrs. Hanebut promising an early remedial solution to the irrigation ditch problem.

The September 6 memorandum was drafted by the Superintendent on advice from Dan Babbitt.

I won't argue that there may be a need for a legal determination, especially if this matter is going to go to court. On the other hand, as a result of my visit to the park in early November and the on-site meeting that we had at that time, I am left with the distinct impression that removal and reconstruction of the headgate weir in question will cost only in the neighborhood of $5-to 6,000 maximum.

Failure to take remedial action unless directed to by the court will, in my opinion, only serve to give the National Park Service a local "black eye." The same result will come about if we were to "stand pat" behind a legal opinion that the problem is not of our making.

The scenario of big Government refusing to spend a relatively minimal amount of money to aleviate the problems of an old and respected family in the valley (I daresay the Hanebut family has been in residence here for the past 100 years) is one which we cannot effectively combat.

Obviously, I believe that it will be in our best interest to detail someone like Babbitt or Nordgren or perhaps someone from the Denver Service Center to travel to Whitman Mission at the earliest opportunity to look into the problem and make positive alternative recommendations for solving it. If the costs are as little as Superintendent Kowalkowski and the several landowners have suggested to me, then I suggest that construction be programmed at the earliest possible point in time.

Temple A. Reynolds

Enclosures

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

☆U.S.GPO:1977-0-241-530 3089

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

11-29-1978: letter from regional director regarding ditch maitenance responsibilities

REYNOLDS

GALLISON
KURTZ
DICKENSON

DRAFT
TAReynolds:ss 11/29/78

W1823(PNR)M

Mr. and Mrs. M. W. Hanebut
Route 2, Box 240
Walla Walla, Washington 98362

Dear Mr. and Mrs. Hanebut:

Your letter of November 1 was missent to the new Federal Building here in Seattle and has only recently been forwarded to us.

We appreciated receiving your thoughtful analysis and outline of the problems centered on the Doane Creek irrigation ditch. We have also had our attention drawn to this situation as a result of the meeting you had on November 7 with the Whitman Mission staff, neighboring landowner, Neil Shelton, the state watermaster, and our Associate Regional Director, Temple Reynolds.

As a result of your letter and the above noted November 7 meeting at Whitman Mission, I have requested that staff people trained in engineering and hydraulics travel to Whitman Mission at an early date to further investigate the problem and offer alternative solutions to it.

Based on present knowledge, we see no reason why this matter should not be resolved in a mutually acceptable manner by early spring.

You have also mentioned hte northern acreage of the Mission grounds. It is our understanding that Superintendent Kowalkowski is well aware

or the problems which have been generated by the growth of natural vegetation in this area. It is our further understanding that he is actively considering cultivation of this area, emphasizing use of high-value wildlife crops and control of noxious weeds.

We are, by copy of this letter, asking Superintendent Kowalkowski to develop a specific management plan for this acreage.

Superintendent Kowalkowski will continue to work with you and keep you abreast of our efforts toward satisfactory resolution of the irrigation/weed problems.

Sincerely yours,

Russell E. Dickenson
Regional Director

Mr and Mrs M.W. Hanebut
R2 Box 240
Walla Walla Wash 99362

November 1, 1978

Dept of Interior
Regional Office
National Park Service

Gentlemen:

First

In reference to your Water ditch
The ditch (your responsibility) has been there
for 51 years, and we have all worked hard
money spent, and the right goal never
accomplished.
In 1976 Mr Shelden supervised the back-hoe
work on the ditch.
We were able to plant our field, and had
success with our crop.
In 1977 nothing was done (only repairing the
ditch where the water broke thru) and nothing
done till late Octobr 1978, when it was to late
to help.
We lost 1½ acres in 1977, and have lost
2½ to 3+ acres this year.
The weir or (diversion box) is to high
causing the silt to collect in the ditch
holding the water back to the point where
the ditch was raised (marked by two large posts)

thus the water goes down the old channell flooding the field.
It takes just 3 hours to back-hoe the ditch @ $20.00 per hour making $20.00 a piece for the 3 people responsible for the ditch.
This expense could be saved by lowering the weir or (diversion box) or relocate same so that the water would wash the silt with it, then the ditch could more easily be taken care of with very much less expense.
We have spent several hundred dollars for perforated drain pipe (digging ditches) draining the water to Doans creek. Also the College Farm put in a drain to Doans Creek. We elevated a ditch that carried wato to run our water wheel, so all the wato is going down the creek, for the benefit of the Mission, and two neighbors Shelden and Bugh.
In the beginning my father Ralph F. Coffin, and his three brothers, Melos, Edwin, and Charlie, donated moneys for the Whitman Monument. We have always been very proud of this spot, and regret they couldn't have lived to see the beautiful front grounds
In close pictures taken August 1978 showing conditions of ditch

2nd

This concerns the (back Yard) the North acres of the Mission grounds

Mr. Kowalkowski wants the North acres of the Mission Grounds to be natural — but growing noxius weeds such as Bull thistle, teasel, Canadian thistle, wild parsnip, Mustard, and many more we do not know the name of. These weeds do not give the wild fowl much to eat.

Many seed grasses can be planted for Geese, ~~ducks~~, and pheasants.

Wild Elder-berries, Thorn-tree, chock-cherry, and Mountain Ash, all have clusters of berries on them making excellent feed for our smaller birds.

The seed from the weeds growing there are swept by the wind to our ground, the Rail Road Co Track, and even as far as the College Farm, and other fields.

In 1977 we sprayed with Round up, Ramine and Banvil, #374.77

This year we will have to spray 3 times to save our crop.

Inclosed pictures showing weeds joining our field etc.

We hope this problem will be taken care of so we can plant all our ground.

Yours truly Mollie E Hanebut
Mark W Hanebut

W Copy
3/28/63

March 26, 1963

L54-HLW

Memorandum

To: Regional Director, Western Region

From: Acting Chief, Division of Lands

Subject: Mission Poultry Farm - irrigation ditch, Whitman

Please refer to Mr. Luntey's memorandum of September 27, 1962, and Mr. Diederich's memorandum of February 1, 1963, on the above subject.

Enclosed is a copy of a memorandum from Assistant Solicitor Meyer dated March 14 discussing the water rights of the Mission Poultry Farm to the waters of the Doan Creek North Ditch which traverses Whitman National Monument. Also enclosed are copies of the decree of April 24, 1939, in Suit No. 28081; the warranty deed of February 9, 1937, to the United States from the Whitman Centennial, Inc., for Tract No. 37; the possessory rights report of September 16, 1939; and Drawing NM-WNI 6975. The first three items should be filed in Part I, Land Status, Docket No. 1, and the drawing should be filed in Part III of that docket, above the existing drawing and below the decree for the Doan Creek rights. Copies are also being sent to the Superintendent and WODC.

The other items referred to in Mr. Meyer's memorandum should be in your files except the draft of the memorandum which is superseded by Mr. Meyer's memorandum and this one.

Mr. Meyer agrees that the legal rights of the parties involved are those given in Mr. Coad's letter of September 19, 1962, and states that these rights could best be made to appear of record by a court decree. Such action would have to be initiated by the Sheldens; the United States would have no reason to do so. However, Mr. Meyer suggests that a letter of explanation and a disclaimer of interest adverse to the Sheldens might be sufficient to quiet their fears. If your office and the Regional Solicitor's office agree, you should prepare such a letter.

Mr. Meyer also states that there seems to be a sound legal basis for the Park Service to maintain the portion of the ditch within the Monument and not permit other users of the ditch to enter the Monument for this purpose. The letter should point this out also.

This Office does not have an adequate map of the ditch systems in the Monument area. If one is not already available, a map should be compiled as soon as convenient and a copy sent here. The map should show the former and present alinements of the ditches and the specific areas of the Monument now irrigated.

Please keep this Office informed of any further developments.

SIGNED

Harry K. Sanders

Enclosures 5

cc:
Superintendent, Whitman, w/c encs.
Chief, WODC (2), w/c encs.
Mr. P. Miller
Mr. Read

HWReed:ljc

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D.C.

C-63-2075.18

Memorandum

MAR 14 1963

To: Director, National Park Service

From: Assistant Solicitor, National Parks

Subject: Mission Poultry Farm - irrigation ditch
Whitman National Monument

A proposed memorandum in draft form from the Chief of Lands Division to the Regional Director, Western Region, on the above-captioned subject has been informally submitted to this office for comment. It deals with the rights of the several uses of water from Doan Creek with respect to the so-called Doan Creek North Ditch which traverses Monument lands. The nature of these rights apparently being in a state of doubt, the Mission Poultry Farm owners (the Sheldens) requested that the Government grant them an easement in the ditch which they might record. Attorney Carl H. Coad, for the Regional Solicitor in Portland, suggested instead that, if agreeable to the National Park Service, someone with authority to acquire real estate might give them an acknowledgment that the Government acquired the Monument subject to the existing north ditch through which the Sheldens and others are entitled to delivery of water from Doan Creek in the amounts decreed to them, presumably, by a Decree on Remittitur under which the Supreme Court of Washington entered judgment on May 14, 1923. The Superintendent at the Monument apparently construed the proposal to be in the nature of an agreement and suggested that maintenance and patrol of the ditch through the Mission Grounds be reserved to Monument personnel. The draft of memorandum would (1) forward material which purportedly would assert that any such acknowledgment is unnecessary and (2) would clarify the rights of the several water uses from Doan Creek to come upon park lands for the purpose of maintaining the ditch. We believe that both these points merit your further attention.

Under the doctrine of appropriation, a water right, an easement for a ditch, and the land upon which the ditch is situated are all properties separate and distinct one from the other. The water right and the right in the ditch, even where these rights are used together, may have ownerships in different parties. They may be acquired and disposed of separately and the sale or other disposal of one does not necessarily

include the other. Kinney on Irrigation and Water Rights, Second Edition, vol. I, sec. 758 et seq., sec. 835, et seq., and sec. 928. The fact that a party has a water right gives him no right to enter the land of another for the purpose of constructing ditches and canals across such land. He must obtain that easement and right of way either by purchase or condemnation. Long on Irrigation, Second Edition, sec. 144; Swank v. Sweetwater Irr. and Power Co., 98 P. 297 (Idaho, 1908).

The 1923 decree concerned itself only with rights in the waters of Doan Creek. It establishes that no appropriation attaching to the lands therein concerned occurred prior to the year 1866 so that the right of way for the construction of a ditch or canal in connection therewith would not have been acknowledged and confirmed by Act of Congress of 1866 (14 Stat. 251, U.S. Comp. St. 1901, p. 1437). Accordingly, it would seem that no right of the Sheldens in the north ditch would be proved by the decree of 1923.

Nor do we perceive that the other material mentioned in the memorandum would have that effect. Associate Engineer Drysdale's possessory rights report of September 16, 1939, does reflect the existence of the north ditch at the time that title to the underlying land became vested in the United States. It also indicates that the ditch had taken on a public character by that time. An examination of the correspondence in the Monument file reveals that the rights in Doan Creek established by the decree of 1923 were at times treated as attaching to the north ditch. It also reveals that it has been impossible to establish a ditch company or other organization as having ownership of the ditch. The situation appears to contain those elements essential to the transfer of rights decreed in a natural watercourse to a ditch or canal which was originally an artificial one but has taken on the character of a natural watercourse under the doctrine of dedication and substitution. This dedication to a certain class of the public occurs where the artificial condition was intended by the creator to be a permanent one; where a community of landowners or water users has been allowed to adjust itself to the presence and existence of the artificial watercourse and has acted upon the supposition of its continuance; and where this condition has proceeded for a long time beyond the prescriptive period. Wiel on Water Rights, vol. 1, sec. 60. Under this doctrine, it would

seem that all water users whose lands are riparian to the north ditch would have water rights therein to the same extent as those in the waters of Doan Creek decreed to them or their predecessors in title under the decree of 1923. This doctrine is recognized in the following states: California (Week v. Los Angeles County Flood Control, 232 P. 2d 293 (1951)); Montana (Popham v. Holloran, 275 P. 1099 (1929)); Oregon (Harrington v. Demaris, 77 P. 603 (1904)); Indiana (Burke v. Simonson, 2 NE 309 (1885)); Iowa (Droegmiller v. Olson, 40 NW 2d 292 (1949)); North Carolina (Craft & Bergeson v. John L. Roper Lumber Co., 106 SE 138 (1921)); Vermont (Cloyes et al. v. Middlebury Electric Co., et al., 66 A. 1039 (1907)), and Washington (Matheson v. Ward, 64 P. 520 (1901)); Hallett v. Davis, 103 P. 423 (1909)).

We have had occasion to examine the memorandum dated February 11, 1963, and its enclosures from the Assistant Regional Director, Western Region. In our view, the legal rights of the parties involved are precisely as had been suggested by Mr. Goad in his letter of September 19, 1962. Those rights could best be made to appear of record by a court decree, presumably under the procedures prescribed by Revised Code of Washington, Title 90. For the reasons set forth in his memorandum of February 8, 1962, we agree with Field Solicitor William J. Costello that the suggested acknowledgment by the National Park Service would not have the desired effect. On the other hand, it might be that if the position of the National Park Service on this point were made clear to the Sheldens by a letter of explanation and disclaimer of an interest adverse to theirs, it might suffice to quiet their anxiety about their rights to the waters of the north ditch. Parenthetically, we might add our view that the application of the doctrine of dedication and substitution to rights in the south ditch would be subject to the terms of the decree in case No. 28081 filed April 24, 1939.

With regard to the right of the water users to come onto Monument lands for the purpose of maintaining the ditch, it appears that their rights, under the circumstances discussed above, would be different from a case where the owners had an easement in the ditch as well as a water right. In Craft & Bergeson v. John L. Roper Lumber Co., supra, the court dealt with a like situation regarding a drainage canal. It held that, where a drainage canal has been established and used as a matter of right by abutting proprietors, the obligation is upon each of the proprietors to clear out and properly maintain the portion of the canal running through his own land and, ordinarily, he has no right to compel an upper

proprietor to do this for him nor to hold such proprietor in damages for not doing it. Nevertheless, the court recognized that as between two proprietors, in case of a gross inequality, a different method of adjustment might be upheld and applied by court decision. In the Craft & Bergeson case, the code of the jurisdiction where the parties were situated made provision for just such a condition and the court held the parties bound to the procedure provided by the code. The Revised Code of Washington, in sections 90.28.110 et seq., provides for the situation where an irrigation ditch itself is "owned" by two or more persons. It would seem that there is no recognized ownership in the Doan Creek North Ditch in the general sense beyond the ownership that any proprietor might have in a natural watercourse traversing his property. Therefore, there would be some doubt as to the application of that particular provision of the Washington Code to Doan Creek North Ditch. In this situation it seems to us that the procedure suggested by Superintendent Kennedy that the Service maintain the portion of the canal within the Monument would have a sound legal basis. For all that appears, this procedure has been followed for some time without objection. Nor would any objection likely arise as long as the free flow of water in the creek through Monument lands were maintained. Nevertheless, since it is possible that a determination may be made concerning ownership of the North ditch which would result in applying the last-cited provisions of the Code, a documentation of the costs of service, maintenance, and improvement by the National Park Service might be advisable.

(Sgd.) BERNARD R. MEYER

Bernard R. Meyer
Assistant Solicitor
National Parks

Enclosures - Materials submitted for review.

08-23-1963: memorandum to regional director, western region from superintendent, whitman mission regarding mission poultry fa

487-9-6-63

W.R. Copy
EWR

RL

Whitman Mission National Historic Site
Route 2
Walla Walla, Washington 99362

L54-RLR

August 23, 1963

Memorandum

To: Regional Director, Western Region

From: Superintendent, Whitman Mission

Subject: Mission Poultry Farm south ditch, Whitman

On May 22 your office forwarded to us five copies of an agreement whereby the United States, through the Regional Director, recognizes the Sheldens' rights to continue to carry Doan Creek water through the relocated north ditch. This instrument does not convey any rights or interests of the Government in Whitman Mission National Historic Site and is only a confirmation of the rights to use the relocated ditch.

The Agreement was furnished to us in five copies, two of which were fully executed by the then Acting Regional Director and were properly notarized with the remaining three copies conformed to show Mr. Hummel's and the notary's signatures. We were requested to have the Sheldens sign the first two mentioned copies before a notary and then have the remaining three copies conformed to show the Sheldens' and their notary's signatures. On the assumption that the Sheldens' copy of the Agreement would be recorded, we were directed to have the second original showing all signatures certified by the County Recorder to show recordation, and afterward to return the second original with two of the conformed copies to your office retaining one conformed copy here for our records, the first original, of course, to be retained by the Sheldens.

After some foot dragging on the part of the Sheldens and their attorney, these directions have now been carried out and we return herewith the second original complete with all signatures and a certificate of recordation, and two conformed copies with this information. Incidentally, you will note that in Walla Walla County recordation is done by the County Auditor's Office.

We certainly hope that this is the finale of a matter that really should not have come up in the first place as it was evident right from the start that the Sheldens' claim was baseless and therefore unreasonable.

ORIGINAL OF Agreement hand carried to C.W. Smith on 9/10/63 MBerte

(Sgd) William J. Kennedy

William J. Kennedy
Superintendent

Copy of Agreement filed in Docket No I Part III

Encls. X

03-01-1963: memorandum to regional director, western region from chief, branch of water resources regarding mission poultry far

WR Copy

March 1, 1963

L54-RLW

Memorandum

To: Regional Director, Western Region

From: Chief, Branch of Water Resources

Subject: Mission Poultry Farm South Ditch, Whitman

An early reply to Mr. Diederich's inquiry of February 11 was anticipated upon its receipt since the problem had been under study for some time in the Office of the Solicitor. Receipt of the enclosures with that memorandum by that office did, however, complicate their problem and they have today advised us that a little more study time is required.

The advice requested in Mr. Diederich's closing statement will be made available at the earliest possible date.

SIGNED

E. W. Reed

cc:
Superintendent, Whitman
Field Solicitor William J. Costello
Mr. Reed

GWRobertson:lct

03-01-1963: memorandum to director from assistant regional director, western region regarding mission poultry farm south ditch,

WR Copy
~~EWR~~
~~GWR~~

Western Regich
180 New Montgomery
San Francisco 5, California

L54 RLW

February 11, 1963

Memorandum

To: Director

From: Assistant Regional Director, Western Region

Subject: Mission Poultry Farm South Ditch, Whitman National Monument

Please refer to our memorandum of September 27, 1962, on the above subject to which we have not received a reply. Along with the data transmitted with that memorandum copies of the following additional data are enclosed for consideration.

1. Letter of January 29, 1963, from Carl H. Coad, Attorney, Portland Region, Office of the Solicitor to the Regional Director, Western Region forwarding a draft of a proposed "Agreement" recommended by Mr. Coad to be signed by the Regional Director as an official of the National Park Service.

2. Memorandum of January 31, 1963 from Superintendent Kennedy to the Regional Director, Western Region recommending that the "Agreement" be signed.

3. Memorandum of February 8, 1963 from Field Solicitor Costello to Richard W. Ketcham, Hydraulic Engineer, Division of Lands, Western Region recommending that a long term renewable special use permit be issued in lieu of the "Agreement".

We shall appreciate your advice as to how we should proceed in this matter.

(Sgd.) Leo J. Diederich
Leo J. Diederich

Enclosures 3

cc:
Supt., Whitman w/c of Mr. Costello's memo dtd 2/8/63

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
San Francisco Field Office
180 New Montgomery Street
San Francisco, California

RECEIVED

February 8, 1963

Memorandum

To: Richard W. Ketcham

From: William J. Costello

Subject: Ditch rights agreement - Whitman National Monument

Heretofore I have expressed to you orally my misgivings with respect to the so-called "Agreement" which is proposed for signature by the Regional Director on behalf of the United States in connection with purported ditch rights claimed by certain persons with properties adjacent to the boundaries of Whitman National Monument in Washington. I shall outline briefly the bases for my misgivings with respect to this document.

I realize that negotiations have been carried on for some time with respect to the furnishing of such a document and that members of the Regional Solicitor's Staff of the Portland Region may have satisfied themselves as to the legality of such negotiations. Despite my inclination to defer my judgment to the Regional Solicitor's Office (because undoubtedly the matter has been given considerably more thought than I have given to it) it is suggested that some further consideration be given to the advisability of signing and furnishing such a document for the reasons set forth below.

Basically it is my understanding that the validity or lack of validity of water rights is a matter solely for judicial determination and that no extrajudicial declarations with respect to the validity of water rights can have any legal effect. In other words, if the claimants of the water rights sought to be confirmed by this "agreement" now actually have water rights which would not be subject to a successful attack in a judicial proceeding, a document signed by the Regional Director would have no legal significance whatever. On the other hand, if the water rights or ditch rights involved in this matter are doubtful or subject to attack, there would appear to me to be a serious problem presented as to whether employees of the United States can or should participate in any activity which would estop or which would purport to estop the United States in contesting the validity of these rights at some

time in the future. Boiled down it is my feeling that if the document presented for signature does not grant anything, it is meaningless and superfluous. If the document does grant or have the effect of granting rights not heretofore owned, it would appear to me that it would be inadvisable for any employee of the United States thus to undertake to grant away any rights of the United States without statutory authorization.

It is noted in Attorney Coad's letter that it is desired that this document be signed and acknowledged to make the document "recordable". I am not familiar with the laws of the State of Washington with respect to the significance of recording. Those laws may be similar to or the same as the laws of California in this regard. The California statute provides for the recording only of documents which affect title to real property. If the Washington statute is similar, it may mean that by providing a recordable document, the United States may in effect be granting an interest in real property. If so, I would question whether such a grant would be permissible without authorization.

Inasmuch as I have not conducted any research on this matter, my fears with respect to it may ultimately prove to be groundless. On the other hand, it is my belief that the fact that the attorneys for the landowners involved here are so anxious to get such a document from the United States indicates that they may be attempting to foreclose the United States from asserting at any time in the future that such water rights are not valid. While as a matter of law it is doubtful that any employee of the United States could take any action which would ever estop the United States in a matter of this kind, I would consider it bad practice for employees of the United States to purport to take any action which could be interpreted as an attempt to do so.

As a parenthetical matter, it might be noted that while the document is entitled "Agreement", the only party to the document would be the United States and apparently the United States is the only entity which is "agreeing" to anything. An agreement is generally considered in law to be an exchange of promises for consideration with rights and duties on each side. Here the United States is being requested to "agree" to something without any exchange of obligation.

I cannot see why the claimants here should not accept a long term renewable special use permit covering the ditch rights. Although "revocable" in terms, it is doubtful that any attempt to revoke any such permit except for valid reasons would be effective. Thus, in the absence of rather serious activity by a permittee, "revocable" permits are irrevocable for practical purposes.

William J. Costello
Field Solicitor

02-08-1963: memorandum to regional director, western region from superintendent, whitman mission regarding ditch rights, south

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Whitman Mission National Historic Site
Route 2
Walla Walla, Washington

IN REPLY REFER TO
L5h

January 31, 1963

RECEIVED
NPS Western Regional Office
FEB 4 - '63

Memorandum

To: Regional Director, Western Region

From: Superintendent, Whitman Mission

Subject: Ditch Rights, South Portion of Whitman Mission NHS - Neil M. Sheldon

We have received a memorandum from the Office of the Regional Solicitor, Portland Region, enclosing a copy of a document assuring the Sheldons as adjacent landowners of their continued right, with the other landowners entitled to use of the ditch, to obtain water from Dean Creek through the reconstructed ditch along the north part of the former Irene Swegle tract. We understand that the form of this document has been approved by the attorney for the Sheldons and that the document has been sent to you for your approval or disapproval. In sending us the copy of the document, Attorney Carl H. Cead, who is handling the matter for the Regional Solicitor, requested that we comment thereon and make recommendations as to its approval or disapproval to you.

We have studied the document and it appears to meet the needs of the situation. We have never questioned the rights of the Sheldons and other landowners concerned with the Dean Creek irrigation water to flow water over the north portion of the former Irene Swegle tract. We believe that this document does not give them anything to which they have not been entitled to for a good many years. Also, we see nothing adverse to the interests of the National Park Service in confirming this right in the proposed manner. We therefore recommend that you approve it.

William J. Kennedy

William J.Kennedy
Superintendent

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

PORTLAND REGION
1002 N.E. HOLLADAY ST.
P.O. BOX 3621
PORTLAND, OREGON

RECEIVED
NW Western Regional O
JAN 30 1963

January 29, 1963

Regional Director, Region Four
National Park Service
U. S. Department of the Interior
180 New Montgomery Street
San Francisco 5, California

Re: L54 - Ditch Rights, South Portion of Whitman
National Monument - Neil M. Shelden

Dear Sir:

We have received from the attorney for the Sheldens a letter indicating his agreement with the conclusions of our July 9, 1962 letter to him, that the Sheldens do not have a right to carry water across the south part of the Monument tract. The attorney did request that an easement for the existing north ditch be given to the Sheldens as an affirmance of their right to continued use of the relocated ditch, which use has been acknowledged by the National Park Service, as an easement over the Monument tract. Since this is a matter of recognizing existing rights and there would be a lack of authority to grant any rights of the United States presently held, we have proposed to the attorney for the Sheldens, and he has indicated his agreement to the proposal, that an agreement or acknowledgment of existing rights in this north ditch as relocated would be satisfactory for this purpose. The files show that this ditch was an existing encumbrance when the property was acquired by the United States. This form also would limit the easement to the present capacity of the reconstructed ditch, and to use in carrying waters of Doan Creek only. Since Mr. Kennedy has indicated that he would prefer to have any maintenance in this area done by the Monument staff, that obligation has been assumed on behalf of the National Park Service.

If you are in agreement with this proposal, will you please sign the enclosed original agreement and acknowledge it before a notary public to make the document recordable. It should be returned to

this office for transmittal to the attorney for the Sheldens. A copy of this letter and of the agreement is being sent to Mr. Kennedy for his recommendations directly to you.

