

T 2352

# STATUS OF APPLICATION

Change in Place of Use & Pt. of Div.  
 Date filed March 26, 1970  
 Date of hearing September 21, 1970  
 Place of hearing Burns, Oregon  
 Date of order 10-30-70 Vol. 20, page 177  
 Date for application of water 10-1-71  
 Proof mailed \_\_\_\_\_  
 Proof received FEB 26 1974 31 39831  
 Certificate issued FEB 26 1974 Vol. 29, page 37392

To Survey 9/20/71  
 10-15-73 re

# DESCRIPTION OF WATER RIGHT

Name of stream Cottonwood Creek  
 Trib. of \_\_\_\_\_ County of Harney  
 Use Irrigation  
 Quantity of water see order No. of acres 17.8  
 Name of ditch Robertson  
 Date of priority 1885 (+ 1959)  
 In name of Joseph Robertson  
Malheur River Adjudication, Vol. 8, page 308  
 App. No. \_\_\_\_\_ Per. No. \_\_\_\_\_ Cert. No. 7003  
 Certificate cancelled \_\_\_\_\_  
 Notation made on record by slu

# FEES PAID

Date	Amount	Receipt No.
3/26/70	30.00	18158
6/23/70	30.00 <sup>2071</sup>	19584
TOTAL . . .		
9-15-70	\$2 Cert. Fee	From Pub. of Nat.
10-15-73	.50	37008

# FEES REFUNDED

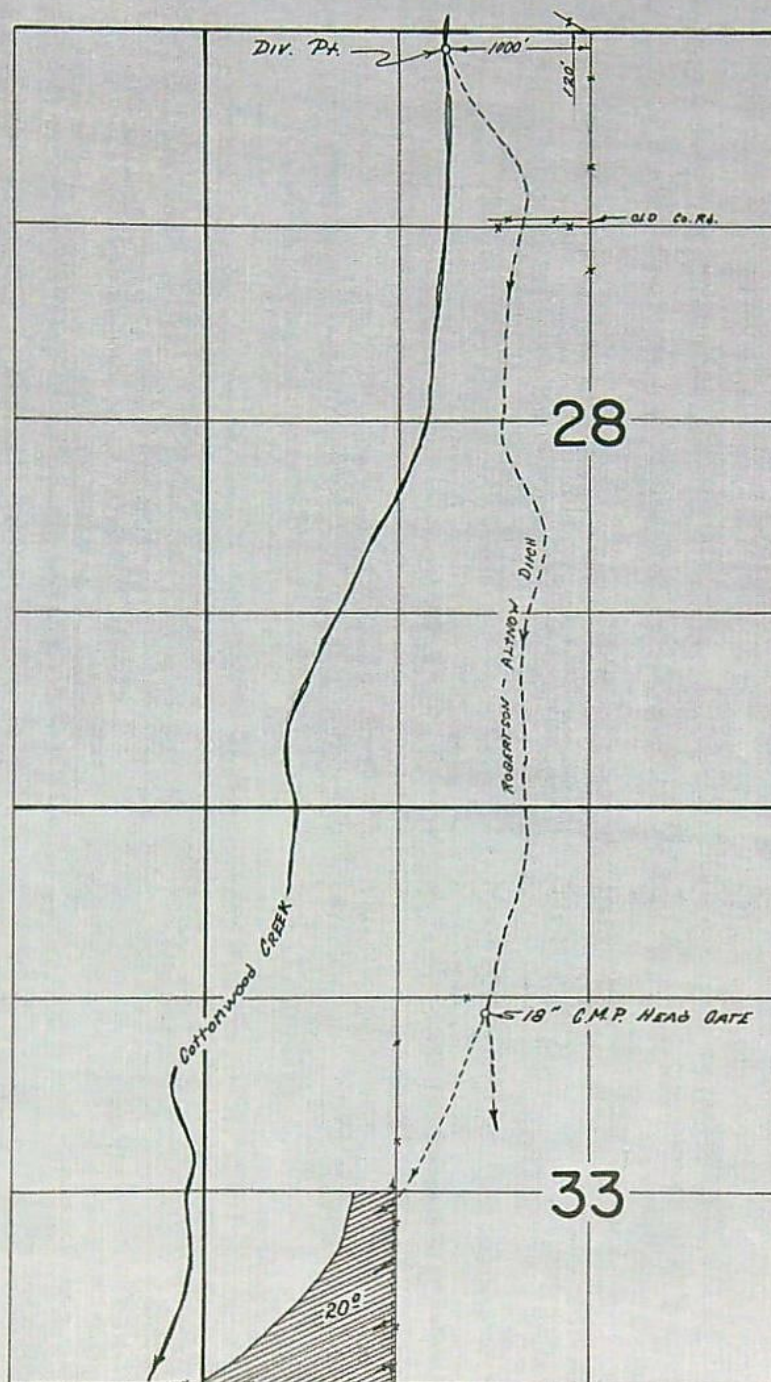
Date	Amount	Check No.
9-15-70	\$4.51 Pub. of Nat.	3882

