

2422  
Mt. 1, Box 16  
Mt. Angel, Ore. 97362

STATUS OF APPLICATION

Change in Place of Use  
Date filed July 23, 1970  
Date of hearing \_\_\_\_\_  
Place of hearing \_\_\_\_\_  
Date of order July 24, 1970 Vol. 19, page 490  
Date for application of water 10-1-70  
Proof mailed \_\_\_\_\_  
Proof received \_\_\_\_\_  
Certificate issued \_\_\_\_\_ Vol. \_\_\_\_\_, page \_\_\_\_\_  
To Summary 9/8/70

DESCRIPTION OF WATER RIGHT

Name of stream Butte Creek  
Trib. of - County of Marion  
Use Irrigation  
Quantity of water - No. of acres 12 1/9  
Name of ditch -  
Date of priority April 6, 1944  
In name of Henry Homann  
\_\_\_\_\_ Adjudication, Vol. \_\_\_\_\_, page \_\_\_\_\_  
App. No. 20191 Per. No. 15743 Cert. No. 16712  
Certificate cancelled \_\_\_\_\_  
Notation made on record by slu

FEES PAID

Date	Amount	Receipt No.
<u>7/23/70</u>	<u>20.00</u>	<u>20121</u>
TOTAL . . .		
	\$1 Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

Completed - See Transfer files 2628 & 2629

	INDEX CARDS:		Entered	Checked
TO BE ENTERED WHERE CHECKED	<input checked="" type="checkbox"/>	Name	<u>slu</u>	___
	<input checked="" type="checkbox"/>	Stream	<u>slu</u>	___
	<input checked="" type="checkbox"/>	Pt. of Div.	<u>slu</u>	___
	<input checked="" type="checkbox"/>	Calendar	<u>slu</u>	___
	<input checked="" type="checkbox"/>	CHECKED TO RECORDS:		
	<input checked="" type="checkbox"/>	Twp. & Rge.	<u>slu</u>	___
	<input checked="" type="checkbox"/>	Decree-vault	___	___
	<input checked="" type="checkbox"/>	Decree-safe	___	___
	<input checked="" type="checkbox"/>	Cert. of W/R	<u>slu</u>	___
	<input checked="" type="checkbox"/>	Per. Folder	<u>slu</u>	___
	<input type="checkbox"/>	Chainindex	___	___
	<input type="checkbox"/>	Cross Ref.	___	___
	<input type="checkbox"/>	Power Claim	___	___
	<input type="checkbox"/>	Abstracts	___	___

STATE OF OREGON  
COUNTY OF MARION

Superseded by  
Cert. No. 58648  
Trs. Sp. Or. V. 22 p. 42  
Superseded by  
Cert. No. 58648  
Trs. Sp. Or. V. 17 p. 491  
Trs. Sp. Or. V. 19 p. 490

CERTIFICATE OF WATER RIGHT

This Is to Certify, That HENRY HOMANN

973.2  
of Route 1, Box 72, Mt. Angel, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
Butte Creek  
a tributary of Pudding River for the purpose of  
irrigation  
under Permit No. 15743 of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from April 6, 1944

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
0.226 cubic foot per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected on William F. Eastham D.L.C.  
No. 63, Section 36, Township 5 South, Range 1 West, W. M.

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second  
per acre, or its equivalent for each acre irrigated and shall be further limited  
to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated  
during the irrigation season of each year,

and shall  
conform to such reasonable rotation system as may be ordered by the proper state officer.  
A description of the place of use under the right hereby confirmed, and to which such right is  
appurtenant, is as follows:

8.7 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected on William F. Eastham D.L.C. No. 63  
0.7 acre in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected on William F. Eastham D.L.C. No. 63  
1.2 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected on William F. Eastham D.L.C. No. 63  
7.5 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected on William F. Eastham D.L.C. No. 63  
Section 36  
T. 5 S., R. 1 W., W. M.

