

BEFORE THE STATE ENGINEER OF OREGON

Yamhill County

IN THE MATTER OF THE APPLICATION)
OF WILBUR S. AND HOWARD B. MORLEY)
FOR THE APPROVAL OF A CHANGE IN)
POINT OF DIVERSION OF WATER FROM)
PANTHER CREEK AND PROVIDING FOR)
A CORRECTION CERTIFICATE)
- - - - -

ORDER APPROVING
TRANSFER NO. M-150
AND CORRECTING A
CERTIFICATE ERROR

On February 14, 1964, Wilbur S. and Howard B. Morley of Carlton, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Panther Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Fred C. Morley and recorded at page 5567, Volume 6, State Record of Water Right Certificates, issued to confirm the right established under Permit No. 5287, on affidavit of appropriator, describes a right to the use of the waters of Panther Creek for the irrigation of 2.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 29.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1.0 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 8.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21 and 3.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 14.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 4.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 3 South, Range 5 West, W.M., with a date of priority of November 22, 1921.

Wilbur S. and Howard B. Morley, owners of the lands to which this water right is appurtenant, have submitted an affidavit that the certificate incorrectly describes the right as it was established and is being used. The lands upon which the right was established and is being exercised are as follows: 3.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 32.9 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1.5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 3.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21 and 15.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 1.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.3 acre in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 3 South, Range 5 West, W.M., as shown on the map received with transfer application No. M-150. These lands are irrigated by means of an unnamed ditch, the point of diversion of said ditch being located 730 feet south from the westerly northwest corner of James Shaw D.L.C. No. 46, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, as projected within James Shaw D.L.C.

No. 46, Township 3 South, Range 5 West, W.M.

The applicants herein propose to irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located south 12 degrees 10 minutes east, 1120 feet from the W $\frac{1}{2}$ corner of Section 22, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 22, as projected within James Shaw D.L.C. No. 46, Township 3 South, Range 5 West, 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 change in point of diversion of water, if any there were, namely: at the County Courthouse in McMinnville, Oregon, on June 17, 1964, at 9:30 o'clock a.m. The notice was published in the Carlton-Yamhill Review, a newspaper printed and having general circulation in Yamhill County, Oregon, for a period of three weeks in the issues of April 23, 30 and May 7, 1964. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Myron V. Bish, Watermaster of District No. 1, has filed a report to the effect that the proposed change in point of diversion may be made without injury to existing rights.

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

It further appears, from an examination of the facts, that the right involved herein is actually appurtenant to the lands described in paragraph three hereof.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in point of diversion of water from Panther Creek, to-wit:

From a point located 730 feet south from the westerly northwest corner of James Shaw D.L.C. No. 46, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, Township 3 South, Range 5 West, W.M.

To a point to be located south 12 degrees 10 minutes east, 1120 feet from the W $\frac{1}{2}$ corner of Section 22, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 22, as projected within James Shaw D.L.C. No. 46, Township 3 South, Range 5 West, W.M.

for the irrigation of the lands upon which the right was established and is being used, namely: 3.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 32.9 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1.5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 3.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21 and 15.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 1.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.3 acre in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 3 South, Range 5 West, W.M., with a date of priority of November 22, 1921, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1965, or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:


That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable 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 Fred C. Morley and recorded at page 5567, Volume 6, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion of water, a certificate of water right shall be issued to Wilbur S. and Howard B. Morley correctly describing the lands as irrigated and confirming the change in point of diversion.

Dated at Salem, Oregon, this 11th day of August, 1964.

*Noted on records
App. # 8172
Cert. # 5567*


CHRIS L. WHEELER
State Engineer