

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MALHEUR COUNTY

IN THE MATTER OF THE APPLICATION)
OF JOHN MOLTHAN FOR APPROVAL OF)
A CHANGE IN POINT OF DIVERSION)
OF WATER FROM WILLOW CREEK)

ORDER APPROVING
TRANSFER NO. 2982

On February 25, 1974, an application was filed in the office of the Water Resources Director by John Molthan for approval of an additional point of diversion from Willow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 1600, Volume 2, State Record of Water Right Certificates, in the name of S. M. Moltham, describes a right which includes the use of not to exceed 1/40th cubic foot per second per acre from April 1 to May 1, and 1/80th cubic foot per second per acre after May 1 to September 1, not to exceed 3 acre feet per acre irrigated during each year, for irrigation of a certain 20.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20; 29.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 10.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 10.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, Township 14 South, Range 39 East, W.M., with a priority date of 1882.

Water for the said right is diverted, through the Elms Ditch, from a point located South 72 degrees 46 minutes West, 1605 feet from the Southwest Corner of Section 21, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, Township 14 South, Range 39 East, W.M.

The applicant herein, owner of the lands above described, proposes to establish, without loss of priority, an additional point of diversion from Willow Creek, located 12 feet South and 500 feet East from the Southwest Corner of Section 21, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Township 14 South, Range 39 East, W.M., for irrigation of the said lands.

Notice of the application, pursuant to ORS 540.520(2), 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 October 11, 18 and 25, 1978.

Mr. Frank Elfering, Watermaster, has filed a statement 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.

NOW, THEREFORE, it hereby is ORDERED that the requested additional point of diversion, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion under the subject right.

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:

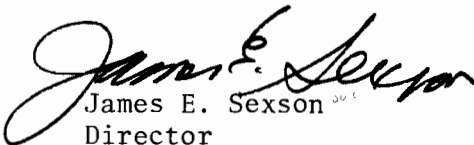
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 NO time need be fixed for completion as the additional point of diversion is completed.

It is FURTHER ORDERED that the portion of the right involved in the change authorized herein NOT be included in the new certificate to be issued as provided by the order entered April 17, 1973, approving transfer application No. 2735; and upon receipt of proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herien.

Dated at Salem, Oregon this 18th day of December, 1978.


James E. Sexson
Director