Land on which water is to be used is a part of the property more explicitly de-  
scribed by the appropriator as follows: Beginning at an iron pipe in the S. E. line  
of the R. R. right of way at a point 35.31 chains N. 89 degrees and 45 minutes E.  
and 28.713 chains S. 17 minutes E. from the N. W. Corner of the Wm. F. Eastham D.L.C.  
#63 in T. 5 S., R. 1 W., of the Willamette Meridian in Marion County, Ore. thence  
N. 36 degrees and 41 minutes E. along said right of way 4.95 chains to a stone;  
thence N. 89 degrees and 26 minutes E. 29.98 chains to a stone; thence N. 28 degrees  
and 48 minutes W. in the County road 4.667 chains to a stone; thence N. 43 degrees  
and 35 minutes E. 9.30 chains to the center line of Butte Creek; thence S. 33 degrees  
E. up the center of said creek 2.70 chains; thence S. 87 degrees E. 1.30 chains;  
thence S. 51 degrees E. 4.90 chains; thence S. 4 degrees and 30 minutes W. 5.23 chains;  
thence leaving said creek and running S. 75 degrees and 21 minutes W. 9.43 chains to  
a stone in the center line of the County road; thence S. 29 degrees and 39 minutes  
E. along the center line of said road 15.14 chains to a stone; thence S. 89 degrees  
and 26 minutes W. along the line dividing the Eastham claim into N. and S. halves  
41.58 chains to a stone; thence N. 17 minutes W. 11.48 chains to the point of be-  
ginning; containing 67.00 acres of land, part of the N. half of the Wm. F. Eastham  
D.L.C. #63, T. 5 S., R. 1 W. Marion County, Oregon.

RIGHT

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The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 30th day of December, 1949

CHAS. E. STRICKLIN  
State Engineer

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

This Is to Certify, That HENRY DUDA

of Route 1, Box 16, Mt. Angel, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Butte Creek

a tributary of Pudding River for the purpose of irrigation of 18.1 acres

under Permit No. 15743 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from April 6, 1944

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.226 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , as projected within Eastham DLC 63, Section 36, T. 5 S., R. 1 W., W. M., 220 feet West and 920 feet South from NE Corner, Section 36.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

11.4 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
4.5 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$   
2.2 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
All as projected within Eastham DLC 63  
Section 36  
T. 5 S., R. 1 W., W. M.

This certificate is issued to confirm a change in place of use approved by an order of the State Engineer entered June 7, 1972, and supersedes certificate of water right issued to Henry Homann and recorded at page 16712, Volume 13, State Record of Water Right Certificates.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. November 3, 1972

CHRIS L. WHEELER  
State Engineer

Recorded in State Record of Water Right Certificates, Volume 30, page 38648

Marion County

IN THE MATTER OF THE APPLICATION )  
OF WALTER A. DUDA FOR THE APPROVAL )  
OF A CHANGE IN PLACE OF USE OF )  
WATER FROM BUTTE CREEK )  
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ORDER APPROVING  
TRANSFER NO. D-133

On August 15, 1968, Walter A. Duda filed an application in the office of the State Engineer for the approval of a change in place of use of water from Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Henry Homann and recorded at page 16712, Volume 13, State Record of Water Right Certificates, confirms a right to the use of 0.226 cubic foot per second of the waters of Butte Creek for the irrigation of 8.7 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.7 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 1.2 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$  and 7.5 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom, without loss of priority, to 0.4 acre in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.8 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.1 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.2 acre in NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 2.6 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in place of use of water only.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

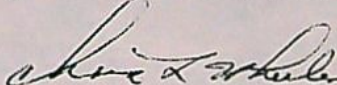
No objections having been filed and it appearing that the proposed change in place of use of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 8.7 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.7 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 1.2 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$  and 7.5 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944, be severed therefrom and simultaneously and without loss of priority transferred to 0.4 acre in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.8 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.1 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.2 acre in NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 2.6 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1969.

It is FURTHER ORDERED that certificate of water right heretofore issued to Henry Homann and recorded at page 16712, Volume 13, 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 of water right shall be issued to Walter A. Duda confirming the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 18<sup>th</sup> day of December, 1968.