Very truly yours,

For the Regional Solicitor

Carl H Coad

Carl H. Coad
Attorney

Enclosures

00-00-1963: agreement; nps acknowlledge owners of land agreement record regarding part of the whitman mission claim no. 38, i

A G R E E M E N T

BE IT REMEMBERED, That the United States of America, acting through the Regional Director of the National Park Service of the Department of the Interior, does hereby acknowledge to the present and future owners of the following described tract of land, formerly a part of the Whitman Mission Claim No. 38, in Township 7 North of Range 35 East of the Willamette Meridian, in Walla Walla County, State of Washington:

> Beginning at a point which bears North 20 chains, and South 89° 6' West 24.4 chains from the southeast corner of the Whitman Mission claim in Section thirty-two (32) in Township seven (7), North of Range thirty-five (35) E. W. M.; running thence South 89° 6' West parallel with and distant 20 chains at right angles from the South line of said claim, 18.9 chains; thence North 20' West 20.65 chains; thence South 87° 56' East 17.44 chains; thence South 50 links; thence South 87° 26' East 1.5 chains; thence south parallel with East line of said claim 19.23 chains to the point of beginning, containing 38.12 acres;

which tract hereinafter is designated as the May Swegle Shelden tract, that:

1. On February 9, 1937, the United States acquired title to the following described tract of land, also formerly a part of the Whitman Mission Claim No. 38, in Township 7 North of Range 35 East of the Willamette Meridian, in Walla Walla County, State of Washington:

> Beginning at a point which bears North 20 chains and South 89° 6' West 4.4 chains from the southeast corner of the said Whitman Mission claim; thence South 89° 6'

West parallel with and distant 20 chains at right angles from the South line of said claim, 20 chains; thence North, parallel with the East line of said claim, 19.23 chains; thence South 87° 26' East 20.02 chains; thence South, parallel with the East line of said claim, 18 chains to the point of beginning, containing 37.29 acres,

hereinafter called the Irene Swegle tract.

2. That the West side of said Irene Swegle tract adjoins the East side of the May Swegle Shelden tract, and that for many years prior to and at the time of acquisition by the United States, waters of Doan Creek, a tributary of the Walla Walla River, were transported through a ditch over and across, and near the north line of said Irene Swegle tract, to said May Swegle Shelden tract and to a ditch serving other lands lying to the North and West of said Irene Swegle tract, for irrigation, stock water, and domestic purposes.

3. That in 1961 said ditch across the northerly part of said Irene Swegle tract was relocated and reconstructed by the National Park Service as a part of the restoration of the old Whitman Mission, and that such relocation and reconstruction was with the oral consent of the owners of water rights entitled to the use of said ditch, including the owners and occupants of said May Swegle Shelden tract.

4. That said ditch, as reconstructed, has a capacity equal to the prior ditch it replaced, and delivers water at the northwest corner of the Irene Swegle tract to the May Swegle Shelden tract, and to a continuation of said ditch to other water users at the same places as prior to such relocation and reconstruction, and said reconstructed and

relocated ditch is intended to be and will be used to the present capacity of said ditch to serve the said May Swegle Shelden tract and other tracts North and West of the Irene Swegle tract having appurtenant water rights from Doan Creek as adjudicated under the decree of the Superior Court of the State of Washington for Walla Walla County, entered on remittitur of the Supreme Court of the State of Washington, dated May 14, 1923.

5. That the National Park Service will maintain, clean and keep said reconstructed and relocated ditch upon the said Irene Swegle tract in repair, including any culverts and division boxes, so that said ditch may be utilized to the maximum extent of its present capacity to carry to said water users available Doan Creek water for irrigation purposes.

6. That the water users entitled to carry water in said ditch, and the Water Master of Walla Walla County or his agents or employees, may enter upon the said Irene Swegle tract to inspect said ditch, to remove temporary obstructions to flow, and to control and change the flow of water through division boxes affecting the said water rights, but otherwise shall not enlarge, alter or disturb said relocated and reconstructed ditch or the Whitman Monument property over which it crosses.

7. The National Park Service retains the right to use said reconstructed and relocated ditch and other portions of said ditch to carry any Doan Creek water appurtenant to said Irene Swegle tract.

8. The National Park Service will cooperate in continuing the present or modified arrangements for rotation of water deliveries through said ditch, including the National Park Service right to Doan Creek water appurtenant to the Irene Swegle tract under the supervision and control of the Walla Walla County Water Master.

IN WITNESS WHEREOF, this instrument has been executed this _____ day of _____, 1963.

UNITED STATES OF AMERICA

By _____
Regional Director, National Park Service, Department of the Interior

STATE OF CALIFORNIA)
: ss.
County of _____)

BE IT REMEMBERED, That on this _____ day of _____, 1963, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named _____, who is known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed the same on behalf of the United States freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this the day and year last in this certificate above written.

_____
Notary Public for California

My commission expires _____

09-27-1962: memorandum to director from assistant regional director - western region regarding mission poultry famr - south ditch

180 New Montgomery
San Francisco 5, California

154

September 27, 1962

Memorandum

To: Director

From: Acting Assistant Regional Director - Western Region

Subject: Mission Poultry Farm - South Ditch - Whitman National Monument

The Superintendent of Whitman National Monument requests that we formally recognize in a recorded document, the right of water users west of the Monument to irrigation water through an existing ditch on Monument lands. He also suggests clauses concerning maintainence that he wishes included in this document.

Before any document of this type is authorized we request your comments and suggestions. Enclosed are copies of the pertinent correspondence concerning the ditch rights at Whitman National Monument.

1. Mr. Coad's letter for the Regional Solicitor to Minnick & Hahner, Attorneys at Law, dated July 9, 1962.

2. Mr. Minnick's letter for Minnick & Hahner to Mr. Coad, Regional Solicitor's Office, dated September 10, 1962.

3. Mr. Coad's letter for the Regional Solicitor to Minnick & Hahner Attorneys at Law, dated September 19, 1962.

4. Mr. Coad's letter for the Regional Solicitor to Superintendent Kennedy, dated September 19, 1962.

5. Superintendent Kennedy's letter to Mr. Coad, Regional Solicitor's Office, dated September 24, 1962.

(Sgd.) Robert S. Luntey

Acting Assistant Regional Director

Enclosures

Copy to: Superintendent, Whitman

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

PORTLAND REGION
[illegible] BLVD
[illegible] BOX 3537
PORTLAND, OREGON

RECEIVED
NPS REGION FOUR OFFICE
JUL 10 '62
NAME DATE
REGL DIR
OPERATIONS
ADMIN.
RECREATION
INTERP.

July 9, 1962

Mr. W. L. Minnick
Minnick & Hahner
Attorneys at Law
303 Jones Building
Walla Walla, Washington

Re: Ditch Rights, South Portion of
Whitman National Monument

Dear Mr. Minnick:

I have in the files a copy of the decree in case No. 28081, filed April 24, 1939, in which the Whitman Centennial, Incorporated, was plaintiff, and among the defendants were both Irene Swegle, the owner of the tract acquired by the United States south of the former county road and adjacent to the present Shelden tract, and May Shelden, from whom Ray C. Shelden and Neil M. Shelden derive their rights to the Mission Poultry Farm. May Shelden defaulted. This decree determined that a full fee simple title was vested in Whitman Centennial, Incorporated:

> " . . . free and clear of any right of redemption, lien or encumbrance or any right, title, claim, interest, or demand of the defendants, or any of them, or of any person or party claiming by, through or under any of the defendants named in this action or otherwise."

It also decreed that the title in Whitman Centennial, Incorporated, was:

> " . . . in and to the lands and premises aforesaid, and every part and parcel thereof, is hereby quieted and declared to be absolute and in fee simple against the defendants herein and each of them, and all persons whomsoever and parties claiming or to claim any right, title, estate, right of redemption, lien or interest therein or thereto, through or under the said defendants or any of them."

No ditch right-of-way or easement as claimed by the Sheldens could have remained in May Shelden after this decree.

Very truly yours,

For the Regional Solicitor

Carl H. Coad
Attorney

cc: Regional Director, Region 4,
National Park Service,
San Francisco, California.

William J. Kennedy, Superintendent,
Whitman National Monument, NPS,
Walla Walla, Washington

09-10-1962: letter to carl h. coad, attorney, officeof the solicitor, us department of the interior from w.l. minnick regarding ditch rig

MINNICK & HARNER
LAWYERS
JONES BUILDING
P. O. BOX 818
WALLA WALLA, WASHINGTON

W. L. MINNICK
H. M. HARNER

AREA CODE 509
JACKSON 2 5804

September 10, 1962

Mr. Carl H. Coad
Attorney
Office of the Solicitor
U. S. Department of the Interior
P.O. Box 3537
Portland, Oregon

Re Ditch Rights, South Portion of Whitman National Monument

Dear Mr. Coad:

We have reviewed your letter of July 9, 1962 and are inclined to agree with your conclusions.

In view of these facts, we feel that we should ask that our client's rights, as concerns the north ditch, be evidenced by an easement which we can record. Would you initiate the necessary steps to secure such a ditch right-of-way easement for us?

Yours very truly,

W. L. Minnick

WLM/mpc

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
PORTLAND REGION
1001 N.E. LLOYD BLVD.
P.O. BOX 3627
PORTLAND, OREGON

September 19, 1962

Mr. W. L. Minnick
Minnick & Hahner
Attorneys at Law
Jones Building
P. O. Box 218
Walla Walla, Washington

Re: Ditch Rights, South Portion of Whitman National Monument

Dear Mr. Minnick:

In your letter of September 10, 1962, you suggest that a grant of an easement be made to the Sheldens for the north ditch on the Whitman Monument through which water may be delivered to the Sheldens near their northeast corner. We do not know of any authority by which property held for such purposes as the Whitman Monument may be conveyed. The extent of authority is to grant revocable permits, which would not satisfy your clients. The records show that the Monument property was acquired with this known north ditch upon it and that this ditch since has been recognized and used, even though relocated across the Monument, for the purpose of delivering the Dean Creek waters to the users below the Monument.

It is our thought that the most practical thing that can be done, if acceptable to the National Park Service, is to have a document executed by an official with authority to acquire real property for the National Park Service, stating that acquisition of the Monument was subject to the existing north ditch through which the Sheldens and others are entitled to delivery of water from Dean Creek in the amounts decreed to them, and that even though relocated on the Monument, the ditch rights are confirmed in the Sheldens and others as a matter of record to conform to the known facts.

If this type of an instrument would be acceptable to you and your clients, we will present the matter to the Regional Office of the National Park Service at San Francisco for their consideration.

Very truly yours,

For the Regional Solicitor

Carl H. Coad
Attorney

09-19-1962: memorandum to william j. kennedy, superintendent, whitman nm, nps from office of the regional solicitor, portland, ca

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
PORTLAND REGION
1001 N.E. LLOYD BLVD.
P.O. BOX 3887
PORTLAND, OREGON

September 19, 1962

Memorandum

To: William J. Kennedy, Superintendent
Whitman National Monument, National Park Service
Walla Walla, Washington

From: Office of the Regional Solicitor, Portland

Subject: Mission Poultry Farm - South Ditch

Enclosed is a copy of a letter from the lawyers for the Sheldens, indicating that they agree with our contention that there is no right in the south ditch as claimed by the Sheldens. They do request that some recognition of their rights in the north ditch be given them. I enclose a copy of letter to the attorneys suggesting that a confirmation of rights to use of the north ditch be given, not only to the Sheldens but also to the other users of water carried through the north ditch, rather than an attempt to grant an easement which would be of little value.

If there are particular provisions that you feel should be incorporated into such a document as is suggested, please advise me of them. The use of an irrigation ditch must include any necessary patrol and maintenance by the users, unless your people would prefer to provide such maintenance across the Mission grounds. Some provision regarding these points will have to be made.

For the Regional Solicitor

Carl H. Coad
Attorney

Enclosures

cc: Regional Director, Region Four

09-24-1962: memorandum to regional solicitor, portland, attention: carl h. coad, attorney from superintendent, whitman regarding

RECEIVED
NPS Western Regional Office
SEP 25 '62
Surname Date

Whitman National Monument
Route 2
Walla Walla, Washington

L54

September 24, 1962

Memorandum

To: Regional Solicitor, Portland
Attention: Carl H. Coad, Attorney

From: Superintendent, Whitman

Subject: Mission Poultry Farm - South Ditch

The developments in this matter are most interesting. We were certain that the Sheldens did not have a right to a south ditch. At the same time, it is felt here that they and the water users of the Doan Creek irrigation ditch west of Whitman National Monument do have a right to flow irrigation water through the Monument lands.

We are quite satisfied with the present location of the irrigation ditch. We do feel that if the rights of the users to flow irrigation water over the Monument lands are to be formally recognized, it would be well to stipulate that maintenance and patrol of the ditch through the Mission Grounds -- that portion of the Monument immediately south of, and adjacent to, the route of the Old Oregon Trail -- are to be performed only by Monument personnel. Maintenance and patrol of the remainder of the ditch are to be accomplished jointly, as in the past, by all of the water users of the ditch including the National Monument at times and in such a manner as not to disrupt normal activities at the Monument and its use by the public, with costs to be borne by the individual users in proportion to the percentages of their water rights to the total flow of the ditch available below the weir at which the amount of water is measured for the Doan Creek water users.

Here at Whitman we do not have the authority to execute such a document as you suggest; however, by copy of this memorandum, we are notifying our Regional Office of our feelings in regard to this matter and we recommend that such action as is necessary to carry out the National Park Service portion of your suggestions be undertaken by that Office. We assume that once you have heard from our Regional Office, and, providing that it is favorable to such a course of action, you will draw up the necessary document.

Thank you very much for the careful and painstaking attention you have given this matter.

William J. Kennedy
Superintendent

Copy to: Reg. Dir., Western Region

09-29-1962: letter to mr. barry j. hogan; regional solicitor, office of the solicitor, department of interior, portland region from james

Region Four
180 New Montgomery Street
San Francisco 5, California

L1425

May 29, 1962

Whitman

Mr. Barry J. Hogan
Regional Solicitor, Office of the Solicitor
Department of the Interior
Portland Region
1001 N.E. Lloyd Blvd.
P.O. Box 3537
Portland 8, Oregon

Attention: Attorney Carl H. Coad

Dear Mr. Hogan:

This acknowledges Attorney Coad's letter of May 22 enclosing a draft of your proposed letter to Messrs Ray C. and Neil M. Sheldon, regarding ditch rights or easement rights necessary to carry water from Doan Creek through the Whitman National Monument to their adjacent property.

Mr. Coad asked that we look over his proposed letter to the Sheldons and offer any comments we might have as to the contents. We believe that the letter, as drafted, is entirely satisfactory and appropriate.

Please send this office two copies and Supt. Kennedy one copy of the letter when mailed to the parties in question.

Sincerely yours,

James V. Lloyd

James V. Lloyd
Acting Assistant Regional Director

Copy to: Director w/cy of inc.
Supt., Whitman w/cy of inc.

09-29-1962: letter to mr. ray c. and neil m. shelden, mission poultry farm from carl h. coad, attorney, for the regional solicitor rega

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

PORTLAND REGION
1001 N.E. LLOYD BLVD.
P.O. BOX 3537
PORTLAND, OREGON

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NPS REGION FOUR OFFICE
JUN 4 - '62
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ADMIN.
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INTERP.

Jun 5 1 01 PM '62

L 3031

June 1, 1962

Director 6/4/62

Mr. Ray C. Shelden
Mr. Neil M. Shelden
Mission Poultry Farm
Route 2, Box 343
Walla Walla, Washington

Gen. Files

Re: Ditch Rights, South Portion of
Whitman National Monument

Gentlemen:

On Wednesday, May 16, 1962, Superintendent Kennedy and I discussed this matter with Mr. Neil M. Shelden and his wife, and also examined the area across which it is claimed by you that there is an easement for an irrigation and stock water ditch, in addition to the ditch across the north side of the former Irene Swegle tract lying east of your property. It is apparent that there is a delivery of Doan Creek water available to you at the northeast corner of your property, at an elevation adequate to run it to the south and west on your property, if desired.

The question is not one of water rights in Doan Creek, but is of ditch or easement rights necessary to carry the water from Doan Creek to your property. An examination of the title records on the Irene Swegle tract shows that title to the tract was acquired by the United States in February, 1937, by warranty deed, without reservations of rights-of-way. This deed was from Whitman Centennial, Inc., which concern quieted title by suit as against Irene Swegle and May Shelden, among others, leaving no rights in this part of the Mission property to pass to you from May Shelden. There was in existence and recognized at this time the ditch across the north side of the Irene Swegle tract serving your present property. Although the May Shelden rights in this ditch might have been lost by reason of the quiet title action, there appears to have been no intention on the part of the United States to interfere with the use of this ditch across the north side of the Irene Swegle tract as a means of carrying Doan Creek water to the May Shelden property.

We do not find in the records, and in talking with Neil Shelden have not been furnished with, any clear evidence of any other right-of-way

WHIT

for either irrigation or stock water over the Irene Swegle tract. No rights-of-way may be obtained against the United States by adverse user, and actions by you while irrigating on the Mission grounds in connection with your grazing permit likewise cannot be the basis of any claim against the United States. Also, the records indicate Ray Shelden was a lessee of this Irene Swegle tract in 1940, and would not have been in a position then to have asserted any rights adverse to the landlord.

It is not possible to give or grant a right-of-way to you across this tract for conveyance of Doan Creek water, and delivery of Doan Creek water to your premises will be restricted to the present ditch along the north side of the Irene Swegle tract, with delivery at the established point near the northeast corner of your property.

You are assured that the staff at the Whitman National Monument will extend every assistance on a neighborly basis to provide you with a temporary supply of water to avoid loss of livestock or poultry in an emergency, if you request it.

Very truly yours,

For the Regional Solicitor

Carl H. Coad
Attorney

cc: Mr. W. L. Minnick,
Attorney at Law,
Walla Walla, Wash.
Regional Director, Region 4, L-1425 (2)
National Park Service,
San Francisco, California.
William J. Kennedy, Superintendent,
Whitman National Monument, NPS,
Walla Walla, Washington.

04-23-1962: letter to carl h. coad, office of the solicitor, department of the interior from william j. kennedy, whitman superintendent

W O D C
APR 24 1962
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PERS
P & P
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L
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HABS
ACTION TAKEN - DATE

154

Whitman National Monument
Route 2
Walla Walla, Washington

April 23, 1962

Docket 1

Mr. Carl H. Coad
Office of the Solicitor
U. S. Department of the Interior
1001 N. E. Lloyd Blvd.
P. O. Box 3537
Portland 8, Oregon

Re: Mission Poultry Farm South Ditch

Dear Mr. Coad:

In our letter to you of April 13 concerning this subject, we stated that we had written a letter to former Superintendent Robert K. Weldon asking him if he had any knowledge of use of water from a south ditch by the Sheldens during his superintendency of Whitman National Monument, which was from June 1950 to January 1956. His reply, which is self-explanatory, is enclosed.

For your information, in the past ten days the Sheldens have had a power pole set and electrical connections made for an irrigation pump where the water which flows through the restored Whitman irrigation ditch in the mission grounds (north ditch) enters their property. Apparently they are planning to install an irrigation pump there. This is what we have believed all along they should do.

We believe it would be beneficial if you would come here andstraighten things out with the Sheldens. However, in view of this recent development, it may not be too difficult.

Sincerely yours,

(Sgd) William J. Kennedy

William J. Kennedy
Superintendent

Encl.

Copies to: Regional Director, Region Four, w/cy of encl. (2)
Chief, WODC, w/cy of encl. (2)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1080, Estes Park, Colorado

IN REPLY REFER TO:
L54

April 19, 1962

WHITMAN	Info	Act	Init
Supt		✓	
Hist	✓		
Admin Aid	✓		
Caretaker			
APR 2 1 1962			

Memorandum

To: Superintendent, Whitman National Monument

From: Supervisory Park Ranger, Robert K. Weldon
Through: Acting Superintendent

Subject: Irrigation Water Use by Ray C. Shelden and Son

It was very interesting to receive your letter of April 11 about some of the irrigation problems at Whitman and to recall that we used to have some "rough" ones indeed. These were with Mr. E. B. Miller at that time.

We are glad to learn that your present problems with Neil Sheldon are not too "heated." Please give our very best personal wishes to the Sheldens. They were most helpful and cooperative about Monument matters during the years I was there.

Glad to know that you have restored the Whitman mill pond. From this I surmise that you may have more water running through Monument ditches than was formerly the case.

During the years I was there we had to struggle to get enough water to keep the old Grist Mill foundation timbers covered. I do not recall that during the summer there was ever very much water flowing on down the wasteway ditch. I do remember digging this ditch out occasionally so that water would flow through it rather than accumulate in the swampy area below the Grist Mill site. However, there was never any regular delivery of water to Sheldens in this areas as I recall. It is possible that they used water at times from this ditch. My memory fails me when it comes to picturing just how the ditch runs after it leaves the Monument, but if it does not serve them to irrigate what used to be an asparagus patch at the lower end of their farm land, it certainly would not be very useful flowing out into the low area towards the Walla Walla River.

Sorry I cannot be of more specific help to you. Hope you can work out the matter with them amicably, for they have been, as you know, good neighbors and Monument supporters through all the early days of struggle and controversy.

Robert K. Weldon

Robert K. Weldon
Supervisory Park Ranger

Copy to: Regional Director, Region Four

04-13-1962: letter to mr. carl h. coad, office of the solicitor, us department of the solicitor from william j. kennedy, superintendent

Whitman National Monument
Route 2
Walla Walla, Washington

154

April 13, 1962

APR 16 '62

Mr. Carl H. Coad
Office of the Solicitor
U. S. Department of the Interior
1001 N. E. Lloyd Blvd.
P. O. Box 3537
Portland 8, Oregon

Dear Mr. Coad:

Your letter of March 27 regarding the Mission Poultry Farm-South Ditch, has been received and we appreciate having the benefit of your opinion for our guidance. Inasmuch as there were several minor inaccuracies in the letter due to your lack of complete familiarity with the local situation, I have taken the liberty of correcting it and am returning a copy for your information and for the record.

Answer to your letter was delayed as I had a visit to our Regional Office in San Francisco scheduled for the first week in April and wished to discuss the Sheldens' demand while there. A conference for this purpose was arranged and held in the Regional Director's office on April 3. Besides the Regional Director and myself, several other members of the Regional staff who are concerned participated. We came to several conclusions:

1. I should write my predecessor, former Superintendent Robert K. Weldon of Whitman National Monument, and ask him if he has any knowledge of use of water from a south ditch by the Sheldens during his superintendency which was from June 1950 to January 1956. This I have done and a copy of the letter is attached. His reply will be sent to you upon receipt.

2. It is felt that the Sheldens very likely would be unwilling to acquiesce to a limitation to emergency use of water from the millpond and to waive any claim for irrigation water through a south ditch as a consideration for a definite acknowledgment of the right to emergency use of water from the millpond, at least unless such dealing with them is done by you as an attorney for the government.

3. We believe it is desirable for you to come and talk to the Sheldens about this matter and to attempt a settlement. If a letter is to be written to the Sheldens agreeing to such a settlement as you have proposed, we believe that it should be definitive as to the meanings of the terms and conditions and that it should be examined by you before it is sent to them.

EXTRA FILE COPY

As previsouly promised, an aerial photo taken in 1950 showing the Monument and Shelden land has been secured and is being forwarded to you under separate cover. It is in a scale of 1,000 feet to the inch.

You will probably not wish to reply to this letter until receipt of word from former Superintendent Weldon. However, after that, we would very much appreciate it if you would come to the Monument and attempt a settlement with the Sheldens.

Thank you for your consideration of this perplexing matter. Your advice and assistance are very much appreciated.

Sincerely yours,

(Sgd) William J. Kennedy

William J. Kennedy
Superintendent

Encls

Copies to: Regional Director, Region Four, w/cy of corrected letter (2)
Chief, WODC, w/cy of corrected letter (2)

03-27-1962: letter to mr. william j. kennedy, superintendent, whitman nm, nps from carl h. coad, for the regional solicitor regarding

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

PORTLAND REGION
1001 N.E. LLOYD BLVD.
P.O. BOX 3537
PORTLAND, OREGON

March 27, 1962

Mr. William J. Kennedy, Superintendent
Whitman National Monument
National Park Service
Route 2
Walla Walla, Washington

Re: L54 - Mission Poultry Farm-South Ditch

Dear Mr. Kennedy:

You have requested that we advise you as to the claim by Ray C. Shelden & Son (Neil M. Shelden) that the construction of a dam and restoration of millpond on the Mission Monument property has obstructed what is termed the "South Ditch" for delivery of waters of Doan Creek to the Shelden premises near the southeast corner of the Shelden property. We have been furnished your records and aerial photograph of this property taken in 1957. The Sheldens have submitted copies of water right certificates, pictures of the South Ditch, and a statement of their position in the matter. Mr. Harlow Barney, Water Master for Walla Walla County, has furnished a map showing the Doan Creek irrigation diversion and private ditches, as well as the one in question, and a statement of irrigation rights.

The basic question is whether there now is or has been a right of the owners of the Shelden property to convey water, both for irrigation use during the irrigating season and for domestic or stock water, across the south half of the Mission Monument property from a diversion point on an acknowledged ditch, or whether the Mission Monument may construct a dam and stop any flow of water to that ditch.

The descriptions of the various tracts are by metes and bounds, but for the purpose of this memorandum it will be sufficient to identify them by the maps and ownerships. The Sheldens claim ownership of approximately 40 acres designated as the Florence Swegle tract. This adjoins the south tract of the Monument, consisting of approximately 37.5 acres designated as the Irene Swegle tract. The Monument also has approximately 57 acres north of the Irene Swegle tract, which is designated as the May Swegle tract. About 10 acres of the May Swegle tract were acquired from Whitman Centennial, Inc. by purchase in 1937, and the remainder of 46.71 acres by eminent domain proceedings in 1960. Doan Creek traverses this latter portion of the May Swegle

tract for a short distance, but does not run upon any of the other tracts. These acquisitions were subject to existing ditch rights.

Water from Doan Creek is diverted at a point in the ern part east of the May Swegle tract and is carried by private ditch across the former May Swegle tract (both parcels) to a point near the northeast corner of the Irene Swegle tract. Previously two ditches extended west from this point, one on each side of a road. This situation recently has been modified by the Monument in reconstruction of the old Whitman Mission Ditch, which now carries the water of both former ditches to the west line of the Irene Swegle tract and either delivers to the Florence Swegle (Shelden) tract or to the former ditch extending to lower owners. This relocation has been acquiesced in by the affected owners, including the Sheldens.