# REMARKS

INDEX CARDS:		Entered	Checked
TO BE ENTERED WHERE CHECKED	Name	slu	
	Stream	slu	
	Pt. of Div.	slu	
	Calendar	slu	
	Twp. & Rge.	slu	
	Decree-vault	slu	
	Decree-sale	slu	
	Cert. of W/R	slu	
	Per. folder		
	Chaindex		
Cross Ref.			
Power Claim			
Abstracts			



T.19 S. R.36 E. W.M.



**FINAL PROOF SURVEY**  
UNDER

TRANSFER No. 2352  
Application No. \_\_\_\_\_ Permit No. \_\_\_\_\_  
IN NAME OF

**J. W. & CAROL ROBERTSON &  
ARLEY ROBERTSON HUNT**  
Surveyed Nov. 16, 1972, by R. G. MUCKEN



Plat for Application to Transfer Water Rights  
Irrigation Waters Diverted from Cottonwood Creek, Harney County, Oregon

J. W. & Carol Robertson,

Drewsey, Oregon

**RECEIVED**  
JUL 1 1970  
STATE ENGINEER  
SALEM, OREGON

Scale 8 inches per mile

Section Corner

T 19 S  
R 36 E  
WM

**RECEIVED**  
MAR 26 1970  
STATE ENGINEER  
SALEM, OREGON

COTTONWOOD  
CREEK

CREEK

S. 55°20'E. 2336.4 ft.

Altnow - Robertson Ditch

Existing  
Point of Diversion  
Proposed Point  
of Diversion

Ditch Easement

SWNW  
40 acres 1885

NW SW

19 ac. 1885

17.8 acres

NW SE

20 acres 1885

(17.8 to be transferred)

2.20 ac.

REGISTERED  
OREGON  
LAND SURVEYOR

*MaPalmer* 3/27/67

MAY 2, 1935  
M. A. PALMER  
350

Revised 3-18-70 *MaPalmer*



STATE OF OREGON  
COUNTY OF Harney ~~MALHEUR~~

RECEIVED  
MAR 10 1971  
STATE ENGINEER  
SALEM OREGON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That A. F. MASTERSON, Successor in Interest  
to Jos. Robertson Estate

of Drewsey, State of Oregon 97904, has a right  
to the use of the waters of Cottonwood Creek, Otis Creek and Middle Creek (See below)

a tributary of for the purpose of  
irrigation of 438.2 acres  
and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Malheur County, and the said decree entered of record at Salem, in the Order Record of  
the STATE ENGINEER, in Volume 8, at page 228; that the priority of the right thereby  
confirmed dates from 1885, 1886, 1887 and 1888 (See below)

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed 1½ acre feet per acre  
in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period  
after June 1st, of each year, or 5 acre feet per acre during any season, diverted  
at a rate not to exceed one-twentieth of a cubic foot per second per acre;

The point of diversion is located in the

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

DATE OF RELATIVE PRIORITY	No. Acres	STREAM	DESCRIPTION OF LAND OR PLACE OF USE
March 13 1885	99.0	Cottonwood Creek	5.0 acres NE¼ SE¼ 5.0 acres SE¼ NE¼ Section 32 30.0 acres NW¼ NW¼ 40.0 acres SW¼ NW¼ 19.0 acres NW¼ SW¼ Section 33 T. 19 S., R. 36 E., W. M.
April 1885	102.2	Cottonwood Creek	5.0 acres SE¼ NE¼ 35.0 acres SE¼ SW¼ 15.0 acres NE¼ SE¼ 2.2 acres NW¼ SE¼ 40.0 acres SW¼ SE¼ 5.0 acres SE¼ SE¼ Section 32 T. 19 S., R. 36 E., W. M.
1885	58.0	Cottonwood Creek	18.0 acres NE¼ SE¼ 35.0 acres SE¼ SE¼ 5.0 acres SE¼ NE¼ Section 32 T. 19 S., R. 36 E., W. M.



