

BEFORE THE STATE ENGINEER OF OREGON

IN THE MATTER OF APPROVAL OF A CHANGE)
IN PLACE OF USE OF WATER ON THE APPLICA-) O R D E R
TION OF A. T. CUTTING, ET AL)

The above entitled matter now coming on for consideration and it appearing;

That on November 15, 1922 a certificate of water right was issued by the State Engineer to the Molalla Irrigation Company, said certificate being recorded in State Record of Water Right Certificates, Volume 5, Page 3863 and that such certificate confirmed a right to the irrigation of 741 acres from Molalla River through the canal of the Molalla Irrigation Company. In the subdivisions affected by this application for transfer, said certificate described the following acreages: 24 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 12 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 4 South, Range 2 East, W.M., 21 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 28 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 30 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, 27 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 40 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 17 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 35 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 5 South, Range 2 East, W.M.

That the estate of H. S. Ramsby, deceased, is the owner of the lands described above in the W $\frac{1}{2}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 10 in which subdivisions, it is stated by the applicants, there are approximately 56 acres described in said certificate which are located too high to be economically irrigated from the canal of the Molalla Irrigation Company and that A. T. Cutting is the owner of a part of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, Township 4 South, Range 2 East, W.M. in which subdivision Certificate No. 3863 describes 24 acres and that of this 24 acres, 3 acres are so situated that they cannot be economically irrigated. The 59 acres from which it is proposed to transfer the water right is located as follows: 3 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 33, 8 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 38 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 10 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 10.

That the said A. T. Cutting is the owner of parts of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 33 in which subdivision there are approximately 7 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 36 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ which can properly be irrigated from said canal.

That Maurice W. and H. Oliver Buxton are the owners of parts of the SW $\frac{1}{4}$ of Section 3 and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 5 South, Range 2 East, W.M., in which subdivisions there are irrigable acreages as follows: 25.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 37.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3 and 21 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10.

The total area from which it is proposed to transfer a water right as above described is 59 acres and the lands to which this right is to be transferred and the subdivisions in which said lands are located are described as follows: 7 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 24 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 4 South, Range 2 East, W.M., 4.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 9.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 10 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, and 4 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 5 South, Range 2 East, W.M.

That the transfer of the water right from the lands of H. S. Ramsby, Estate, and A. T. Cutting to other lands of A. T. Cutting and lands of Maurice W. and H. Oliver Buxton will in no manner be an injury to existing rights to the use of waters of Molalla River by other appropriators because of the large unappropriated supply of water in said stream.

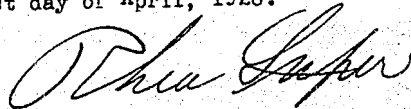
It further appearing that in the making of final proof under which said Certificate No. 3863 was issued, a mistake was made in description of the number of acres irrigated in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, Township 4 North, Range 2 East, and that 40 acres instead of 53 acres in said subdivision were actually irrigated at the time said proof was made and have been irrigated each year since said date.

It is therefore ORDERED that the transfer as above outlined be and the same is hereby approved, and that the right for 59 acres as described be severed from said lands and simultaneously and without loss of priority be transferred to 59 other acres as also described.

And it is further ORDERED that a new certificate of water right be issued to the Molalla Irrigation Company confirming the right to irrigate acreages as described in the original certificate for all subdivisions not affected by this transfer and for the subdivisions affected the acreages be modified to read as follows: 7 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 21 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 36 acres in the

SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 4 South, Range 2 East, W.M., 25.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 37.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, 19 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 21 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 25 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 5 South, Range 2 East, W.M., and that Certificate No. 3862 be cancelled and declared of no further force and effect.

Dated at Salem, Oregon this 21st day of April, 1928.



Rhea Luper,
State Engineer.

*Cert. No 7609 Supersedes
Cert. No 3863 pursuant to
this order.*