Previously, and as reconstructed, the ditch on the south side of the road contained a diversion box near where it first reached the Irene Swegle tract. [illegible] The Sheldens assert that this diversion point also is for their use in directing water to the South Ditch. Another box or diversion point 180 ft. west is now used to fill the pond constructed by the Monument as a restoration of the old mission millpond.

Water in the millpond is held and utilized by the Monument for irrigation by pressure sprinklers on the Irene Swegle tract. No water is permitted by the National Park Service to flow through the restored millpond, although there is a valve that could be so used.

This first diversion point previously was used, according to your statement, for irrigation of part of the Irene Swegle tract while the same was being used by the Sheldens as pasture for their cattle under permit. You also have stated that during the time of your six years assignment on this project, no water has been diverted by the Sheldens from the diversion box and carried to the Shelden property through the South Ditch.

The water right of the Sheldens for the Florence Swegle tract is of the same priority as that of the Monument, and consists of:

Class I A: Priority of 1875, for 0.167 sec. ft. continuous flow for irrigation from April 1 to November 1 each year, and "for the purpose of stock and domestic use continuously."

Class I B: Priority of 1914, for 0.133 sec. ft. for irrigation and similar domestic and stock use. This right is subject only to the Class I A rights of the Swegle properties.

There is therefore an adjudicated right for domestic and stock water appurtenant to the Florence Swegle tract which is continuous in time, in addition to seasonal irrigation use, but would not include more water than is reasonably necessary for such stock and domestic purposes. It is the right to carry such stock and domestic water that has precipitated the present difficulty, but the Sheldens assert the right to carry irrigation water through the South Ditch as well as domestic and stock water.

The Sheldens have furnished pictures of the South Ditch on the Irene Swegle tract, showing a substantial waterway, with the section near the Shelden property lined with trees of considerable age. They report also that Jesse L. Swegle, brother of Neil Shelden's mother, can verify that the south part of the South Ditch was constructed approximately forty years ago. The upper part of this ditch utilizes the natural channel of the ground. The aerial photo taken in 1957 that was furnished shows the ditch in question. There is little doubt that this ditch was in existence at the time the United States obtained title to the Irene Swegle tract. Since it was visible upon the land, the United States took subject to the right of the owners of that ditch even though there may have been warranties to the contrary.

We also understand that during the winter months seepage and seasonal spring water flowed from the Irene Swegle tract in the vicinity of the present millpond and would have run down the South Ditch to the Shelden property. Some of this ~~xxxxxxx~~ flow ~~xxx~~ has not been stopped by the millpond. *(See below)

We do not believe there is clear evidence of abandonment of the South Ditch by the Sheldens who, with the former Mrs. Shelden (May N. Swegle) and Florence Swegle, have held the lower property for many years, although usage of water through this ditch may have been intermittent. There was a protest lodged by the Sheldens to the Project Supervisor at the first indication that there might be an obstruction to the use of the South Ditch. This was not brought to the attention of the Superintendent until late in December 1961.

From the discussions that you have had with the Sheldens, it does not appear that the Sheldens would want more than definite assurance that there could be water supplied to them upon short notice for stock and poultry needs during an emergency. They apparently feel that there should be some definite and permanent commitment on the part of the National Park Service that they could obtain water through the millpond and South Ditch, not necessarily by self help, but upon reasonably short notice as in case of power failure or other emergency. We would propose to suggest such a solution to the Sheldens if you do not feel that it would be incompatible with maintenance of the Monument. Perhaps the Sheldens would be agreeable to a limitation to such emergency use and to

*Water in the swamp area at the east side of the north end of the millpond now seeps underground in the fall, winter and spring. Intermittent springs in the swampy area southwest of the millpond still drain this section of the Monument through the wasteway ditch and this use of the ditch is beneficial to the Monument during this period of late fall, winter and spring.

waive any claim for irrigation water through the South Ditch as a consideration for a definite acknowledgment of the right to emergency use. If this is not done and the Sheldens are denied all rights, litigation may ensue and some difficult problems of proof, as well as of law, would confront the Park Service. The other alternatives would be condemnation, or substitution of a ditch or pipe line for the use of the Sheldens in bypassing the millpond, either of which would require substantial expenditures.

There also is to be considered the drainage of the Irene Swegle tract, for which the South Ditch also may be utilized. In the discussion with you, it was indicated that there is possible mosquio breeding in the lower area of the Irene Swegle tract. The South Ditch possibly is of considerable value as a drain for the millpond and other areas of the Irene Swegle tract and should be considered from that aspect also.

We will retain the files on this matter pending your comments on the above proposal.

Yours very truly,

For the Regional Solicitor

Carl H. Coad
Attorney

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February 14, 1962

L54-AL

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Branch

Subject: Demand of Mission Poultry Farm for Irrigation Water Through a South Ditch, Whitman National Monument

Mr. Wosky's memorandum of January 17 to the Superintendent, with attachments, and the drawings in the master plan, do not appear to provide sufficient historical data for the Field Solicitor or the Water Master to render sound opinions. I have wanted answers to the questions, too, if the mill pond and mill are to be or have been restored.

The tracing of map of Doan Creek, by Mr. Stagner, which is in Part III of Docket 1, shows the Doan Creek Ditch from point 2½ miles east of the Monument, in Sec. 35, but does not identify the point of diversion. The second numbered statement on second page of the decree, just above that drawing states that Doan Creek is tributary to the Walla Walla River, but does not state whether it is tributary through Mill Creek, or directly. It is not clear to me, from the drawings in the master plan, whether there is now a diversion from Mill Creek to the Ditch at about the point of turn-out to the lateral to the Monument.

The entire upper portion of the Mill race is not shown on the drawings in the master plan, but the only source of water is said to be springs. They also show what is only believed to have been the site of the mill pond, to the south of a levee. I am reasonably certain that the original diversion to the mill race must have been from the river or a creek with more water than a few springs would supply for the power to operate the mill wheel.

The most enlightening map of the greater area which I can find is the USGS Walla Walla Quadrangle, 1949 reprint on scale of 1:125,000, which appears to show unnamed Cole Creek closely following the alignment of the Doan Ditch, and the two appear to be practically identical in the NW corner of Sec. 35, T 7 N, R 35 E. This quadrangle also shows an unnamed creek originating just south of the

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City of Walla Walla, and flowing southwesterly through College Place and along the northerly side of the Elec. RR to junction with the River in SE¼ Sec. 4, T 6 N, R 35 E, as the most probable Dean Creek if Dean and Cole Creeks are not identical. It seems probable that the original mill race probably diverted from one of these creeks.

Since both of these creeks originate in the metropolitan Walla Walla - College Place area, their flows have doubtless been radically altered since even the Dean Creek Ditch rights were adjudicated, with higher flood crests and lower dry season flows. It seems probable to me that any historical appropriative or riparian rights which were not being exercised when the present water code was adopted on June 6, 1917, have been lost. Rights to Dean Creek waters were further limited by the decree (in the docket), and there may be others limiting decreed rights to the waters of the other streams which may have been rendered between 1917 and 1923.

The portion of the old mill race crossing the Monument seems to carry said spring flow to which the land owners may have riparian rights of use with return of the water for use by the next lower land owner. It probably also intercepts the return flow from irrigation under the Dean Creek rights, and such return flow is probably subject to further appropriation or riparian use, under the Washington laws as under the laws of most other States, but only when available.

I do not believe that the mill pond can be restored now, if it did not exist when the area became a Monument, except as a conduit in lieu of the remnants of the mill race. That is, it could be maintained as a pond with inflow and outflow as such water crossed its area before restoration, but there should be no artificial draining and refilling during the year which would alter the natural flow in the mill race where it enters the Mission Poultry Farm. I also believe that the decree limits the use of Dean Creek water to irrigation, with no right to impound the return flow.

However, since the spring flow and return flow in the mill race do not appear to be appropriated, they are subject to use either under the riparian rights or appropriations which do not affect the prior down stream interests of others. It may be important to know whether the restoration of the mill pond, or the development of the poultry farm, came first.

I do not think the correspondence shows any Federal responsibility to maintain significant flows to the farm. It seems to me that Mr. Sheldon and the Park Service may both be entitled to use the necessary portions of the water, with the further responsibility

to invest in adequate, frostproof conduits to provide only the water beneficially needed by Mr. Sheldon. The Park Service might provide a properly buried outlet pipe from the restored pond, with a float valve control into a frostproof tank at the property line. I think the tank and valve should be the responsibility of Mr. Sheldon, and that he should agree to operation to eliminate any waste. However, these details are subject to clarification of some of the points I have raised, and to subsequent legal confirmation.

The main thing, in the interim, is to prevent any suit until the factual matters are clarified. I suggest that a docket, with section for alien interests be assembled for the mill race and pond, to include factual records and any water use agreements.

Signed

A. van V. Dunn
Chief, Water Resources Branch

Copy to: Superintendent, Whitman
✓Chief, WORC (2)

01-26-1962: letter to field solicitor from superintendent regarding demand of mission poultry farm for irrigation water

W O D C
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Whitman National Monument
Route 2
Walla Walla, Washington

154

January 26, 1962

Docket 1

Mr. George Dysart, Field Solicitor
U. S. Department of the Interior
P. O. Box 3537
Portland, Oregon

Dear Mr. Dysart:

Recently I wrote to the Regional Director, Region Four, National Park Service regarding a "Demand of Mission Poultry Farm for Irrigation Water Through a South Ditch." In reply, it was recommended that I refer the matter to you. I note that copies of all of the correspondence concerning this matter, together with the attachments, have been sent to you.

My memorandum to the Regional Director quoted opinions expressed by Walla Walla County Watermaster Harlow Barney regarding the Sheldens' demands. In case you wish to correspond directly with him, his address is Box 63, Lowden, Washington.

With reference to the fourth paragraph of the Region's memorandum, Park Historian Erwin N. Thompson of Whitman National Monument has prepared a report which may be helpful to you in your determinations. It is enclosed herewith.

On Monday, January 22, I had a talk with Neil Shelden of the Mission Poultry Farm in which I discussed the water problem and attempted to get him to withdraw his demand for the supply of water to the farm through a south ditch. He was unwilling to withdraw the request and subsequently wrote me another letter regarding it. A copy of this second letter is enclosed and it clarifies somewhat the basis of his contention. I know that the statement in its third paragraph is open to question and I do not believe that he could possibly prove that "in the past decade, we have used more water through this ditch than through the north ditch." At least, most of the water that has flowed through the south ditch has been water that originated on Monument land during the late fall, winter, and spring months and wasted away through this ditch. Water has at times been turned from the Doan Creek irrigation ditch into the waste way to provide water for Shelden stock which at the time were grazing on Monument lands under special use permit. This waste water enters the Shelden land where this land is very low and it could not be used for flood irrigating without extensive damming

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and backing water up over a wide area. There is no physical evidence of such works. The water could be used for overhead sprinkler irrigation but I do not know of any time when it has been so used during the six years I have been at Whitman National Monument.

If you wish to look over the situation on the ground, I would be pleased to show you what there is and to introduce you to the Sheldons. If you wish, I can go to Portland to discuss the matter with you further.

I am anxious to do whatever is necessary to resolve this problem and will very much appreciate your advice on what action to take.

Sincerely yours,

(s) William J. Kennedy

William J. Kennedy
Superintendent

Encls.: 1. Copy of Historian's report
2. Copy of January 24 letter from Sheldons

Copy to: (2) Regional Director, Region Four w/attachments
(2) Chief, WODC, w/attachments

The Grist Mill at the Whitman Mission. Prepared by Historian Thompson January 1962

Marcus Whitman established his mission in 1836 in the triangle of land formed by the junction of the Walla Walla River and Mill Creek in the present-day county of Walla Walla, Washington. As a specific location for the buildings of the mission he picked a strech of level land alongside a horseshoe bend of the Walla Walla River.

Among the descriptions of the mission made by persons who lived at or visited it, is an excellent map of the area drawn in January, 1842, by William H. Gray, the mission mechanic and artisan. In this map, Gray shows two channels of the Walla Walla, one of which was the horseshoe bend, and the principal features of the mission including the grist mill. A copy of this map is attached.

The Old Channel: The horseshoe bend was known to the Whitmans as simply the Walla Walla River. It does not now exist and to distinguish it from the present channel, it has been referred to historically as the Old Channel. It was in this Old Channel that Alice Clarissa Whitman drowned in 1839. But, less dramatically, it was the source of drinking water, wash water, bathing water, etc., for the mission. During the life of the mission, 1836-1847, this channel contained a considerable amount of water and had a strong current. Cornelius Rogers, a member of the mission, described it in July 1839 thusly: "The water being some three f et deep at that place /where Alice fell in/ and a perpendicular rocky bank reaching to the surface of the water, and then quite a steep ascent to the level of the plain on which the house stands, makes it a dangerous place."

There was still water running in this Old Channel throughout the rest of the 19th century. When Mrs. Cushing Eells returned to Waiilatpu to live in 1862, she wrote that water still flowed there. Mr. Ray Sheldon, in an interview with Custodian Thomas Garth in 1941, said that a friend of his then 45 years old, used to swim in it as a boy. Mr. Sheldon said, "The river washed in sand and mud to fill in the old channel." Again, "When I was a boy there was quite a body of fairly still water at the head of the bend. There were banks on both sides. The water was deep enough here for swiming."

The Grist Mill: By the time of the massacre in 1847, Whitman had built three successive grist mills on the same site, plus a short-term, temporary hand mill.

The first mill, set up in 1839, was a modified, wrought-iron coffee grinder. It was run by water and had to be operated one full day to obtain enough flour to last the family one week. Archeologist Garth reported that the water wheel was placed directly in the Old Channel. Historian Drury points out also the possibility that Whitman made use of an intermittent flow of water from small springs on the level ground south of Snaft Hill. There is no evidence that Whitman ever used the creek known today as Doan Creek for either water power or irrigation.

Whitman soon realized that this small mill would not suffice and requested the American Board in Boston to send him a grist mill. This mill was sent, by sea. This second, tub-type mill was in operation by 1841. It had 24-inch millstones. For a source of water, Whitman built a mill race from a point a mile or two above the mill on the Walla Walla River, down to the mill. From the diary of Elkanah Walker for June, 1841, we learn that he and William Gray rode horseback rather than walked when

Gray undertook to show him the new race. Cyrus Walker, in a letter, gives the length of the race as being 1 or 2 miles. Apparently no dam was built for this mill but there was at least a small millpond, or body of collected water, east of the mill site (Gray's drawing). Whitman reported that this mill could grind from 1 to 1½ bushels per hour and that its water supply was safe and durable . This second mill may be located definitely from Gray's map.

In the fall of 1842, Whitman set out on his famous overland journey to Boston. About six weeks after he left, Indians set fire to the mill (apparently accidentally) and it burned to the ground. One year later, in the fall of 1843, Whitman returned to the mission and hurriedly set up "a little pair of burrs" so that the emigrants of that year could have flour for the rest of their trip.

Whitman then set out to construct his third grist mill. In the summer of 1844 it was put into place. It also was a tub-type mill and had millstones with a 40-inch diameter. On the mill platform, Whitman also set up a threshing mill which was operated by the water power. For this third mill, the extensive dikes, a dam, a forebay, and the larger millpond were established. The mill race continued to be the long canal from the Walla Walla River. This substantial mill, erected at great cost of time and labor, served the mission until the massacre in 1847. At that time, Whitman was getting ready to build a fourth mill, but the massacre brought the mission to a close.

By early 1848, most of the mission had been destroyed by the Indians -- except for the grist mill. The Indians had become dependent on flour to some extent and valued the mill too highly to damage it. When the Oregon Volunteers (settler army) arrived at Waiilatpu in March, 1848, 3 months after the attack, they readily put the grist mill into operation again and ground the wheat they found at the mission.

The eventual demise of the mill remains somewhat of a mystery. Indian Agent Anson Dart visited the unoccupied mission site in 1851 and reported seeing the grist mill. About 1852, three sheepherders set up camp at the mission but whether or not they made use of the mill is not known. In 1855, there was a second Indian war in the Walla Walla valley and it is very probable that nothing remained of the mill after that year. Traditional accounts tell us that early settlers (either in the Willamette Valley or in Walla Walla --c.1860) took the old 40-inch millstones from the mission and used them elsewhere.

In the course of the archeological excavations in the 1840's, the foundation timbers of this third mill were found intact as was a 24-inch millstone. Whitman's dikes are still standing and his millpond has been restored.

Operation of the Mill: Whitman either operated the mill himself or, in some autumns, hired a passing emigrant to stay over at the mission to operate the mill. The doctor did not let the Indians run the mill themselves but he did encourage them to bring their corn and grain to be ground. We do not know the number of months or hours per year the mill was operated. It may be assumed that the mill was put into operation as soon as the harvest was in. Whitman usually had flour on hand to sell or give to the emigrants who passed by each year between August and November (after 1843). He also made flour for the Indians and on several occassions for the Hudson's Bay post, Fort Walla Walla. After 1844, the average size of the mission family was about 15, inaddition anywhere up to 50 or 60 emigrants would stop over at the mission for weeks or months each fall. In addition there were the several thousand emigrants of the Oregon Trail between 1843 and 1847 who did not stop at the mission

but some of whom did arrange to buy supplies from Whitman. The mill, when in operation, probably ran only part of each day, there being so many others things at the mission which had to be done. By the time the fall's emigrants had passed by, operation of the mill undoubtedly slowed down and during the winter and spring months it ground only enough flour to supply the mission, the Indians, and the fort. Whitman had a granary and it was probably easier for him to store the grain until needed than to store flour.

Mill race: As we have seen, the mill race, starting with the second mill, began at the Walla Walla River a mile or two upstream. Cyrus Walker drew a map of the mission as he remembered it and he shows this millrace entering the millpond from the east.

From the drawing of Gray and Walker, and from considerable written evidence (e.g. Perrin Whitman: "The mill race was just back of the [Emigrant] house, east. It came out of the creek [Walla Walla] just above, went through the mill and back into the creek again."), the course of the tail race may be readily determined. It ran directly from the water wheel to the Old Channel, and again became a part of the Walla Walla River. This is a relatively short distance of about 50 feet.

Irrigation Ditches: Whitman's main irrigation ditch led westward from the millpond. From it other ditches led to the south, across the fields, towards the Walla Walla River. When Gray drew his map in 1842 not all the ditches had yet been dug. The number of acres of land under cultivation at the mission differed from year to year but, on the average, Whitman cultivated about fifty acres west of the mission house and the Old Channel.

RECEIVED
JAN 25 1962
WHITMAN
NATIONAL
MONUMENT

Route 2, Box 345
Walla Walla, Washington
January 24, 1962

WHITMAN	Info	Act	Init
Supt		✓	
Mid	✓		
Admin Aid	✓		
Caretaker			

Mr. William J. Kennedy
National Park Service
Whitman National Monument
Route 2, Box 342
Walla Walla, Washington

Dear Mr. Kennedy:

Referring to our recent, backyard-fence conversation, I wish to clarify a point. Your reference to a map, drawn by William Gray of the Whitman party in 1842, showing the irrigation system as it was made and used by the Mission at that time, certainly cannot participate in your thinking on the present matter. Crop water as used by the Mission has long been non-existant, and the source of that Water was part of the Walla Walla River drainage.

The source of our Water right is Doan Creek, and it is on this fact we base our claims as made in our letter of December 28, 1961, in which we referred to "— one of the oldest ditches in the state". In no way did we want these claims construed to involve the Marcus Whitman Water system. Doan Creek Waters materialize up the Valley, and are part of the Mill Creek drainage. The Water for our irrgation rights merely flows through the Park.

To substantiate the necessity of full continuation of our south ditch, you will recall that in the past decade, we have used more Water through this ditch than through the north ditch.

That the Park development has virtually blocked passage of Doan Creek ditch Water to our south ditch is my continuing, reaffirmed belief.

Any question on these clarifications would be vigorously welcomed.

Yours very truly,

MISSION POULTRY FARM
Ray C. Shelden & Son
By Neil M. Shelden

NMS:fs

CC: Mr. Harlow Barney, Watermaster
Lowden, Washington

Western Office
Design & Construction
DATE: 1-22-62
CHIEF
ADMIN. ASSIST.
PERSONNEL
PLANS & PROG.
SAFETY
Action Taken—Date
File

180 New Montgomery
San Francisco 5, California

154

January 17, 1962

Memorandum

To: Superintendent, Whitman National Monument

From: Regional Chief of Operations

Subject: Demand of Mission Poultry Farm for Irrigation Water Through a South Ditch

A review of your memorandum on the above subject, dated January 12, 1962, makes us feel that we should not attempt any opinions without legal help. We, therefore, recommend that you refer the matter to Mr. George Dysart, Field Solicitor at Portland, Oregon.

A search of records available to us in this office, suggests that the item which you refer to as a "natural water course, not maintained irrigation ditch" may actually be just that, since it appears to be a part of natural waterway originating just east of the east boundary line, when examined on an aerial photograph. Flow must have been intermittent, depending on surface run-off after rain had fallen. As such, it would not appear to warrant the distinction of being a ditch. Yet, if you examine the "Historical Sites Map, Part of the Master Plan," Drawing No. NM-WHI 2005 A, sheet 3, dated September 1952 you will note that this watercourse was used as the tail race for the mill. The drawing even refers to the "approximate course of mill race" at the easterly side of the monument. The only ditches specifically referenced as such are "Doan Creek Irrig." (sic).

A careful examination of the contours on Drawing No. NM-WHI 2010 H, dated June 1960 "General Development, Part of Master Plan," clearly shows the existence of ditchlike troughs which would be congruent with the mill race if they were overlaid.

As a tail race, the water flowing there would have been wasted by the mill. We would need to know if reuse of the tail race water could or did carry with it any water right. You may need to examine the history of the mill, its operation, length of time it was in use,

number of months per year, and whether there is any historical record of the tail race water reuse on the land now operated by the Sheldens. Field Solicitor Dysart will probably require this information in his review of the problem.

We would be willing to accept the County Water Masters view, especially since our records show no irrigation ditch except the Doan Creek Ditch, which in your sketch is marked "Restored Whitman Irrigation Ditch," but if the Sheldens feel that developments within the Monument are causing them distress, it behooves us to determine the extent of our rights. Mr. Dysart might believe it desirable to have the Water Master's view in a letter answering specific written inquiries.

We agree with you that neither the pond nor the temporary protective ditch should be permitted to flow irrigation water. If Mr. Dysart agrees, we would add our concurrence with your offer to the Sheldens to furnish emergency water as required, and permanent water at the present point of delivery from the restored Whitman Irrigation Ditch. Unless you are advised to take another course of action by the Field Solicitor, you should continue to follow the line you have begun.

We are returning a copy of your sketch to you.

(Sgd) John B. Wosky

Regional Chief of Operations

In duplicate

Copy to: Director w/copy of incoming and attachments
Field Solicitor Dysart w/same
Chief, WORO (2) w/copies of Supt's sketch

To: Chief, WODC

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Whitman National Monument
Route 2
Walla Walla, Washington

154

January 12, 1962

Memorandum

To: Regional Director, Region Four

From: Superintendent, Whitman

Subject: Demand of Mission Poultry Farm for Irrigation Water Through a South Ditch

On December 1, 1961, Neil Shelden who, with his father, operates the Mission Poultry Farm immediately west of Whitman National Monument contacted me and asked if it would be possible for the Sheldens to secure water at the west side of the Monument near the south boundary. At this point, there is a water course through which water flows most of the winter but only flows in the summertime when water is turned into the irrigation ditch at the northeast corner of the south half of the Monument. Please refer to the accompanying sketch and to an aerial photo which you have, to photo of millpond in Superintendent's narrative report for October 1961, and to Chapter 90.12, Determination of Water Rights, in Surface and Ground Water Code, Washington State.

I told Neil Shelden that water would be made available to him through this watercourse at any time in an emergency but that I didn't care to have irrigation water run into the millpond and then on to the south ditch as a general practice as it would fill in the millpond. I also suggested that he divert water at the point where it is delivered to his property through the restored Whitman irrigation ditch near the site of the former Whitman Mission House as this is the highest point on his land and the facility is already there. Nothing further was done about the matter at that time.

About the evening of December 11, Neil Shelden called me at my home and said the water for the Shelden turkeys was frozen up and he would like to have water from the Monument millpond. I asked him if he needed it immediately. He said it could wait until morning. The next day I went over the water situation with Neil and his wife. Everything was amicable but the Sheldens were firm in their demand for delivery of water to them near the southwest corner of the Monument. They also requested that a temporary ditch now in place on the east side of the millpond be extended and water be made available to them through it. I told

them that this ditch was not needed for the purpose for which it had been dug; that it was not on a grade for water; was not historic; and that we would very likely fill it in soon. I again suggested that they get their water out of the restored Whitman irrigation ditch, and I offered to let them have water from the millpond to tide them over this emergency. I also made it plain to them that I would always cooperate with them in an emergency but that I couldn't give them unlimited use of water through the millpond as one of the purposes of the millpond is the storage of water for an automatic underground sprinkler system. They refused my offer of aid in the emergency of December 12 saying that they would be able to help themselves by running water through hoses from their well to their turkeys. They said their underground lines to the turkeys were just lightly covered and had frozen. When I suggested burying them deeper in the future, they said there would always be a problem where the pipes emerged from the ground. They said they wanted to be able to flow water from the irrigation ditch where it enters the south half of the Monument either through the millpond or around it, to the water course at the southwest corner. I told them I personally could not give them this permission. They then asked if a letter outlining their views would help. I said it would.

The accompanying letter was received here on January 2 by registered mail with a return receipt requested. I have sent an interim reply, but before answering the points it makes, I would appreciate it if you would have members of your staff look it over and advise me.