  
CHRIS L. WHEELER  
State Engineer 4

BEFORE THE STATE ENGINEER OF OREGON

Marion County

IN THE MATTER OF THE APPLICATION )  
OF WALTER DUDA FOR THE APPROVAL )  
OF A CHANGE IN PLACE OF USE OF )  
WATER FROM BUTTE CREEK )  
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ORDER APPROVING  
TRANSFER NO. 2629

On April 12, 1972, Walter Duda filed an application in the office of the State Engineer for the approval of a change in place of use of water from Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at page 16712, Volume 13, State Record of Water Right Certificates, confirmed a right to the appropriation of 0.226 c.f.s. of water from Butte Creek for the irrigation of 18.1 acres, with a date of priority of April 6, 1944. On July 24, 1970, an order was entered wherein the rights became appurtenant to the following lands: 4.2 acres in NE¼ NE¼, 10.6 acres in NW¼ NE¼, 1.1 acres in SW¼ NE¼, 0.5 acres in SE¼ NE¼, 1.5 acres in NE¼ NW¼, and 0.2 acres in SE¼ NW¼, Section 36, Township 5 South, Range 1 West, W.M.. Satisfactory proof has been submitted to the State Engineer that water has been applied beneficially to these lands.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom without loss of priority, to 11.4 acres in SW¼ NE¼, 4.5 acres in SE¼ NE¼, and 2.2 acres in SE¼ NW¼, Section 36, Township 5 South, Range 1 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in place of use of water.

Mr. Mike Ricks, Watermaster of District No. 16, has filed a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

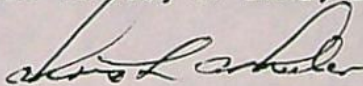
No objections having been filed and it appearing that the proposed change in place of use of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 4.2 acres in NE¼ NE¼, 10.6 acres in NW¼ NE¼, 1.1 acres in SW¼ NE¼, 0.5 acres in SE¼ NE¼, 1.5 acres in NE¼ NW¼, and 0.2 acres in SE¼ NW¼, Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944, be severed therefrom and simultaneously and without loss of priority, transferred to 11.4 acres in SW¼ NE¼, 4.5 acres in SE¼ NE¼, and 2.2 acres in SE¼ NW¼, Section 36, Township 5 South, Range 1 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1973.

It is FURTHER ORDERED that no new certificate be issued as provided by the order entered July 24, 1970, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to Walter Duda confirming the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 7th day of June, 1972.

  
CHRIS L. WHEELER  
State Engineer

BEFORE THE STATE ENGINEER OF OREGON

Marion County

IN THE MATTER OF THE APPLICATION )  
OF WALTER DUDA FOR THE APPROVAL )  
OF A CHANGE IN PLACE OF USE OF )  
WATER FROM BUTTE CREEK )  
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ORDER APPROVING  
TRANSFER NO. 2422

On July 23, 1970, Walter Duda filed an application in the office of the State Engineer for the approval of a change in place of use of water from Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at page 16712, Volume 13, State Record of Water Right Certificates, confirmed a right to the appropriation of 0.226 cubic foot per second of water from Butte Creek for the irrigation of 18.1 acres, with a date of priority of April 6, 1944. Subsequently, a change in place of use to the irrigation of 0.4 acre in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.8 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.1 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.2 acre in NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 2.6 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M. was approved by order of the State Engineer entered December 18, 1969. Satisfactory proof has been submitted to the State Engineer that water has been applied beneficially to these lands.

The applicant herein, owner of the lands above described, proposes to transfer the water right appurtenant to 8.9 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.6 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 2.4 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M. therefrom, without loss of priority, to 3.8 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 9.8 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  and 1.3 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change

in place of use of water.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 8.9 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.6 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 2.4 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944, be severed therefrom and simultaneously and without loss of priority, transferred to 3.8 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 9.8 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  and 1.3 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 36, Township 5 South, Range 1 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1970.

It is FURTHER ORDERED that no new certificate be issued as provided by the order entered December 18, 1968, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to Walter Duda confirming the extent to which the water has been applied beneficially and covering the balance of the lands not involved in this proceeding.

Dated at Salem, Oregon, this 24<sup>th</sup> day of July, 1970.

/s/ CHRIS L. WHEELER  
State Engineer