

BEFORE THE STATE ENGINEER OF OREGON

Linn County

IN THE MATTER OF THE APPLICATION )  
OF ZELPHA M. BURIAN GILBERT FOR )  
THE APPROVAL OF A CHANGE IN POINT )  
OF DIVERSION AND PLACE OF USE OF )  
WATER FROM HAMILTON CREEK )  
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ORDER APPROVING  
TRANSFER NO. 2548

On July 21, 1971, Zelpha M. Burian Gilbert filed an application in the office of the State Engineer for the approval of a change in point of diversion and place of use of water from Hamilton Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to F. R. and Zelpha Burian and recorded at page 27555, Volume 19, State Record of Water Right Certificates, confirms a right to the use of 0.185 cubic foot per second of waters of Hamilton Creek for irrigation of 6.1 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , and 8.7 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 25, Township 12 South, Range 1 West, W.M., with a date of priority of September 14, 1951. The point of diversion is located at a point 1850 feet South and 600 feet West from the North  $\frac{1}{4}$  corner of Section 25, being within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 25, Township 12 South, Range 1 West, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom, without loss of priority, to 14.8 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 25, Township 12 South, Range 1 West, W.M., and irrigate these lands from a point of diversion to be located 2310 feet North and 594 feet East from the SE corner of Section 25, being within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 25, Township 12 South, Range 1 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 place of use and point of diversion of water,

if any there were, namely: at the county courthouse in Albany, Oregon, on December 28, 1971, at 9:30 a.m. The notice was published in the Lebanon Express, a newspaper printed and having general circulation in Linn County, Oregon, for a period of three weeks in the issues of November 1, 8, 15, 1971. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Vestal R. Garner, Watermaster of District No. 2, has filed a report to the effect that the proposed change in place of use and point of diversion of water may be made without injury to existing rights.

The Federal Land Bank, mortgages of the land involved, has submitted written approval of the changes.

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

NOW, THEREFORE, it hereby is ORDERED that the change in place of use of water is approved and the water right hereinbefore described as appurtenant to 6.1 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 8.7 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 25, Township 12 South, Range 1 West, W.M., with a date of priority of September 14, 1951, be severed therefrom and simultaneously and without loss of priority transferred to 14.8 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 25, Township 12 South, Range 1 West, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Hamilton Creek, to-wit:

From a point located 1850 feet South and 600 feet West from the North  $\frac{1}{4}$  corner of Section 25, being within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , of Section 25, Township 12 South, Range 1 West, W.M.

To a point to be located 2310 feet North and 594 feet East from the SE corner of Section 25, being within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 25, Township 12 South, Range 1 West, W.M.

for the irrigation of 14.8 acres in the NW¼ SE¼, Section 25, Township 12 South, Range 1 West, W.M., with a date of priority of September 14, 1951, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the change in point of diversion made on or before October 1, 1973.

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 and shall be limited to 0.185 cubic feet per second.

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

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.

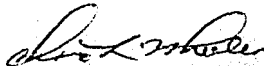
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

The right to the use of 0.075 cubic feet per second of the waters of Hamilton Creek for the irrigation of 1.1 acres in NE¼ NW¼, 0.3 acres in NW¼ NW¼, 0.4 acres in SW¼ NW¼ and 4.2 acres in SE¼ NW¼, Section 25, Township 12 South, Range 1 West, W.M., which is the balance of the right evidenced by certificate recorded at page 27555, Volume 19, State Record of Water Right Certificates was canceled by order of the State Engineer entered March 30, 1972.

It is FURTHER ORDERED that certificate of water right heretofore issued to F. R. and Zelpha Burian and recorded at page 27555, Volume 19, State Record of Water Right Certificates is canceled and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate shall be issued to

Zelpha M. Burian Gilbert confirming the extent to which water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 29th day of June, 1972



CHRIS L. WHEELER  
State Engineer