Today I went to see Walla Walla County Watermaster Harlow Barney about this matter. The Sheldens had sent him a copy of the letter when they sent the original to me and they had discussed it some with him. Mr. Barney is of the opinion that there is not a long established irrigation ditch at the southwest side of the Monument or on the land immediately westward. He says he knows of no such ditch or evidence that the present water course has been dammed in the past and used regularly as a source of supply of irrigation water. He suggests that we inform the Sheldens that while we will always be willing to assist them with water in emergencies, we are unwilling to let them flow water through or around the millpond southward for regularly established irrigating. He says, further, that he will advise the Sheldens that if they are unwilling to accept such an arrangement they may go to court and attempt to have this water adjudicated, but that he doesn't think they will as he does not believe they could win such an action or would be willing to undertake such an expense at this time.

My own recommendations are: (1) Offer in writing to provide the Sheldens with water in case of emergency, but without obligation which would bind us if stock or poultry died. (2) Submit the matter to NPS water rights experts and give it careful study. (3) Depending on results of the study, either (a) inform the Sheldens that following study of the matter it is our decision to suggest that they enter court action

for adjudicature if they wish, or (b) install culvert underground around the east side of the millpond to the natural water course and have water flow from there to the Sheldens' south side.

Your advice on this matter will be very much appreciated.

(S-d) William J. Kennedy

William J. Kennedy
Superintendent

Attachments - Sketch, and letter from Sheldens and interim reply

Copy to: Chief, WODC, w/cy of Shelden letter and interim reply

12-28-1961: letter to superintendent/william j. kennedy/national park service from neil m. shelden/mission poultry farm regarding n

C O P Y

Route 2, Box 343
Walla Walla, Washington
December 28, 1961

Mr. William J. Kennedy
National Park Service
Whitman National Monument
Walla Walla, Washington

Dear Mr. Kennedy:

In the long past, this farm has enjoyed periodic use of Water from one of the oldest ditches in the state. Water passed through the Park and entered the east boundary of this farm from the north or south side, wherever and whenever needed. This Water has always been available --indisputably, without any reservations, whatsoever.

Then came machinery of construction.

It was during the initial mill pond work that I talked with your construction engineer, Mr. Quick, regarding the necessity of this south ditch to our livlihood. He assured me the matter would be taken care of, and I dismissed the possible problem.

Today the Park Service has virtually elminated use of this ditch. In the recent, near emergency brought about by low temperatures, ditch Water was not available in the way it has been in the past. Heretofor, the ditch did provide stock Water in case of any emergency -- be it electrical failure, extreme temperatures or what have you.

With in excess of $40,000, in livestock (primarily Turkeys), peace of mind depends on knowing that stock have abundant Water at all times. You will recall the loss of nearly 4,000 birds valued at $20,000, near Umapine last summer; Russel Tucholke's Water pump failed, and in just one afternoon of 100° + heat, lack of Water caused this great loss.

The Park Service development, arbitrarily and without discussion or notice, closed the south ditch. I feel we are entitled to immediate, emergency use of the ditch by whatever means possible, and that a future permanent arrangement must be worked out to our complete satisfaction.

We do appreciate the historic value of the Whitman National Monument as evidenced by a harmonious relationship, multiple in years. However, Water is a heritage that is sacred to the land and essential to this agricultural enterprise.

We would appreciate knowing your thinking on this matter soon.

Yours very truly,

MISSION POULTRY FARM
Ray C. Shelden & Son

/s/ Neil M. Shelden

NMS:fs

By Neil M. Shelden

C O P Y

Whitman National Monument
Route 2
Walla Walla, Washington

154

January 12, 1962

Mission Poultry Farm
Ray C. Shelden and Son
Route 2, Box 343
Walla Walla, Washington

Gentlemen:

This is to acknowledge receipt of your letter concerning water matters on January 2. It is being studied carefully and will be answered when certain information and advice related to the matters you have mentioned is received. In the meantime, if you have emergency need for more water than is flowing from the intermittent source within Whitman National Monument onto your farm, please let us know as we are always willing to assist insofar as we are able, at such times.

Sincerely yours,

(Sgd) William J. Kennedy

William J. Kennedy
Superintendent

Copy to: Regional Director, Region Four
Chief, WODC

04-03-1961: memorandum to director/national park service from assistant regional director/region four regarding surface and grou

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~~Spaulding~~ LSS
~~Whitworth~~
~~Manbey~~ BF
~~Wosky~~
~~Maier~~
~~(quiat)~~

April 3, 1961

L 54

Memorandum

To: Director

From: Assistant Regional Director, Region Four

Subject: Surface and Ground Water Rights, Dockets 1 and 2, Whitman National Monument

In answer to Mr. Dunn's memorandum of March 28 the following information is provided:

One well record in Docket 2, describing a dug well about 20 feet deep, apparently is the Great Grave well. The Regional office copy of the other well record describes a 15 feet deep dug well in the SE 1/4 of Section 32, not the Museum well, and carries a notation, "This well destroyed July, 1953." The Museum well was drilled in May, 1953 to a depth of 100 feet and was equipped with a 3/4 hp pump delivering 10 gpm (A 2823, June 1, 1953.) The Frazier residence well has been described as "a 1-1/4 inch pipe closed off on the end, sharpened, and holes drilled in it,...(driven) in the ground from 10 to 12 feet..." (Kennedy memorandum of January 21, 1960, L 1425). The Fletcher appraisal dated April 25, 1960 (L 1425) noted that the Frazier residence well was just outside the house and had an electric pump located in the basement. Mr. Fletcher's valuation of the well and pump was $350.

Our understanding of water right criteria under which the proposed water systems using ditch water and well water are being designed is as follows:

1. Improvements are to be constructed to make use of the water of Doan Creek Ditch in an amount equal to the full amount of decreed water rights, the water works having capacity and flexibility of operation suitable to the local practice of rotation of use. According to Superintendent Kennedy's memorandum of January 31, Whitman National Monument is entitled to the full flow of the ditch (0.9666 cfs) 4.31 days every two weeks.

2. Water works are to be constructed to use water from the new well for domestic needs and for irrigation on those areas, if any, where the use of ditch water is not practical. Further, the system is to be designed and constructed so that the new well can supply water to lands ordinarily irrigated by ditch water for those times when ditch water may not be available. We expect that upon construction of the new well use of the three old wells will discontinue.

3. Provisions of the State Water code are such that irrigated areas of the proposed development using ditch water need not be limited to the particular fields which previous owners may have irrigated. Water from the ditch, to the full extent of decreed rights, may be used on Monument lands north or south of the county road as Park Service needs require provided the requirements of the State water code concerning temporary and permanent changes of places of use are met.

Assistant Regional Director

Copy to: Supt., Whitman
Chief, WODC (2)

LSSpaulding:lq

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D.C.

March 28, 1961

RECEIVED
NPS REGION FOUR OFFICE
MAR 30 '61

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN.		
RECREATION		
INTERP.		
RANGER ACT		

IN REPLY REFER TO:
L54-OBL

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Application to Appropriate Groundwater, Docket 2, Whitman

The application and map with Mr. Whitworth's memorandum of March 24 to the Superintendent, clarifies some of the points raised in my memorandum of March 27. The rest of the points can be clarified at the time of proof, or in connection with any protest which might be filed by Mr. Bowers if he considers well spacing inadequate.

Accordingly, the application can follow its normal course if Mr. Kennedy has filed it. It might be reconsidered if not yet sent to the State.

Names are just as satisfactory as numbers for the wells. I assume that the Great Grave Well is the one formerly disputed, just south of the north line of Tract 38, and covered by one of the two records of well in Docket 2. The other record of well may be for the Museum well. This matter should be clarified. We seem to have no logs for the Frasier House well, which was not federally owned in 1948, or the new well. We naturally have no records on the Bowers well.

If there is any protest of the new well within 1000 feet of three of the existing wells, the significant point will be whether the new well, which is deep, intercepts the same aquifer as the Bowers, Frasier House, Great Grave, and Museum wells, two of which are very shallow. The Museum well is also far enough from the new well, and that of Mr. Bowers, to offer no probable problem.

Drawing 6975, in Part I-C, Docket 2, was prepared from the decree of which a part is just above the map at the bottom of Part III of that docket. This appears to be an incomplete copy of a 1923 supplement to the judgment of June 1, 1922, and undated and signed. The original decree, possibly with another map, might or might not give more details. The important point, at the time of proof for certificate to use the new well is to be sure that those parts of the 22.5 acres which are to be irrigated entirely from the well are differentiated from those to which supplemental water is to be supplied.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Whitman National Monument - AIR MAIL
Chief, WODC (2)

02-17-1961: memorandum to superintendent/kennedy/national park service from regional chief of operations, region four/ john b.

~~Spaulding~~ LSS
~~Whitworth~~
~~Manley~~ BFM
~~Wosky~~ JBW
~~(quiat)~~

February 17, 1961

L 54
X D 5039

Memorandum

To: Superintendent, Whitman

From: Regional Chief of Operations, Region Four

Subject: Water Rights, Doan Creek Ditch, Docket 1,
Whitman National Monument

Thank you for your memorandum of February 15 replying to our question concerning the use of Doan Creek Ditch water.

Your reference to a section of the water code covering temporary changes prompted us to go to our copy of the code. Previous correspondence (your memorandum of November 29 and Mr. Montgomery's of January 20, D 5039) led us to believe that a permanent not merely a temporary change of place of use was being considered. We found that Section 90.28.090 of the code specifies procedure for making a change in place of use. As you have said, it appears that it is possible to make temporary rotation of use with approval of the water master. Further, it appears possible to permanently change the place of use if it is desired through application to the supervisor of water resources, provided in either case that the changes can be made without injury to existing rights.

We believe that construction plans may proceed making the most efficient use of both ditch water and well water. When plans are formulated we can determine what changes, if any, are needed in the water right.

FILE COPY

(SGD) JOHN B. WOSKY

Regional Chief of Operations

Copy to: Director (w/cy of Kennedy's memo of Feb 15)
Chief, WODC (2)

LSSpaulding:lq

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Whitman National Monument
Route 2
Walla Walla, Washington

IN REPLY REFER TO:
154
X 5039

February 15, 1961

RECEIVED
NPS REGION FOUR OFFICE
FEB 16 '61

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		2/20
ADMIN.		
RECREATION		
INTERP.		
RANGER ACT		

Memorandum

To: Regional Director, Region Four

From: Superintendent, Whitman

Subject: Water Rights, Doan Creek Ditch, Docket 1, Whitman National Monument

Mr. Wosky's memorandum of February 6 concerning this subject contained the following paragraph:

> "We believe the proposed irrigation system should be constructed with sufficient capacity to make full use of our rights to prevent loss through non-use. Presumably local practice will permit the use of water on land south of the county road, if such is your intention even though most of the water is covered by rights acquired with the Frazier land north of the road. We think it would be prudent for you to get confirmation of this latter point."

On February 14, I called on Mr. Harlow Barney, the Walla Walla County Water Master, in this regard. He quoted me the following paragraph from the Surface and Ground Water Codes of the State of Washington:

> "Sec. 90.28.100 Temporary Changes - Rotation of Use, RCW 90.29.090 shall not prevent water users from making a seasonal or temporary change of point of diversion or place of use of water when the change can be made without detriment to existing rights, but in no case shall the change be made without the permission of the water master of the district in which the proposed change is located or of the supervisor. Nor shall it prevent rotation in the use of water for bringing about a more economical use of the available supply. Water users owning land to which water rights are attached may rotate in the use of water to which they are collectively entitled, or an individual water user having land to which are attached water rights of a different priority, may in like manner rotate in use when the rotation can be made without detriment to other existing water rights, and has the approval of the water master or supervisor."

From this it can be seen that we can use the water as we wish provided we request such use at the beginning of each season and provided our request is approved by the water master. Mr. Barney said he would grant such a request upon receipt of a letter from us. He said further that he could see no reason why such requests from us will not be granted each year.

We are writing to the Washington State Department of Conservation, Division of Water Resources for copies of the Surface and Ground Water Codes. Upon receipt, we will forward a copy for your use.

William J. Kennedy

William J. Kennedy
Superintendent

Copy to: Chief, WODC

~~Spaulding~~ LSS
~~Whitworth~~
Manbey
Wosky
~~(quiat)~~

February 6, 1961

L 54
X 5039

Memorandum

To: Superintendent, Whitman

From: Regional Chief of Operations, Region Four

Subject: Water Rights, Doan Creek Ditch, Docket 1,
Whitman National Monument

We appreciate being furnished a copy of your memorandum of January 31 to the Chief, WODC providing data on water rights and on the rotation of use policy of existing water right owners.

We believe the proposed irrigation system should be constructed with sufficient capacity to make full use of our rights to prevent loss through non-use. Presumably local practice will permit the use of water on land south of the county road, if such is your intention even though most of the water is covered by rights acquired with the Frazier land north of the road. We think it would be prudent for you to get confirmation of this latter point.

The information concerning the Walla Walla College well is very helpful. We have need for these data in preparation of specifications for the well and test pumping to be done this spring.

By a separate memorandum we will transmit copies of your January 31 memorandum to the Washington office together with other water right material for Mr. Dunn's information and for filing in Docket No. 1.

FILE COPY

(SGD) JOHN B. WOSKY

Regional Chief of Operations

Copy to: Director
Chief, WODC (2)

LSSpaulding:lq

01-31-1961: memorandum to chief, wodc/national park service from superintendent/kennedy/national park service regarding report

RECEIVED
NPS REGION FOUR OFFICE
FEB 2'61
SURNAME DATE
REG. DIR.
ASST R.D.
OPERATIONS
ADMIN.
RECREATION
INTERP.
RANGER ACT.

Whitman National Monument
Route 2
Walla Walla, Washington

D5039

January 31, 1961

Memorandum

To: Chief, WODC

From: Superintendent, Whitman

Subject: Report on Water Supply and Sewage Disposal Problems, Whitman

Acting Supervisory Engineer R. T. Montgomery's memorandum of January 20 to the Regional Director, Region Four, concerning this subject requests information concerning the best estimate of water (apparently from irrigation water rights) that is actually available to the Monument per week. It also inquires if there is a known source of Bentonite in the Walla Walla vicinity and its approximate cost per ton.

In answer to these questions, the following is submitted:

1. Amount of water available - We have taken this matter up with Mr. Harlow Barney, Walla Walla County Watermaster. He says that when we acquired Tract 11 of the Frazier property we acquired a water right of 178.1736 gallons per minute from Doan Creek and that our previously existing water right from this source was 14.8104 gallons per minute, making a total existing water right of 192.9840 gallons per minute. The full flow of the creek is 0.9666 cu. ft. per sec., or as he figured it, 430.84 gallons per minute. The ditch is managed on a two weeks rotation basis for useage by the existing water right owners on it, and accordingly Whitman is entitled to its full flow 4.31 days every two weeks. Because of loss of approximately 33% in the ditch from the location of the weir to that of the proposed mill pond, due to leakage, evaporation, algae, etc., the above figures should be reduced by one-third to show the actual amount of water available for our use.

Mr. Barney stated that in order to have protection against drought, it would be advisable for the well we drill to have a 10-inch casing and to be sunk between 600 and 700 feet. He said that a 10-inch well that has recently been drilled to that depth about one and one-half miles east of the Monument, by Walla Walla College, produced 1,000 gallons per minute in a recent test. Mr. Barney suggested that if we put a pump at the mill pond it would be well to put it in a covered pit below the level of the pond as that way there would be no problem of priming the pump and it could be hidden by planting rye grass around it.

2. Source and cost of Bentonite - Several years ago the Jaymar sawmill in Walla Walla secured a carload of Bentonite from some place in South Dakota and the cost was about $2.00 per 100 pounds buying it in that quantity. At this time, they do not have the name of the South Dakota supplier. The Midland Drilling Company of Walla Walla states that they buy their Bentonite from the L. H. Butcher Company, 5601 First Avenue South, Seattle, Washington, and that their cost for it is $51.50 per ton FOB Seattle. Inland Motor Freight, Inc., states that cost of transportation from Seattle for Bentonite would be $1.36 per 100 pound bag or $0.83 per 100 pounds in quantities of 20,000 pounds (10 tons) or more. The Union Pacific Railroad states that its rates for transportation of Bentonite from Seattle to a siding two miles from the Monument are $0.60 per hundred pounds in quantities of 60,000 pounds, or $1.42 per 100 pounds in less than carload lots. We are still checking for other sources of Bentonite and if we do get further information we will send it airmail.

William J. Kennedy
Superintendent

Copy to Regional Director, Region Four

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Whitman National Monument
Route 2
Walla Walla, Washington

IN REPLY REFER TO:
D5039

November 29, 1960

RECEIVED
NPS REGION FOUR OFFICE
DEC 2 - '60

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN.		
RECREATION		
INTERP.		
RANGER ACT		

Memorandum

To: Regional Director, Region Four

From: Superintendent, Whitman

Subject: Report by Sanitary Engineer Wright on Water Supply and Sewage Disposal Problems, Whitman

We have received a copy of memorandum dated November 23 from Mr. Whitworth to Chief, WODC, regarding above subject.

Mr. Whitworth is correct in item No. 1 in his understanding that use is being made by Whitman National Monument of water from the Doan Creek irrigation ditch. Perhaps Mr. Wright did not understand this when he visited the Monument on October 20. The facts are that we have flooded the lower parts of the mission grounds area about once every three weeks during the dry part of the year for the past two seasons with this water. As a result, the mission grounds area has been much greener than in former years. This practice, together with biweekly mowing, seems to have lessened the amount of the salt grass, which died off in the fall and came up in the spring, and has caused other grasses which retain their green color throughout the year to take its place in all but a few spots.

In regard to item No. 2, as the PCP's are presently drawn the area north of the present county road would be kept green with water from the proposed new well and the mission grounds would be irrigated with water from Doan Creek. However, when Project Supervisor R. Neil Grunigen was at Whitman on October 17, we discussed this subject and Mr. Grunigen said he would look into the possibility of irrigating the area around the proposed Visitor Center with water from Doan Creek also at the time that the preliminary plans for the water system are drawn.

William J Kennedy

William J. Kennedy
Superintendent

Copy to Chief, WODC

10-20-1960: water supply and sewage disposal report for 1960:

REPORT ON WATER SUPPLY AND SEWAGE DISPOSAL PROBLEMS AT WHITMAN NATIONAL MONUMENT, WASHINGTON

By

C. T. Wright
Sanitary Engineer Director

OCTOBER 1960

Existing sanitary facilities and sites for proposed facilities at Whitman National Monument were observed on October 20, 1960 in company with Superintendent William F. Kennedy.

WATER SUPPLY

Mission Grounds Supply

The Mission Grounds is supplied with water from a drilled well 90 feet deep and 6 inches in diameter. Water is pumped from the well to an 80 gallon pressure tank that supplies water to one drinking fountain; a house trailer, used as an office, and the Mission Grounds watering system. The results of samples collected from the distribution system by the Walla Walla County City Department of Health indicate that the supply meets the bacteriological requirements of the Drinking Water Standards.

Great Grave and Pioneer Cemetery Supply

Irrigation water is supplied to this area from a drilled well 12 feet deep and 12 inches in diameter. The well casing terminates in an underground pit that houses the motor and an 80 gallon pressure tank. This supply is considered unpotable and its use is limited to lawn watering in this area.

Irrigation Ditch

Whitman National Monument has a small water right on the irrigation ditch which flows through the area that will be supplemented by the acquisition of Tract 11 which includes the Frazer farm. Water from this source is not used at the Monument, but prior to 1958 it supplied water for the site of the Whitman Grist Mill.

Proposed Water Supply

Current plans provide for the drilling of an 8 inch diameter well about 600 feet deep which will replace the wells that supply the Mission Grounds and the Great Grave and Pioneer Cemetery. The well will be located in the proposed utility area in the vicinity of the Frazer farm buildings, from where water will be pumped to a distributing reservoir to be buried in the hillside located east of the well site. The reservoir site should provide adequate elevation to maintain desirable pressure in the distribution system.

According to current plans the area north of the existing county road will be irrigated from the proposed drilled well, while the area south of the

road will be irrigated with water to be pumped from the proposed Grist Mill Pond which will be supplied from Dome Creek Ditch.

Information obtained from the Washington State Department of Health reveals that Walla Walla, Washington, located about 5 miles west of the Monument, supplements its surface water supply with ground water from two drilled wells about feet deep. The attached copies of chemical analyses covering the City wells indicate that the water is of excellent chemical quality. Although the wells are located from two to four miles east of the center of the City, the State Department of Health feels that there is considerable reason to believe that the ground waters in both areas would be quite similar in quality.

RECOMMENDATIONS

In view of the forgoing it is recommended that:

1. The proposed well casing extend not less than 6 inches above the established ground surface at the well or the floor of the pump house.

2. The well casing should not be located in any pit, room or space extending below the surrounding ground surface.

SEWAGE DISPOSAL

The Mission Grounds and Great Grave areas are provided with pit privies, provided with metal risers. Two units, one for each sex, are located in each area. Observations revealed that these units were being well maintained, and they will undoubtedly serve their purpose until more modern sanitary facilities can be provided.

Proposed Sewage Disposal Facilities.

A sewage disposal system will be needed to serve the proposed visitor center, (2) employee residences and the utility building and garage which are scheduled for construction during the fiscal year 1962. The results of a percolation test from an area located below the proposed buildings indicate that it will be practical to dispose of the liquid wastes from proposed facilities by means of a septic tank system. This will involve the construction of a septic tank and subsurface disposal field to serve proposed facilities or a separate system for both, the visitor center and residential area.

A single disposal system that will serve both areas by gravity would involve the construction of these facilities below the visitor center in a low lying area where a high ground water table would undoubtedly be encountered. In view of this development, it is suggested that separate disposal systems be provided for each area. This would permit the installation of disposal facilities for the residential area where the ground water table is at a lower level.

Recommendations

In view of the forgoing, it is recommended that:

1. The wastes from the proposed visitor center and residential area be disposed of by means of a separate disposal system for each area.

10-24-1960: memorandum to superintendent/kennedy/national park service from regional chief of operations, region four/john b. w

~~Spaulding~~ LSS
Whitworth
Wosky
~~(Quiet)~~

October 24, 1960

L 54

Memorandum

To: Superintendent, Whitman

From: Regional Chief of Operations, Region Four

Subject: Surface Water Rights (Doan Ditch), Docket 1, Whitman NM

We believe it would be useful to file in Docket 1 a copy of PCP proposal U-8-4 and the accompanying statement concerning proposed ditch relocation and water rights. Accordingly, we reproduced the proposal and statement and are distributing it herewith together with a copy of your memorandum of August 26.

(SGD) JOHN B. WOSKY

Regional Chief of Operations

FILE COPY

Attachments

Copy to: Director (w/attachments)
(2) Chief, WODC (w/attachments

LSSPAulding:lq

Reg 4. - WHIT Docket

02215

RECEIVED
NPS REGION FOUR
AUG 29 '60

Whitman National Monument
Route 2
Walla Walla, Washington

August 26, 1960

Memorandum

To: Chief, WODC

From: Superintendent, Whitman NM

Subject: Submission of Revised PCP B-3, Visitor Center, and PCP U-8, Grounds Water System

Attached are four copies each of revised PCP proposals for the Visitor Center and for the grounds water system for your consideration and recommendation.

PCP B-3-6 covers the Visitor Center as envisioned in the August 1960 Interpretive Prospectus for Whitman National Monument.

PCP U-8-4 was necessitated by the fact that the holders of water rights on the Dean Creek irrigation ditch would not consent to the National Park Service proposals. If there are some details of this PCP which you do not understand, perhaps Supervisory Landscape Architect Robert G. Hall may be able to explain them to you as he was at Whitman National Monument when the matter was discussed with the County Water Master and one of the water right owners involved.

William J. Kennedy
Superintendent

Attachments - 2

Copy to Regional Director, Region Four w/copy of each proposal for informational use

Form 10-411
(October 1957)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

PROJECT CONSTRUCTION PROGRAM PROPOSAL

1. NAME OF AREA: Whitman National Monument
LOCATION OF AREA (STATE): Washington

2. PROPOSED WORK: Provide underground sprinkler system for the north portion of the Monument adjacent to the Historic Building sites. Provide sump and pump adjacent to the Old Mill Pond. Utilize surface water rights. Relocate open irrigation ditches eliminating undesirable ditch on north side of location of Old Oregon Trail.

3. DIMENSIONAL DATA: See attached construction estimate

Length Miles
Finished width shoulder to shoulder
Surfacing or Paving

4. LAND STATUS AND DATA: Government owned

5. CONSTRUCTION DATA: Provide underground sprinkler system utilizing surface water rights and pumping from open ditch. Pump will not be housed. Sprinklers to be "Buckner Turfking" with quick coupling valves which allow their removal for mowing. Relocate existing irrigation ditches and provide sump for sprinkler pump and two sumps for adjacent property owners' pumps where ditch leaves Government property. Open ditch from south side of Oregon Trail west to west boundary of Monument to follow line of Whitman's original irrigation ditch, to be lined to prevent water loss with lining camouflaged so it doesn't show.

6. JUSTIFICATION: Irrigation is necessary to water and preserve the lawn area and the orchard at the Historical Site. This also maintains the surface water rights for the area from the Dean Creek ditch. The annual rainfall in the Monument is approximately 11 inches per year and temperatures frequently exceed 100 degrees so irrigation is a must.

7. MISCELLANEOUS DATA—REMARKS—REPORT REFERENCES: Authority for use of automatic sprinklers has been obtained. See memo of August 12, 1960, from Acting Director Tolson to Regional Director, Region Four, File H30-DCR.
See attached sheet for discussion of rights of adjacent property owners in regard to relocation of existing irrigation ditches.

8. DATA ON THIS FORM PREPARED BY
Date
Name: Robert O. Cooper 7-29-60
Title: Constr. Proj. Engineer
Name: William J. Kennedy 8-26-60
Title: Superintendent

9. PCP CROSS-REFERENCES: U-8-5, U-8-4, U-3-4

11. DRAWING NO.
Preliminary: None
Working

12. RECOMMENDED
Date
(S) Paul J. Garber 9/13/60
for CHIEF, FIELD OFFICE D.A.C. NOTE

10. ESTIMATE—CLASS 6
Construction and Facilitating Services $ 18,000
Contingencies $ 1,080
Plans, Surveys, and Supervision $ 2,120
Grand Total $ 21,200

13. APPROVED
Date Sept 15, 1960
(SGD) William J. Kennedy
SUPERINTENDENT

14. NAME OF PROJECT: Grounds Water System
Route No. Section
Master Plan Drawing No. NM-WHI-8010-B

15. LOCATION WITHIN AREA OR TERMINI: South Portion of Monument

16. INDEX NO. U-8-4
BPR ☐ NPS ☐

(If additional space is needed to insure complete description, use reverse and refer to Item No.)

