

BEFORE THE STATE ENGINEER OF OREGON

Malheur County

IN THE MATTER OF THE APPLICATION)
OF JOHN MOLTHAN FOR THE APPROVAL)
OF ESTABLISHING AN ADDITIONAL)
POINT OF DIVERSION OF WATER FROM)
SOUTH FORK WILLOW CREEK)

ORDER APPROVING
TRANSFER NO. 2735

On November 13, 1972, John Molthan filed an application in the office of the State Engineer for the approval of establishing an additional point of diversion of water from South Fork Willow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Malheur County, Oregon entered June 6, 1916, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Willow Creek and its Tributaries, a water right was established in the name of S. M. Molthan for the use of the waters of South Fork Willow Creek for the irrigation of, among other lands, 27.0 acres in SE $\frac{1}{2}$ SW $\frac{1}{2}$ and 13.0 acres in SW $\frac{1}{2}$ SE $\frac{1}{2}$, Section 21, Township 14 South, Range 39 East, W.M., with a date of priority of 1882, as evidenced by certificate of water right recorded at page 1600, Volume 2, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 1040 feet South and 860 feet West from the N $\frac{1}{2}$ corner of Section 28, being within the NE $\frac{1}{2}$ NW $\frac{1}{2}$, Section 28, Township 14 South, Range 39 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion for irrigation of these lands and establish an additional point of diversion to be located 5 feet North and 20 feet East from the S $\frac{1}{2}$ corner of Section 21, being within the SW $\frac{1}{2}$ SE $\frac{1}{2}$, Section 21, Township 14 South, Range 39 East, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed additional point of diversion of water, if any there were, namely: at the

county courthouse in Vale, Oregon on February 20, 1973 at 9:30 a.m. The notice was published in the Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of December 27, 1972, January 3, and 10, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Frank W. Elfering, Watermaster of District No. 9, has filed a report to the effect that the proposed additional point of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed additional point of diversion may be established without injury to existing rights, the application should be approved.

NOW, THEREFOKE, it hereby is ORDERED that the applicant may maintain the present point of diversion of water from South Fork Willow Creek, to-wit:

At a point 1040 feet South and 860 feet West from the N $\frac{1}{2}$ corner of Section 28, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Township 14 South, Range 39 East, W.M.

and may establish and maintain an additional point of diversion to be located:

At a point 5 feet North and 20 feet East from the S $\frac{1}{2}$ corner of Section 21, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 14 South, Range 39 East, W.M.

for the irrigation of 27.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 13.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, Township 14 South, Range 39 East, W.M., with a date of priority of 1882, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the additional point of diversion of water established on or before October 1, 1974.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion and together with the amount diverted at the original point of diversion shall not exceed 1.0 cubic foot per second from April 1, to May 1,

and 0.5 cubic foot per second from May 1, to September 1, of each year.

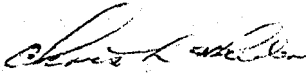
It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed.

That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificate of water right heretofore issued to S. M. Molthan and recorded at page 1600, Volume 2, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding and upon receipt of proof satisfactory to the State Engineer of completion of the establishment of the authorized additional point of diversion, a certificate of water right shall be issued to John Molthan confirming the additional point of diversion.

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Dated at Salem, Oregon, this 17th day of April, 1973.


CHRIS L. WHEELER
State Engineer