U. S. GOVERNMENT PRINTING OFFICE : 1957—O-448539

Construction Estimate

Grounds Water System

U-8-4

1.	Pump and Sump, with controls, 200 g.p.m.	Lump Sum	2,500
2.	Water line, 6", C.A.	800 L.F. @ 4.00	3,200
3.	Water line, 4", C.A.	1400 L.F. @ 3.50	4,900
4.	Valves, quick-coupling	30 ea. @ 20.00	600
5.	Couplers	6 ea. @ 15.00	90
6.	Sprinkler heads	6 ea. @ 50.00	300
7.	Sump at property line	1 ea. @ 500.00	500
8.	Gate valves, 6"	3 ea. @ 150.00	450
9.	Relocate and line irrigation ditches	Lump Sum	4,000
10.	Miscellaneous		1,235
11.	Facilitating Services 1½%		225
		Construction Cost	$18,000
12.	Contingencies, 5%		1,080
13.	PS&S, 10%		2,120
			$21,200

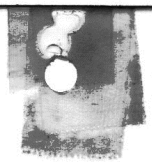
STATEMENT ACCOMPANYING PCP U-8-4, GROUNDS WATER SYSTEM

It will be noted that this proposal calls for the relocation of existing irrigation ditches. This is desirable because one of the existing ditches traverses an area near the proposed location of the new Visitor Center. In the past, the water user who maintained this ditch maintained it in an unsightly manner and could be expected to do so in the future and very likely water conditions unfavorable to the Monument. The other ditch passes through the historic Mission Grounds, near sites of several of the historic features, and unfortunately does not follow the route of the Whitmans' original irrigation ditch which is nearby. Among other things this proposal, if carried out, will eliminate the ditch on the north side of the route of the Oregon Trail and not far from the location of the Visitor Center. It will also allow the elimination of the existing weed ditch through the Mission Grounds and will permit the water carried by these ditches to flow through a ditch on the exact location of the original Whitman irrigation ditch, thus permitting its restoration as an historic feature.

However, before any existing irrigation ditch furnishing water used by other holders of rights to the water flowing through the ditch may be moved or relocated, it is necessary in the State of Washington to have the consent of the water right owners involved. Water right owners are very "touchy" about their water and, on the slightest matters regarding them, they go to the County Water Master for enforcement of their rights. In the case of the work involved in this proposal, PCP U-8-4, besides Whitman National Monument there are three other water right owners concerned, namely, Mr. Ray C. Sheldon, Mr. Lyle C. Frazier, and Mr. Kenneth E. Wagner. These men objected to the provisions of PCP U-8-3 which proposed that the irrigation water from Dean Creek would flow into a restored Whitman Mill Pond and thence into a ditch following the route of the original Whitman irrigation ditch and thence to their farmlands.

This proposal, U-8-4, has been changed so that the existing ditches will be consolidated into a single ditch following the location of the original Whitman ditch through the Mission Grounds, without flowing into and out of the Mill Pond. This ditch is to be lined with some material such as Bentonite, concrete, asphalt, etc., with the lining extending upward at least 12 inches above the bottom of the ditch, and with it to be either of a color which will not indicate that it is lined, or else to have a covering of sod or dirt over the lining. Under this proposal, the mill pond may be restored if wished and the NPS portion of water placed in it and pumped from it for our irrigation. The provisions of this proposal have been discussed with the water right owners involved and it has their consent, as well as that of the County Water Master.

In the past, when water has flowed for any extended time through the existing irrigation ditch in the Mission Grounds, it has percolated out and filled in low spots on the grounds, indicating that continued long time use of this ditch or of a restored Whitman irrigation ditch would necessitate the lining of such a ditch.



L54-GRL

July 13, 1959

Memorandum

To: Chief of Lands

From: Chief, Water Resources Section

Subject: Exceptions in Preliminary Title Report, Frazier Land, Whitman National Monument

The memorandum of July 1 from Mr. Maier and attached copy of letter of May 1 from Assistant U. S. Attorney Ronald R. Bull, refer to conditions which are apparently in the title opinion since they are not in the Declaration of Taking.

We all seem to agree that the land is taken with appurtenant water rights. The attached print of Drawing 6975, from Docket 1, was prepared some years ago and should be helpful if not already made available to the U. S. Attorney. It was prepared to show some inconsistency in boundary description, but I also showed the water rights decreed to each parcel. I have numbered Tracts 10 and 11, and labeled the two parcels of the Monument "N.M.", for this memorandum.

The Frazier Tract 11 has gross area of 46.71 acre-feet but there are appurtenant third class 1-A rights to irrigate only five acres, and third class 1-B rights to irrigate 15 acres. There are also first class 1-B rights to irrigate 10 of the 44.93 acres of Tract 10. Without maps of present irrigated areas, or even a map of the areas irrigated at the time of the decree, we do not know whether the water rights are still exercised in accordance with the decree, or not. I think we should obtain a map of the irrigated areas.

Mr. Bull refers to pre-emption rights. May Swingle Sheldon or Alice Swingle might have pre-empted rights of each other, if the proportion of the water was used long enough on the land of the other. However, I do not believe that any reduction of irrigated area on one tract, and increase on the other, by the Fraziers, would constitute pre-emption. It would be more of a question of whether some appurtenant rights had lapsed on a tract, and the owner was using water illegally on the other. I assume that Mr. Bull knows more about that feature of the State water laws than I do.

There are enough copies of the drawing and this memorandum to refer to the attorneys. My only interest is in obtaining all appurtenant rights to which the U.S. is entitled.

(SIGNED)

A. van V. Dunn
Chief, Water Resources Section

LL425

FILE COPY

Region Four

July 1, 1959

Manbey

Maier

Memorandum

To: Director

From: Acting Regional Director, Region Four

Subject: Exceptions in preliminary title report, Frazier land, Whitman National Monument

In connection with the above, we received a letter dated May 1 from Assistant U. S. Attorney Hull calling attention to four of the exceptions appearing in the preliminary title report. A copy is attached. On May 5 we wrote Superintendent Kennedy requesting his comments on these exceptions and Mr. Hull's questions in regard to them. Copy of the preliminary title report was transmitted to your office with our memorandum of April 29.

On May 8 Mr. Kennedy replied, copy attached. Mr. Spaulding later studied the matter of the water rights (exceptions 5 and 6).

It will be seen that in regard to exception 3, Mr. Kennedy feels that probably this Service would wish to allow the owners of the adjacent Tract 2D (now the Fraziers) the right to maintain and operate the pipe line carrying water under Mill Creek to Tract 10. We are in agreement.

In connection with exception 4, we agree also with Mr. Kennedy that the United States should definitely acquire the outstanding mineral rights, together with the right to investigate and explore for the minerals, oil, and gas. A one-half undivided interest in such rights was retained by Walter G. Cowan, one of the original owners and now deceased.

Exceptions 5 and 6 refer to pre-emption of certain water rights. We are in accord with Mr. Kennedy in thinking "these should be allowed to remain as they are with the existing water rights appurtenant to the land to remain with the land when it is acquired by us." Mr. Spaulding has studied this condition and is in agreement with Mr. Kennedy in this respect. It is true that the Fraziers in a discussion of water rights had indicated to Mr. Kennedy their wish to retain all the water rights for Tract 11 for use on

the adjacent Tract 10 which, they say, has an insufficient amount of water for good farming. On the other hand, Mr. Kennedy says "we will need a substantial amount of water for use on Tract 11 and it seems only reasonable that we should acquire the existing right for Tract 11 when we secure Tract 11."

As the securing of these data has been delayed, we would appreciate your early comments and recommendations in relation to exceptions 3, 4, 5, and 6, in order that we may so inform Assistant U. S. Attorney Hull.

Herbert Maier
Acting Regional Director

Attachment

Copy to: Supt., Whitman

Ronald R. Hull, Esq.
Asst. U. S. Attorney
[illegible] Federal Building
Yakima, Washington

BFManbey:ajd

IN REPLY REFER TO
L-1425

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Whitman National Monument
Route 2
Walla Walla, Washington

May 8, 1959

RECEIVED
NPS REGION FOUR OFFICE
MAY 11 '59
SURNAME
REG. DIR.
ASST R.D.
OPERATIONS
ADMIN.
RECREATION
INTERP.
LEGAL

Memorandum

To: Regional Director, Region Four

From: Superintendent, Whitman National Monument

Subject: Frazier Land Acquisition, Whitman National Monument

Mr. Manbey's memorandum of May 5 requests comments concerning questions raised by Assistant U. S. Attorney Hull after studying the preliminary title report in the order set by Mr. Hull.

(1) Exception #3 concerning an easement and right of way for ditch, canal, or flume for the purpose of conveying water across a portion of the premises, including right of entry and maintenance of a certain bridge: At the present time, to the best of my knowledge, there is no bridge and no flume on the property. There is an irrigation ditch which serves several water users, including Whitman National Monument. There is also a pipe line on Tract 11 which was built to carry water from Dean Creek under Mill Creek to irrigate a portion of Tracts 10 and 11. I do not believe we would want to interfere in any particular way with the maintenance of the ditch as the maintenance is not such as to constitute an objectionable activity, and if we did interfere with it, we would probably have the burden of maintaining the entire ditch. Under our development plan, we have a project to relocate a portion of the ditch and place it in pipe through a portion of Tract 11 in order to keep it out of the historic Mission site. We will probably wish to allow the owners of Tract 10 - presently the Fraziers - to retain the right to maintain and operate the pipe line carrying water under Mill Creek to Tract 10.

(2) Exception #4 - the retention by a third party of one-half of the mineral rights together with the right to investigate and explore for the minerals, oil and gas: This right is retained by Dr. and Mrs. Walter G. Cowan, both of whom are still living but in poor health. When I mentioned this reservation to Mr. Lyle Frazier recently, he said he was unaware of it and did not know that it existed. I believe that we should acquire this right as it would cause much inconvenience and disruption if the owners of it decided to exercise the right to prospect and explore for minerals, oil, and gas, once the development of the Monument is carried out. In the past the Cowans

have not been particularly friendly to the Monument and it appears that we might be asking for trouble if we permitted them to retain such a right.

(3) Exceptions #5 and #6 - existing water rights: I believe these should be allowed to remain as they are with the existing water rights appurtenant to the land to remain with the land when it is acquired by us. In the past the Frasiers in offering to sell us Tract 11 have said that they wished to retain all the water rights for Tract 11 for use on Tract 10 which has an insufficient amount of water for good farming. However, we will need a substantial amount of water for use on Tract 11 and it seems only reasonable that we should acquire the existing right for Tract 11 when we secure Tract 11. In this locality, land without sufficient water right has a greatly reduced value.

I hope this is the information which you have requested. If there is anything further which I can do to facilitate this land acquisition, please let me know.

William J. Kennedy
Superintendent

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF WASHINGTON
334 FEDERAL BUILDING
SPOKANE 10, WASHINGTON
222 Federal Building
Yakima, Washington
May 1, 1959

AIR MAIL

Mr. Bernard F. Manbey
Regional Chief of Lands
National Park Service,
180 New Montgomery Street
San Francisco 5, California

Re: Acquisition of Lands for Whitman National Monument, Your File No. L-1425

Dear Mr. Manbey:

I wish to thank you for your letter, today received, forwarding copy of your memorandum of April 29, 1959, together with preliminary title report issued by the Washington Title Insurance Company.

After reading the title report, may I call to your attention the following inquiries with reference to certain of the exceptions noted by the title company:

(1) Exception #3 refers to an easement and right of way for ditch, canal or flume for the purpose of conveying water across a portion of the premises, including right of entry and maintenance of a certain bridge. Within the purposes of the Monument Project, will it be feasible to take fee title, subject to the easement so reserved? If not, presumably the persons presently entitled to the easement privileges would have to be made parties defendant in the action, they being entitled to compensation for loss, if any, of the easement rights.

(2) Exception #4 of the title report indicates one-half of the mineral rights outstanding in a third party. Query: Is it the intent of your Department to acquire the mineral or subsurface rights in subject lands, or is it the policy of your Department to revest them, or except them from the taking?

(3) Exceptions #5 and #6 refer to pre-emption of certain water rights; it is assumed that these will not interfere with the uses of the government in connection with the Monument and would come within the general exception recommended in the taking: "subject to existing easements for irrigation ditches, canals and pipe lines". In other words, we will assume that the reservation of water rights indicated by Numbers 5 and 6, may be ignored by us.

Many thanks for your continued assistance in this matter.

Yours very truly,

RONALD R. HULL
Assistant United States Attorney

RRH:jb

WR Copy

L1425

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
December 2, 1958

Memorandum (AIR MAIL)

To: Director

From: Acting Regional Director, Region Four

Subject: Proposed condemnation of Frazier Tract No. 11, Whitman National Monument

Assistant Director Price in his teletype of November 21 indicated: "We cannot request condemnation until water needs are known or good estimate given us." The teletype also stated: "Dunn does not have necessary data here."

You have already received copy of our air-mail memorandum of November 24 to Superintendent Kennedy requesting his comments and recommendations. Copy of his reply of November 26 is attached.

Mr. Kennedy says, in part:

> "Since water rights are appurtenant with the land, and since apparently Tract 11 has a water right of 0.397 second feet, it seems to me that we should try and get that amount. It is easy enough to let go part of the water right at any time but it is next to impossible to acquire more. Land without a substantial water right in this part of Washington State has a relatively low value and undoubtedly we will have to pay a fairly high price for the land we want. Our offer of $40,000 to the Fraziers was conditioned upon a division of the total amount of their water rights for both Tract 10 and Tract 11 proportionate to the land we acquire, namely approximately 46/86ths of the total to us and 39/86ths to be retained by them. However, it is very likely that Tract 10 does not have as large a proportionate water right as Tract 11. I believe we should try and get all the water appurtenant to Tract 11; if we cannot do that we should settle for nothing less than a proportionate share of the total as outlined above."

Mr. Kennedy's recommendation has been discussed in conference in this office, and we are in agreement with Mr. Kennedy in thinking that the preferred amount or the figure to be aimed at should be the

full 0.397 second feet, and that if that figure proves to be unreasonable or impracticable in view of the fact that Tract 10 will be in a different ownership to Tract 11, then we should seek 46/86 of the combined water rights for Tracts 10 and 11. These appear to be 0.397 second feet for Tract 11 and 0.133 second feet for Tract 10, or a total of 0.53 second feet. In other words, if it seems to be impracticable to obtain the full 0.397 second feet, we should seek 46/86 of 0.53 second feet, or approximately 0.284 second feet.

Herbert Maier
Acting Regional Director

Attachment

cc: Supt., Whitman
WODC
Spaulding

11-26-1958: memorandum to regional director , region four/national park service from superintendent/william j. kenedy/national pa

In reply refer to:
L1425

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Whitman National Monument
Route 2
Walla Walla, Washington

RECEIVED
NPS REGION FOUR OFFICE
NOV 28 '58

November 26, 1958

	SURNAME/DA
REG. DIR.	
ASST. R.D.	
OPERATIONS	
ADMIN.	
INTERP.	
PARK	

Memorandum (AIR MAIL)

To: Regional Director, Region Four

From: Superintendent, Whitman National Monument

Subject: Proposed Acquisition of Frazier Lands, Tract 11, Whitman W 2

Mr. Hanley's memorandum of November 24, received by airmail today, requests comments and recommendations as to the amount of water we will need with the Frazier Tract 11.

It is very difficult to estimate our actual needs. Much of the Monument will have to be kept green. As the years pass and more and more people visit the Monument the need for water will likely increase. Therefore I feel we should try and get all the water we can.

Since water rights are appurtenant with the land, and since apparently Tract 11 has a water right of 0.397 second feet, it seems to me that we should try and get that amount. It is easy enough to let go part of the water right at any time but it is next to impossible to acquire more. Land without a substantial water right in this part of Washington State has a relatively low value and undoubtedly we will have to pay a fairly high price for the land we want. Our offer of $40,000 to the Fraziers was conditioned upon a division of the total amount of their water rights for both Tract 10 and Tract 11 proportionate to the land we acquire, namely approximately 46/86ths of the total to us and 39/86ths to be retained by them. However, it is very likely that Tract 10 does not have as large a proportionate water right as Tract 11. I believe we should try and get all the water appurtenant to Tract 11; if we cannot do that we should settle for nothing less than a proportionate share of the total as outlined above.

Mr. A. Van V. Hanley's memorandum of October 17 raised some question as to what part of the Frazier lands are presently being irrigated. Until two seasons ago the Frazier's were dependent upon [illegible] for irrigation. In the Spring of 1957 they installed a pressure system, drawing their water from Dean Creek. With this system they have the capability of irrigating all of their land although it is true they have not attempted to do so.

William J. Kennedy
William J. Kennedy
Superintendent

extra copy

November 14, 1958
L. SPAULDING

WHITMAN NATIONAL MONUMENT

ANALYSIS OF WATER NEEDS & RIGHTS

In Connection with the Acquisition of Frazier Tract 11

SUMMARY

WATER NEEDS see details on following pages

Present	(9700 gal./day)	.015 cfs
Future (MISSION 66)		.372 cfs

Of the future needs 0.340 cfs are needed from the Doan Ditch for Irrigation.

WATER RIGHTS

Present well rights	(believed to be 5000 gal/day)	
Present ditch rights	unknown	
Rights appurtenant to Tract 11 (Decree of 1921)		
3rd Class 1A for irrigation of 5 Acres		.067 cfs
3rd class 1B " " " 15 "		.33
total tract 11		.397 cfs

It appears that we should acquire the water rights appurtenant to the Frazier Tract 11.

Water Use Analysis 11-14-58 L. Spaulding

LOCATION / PLACE OF USE	SOURCE OF WATER	WATER USE — PRESENT USE: Visitation or Acres	Unit Use	Quantity: Gal/Day	Quantity: cfs	FUTURE (1966): Visitation or Acres	Unit Use	Quantity: Gal/Day	Quantity: cfs	REFERENCE
DOMESTIC USE										
Visitor Center-domestic	Well	per year 20,000	2 gal/day per person	1120	.002	per year 50,000	2	2700	.004	(peak = 10 x avg.) Develop. outline MISSION 66
Residences	"	—	—	none		2 residences 6 people	100	600	.001	MISSION 66
IRRIGATION										
Visitor Center	Doan Ditch			none		4 A.	1 cfs/75A.		.053	NMWH 2010-C
Shrine (Great Grave)	Well	1 A.	1 cfs/75A.		.013		1 cfs/75A.		.013	NMWH 2010-C
Mill Pond	Mill Race & Spring	—		none		2 A.			.014	evaporation & seepage at 5" per yr.
Restored Orchard & Garden	Doan Ditch	—		none		1/2 A.	1 cfs/75A.		.007	NMWH 2005-A
other Restored Agricultural use	Doan Ditch	—		—		21 A	1 cfs/75A.		.280	NMWH 2005-A
Total					.015				.372	cfs
Breakdown by Source										
Well (present & replacement)									.018	
Doan Ditch									.340	
Spring & Mill Race									.014	
									.372	

November 14, 1958
L. Spaulding

WHITMAN NATIONAL MONUMENT

WATER RIGHTS

IN CONNECTION WITH THE ACQUISITION OF
FRAZIER TRACT No. 11

WATER NEEDS

"..Certain features of the Mission -- fields of rye grass, millpond dikes, the millpond,.... will be restored" ① ~~Development outline 1953~~

"The lawn, trees, shrubs, and flowers around the Whitman grave will be watered....." ①

[Dr. Whitman]
"....he grew extensive crops of corn and wheat; had much garden produce; an apple orchard, cattle and other stock grazing on the mission pasture areas. In keeping with this historic setting, the Service devotes certain areas of the monument to the pasturing of stock. As conditions warrent other appropriate areas may be returned to aqricultural uses in keeping with the historic picture." ①

① Development Outline 1953 – also similar wording in MISSION 66 prospectus

VISITATION

Average 1942 - 1952 (except war years) ....
average yearly travel ....10,000 - 12,000
Heaviest travel April - September

1952 and 1953 estimated 20,000 - 30,000 pers.
Distribution: weekends & holidays - 10 times as much as weekdays
Duration of Stay: 45 min to 1 hour
Estimated Visitation 1966 .... 50,000 per yr.

PROPOSED DEVELOPMENT

VISITOR CENTER BUILDING
- Museum
- Restrooms
- Administrative offices

RESIDENCES - 2 each
UTILITY BUILDING

Water System - Source is well for Visitor Ctr. & Residences U-2-3 - New well proposed
Irrigation System - to be relocated along historic route to supply millpond

U-8-1 { - Grave Area - system to be constructed
- Mission Area " " " "
U-7-1 - open ditch (Doan Ditch) to be put under ground U-7-1

file # WHIT Docket 1

IN REPLY REFER TO:
L54-L

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

RECEIVED
NPS REGION FOUR OFFICE
OCT 21 '58

October 17, 1958

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN.		
RECREATION		
INTERP.		
LEGAL		

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Proposed Acquisition of Frazier Land and Water Rights Recorded in Docket 1, Whitman

L Spaulding 155 11/4

The attached drawings are for Docket 1, as suggested in my memorandum of July 11 to the Chief of Lands, of which copy was forwarded to you with memorandum of July 22 from Mr. Price. They are supposed to be reproducible ozalids from which other prints can be made if desirable.

See memo to Director of 11/4

Drawing 6975 is being placed at top of contents of Part II of our assembly of the docket. I am also transposing my copy of the memo of April 19, 1943, from letter file to just above this drawing. These instruments show the decreed water right appurtenant to Monument and adjacent lands.

← done
← not done

Drawing 6976 is being placed above the decree of April 24, 1939, and below copy of GLO survey notes of 1944, with my copy of my explanatory memo of May 8, 1943, to you just above the drawing, in Part I, Docket 1.

← done
← not found (not done)

Drawing 6979, in two sheets, and my memorandum of May 22, 1952, to you are being added at top of contents of Part I, Docket 1.

done
← not done

From Your memorandum of August 28 it appears that the Frazier acquisition is again dormant. However, for future consideration the last paragraph of Mr. Manbey's memorandum of August 11 raises several questions.

1. Certified and decreed irrigation rights are appurtenant to, and pass with the land in Washington. We have no record of exactly what portion of the tracts on Drawing 6975 have actually been irrigated. Even if only approximate, we should have the boundaries of actual irrigated land in each parcel sketched on prints of the drawing to see what portion would be included with any land to be acquired by the United States.

2. The State Water Laws permit the land owners to sever irrigation rights from the land and convert them to preferred uses such as domestic purposes, but I am not sure whether he could transfer the right from one parcel of land to another for irrigation. This point should be checked.

3. Our records do not indicate that the irrigated portions of each tract were defined by maps to support the claims for the decrees. We should determine whether the court records include such maps and actual statements of claim. Without exact definition it would be more difficult to stop the Fraziers from changing irrigated areas between now and any time of land purchase or condemnation.

A. van V. Dunn
Chief, Water Resources Section

Attachments 3

Copy to: Superintendent, Whitman National Monument, with 3 attachments
Chief, WODC, w/c Docket No. 1

July 11, 1958

Chief of Lands

Chief, Water Resources Section

Proposed Acquisition of Frazier Lands, Whitman N. M.

You have requested a paragraph concerning Doan Creek water rights to incorporate in reply to memorandum of June 20 from Mr. Merriam.

I find that the Frazier lands consist of Parcels 3-6, and 4 on Drawing 6976, of which a print was sent to Region Four with my memo of May 8, 1943. The present plan is to acquire Parcel 3-6, being 46.71 acres south of the RR tracks and north of tract 37 of the Monument, exclusive of tract 38 of the Monument. The decreed rights to Doan Creek water were shown on Sketch 6975 which accompanied my memorandum of April 19, 1943, to Director, with copies to Region Four, and Superintendent of Mt. Rainier in duplicate. These maps should be in Docket 1, but I am just ordering prints for the purpose.

Docket 1 includes the records of Federal rights to 0.033 sec.ft. of Doan Creek water to irrigate 2.5 acres of land in tract 37 of the Monument. Docket 2 contains the records of Federal title to a well just within the north boundary of tract 38 of the Monument. Title to the well was disputed by the Fraziers or their predecessors, but we obtained BLM information to the effect that it fell within the Monument, by memorandum of March 14, 1945. The well appears to have a 250 gpm pump, but I am not sure that we know the well capacity. It seems to have been used for domestic purposes and the irrigation of about 4 acres in tract 38.

Parcels 3 and 4 of the Frazier property have appurtenant decreed rights to 0.530 sec.ft. for the irrigation of 30 acres. The total area of the two parcels is 91.64 acres, meaning that 2/3 of the land is legally arid.

I do not doubt that the Fraziers could use all their present 0.53 sec.ft. on Parcel 4 which they will retain. At 1 sec.ft. to 70 acres, this is only enough to irrigate 37.1 acres, and Parcel 4 has an area of 44.93 acres. On the other hand, the present Federal rights are very small unless the well has adequate capacity, and the Park Service wishes to go to the continued expense of pumping irrigation water.

The first step should be for the planners to decide how much water the U.S. will need for its development after Parcel 3 is

added to the Monument, and how they wish to obtain it. I doubt if the Park Service would need all of the water now appurtenant to the land to be acquired, but I should not consent to the Fraziers' retention of all rights until sure part are not needed by the U.S.

Docket 2 includes records of one 15 ft. and one 20 ft. well, and reference to the 18.5 ft. well. Mr. Kennedy states that the Frazier well is 15 ft. deep. I do not know how many wells there are, or where all are located. However, we better be sure that the Fraziers do not base any of their land value on the well which is actually just within the norther boundary of Monument tract. 38.

A. van V. Dunn
Chief, Water Resources Section

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

July 8, 1957

Dear Mr. Engle:

Your Committee has requested a report on H. R. 2549, a bill "To facilitate the administration and development of the Whitman National Monument, in the State of Washington, by authorizing the acquisition of additional land for the monument, and for other purposes."

We recommend the enactment of H. R. 2549 if it is amended as suggested below.

The purpose of the proposed legislation is to authorize the Secretary of the Interior to purchase not more than 50 acres of land adjacent to the Whitman National Monument, and a right-of-way thereto from U. S. Highway 410, in order to include within the Monument certain properties that are of historical significance in connection with the Monument area. These properties are needed to provide suitable monument facilities.

Additional land for the Whitman National Monument is urgently needed for two main purposes: (1) as an administration site on which to build a museum, an administration building, a superintendent's residence, parking area, and a small utility area; and (2) as a location for a new entrance road, thus permitting that portion of the county road located within the present Monument (originally a part of the old Oregon Trail) to be returned to its historic wagon road status. Nearly all of the land proposed for addition was part of the original Whitman Mission.

The Act of June 29, 1936 (49 Stat. 2028), which authorized the establishment of Whitman National Monument, also authorized the Secretary of the Interior to acquire by gift the site of the Whitman Mission. While the area that comprises the present Monument was acquired by donation, the inability of local groups to acquire and donate to the Federal Government the additional adjoining lands needed for the proper development, use, and interpretation of the Monument has stalemated for many years the planned development of the area. Authority to acquire land by purchase or condemnation, as provided in the proposed legislation, is therefore essential if the Mission 66 program for the protection, development, and interpretation of the Monument is to be facilitated.

A bill similar to H. R. 2549 has been introduced in the Senate (S. 1118). S. 1118 has a provision, not appearing in H. R. 2549, that the land be purchased with any land acquisition funds available for purposes of the National Park System. We believe this additional provision is desirable. Accordingly, we recommend that H. R. 2549 be amended on page 2, line 1, by inserting after "410," the phrase "using therefor any land acquisition funds available for purposes of the National Park System,".

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your Committee.

Sincerely yours,

Assistant Secretary of the Interior

Hon. Clair Engle
Chairman, Committee on
Interior and Insular Affairs
House of Representatives
Washington 25, D. C.

05-22-1952: memorandum to regional director, region four/national park service from chief, watr resources branch/a. van v. dunn/

In reply refer to:
L1415 WHIT-L

May 22, 1952

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Branch

Subject: Boundary Lines, Whitman National Monument

While in San Francisco in December 1950, I stated that I believed the difficulties in trying to describe the boundaries between the Whitman National Monument and the former lands of May Swingle Sheldon were due to an error in closure of the original Whitman Mission Claim. Although the purchase and donation, which were then under consideration, have been abandoned or suspended, according to your memorandum of January 29, 1951, the information which I obtained may be of some historical value later.

By separate memorandum, I am submitting copies of the township plats, the two deeds to the existing Monument tracts, and the decree by which the Whitman Centennial, Inc., obtained title, to be inserted in Water Right Dockets Nos. 1 and 2. Those instruments should be considered in connection with the following discussion.

The Whitman Mission Claim is plotted from the township plats on sheet 1 of attached drawing NM-WHIT-6979, Land Title Study, of which three prints are submitted. The south boundary is also shown as determined by resurvey in connection with the Monument Survey of 1914 by the General Land Office, now the Bureau of Land Management. The original survey had an error of closure of more than 30 feet. The resurvey shows the south line to be 5.94 feet shorter than originally claimed, and to differ by 4 minutes in azimuth. The rest of the Mission Claim does not seem to have been resurveyed in 1914, but the shortening of the south line, without compensating variations on the other sides, might increase the error in closure to about 36 feet. For the rest of the analysis which I have shown on drawing NM-WHIT-6979, I have used the original traverse from the township plat, and disregarded the 6 feet of variation in the 1914 resurvey.

The traverse of the Mission Claim started at the southeast corner (corner 1(a)), and proceeded clockwise through corners 2, 3, 4, and 5 to corner 6(b). If the corner numbers are significant, corner 6(b), so established, has a bearing of N 0°21' E from the initial corner 1(a), although the township plat implies the location at 6(a), due north of 1(a).

By reference to Water Right Dockets 1 and 2, it will be noted that the tract of May Swengle Sheldon, and the Monument tract 38 (Land Deed 2), are located with relation to some value of the Mission Claim Corner No. 6, while Monument tract 37 (Land Deed 1) is located with reference to a value of Mission Claim Corner No. 1. The decree and deed to tract 37 (Land Deed 1) specify that the north-south lines are parallel to the east line of the Mission Claim, and the east-west lines are parallel to the south line of that claim. The possible variation of 21 minutes in the east line of the Mission Claim makes the prescribed conditions impossible even if the 4-minute variation in the azimuth of the resurvey of the south line is disregarded. On drawing 6979 the parcels of land are plotted both by using the north determined by the GLO in 1944, and with a north assumed to be parallel to the east line of the Mission Claim, the two values differing by 21 minutes. The latter gives a location which agrees more nearly with the Monument tract 37 as located by the General Land Office in 1944, but complete reconciliation does not result. I am somewhat confused by the preamble in the GLO survey notes of 1944, but I believe that corner 1 of tract 37 was actually established from markers left in previous surveys by the county surveyor, with only partial consideration given to the location of corner 1 of Mission Claim 37, and that the tie was computed last. I also believe that the county surveyor may have set his earlier corners with relation to the northeast corner of the tract of May Swengle Sheldon, where the east line of the Mission tracts intersects the south line of the O.W.R.&N. Co. RR.

In connection with tract 38, there are no references to the relation between its boundaries and those of the Mission Claim, but the tract is supposed to be carved out of the May Swengle Sheldon tract which is bounded on the east by the east line of the Mission Claim and does not extend further to the east. The Sheldon tract is described on page 4 of the Water Right Adjudication decree in Docket No. 1.

The north line of Monument Tract 38, and the comparable line of the Sheldon tract agree except for a difference of 0.02 feet in length. The east and west lines of the area are longer on the Sheldon tract because the land seems to extend to about the middle of the original county road, while the Monument land terminates on the north side. It is self-evident that Monument tract 38 is identical with the area north of the road which is omitted from the Sheldon tract, and fixed with relation to the east line of the Mission Claim No. 38. The Court decree of title to the Centennial, Inc., does not alter the description.

The field notes and plat of the Monument by the General Land Office in 1944 are somewhat in conflict. The plat location of the Monument implies that corners 1 and 6 of the Mission Claims were both considered, but the notes imply that no attempt was made to establish corner 6 on the east line of the Mission Claims 37 and 38. The matter might be discussed with the surveyor, Mr. George F. Rigby, if he is still available in the Region Office of the Bureau of Land Management.

On sheet 2 of drawing 6979 I have plotted the various potential locations of the Monument tracts on a larger scale and in more detail. The Monument tract No. 38, as located by the General Land Office, is practically as it would be by beginning due south, and thence 800 feet due west of the intersection of the east line of the Mission Claim and the south line of the Railway right of way, or about half way between the two locations obtained by running south, or S 0°21' W from corner No. 6(b) of the Mission Claim. Using a skewed east line of the Mission claim, on the other hand, the boundaries of Monument tract 38 and the Sheldon tract are shown to be capable of reconciliation about 10 feet west of the boundaries set by the GLO.

As another feature, deeds, decrees, and GLO survey notes show that the county road, and proper south line of Monument tract 38 should be partially on a curve, and partially on one or more tangents, but the actual boundary was determined as a straight line in 1944. There is also a suggestion that the road has been realigned between the dates when tract No. 38 was first described and 1944, when the GLO survey was made. Thus, the P.O.B. of the tract 38 is shown about 20 feet north of the present road.

Because of the lack of refinement, my next concern was over the potentiality that the well might not be on Monument tract 38. However, you will note that any of the potential tract locations include the well. Thus, it is reasonably certain that no resurvey of the Monument would give the present owner of the Sheldon tract a title to the well, as was suggested a year or two ago.

This study suggests that the proper description of the Monument tracts 37 and 38 must be integrated with a complete description of the Mission Claims Nos. 37 and 38. However, before suggesting a resurvey, it would be logical to determine whether Mr. Rigby made a more comprehensive survey than is evident from the records we have found. If Mr. Rigby is still in the Northwest, it might be well to discuss the matter before he moves, even though no further action is taken until later.

I shall be glad to transfer the tracings and computations relating to drawing 6979 to the Region if you obtain more data from Mr. Rigby, and wish to use them as a base for further study.

(SGD.) A. VAN V. DUNN

A. van V. Dunn
Chief, Water Resources Branch

In triplicate

Attachments 3

Copy to: Mr. Siler, with print of drawing 6979

AvanVDunn:sh

Messrs. Burney, Vint, Richey, Kahler, Drury. May 1, 1947.

Mr. Dunn.

Whitman National Monument Enlargement,
Memorandum of April 29 from Mr. Tomlinson.

Mr. McVay, Secretary of Walla Walla Chamber of Commerce, is to be in Mr. Drury's office at 10:30 a.m., May 7. I wonder if he was aware of the latest developments when arranging for the meeting.

If I understand which lands constitute the farm of Dr. Cowan, the value is about as follows:

(1) 46.71 acres north of Monument:

5.00	acres irrigated with 0.067 sec. ft.	under priority of 1875.
15.00	" " 0.330 sec. ft.	" " 1914.
26.71	" with no authorized irrigation.	
46.71	"	

(2) 44.93 acres west of parcel (1), and not contiguous to the Monument:

10.00	acres irrigated with 0.133 sec. ft.	under priority of 1914.
34.93	" with no authorized irrigation.	
44.93	"	

Dr. Cowan, therefore, can only irrigate 30 of his 91.64 acres. He is only entitled to apply as much water per acre under 1914 priority, on the 10 acres in parcel (2) as he is on the 5 acres with 1875 priority in parcel (1). When there is insufficient water for all rights, he must suffer potential loss, through drought, or raise less valuable crops. On the other hand, he is authorized to apply more than 50% more water on parcel (1) under the 1914 priority, and should be able to raise about as much per acre as on the land irrigated under the 1875 priority.

The total value of the farm, at $200 per acre, is $18,328. Without water, at $50 per acre, the value would be 4,582
The values of the water rights are the difference $13,746.
The suggestion is that the 1875 right is worth about $42,000 per second foot and the 1914 right is worth $25,000 per second foot. I understand that wheat is the major crop near Walla Walla (dry farmed) and that irrigation, where water is available, is for small areas of garden truck. If the profit is in the garden truck, this may make our attempt at purchase with water rights funds impractical. It looks to me, though, as though this Service and the Whitman Committee are relying on opinions of farm values by historians, bankers, engineers, and chambers of commerce. I wonder if they really know the farm values.

(SGD.) A. VAN V. DUNN
Chief, Water Division.

AvVD:sh.

04-26-1945: memorandum from superintendent to nps regional director regarding ditch system map

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
MOUNT RAINIER NATIONAL PARK
LONGMIRE, WASHINGTON

April 26, 1945.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to our letter of April 3 to Mr. Herbert G. West of Walla Walla concerning certain data pertaining to water rights, Whitman National Monument.

Mr. Tolson, in his memorandum of March 23 to your office, requested certain information regarding the ditch that conveys water from Doan Creek to the Monument property. Mr. West contacted the Watermaster for Walla Walla County and the enclosed copy of letter from Mr. Ault contains the information requested by the Director.

We shall endeavor to secure from the County Clerk, Walla Walla County, a map of the ditch system.

(SGD) JOHN C. PRESTON

John C. Preston,
Superintendent.

In triplicate.

Sprinkler Equipment * Pumps and Motors * Rainbird Sprinklers * Calco Pipe and Fittings

HAROLD D. AULT
Irrigationist
Telephone 183
Touchet, Washington

April 19, 1945

Mr. Herbert G. West
Walla Walla, Wash.

Dear Mr. West:

Re: your letter of April 5th. to Mr. Harlow Barney relative the water rights of M. W. Swegle, guardian of Estate of Irene Swegle, appropriated under date of 1875 and since transferred to The Whitman Centennial, Inc. May I enter here excerpt of Decree on Remittitur No. 14293 in the matter of the determination of the rights to the use of the waters of Dean Creek in Walla Walla County:

"Class 1A, M. W. Swegle, Guardian of the Estate of Irene Swegle.
Date of settlement 1846
" " appropriation 1875
Number of acres 2.5 Amount of Appropriated water 0.033 C.F.S.
Description of land in which tract is located.
"Beginning at a point which bears north 20 chains and south 89°6' west 4.4 chains from the south east corner of the Whitman Mission Claim in section thirty-two (32) in township seven (7) north of range thirty-five (35), E. W.M.; thence south 89°6' west, parallel with and distant 20 chains at right angles from the south line of said claim, 20 chains; thence north, parallel with the east line of said claim, 19.25 chains; thence south 87° 26' east 20.02 chains; thence south, parallel with the east line of said claim, 18 chains to the point of beginning, containing 37.25 acres.

After contacting other users of the same ditch I find there is no formal organization for the maintenance and control. Interested users cooperating in cleaning, regulating and otherwise furthering the beneficial use of the water when and where needed.

At present Mr. Ray Shelden as lessee of the Monument grounds is doing the necessary work in maintaining the ditch.

As for a map of the project I know of none and other users seem to know of none. However, Walter Kimmerly County Clerk would know definitely.

I trust the information you desire is contained herein. This matter has been referred to me by Harlow Barney, past watermaster of Walla Walla County.

Very truly yours,

(sgd) Harold D. Ault
Watermaster, W.W. Co.

April 25, 1945.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to Mr. Preston's memorandum of April 12 for you with copy of a letter of April 6 from Mr. Ray C. Sheldon with regard to water use and water rights at Whitman National Monument.

Apparently past well use has not involved the beneficial use of more than 1,163 gallons per day and does not require a license. If it is found practical to irrigate the additional 4 acres of old cemetery area from this or any other well, the total demand will be 0.0601 second-feet, or 38,800 gallons per day, and a license will then be required.

This application for such use should be filed within the year preceding construction of the additional conduit or enlargement of the well, whichever is earlier, and such developments should be covered by PCP's and plans before we prepare the application.

Mr. Sheldon is correct in that the Doan Creek right does not permit use on the Monument tract. It authorizes the irrigation of 2.5 acres of the Mission tract. However, the right can be amended to change the place of use if desired. Of course, until we find a copy of the map used in the adjudication, if there was one, we do not even know which 2.5 acres of the Mission tract were to be irrigated.

The ultimate water demands seem to be in excess of present rights and development. If the present well will not deliver the required quantity, we have the alternatives of drilling a new well, buying more of the rights decreed to the Doan Creek Ditch, or buying more ditch capacity and perfecting a secondary right to more water from Doan Creek. All of these possibilities should be investigated or considered before making a final decision, but it will be well to wait for the information on the organization of the ditch company, recently requested from Mr. Charles G. West, President of the Whitman Centennial, before doing much more.

(SGD) A. W. P[illegible]

Acting Chief Engineer.

AvVD:sh.

In duplicate.
cc: Mr. Dunn.

04-19-1945: letter to walla walla, washington from water master w. m., co. regarding appropriated under date of 1875 and since tr

C o p y

Sprinkler Equipment * Pumps and Motors * Rainbird Sprinklers * Calco Pipe and Fittings

HAROLD D. AULT
Irrigationist
Telephone 183
Touchet, Washington

April 19, 1945

Mr. Herbert G. West
Walla Walla, Wash.

Dear Mr. West:

Re: your letter of April 5th. to Mr. Harlow Barney relative the water rights of M. W. Swegle, guardian of Estate of Irene Swegle, appropriated under date of 1875 and since transferred to The Whitman Centennial, Inc. May I enter here excerpt of Decree on Remittitur No. 14293 in the matter of the determination of the rights to the use of the waters of Doan Creek in Walla Walla County:

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Date of settlement 1846
" " appropriation 1875
Number of acres 2.5 Amount of Appropriated water 0.033 C.F.S.
Description of land in which tract is located.
"Beginning at a point which bears north 20 chains and south 89°6' west 4.4 chains from the south east corner of the Whitman Mission Claim in section thirty-two (32) in township seven (7) north of range thirty-five (35), E. W.M.; thence south 89°6' west, parallel with and distant 20 chains at right angles from the south line of said claim, 20 chains; thence north, parallel with the east line of said claim, 19.23 chains; thence south 87° 26' east 20.02 chains; thence south, parallel with the east line of said claim, 18 chains to the point of beginning, containing 37.25 acres.

After contacting other users of the same ditch I find there is no formal organization for the maintenance and control. Interested users cooperating in cleaning, regulating and otherwise furthering the beneficial use of the water when and where needed.

At present Mr. Ray Shelden as lessee of the Monument grounds is doing the necessary work in maintaining the ditch.

As for a map of the project I know of none and other users seem to know of none. However Walter Kimmerly County Clerk would know definitely.

I trust the information you desire is contained herein. This matter has been referred to me by Harlow Barney, past watermaster of Walla Walla County.

Very truly yours,

(sgd) Harold D. Ault
Watermaster, W.W. Co.

04-10-1945: letter to chief, water rights division from supervisor of hydraulics regarding recently enacted ground water code

C O P Y

DEPARTMENT OF CONSERVATION AND DEVELOPMENT
Art Garton, Director
Transportation Building
Olympia

Mon C. Wallgren
Governor

April 10, 1945.

Mr. A. van V. Dunn
Chief, Water Rights Division
National Park Service
Chicago, 54, Ill.

Dear Mr. Dunn:

Replying to your letter of March 31:

Our recently enacted ground water code does not include wells, if the withdrawal of water is less than 5000 gallons per day. When the amount is in excess of 5000 g.p.d. permits will be required for all wells in the State started after June 7, 1945, and I believe that increasing the capacity of old wells will be in the same category.

Permits must be obtained from this office before construction on a well is started and permits can only be denied when the boundaries and extent of ground water has been determined and it is found that such waters are fully appropriated. As new zones are established priorities of wells will be fixed as of the date of filing, if it is found necessary to regulate the withdrawal of water.

Existing owners of wells will have three years for declaring ownership in wells, the extent and purpose for which the water is used.

Yours very truly

(Sgd) Chas. J. Bartholet

CHAS. J. BARTHOLET
Supervisor of Hydraulics

CJB:GH

P.S.- We will send you a copy of the ground water code when printed.

04-02-1945: letter to walla walla, washington from superintendent regarding information concerning the well that is located on the

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
MOUNT RAINIER NATIONAL PARK
LONGMIRE, WASHINGTON

APR 16 1945
CHIEF CLERK'S OFFICE

Name	Date
Director	
~~Asst Director~~	4-16
~~Chief Rangers~~	Surveys 4-16
~~Chief Naturalist~~	
~~Chief Clerk~~	4/17

April 2, 1945.

WR Files

Mr. Ray C. Sheldon,
Route 2,
Walla Walla, Washington.

Dear Mr. Sheldon:

We are endeavoring to obtain some accurate information concerning the well that is located on the Monument Tract at Whitman National Monument.

Can you advise as to the date the well was dug and first used? If the exact date cannot be determined, please let me know whether it was in use by June 15, 1917.

Approximately what percentage of the area of the Monument Tract, the 8.71 acre tract, that lies north of the county road is irrigated? As I recall it, only the small grass plot, 1/8 acre or less, near the Great Grave, is watered from the well; is that correct? In other words, about 1/8 of an acre is irrigated from the well--approximately 4 acres lying west of the road leading to the Great Grave and north of the county road can be irrigated from waters flowing in the irrigation ditch that leads from Dean Creek. If these figures are roughly correct, there remains an additional four acres (the hill on which the shaft is located) the topography of which is such that it cannot be irrigated.

We are also interested in knowing the depth, diameter, type of casing, type and rating of pump and electric motor. What kind of a hookup do we have at the well for irrigating? It occurs to me a garden hose is used for sprinkling.

The records show that the Mission Site, the 37.22 acre tract that lies south of the county road, can be irrigated from water that flows in the irrigation ditch leading from Dean Creek. The Government maintains that it has the right to 0.033 second-foot in the ditch from Dean Creek with a priority of 1875 which was decreed to M. W. Swingle. We have been instructed to make use of the water during the coming summer. This must be done to prevent lapse. I know you sprinkle the grass plot on the Monument Tract and I have a recollection that each year you irrigate the Mission Tract, at least that portion which is grazed. Please inform me if this is correct. We also want you to make it a point this summer to water the Mission Tract, and I should like to have you inform me how many days water ran on the pasture land.

I shall appreciate receiving the above information at your earliest convenience.

Sincerely yours,

John C. Preston,
Superintendent.

cc: Region Four Office, in duplicate

03-27-1945: letter to chief, water rights division from supervisor of hydraulics regarding water codes

STATE OF WASHINGTON

Department of Conservation and Development

ART GARTON, DIRECTOR
TRANSPORTATION BUILDING
OLYMPIA

MON C. WALLGREN
GOVERNOR

DIVISIONS:
GEOLOGY
FORESTRY
RECLAMATION
FLOOD CONTROL
WATER RESOURCES
MINES AND MINING
COLUMBIA BASIN PROJECT

3/31

March 27, 1945.

Whitman

Mr. A. van V. Dunn
Chief, Water Rights Division
National Park Service
Chicago, 54, Ill.

Dear Mr. Dunn:

Replying to your letter of March 22:

Under our existing water code we have dealt with surface waters only for the reason that our courts have held that percolating waters belong to the land on which they are located, unless subterranean flows can be proven, in which case they can be treated as surface waters in respect to the appropriation thereof.

However, our recent legislature passed an act which goes into effect on June 7, which is supplemental to our water code and deals with ground water. U. S. G. S. geologists, in cooperation with the State, are now establishing some zones in which the act can be administered. We have not yet decided as to what extent it can be administered in other parts of the State.

Yours very truly,

Chas J Bartholet

CHAS. J. BARTHOLET
Supervisor of Hydraulics.

CJB:GH

54

March 23, 1945.

MEMORANDUM for the Regional Director, Region Four.

The decreed rights from Doan Creek at Whitman National Monument total 2.756 second-feet, of which the United States is entitled to 0.033 second-feet. The ditch conveying water under the Federal right also serves a number of the other water right owners.

Will you please advise us concerning the nature of organization of the group who share in the ditch. If there is a formal organization or corporation we should like to have copies of the articles of incorporation and bylaws, and a copy of a stock certificate if there is such evidence of stock. We also wish to know what per cent of interest in the ditch is represented by the right decreed to the monument or what part of the total decreed water from Doan Creek is carried by the ditch. We should also like to know what assessments are made for the maintenance of the ditch, and whether there is a river master to administer the rights for the court and how he is paid.

It is also probable that a map of the ditch system was introduced as evidence at the time of the adjudication. We should like to obtain a negative or five prints of such map.

If it is not convenient for you to obtain any of this information for us, please supply us with the name of the leader in the community to whom we should address our inquiries. The map, of course, can probably be reproduced at the county courthouse, but the tracing may be held by the ditch company. The data will become part of the water right assembly, so you need not request extra copies for yourself now, but if typing has to be done to provide the information it will save retyping to have four carbon copies run at the time. Charges can be billed to the Water Rights Division.

(SGD) HILLORY A. TOLSON

Acting Director.

AvVD:sh.

In duplicate.

cc: Mr. Dunn.

02-27-1945: letter to water rights division from supervisor of hydraulics regarding photostat copies

STATE OF WASHINGTON

Department of Conservation and Development

ART GARTON, DIRECTOR

TRANSPORTATION BUILDING

OLYMPIA

MON C. WALLGREN
GOVERNOR

DIVISIONS:
GEOLOGY
FORESTRY
RECLAMATION
FLOOD CONTROL
WATER RESOURCES
MINES AND MINING
COLUMBIA BASIN PROJECT

Return to A. V. Dunn.

Whitman N. M.

February 27, 1945.

Received 3/3/45

Mr. A. van V. Dunn, Chief
Water Rights Division
National Park Service
Chicago, 54, Ill.

Dear Mr. Dunn:

Enclosed are photostat copies of the material requested in your letter of February 20.

In these old water right filings the original applications were incorporated in the permits and so we have been obliged to have copies made of the whole permit.

An amended certificate, #193, was issued to Peter Grubb in connection with Certificate #23 in order to show a more complete description of the lands to which the water right is appurtenant. We therefore had a copy made of the amended certificate also.

This would have been ordered immediately if it had not been sent, so please correct orig. order to include it

The total cost of making these copies was $7.35. We have executed the voucher which you send us and are returning it herewith, with a statement of the cost.

Yours very truly,

Chas J. Bartholet

CHAS. J. BARTHOLET
Supervisor of Hydraulics

CJB:GH

May 8, 1943.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to my memorandum for the Director of April 19, 1943, requesting further explanation of the procedure in establishing Whitman National Monument; and to my memorandum to Mr. Johnson of April 30 with regard to the status of the well at that monument.

As attached drawing NM-WHI-6976 I have revised my boundary study on the basis of township plats supplied by Mr. Preston since April 22, 1943. There are potential conflicts of 20 feet or less between any two of the adjacent property owners, due to variation in azimuth and accuracy of chaining by surveyors who first described the various parcels.

As stated in my previous memoranda, a complete retracement of boundaries and sections is needed for a final adjustment. This survey should be made before any proclamation is attempted to clarify the monument boundaries.

However, in spite of the conflicts I believe the study will offer temporary, if not permanent, settlement of the controversy between Dr. Cowan and the Park Service with regard to title to the well.

Dr. Cowan seems to own all, or part, of Parcel 3 = Parcel 6. The Park Service owns Parcel 7 which is described as Parcel 2 of the abstract. Both are described from the NE corner of the Whitman Mission Claim No. 38. The Cowan boundary (dashed) near the well falls north of the described monument boundary (solid line) by 7 or 8 feet.

I assume that Parcel 3 was carved out of the Mission Claim No. 38 and sold while the original owners still retained Parcel 7. On this basis, the description of Parcel 3 would hold so far as Dr. Cowan is concerned. He can claim no land south of the dashed line.

From the same reasoning the Park Service boundary might be limited by the solid line but since the resulting "no man's land" would have no value to the original owner it seems safe to assume that the intent was to sell all land not previously sold to Dr. Cowan and his predecessors. In other words, if anything, the United States may claim a boundary about 7 feet north of that described in the deed.

I have plotted drawing WHI-6976 by machine rather than coordinates, so pencil point errors may exist, but as plotted the well falls 3 feet south

5/8

FILE COPY

of the monument boundary described in the abstract and 10 feet south of the line described in Dr. Cowan's water right decree. I doubt if any resurvey would pull Dr. Cowan's boundary far enough south to give him a claim to the well.

Further, if the General Land Office were to have difficulty in reconciling distances and bearings it would give added weight to such landmarks as the well. If the well was dug by the owner of Parcel 7 more than 20 years ago and has been used without protest until 1943 this fact would help fix the boundary north of the well.

I have plotted all parcels with the length of the east line of the Whitman Mission Claim No. 38 as shown on the old township plat. Since Parcel 1 is described from the SE Corner and Parcels 3 and 7 are described from the NE Corner, there can be little question as to relative positions of Parcels 3 and 7, but their relations to Parcel 1 can vary with any error in the length of the east line of the Claims Nos. 38 and 37. An apparent conflict of about 20 feet between Parcel 3 and Parcel 1 seems to exist. However, this conflict all seems to lie in land which has become a county highway. It is not, therefore, a conflict between Dr. Cowan and the National Park Service.

I also include a print of drawing PM-WHI-7000. This shows Parcel 7 with its east line 620.4 feet in length beginning at the north line of parcel 1. On drawing NM-WHI-6976 I have plotted a dotted line as the north line of Parcel 7 as so described. Since the east line of Parcel 7 may be any length between 600.4' and 620.4' less some county road right of way, it seems quite probable those who first staked the monument may have fixed a boundary somewhat as shown by my dotted line, giving the monument more area than it was entitled to have. By letter of April 4, 1943 to Mr. Preston, Mr. Shelden implied that various NPS surveys had been made starting from the center and north boundary of the county road respectively. I believe, however, that any variations are the result of differences as to whether Messrs. Drysdale and Cutler have respectively retraced the deed or drawing PM-WHI-7000 with its improper tie.

On drawing NM-WHI-2002-A, not included, it is further noted that the well is shown 5 feet south of one of the boundaries determined by one of the Park Service surveys, but about 10 feet south of a fence line. The fence and apparent boundary are 5 feet apart at the well, but 7 feet apart near the NE corner of Parcel 7. The latter is exactly the difference between my solid and dashed lines on NM-WHI-6976, and the fence, by turning north instead of south, was clearly built by some owner of the Cowan tract or Parcel 3. The General Land Office would also give weight to this undisputed fence in fixing the monument boundary north of the well. Should Dr. Cowan attempt to move his fence and obliterate the old line before the boundary is settled we should get depositions from competent and disinterested witnesses as to the date and extent of the change.

From the preceding discussion it does not seem possible to establish the true boundary without more survey. It is also fairly probable that the well is on the monument and not on Cowan land within any limits that survey might accept. Dr. Cowan is apparently trying to capitalize on the past incomplete surveys by the Park Service and should be given enough of the information in my study to show that we know it. However, he should not be given enough information to encourage him to mutilate evidence, and he should be cautioned against doing so if he starts. We should also assure him of a competent determination of boundaries as soon as possible after the war.

I think copies of this should go to the Director, Mr. Preston and the Custodian through Mr. Preston because of my past correspondence.

(SGD.) A. VAN V. DUNN

A. van V. Dunn,
Hydraulic Engineer.

AvVD:SH

Attachments.

04-19-1943: memorandum to director from hydraulic engineer regarding whether a well is on private land of monument land

April 19, 1943.

MEMORANDUM for the Director.

The landowner to the north of Whitman National Monument has recently questioned whether the well is on his land or that of the monument.

We find the Congressional authorization for the monument (49 Stat. 2028) does not define any specific area, but authorizes much more than has been acquired by the United States. We also find that there has been no proclamation to define the area. By Mr. Moskey's memorandum of April 5, 1940 (copy attached) the need and authority for a proclamation seems to be lacking.

The only description of the area which we find in the regional files is the copy of the title insurance policy (copy attached), in which parcel 1 is described from the SE corner of Whitman Mission Claim No. 38, and parcel 2 is described from the NE corner of that claim. We do not have the description of this claim and, therefore, do not know how far apart the two parcels actually lie.

The claim is not shown on the township plats of about 1870, but we gather that it was defined sometime between 1846 and 1870. We wonder, therefore, if we can obtain a plat of the Claim No. 38 from the General Land Office.

We also enclose a copy of part of the decree establishing water rights on Doan Creek which describes the property lines. There are three parcels of Class 1A land and two of Class 1B land described from the same corners of the Mission Claim. Again there is some question as to the relation of parcels described from the SE corner and those described from the NE corner. There is another parcel of Class 1B land, second in the list, which is described from a section corner and north and south lines of the Mission Claim. It does not, however, give the tie from the section corner to corners of the claim, so it cannot be equated to the other parcels.

The attached sketch shows the relation of the various parcels to the best of my ability with the data at hand, plotted by drafting machine. The first parcel of Class 1B land does not close as well as the others. Neglecting this, there seems to be an error in ties if the three parcels of Class 1A land and first parcel of Class 1B land are supposed to have a common corner.

FILE COPY

It also seems evident that a 33 foot county road right of way was reserved between the first and third parcels of Class 1A land. On the other hand, approximately 65 feet of right of way seem to exist between the second parcel in the title insurance policy, and the first Class 1A parcel which is also the first parcel in the title policy.

Several regional engineers seem to have attempted to determine the monument boundary in the past with differing results. The matter actually seems to merit the services of the General Land Office.

It will also be noted that parcel 2 of the title policy is not covered by the decree. It is largely a hill which is not susceptible to irrigation, but there is also the question as to whether omission has any other meaning. Parcel 1 has a decreed right to 0.033 sec. ft. of water from Doan Creek. If the well is actually on the north part of parcel 2 it is possible that it explains why no creek water was decreed. This question of water is still more important if the parcel has been under individual ownership for a long time -- a matter not indicated by our records.

Some of these questions may require research in the State and county offices, but we should first like to know what explanations you and the General Land Office can give. We should also like a more complete explanation of the ideas in Mr. Moskey's memorandum of April 5, 1940.

(SGD.) A. VAN V. DUNN

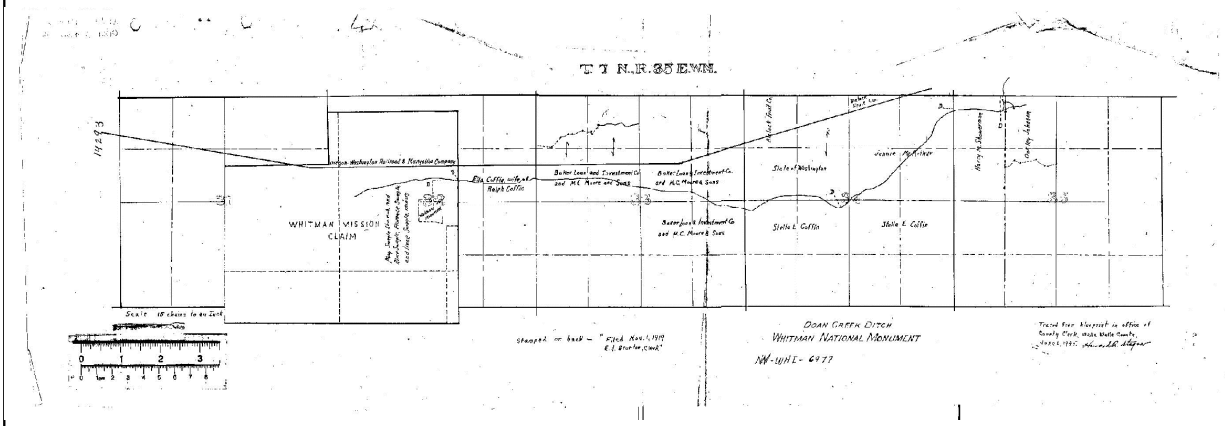
A. van V. Dunn,
Hydraulic Engineer.

AvVD:SH

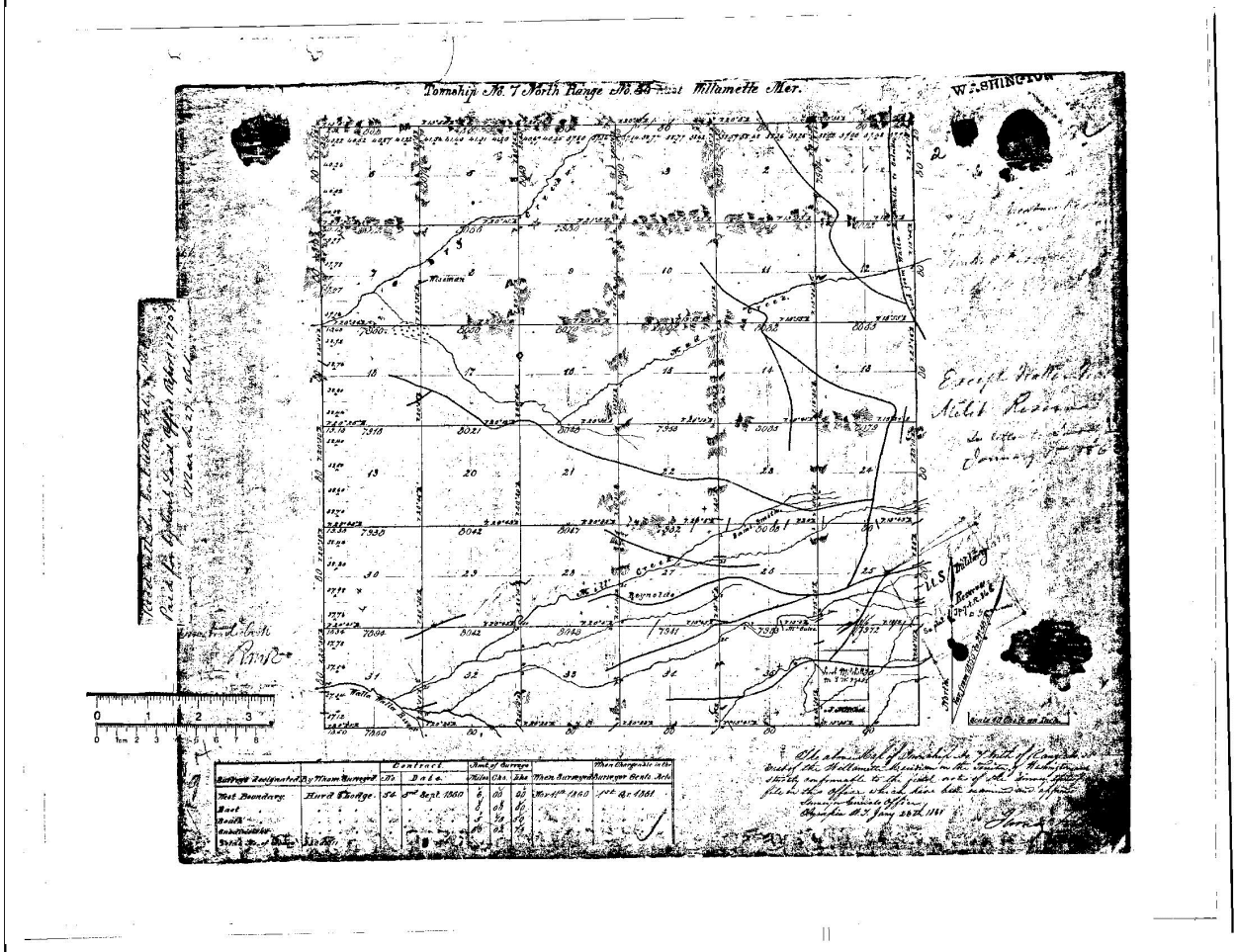
Enclosure 2136699.

cc: Regional Director, Region Four, with enclosures.
Coord. Supt., Mt. Rainier, with enclosures. (2).

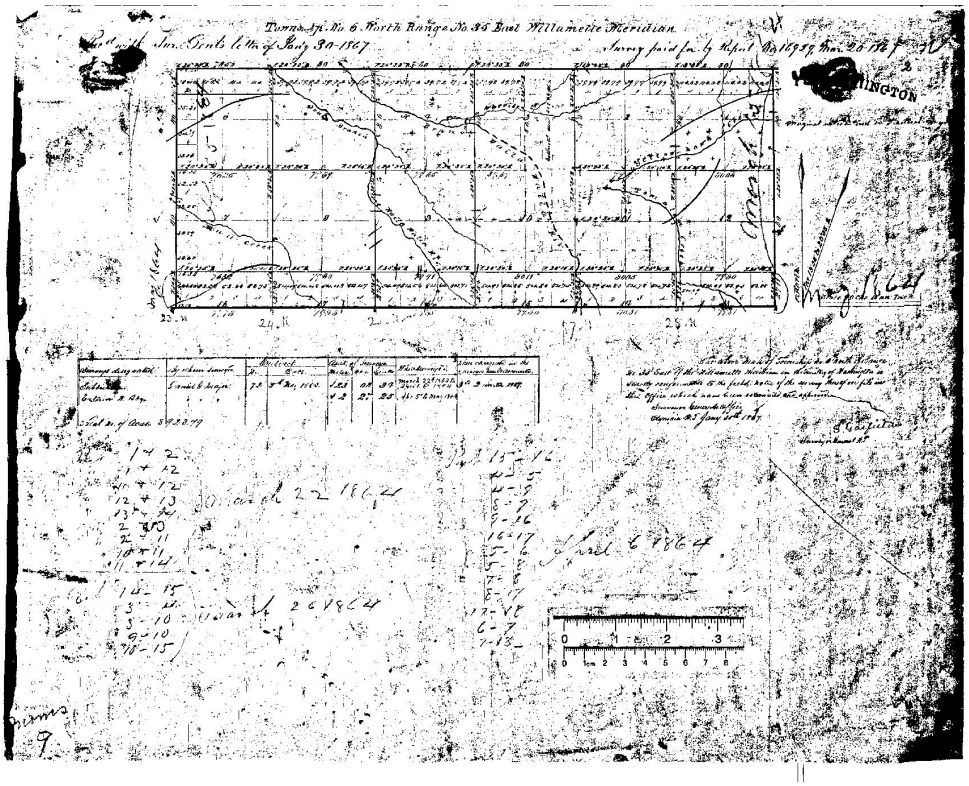
11-01-1919: map of the doan creek ditch

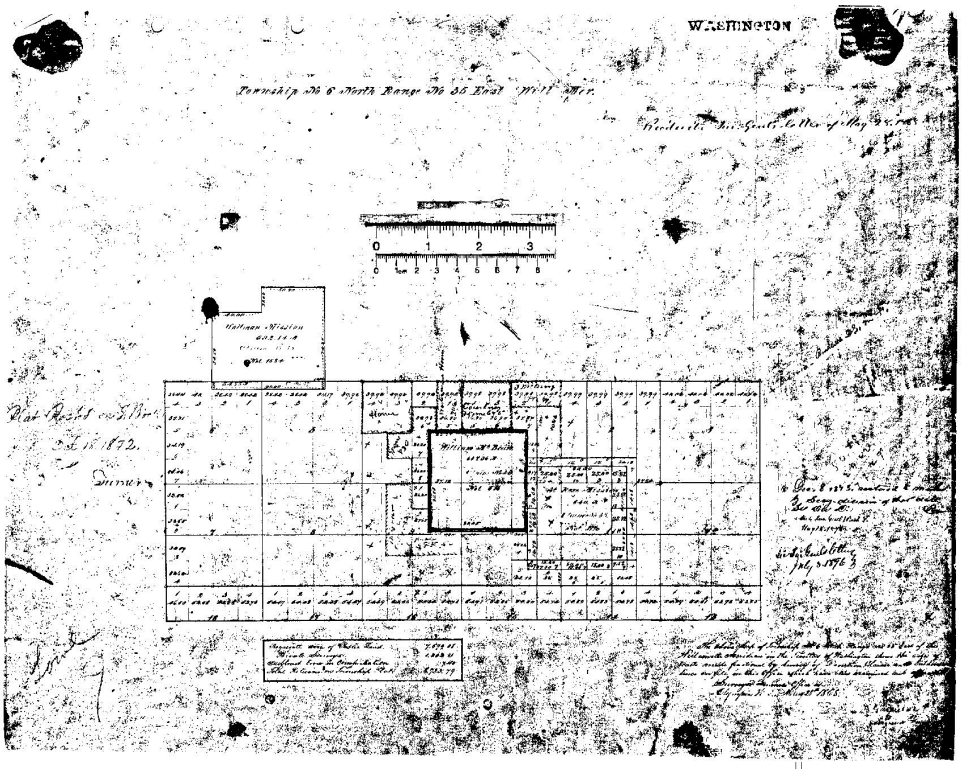


09-03-1860: land survey map: t7n, r35e, willamette meridian

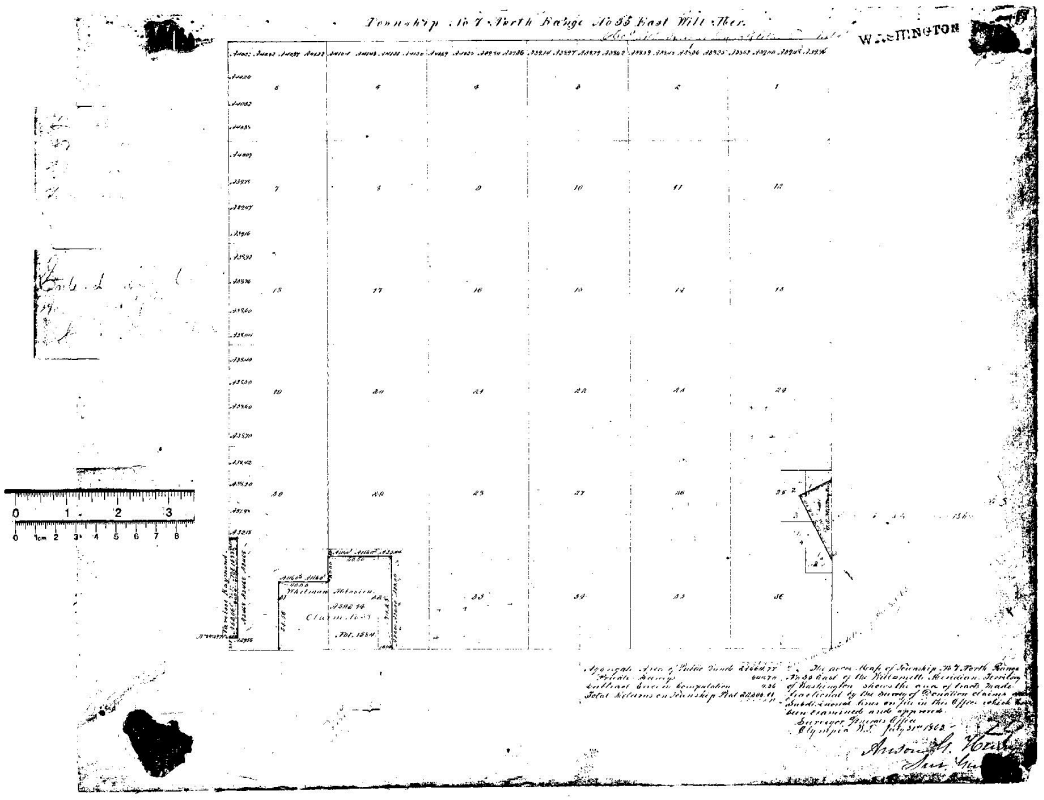


05-00-1864: land survey map: t6n, r35e, willamette meridian

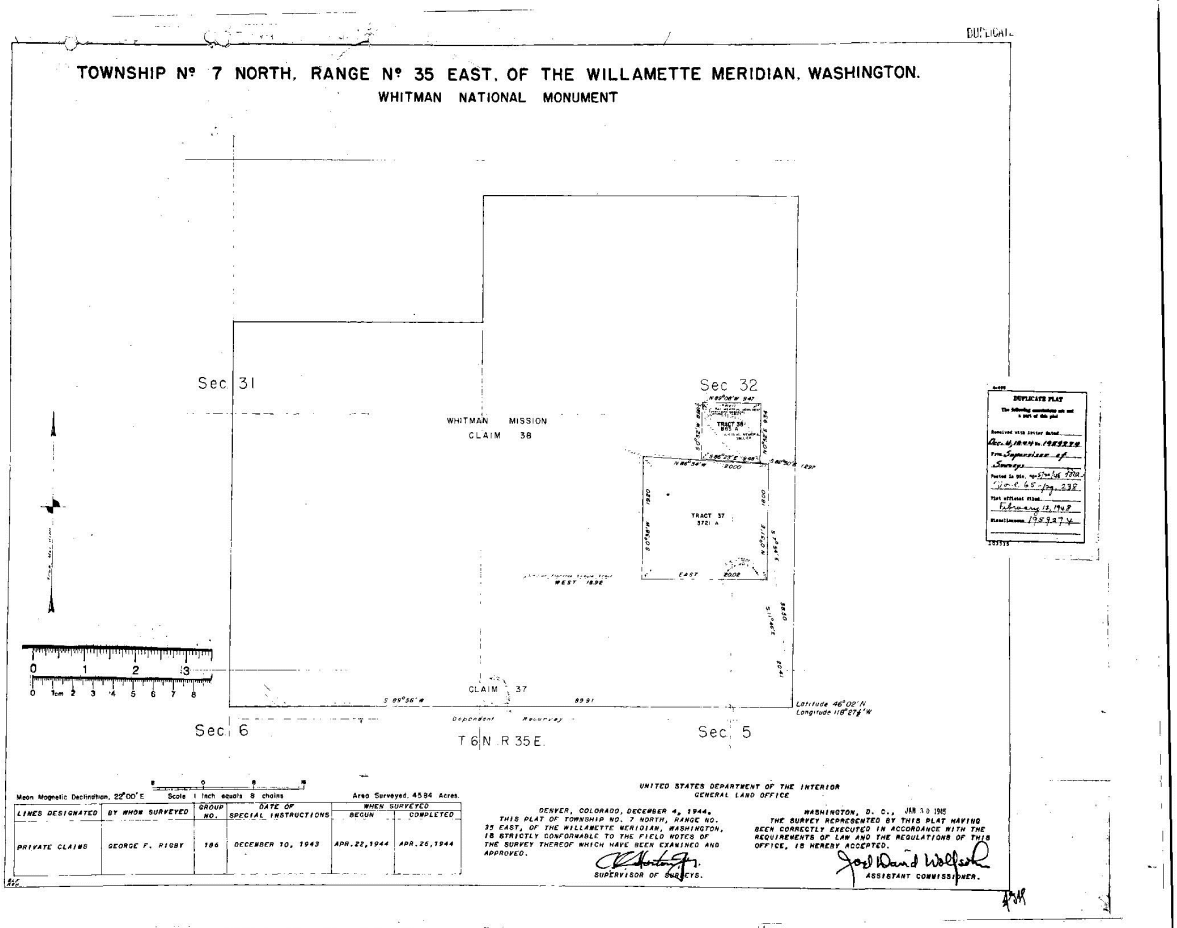



WASHINGTON
Township No 6 North Range No 35 East Will Mer.
0 1 2 3

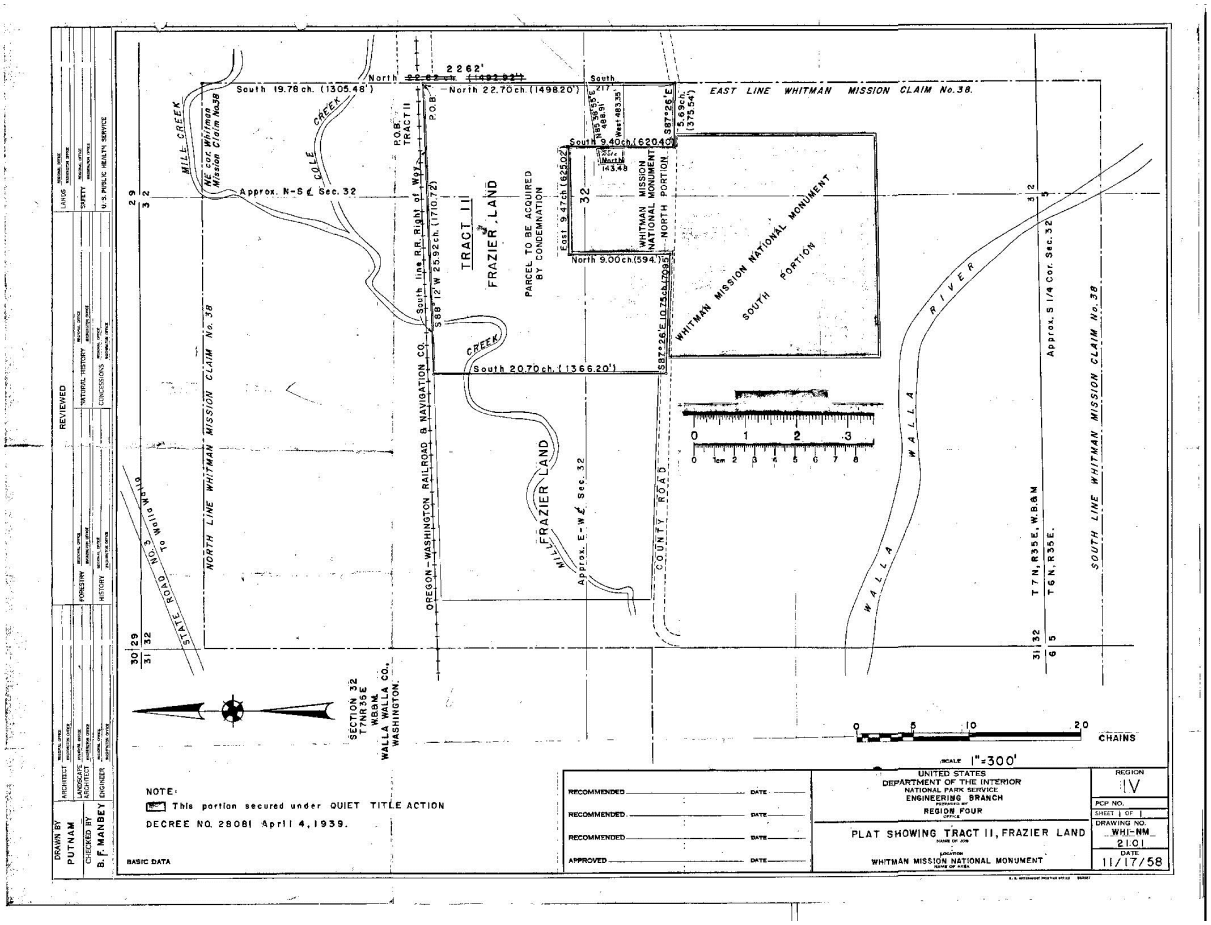
07-31-1962: land survey map: t7n, r35e, willamette meridian



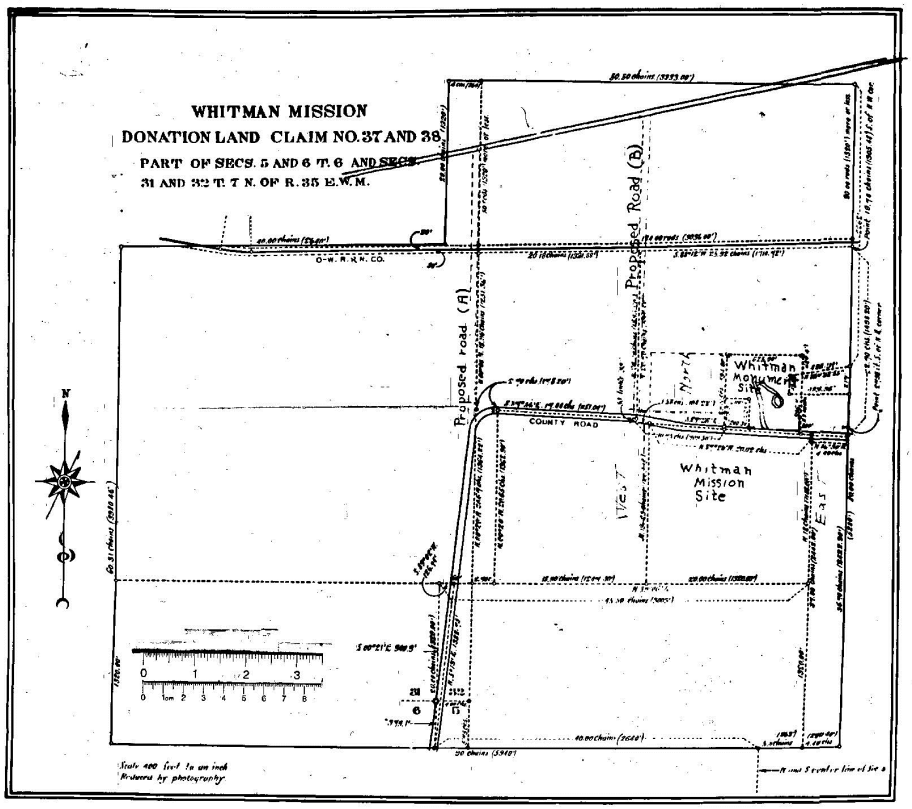
02-12-1928: land survey map: t6n, r35e, willamette meridian



11-17-1958: plat showing tract 2, frazier land

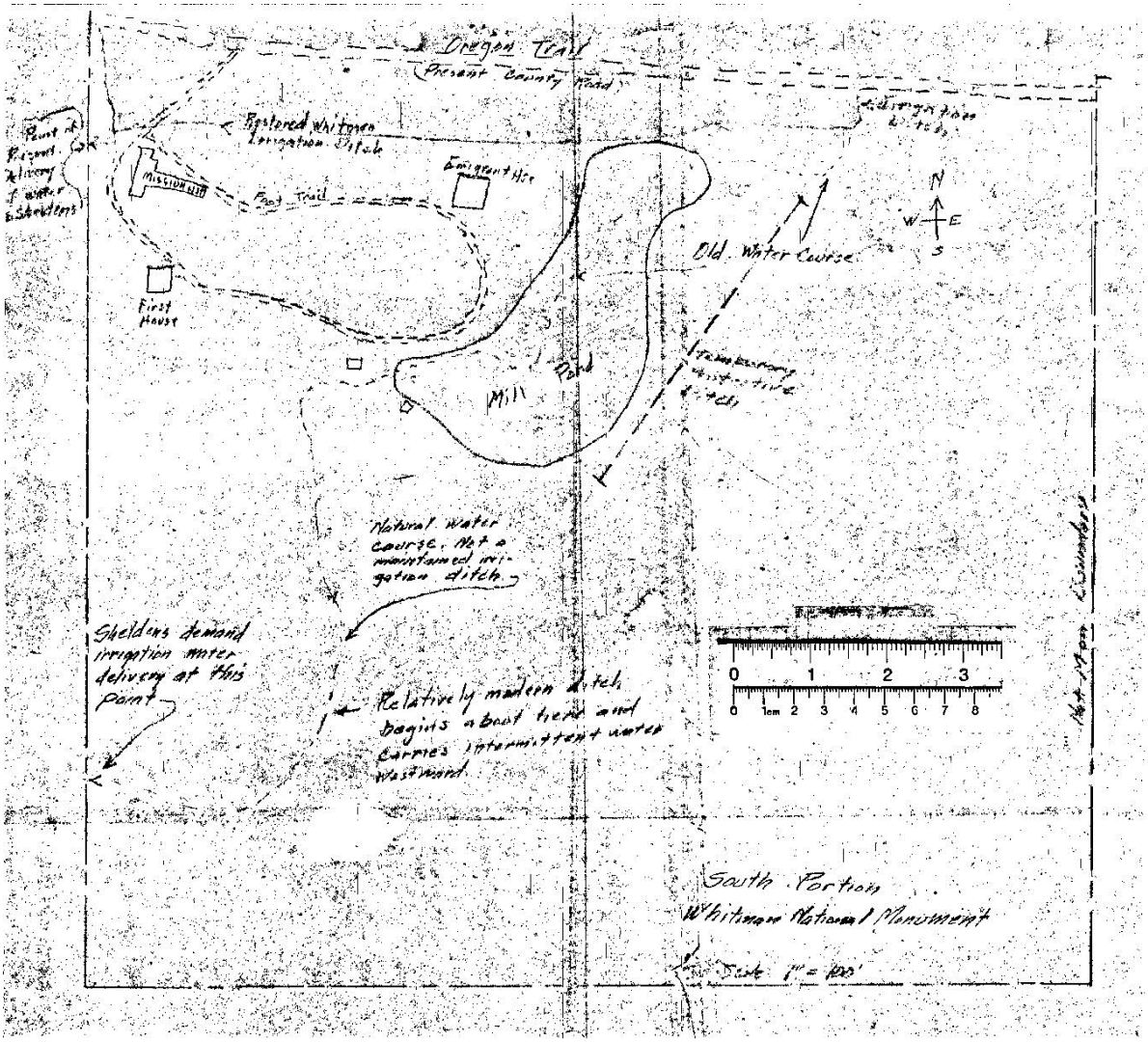


00-00-0000: map of whitman mission - donation land claim no. 37 and 38

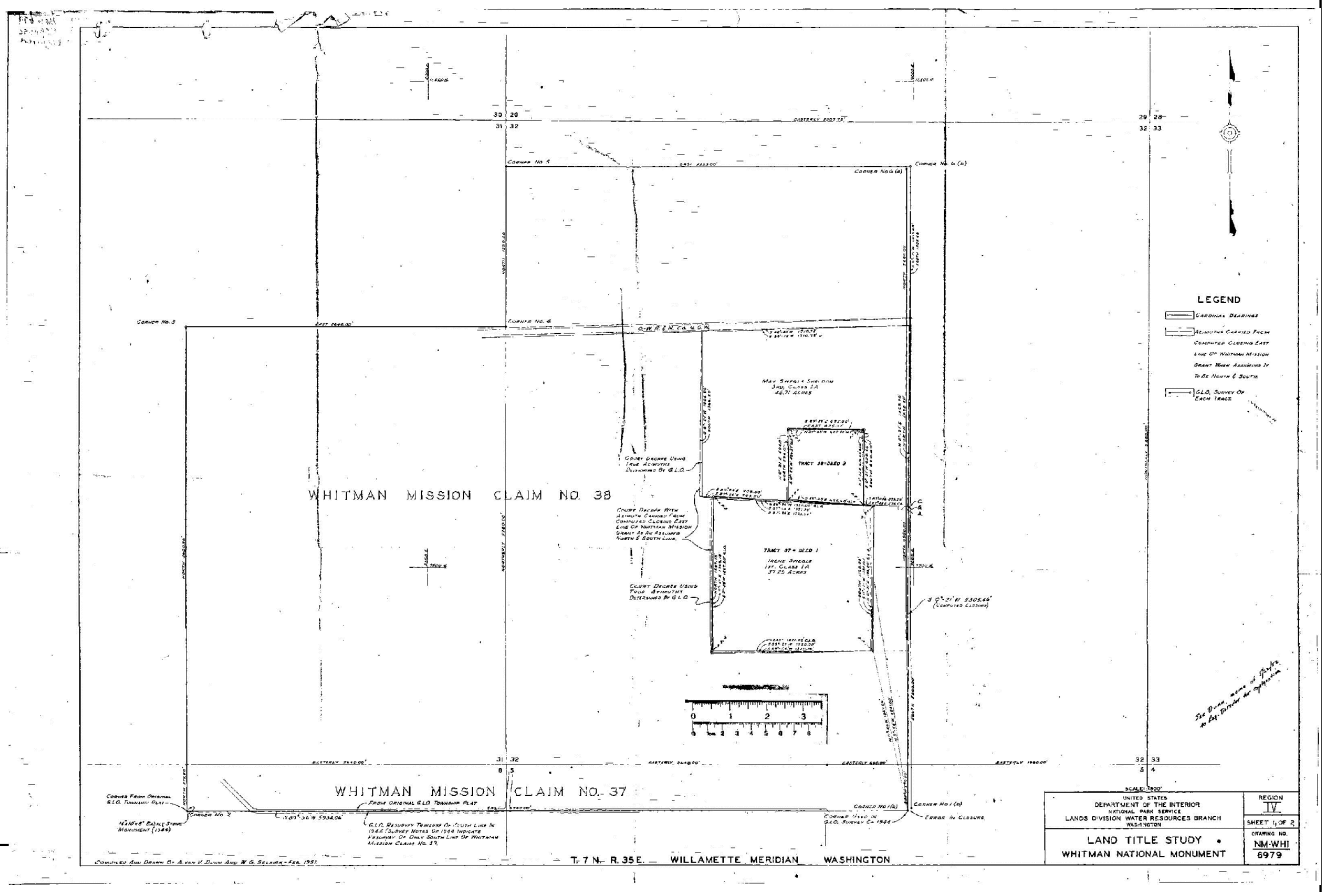


WHM Map 664
0001 Magnetic
Scale Required

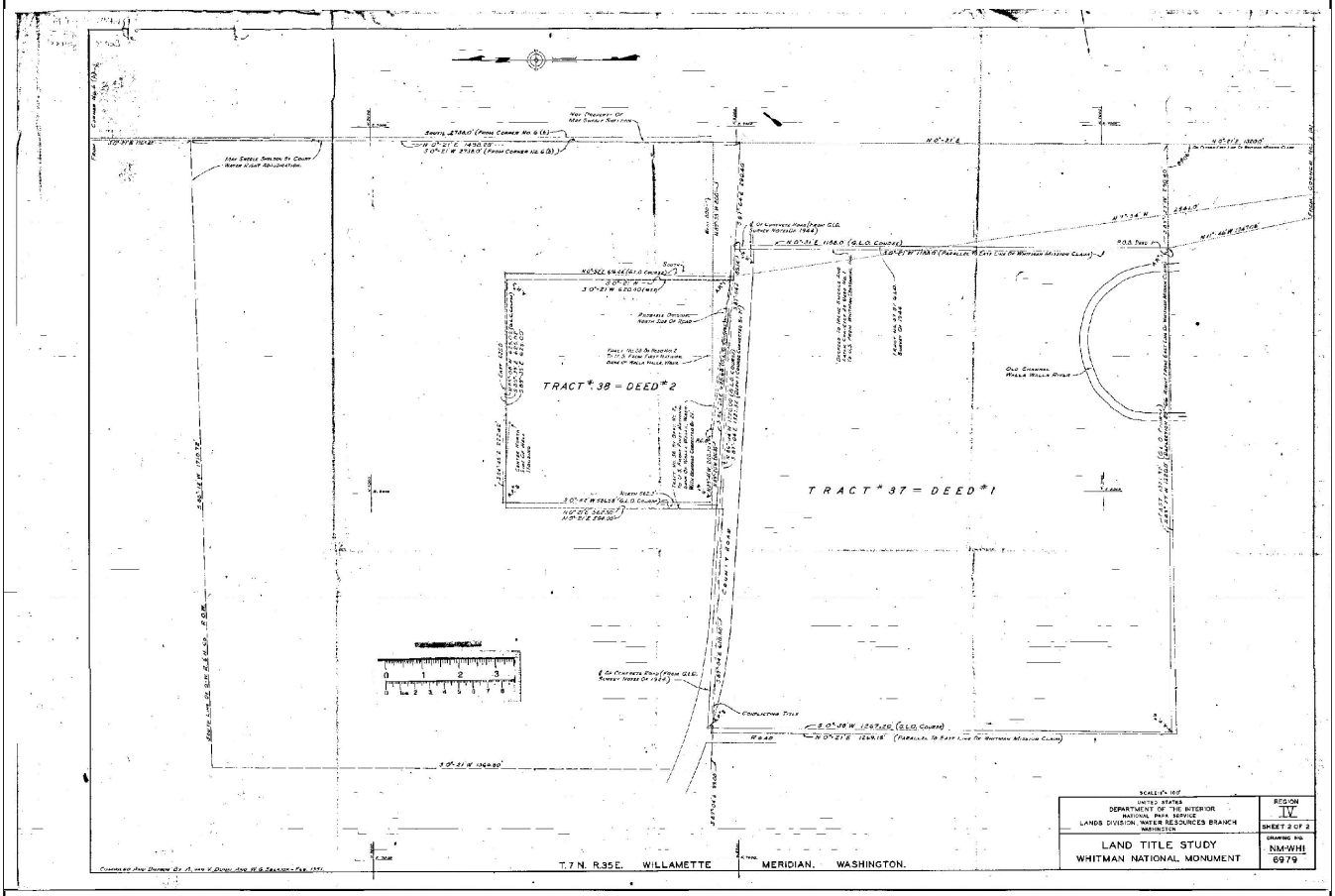
WATER RIGHTS SECTION


Oregon Trail
(Present County Road)
Restored Whitman Irrigation Ditch
Emigrant Hse
Mission Mill
Foot Trail
First House
Old Water Course
N
W
E
S
Pond
Mill
Natural water course. Not a maintained irrigation ditch.
Sheldons demand irrigation water delivery at this point
Relatively modern ditch begins about here and carries intermittent water westward
0 1 2 3
0 1cm 2 3 4 5 6 7 8
South Portion
Whitman National Monument
Scale 1" = 100'

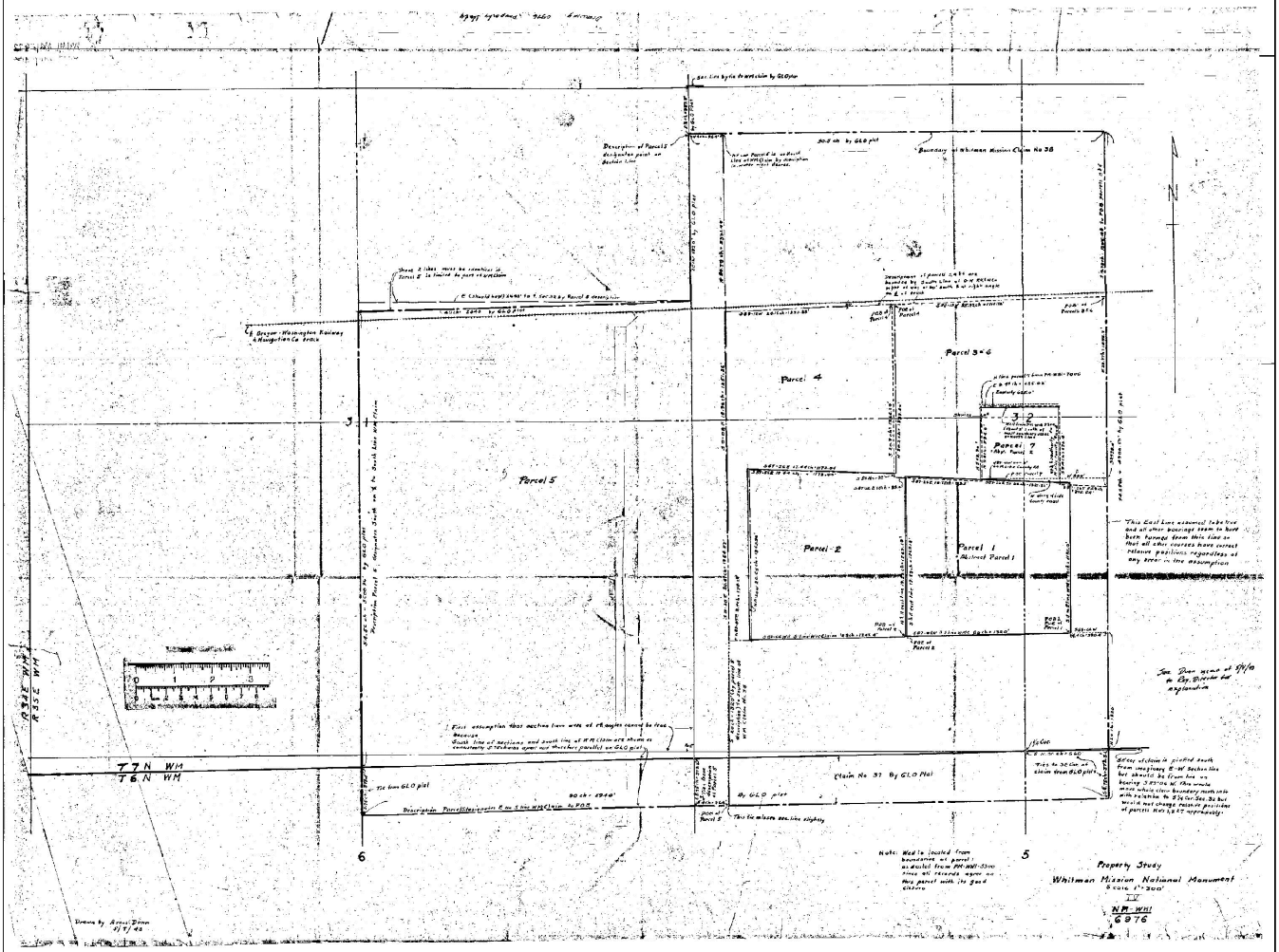
02-00-1951: map of the land title study



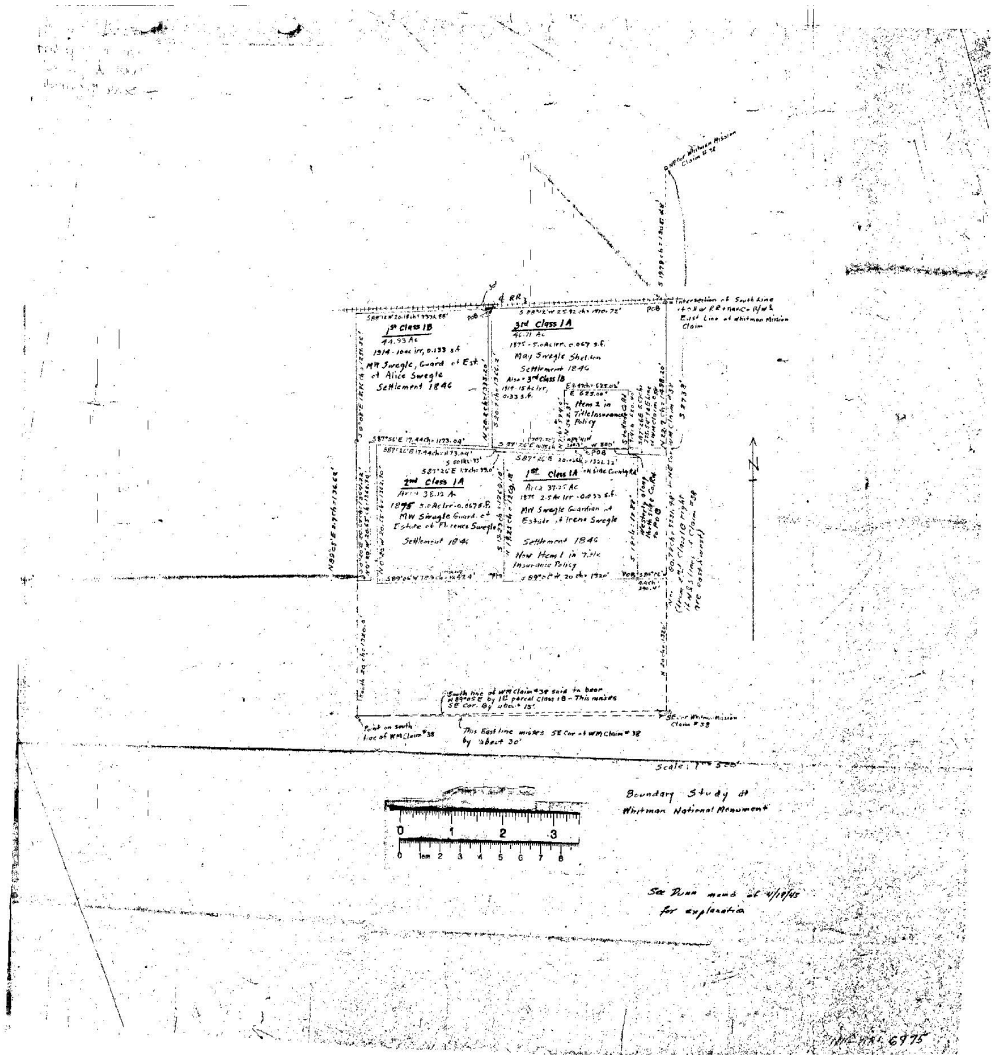
02-00-1951: map of the land title study, page 2cont



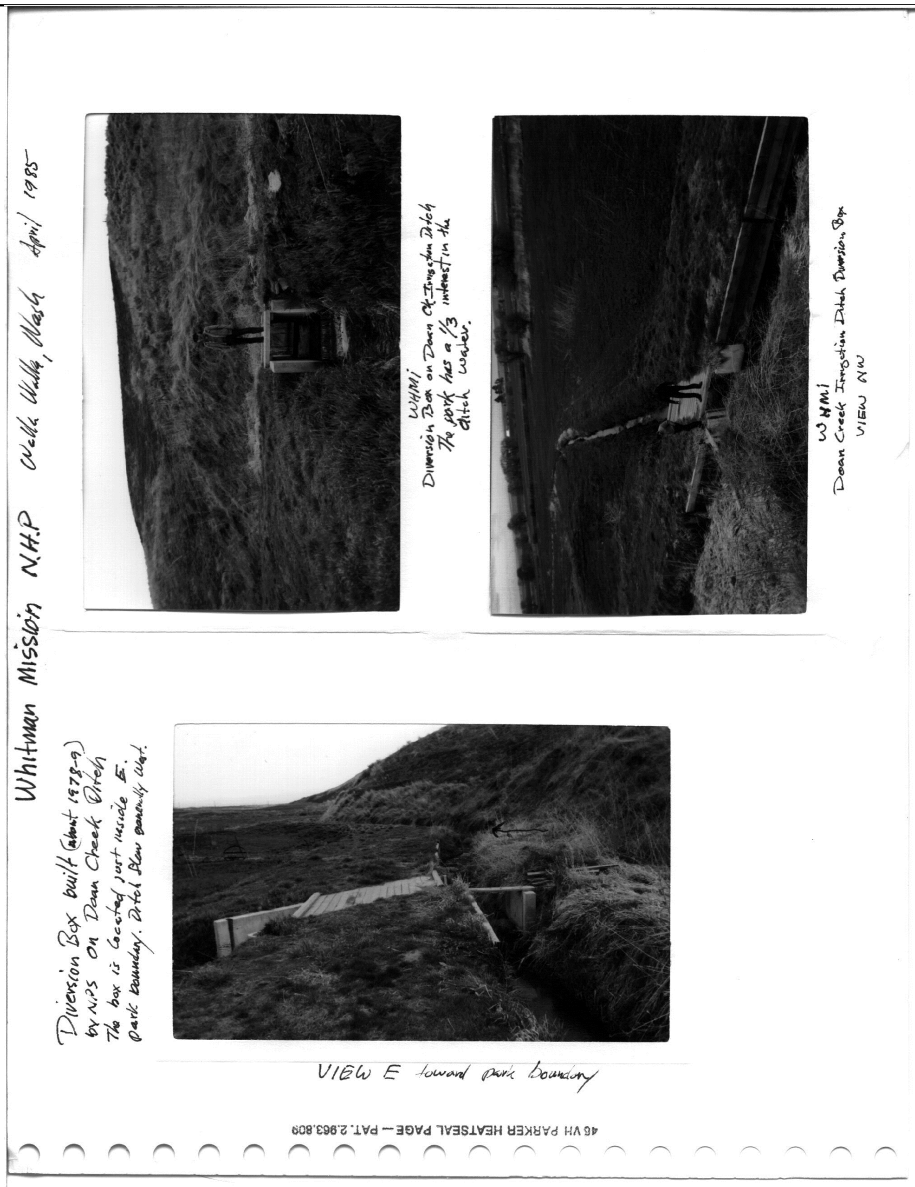
05-09-1943: map of property study



04-19-1943: map of boundary study



00-00-0000: photographs of diversion box



Docket Information

Number of Documents in Docket 240

Documents Dated from 9/3/1860 to 4/29/1981

Docket Compiled: 6/9/2016