(continued):

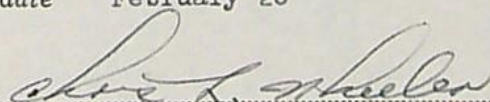
DATE	NO. ACRES	STREAM	DESCRIPTION OF LAND
1886	40.0	Otis Creek	16.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5 16.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 8 T. 20 S., R. 36 E., W. M.
1887	45.0	Cottonwood Creek	15.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ 30.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5 T. 20 S., R. 36 E., W. M.
1888	94.0	Middle Creek	6.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 29 35.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ 33.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30 20.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32 T. 19 S., R. 36 E., W. M.

Certificate of water right issued to A. F. Masterson, Successor in interest to Joe Robertson Estate and recorded at page 7003, Volume 7, State Record of Water Right Certificates, confirms the right to the use of water for irrigation of 456.0 acres. A change in the right to the use of water appurtenant to 17.8 acres was approved by order of the State Engineer entered October 30, 1970. This certificate is issued to confirm the remaining right to the use of water for irrigation and supersedes the certificate heretofore issued to A. F. Masterson, Successor in interest to Joe Robertson Estate.

And said right shall be subject to all other conditions and limitations contained in said decree.  
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 February 26, 1971.



State Engineer



DRAFTED  
T PAUL

C-date 10/1/71

1972-8  
11-16-72  
R.G.M.

1. Name J. W. & Carol Robertson & Address Drewsey, Oregon 977

3. Amount of Water see order Priority Date April, 1885

4. Use Irrigation ☒

5. Proposed Point of Diversion <sup>120</sup>250 ft. S & <sup>1800</sup>740 ft. W from the NW corner of Sec. 28  
being within the NE¼ NW¼ of Sec. 28, T. 19 S., R.  
36 E., W.M.

## 6. Place of Use

[illegible]



INFO: Mr. Robertson

This is as applied

There is a ditch on E side of the "40" filed on. It inv. w. to the old int. & beyond. No definite boundary between old & new areas.

The main inv. water for west part of "40" comes from a div. pt. lower down on Cottonwood Cr.

Entire "40" on both sides of Cr. is inv. from Cottonwood Cr.

The div. pt. filed on is the sole source of water for this transferred area.

DIV. PT on Cottonwood Cr. - Rock Dam across

RE- Div from Althow Robertson Ditch is an 18" C.M.R. with H.C.

DITCHES - Althow - Robertson Ditch is a large ditch, plenty adequate for the 17<sup>±</sup> AC.

Ditch on E. side of field has 3' bottom, 5' top, 1' deep.

CROP - ALFALFA.

TIE - N  $\frac{1}{4}$  COR SEC 28, OLD ROCK JACK @  
FC. COR &  $\frac{1}{16}$  COR,  $\frac{1}{4}$  mile south. for Div. PT.

SE Cor N W  $\frac{1}{4}$  SW  $\frac{1}{4}$  Sec. 33 &  $\frac{1}{16}$  cor  
 $\frac{1}{2}$  mile N &  $\frac{1}{4}$  mile west, all fc. cor for  
inv. land.

11-16-72

F.E.

R. B. Muehlen



Plat for Application to Transfer Water Rights  
Irrigation Waters Diverted from Cottonwood Creek, Harney County, Oregon

J. W. & Carol Robertson,

Drewsey, Oregon

Scale 8 inches per mile

**RECEIVED**  
JUL 1 1970  
STATE ENGINEER  
SALEM, OREGON

T 19 S  
R 36 E  
WM

**RECEIVED**  
MAR 26 1970  
STATE ENGINEER  
SALEM, OREGON

32

33

NW SE  
20 acres 1885  
(17.8 to be transferred)

2.20 ac.

COTTONWOOD  
CREEK

SWNW

40 acres 1885

NW SW

19 ac. 1885

17.8 acres

Dry?

CREEK

S 55° 20' E  
2336.4 ft.

Altnow - Robertson Ditch

Existing  
Point of Diversion  
Proposed Point  
of Diversion

Ditch Easement

REGISTERED  
OREGON  
LAND SURVEYOR  
*MaPalmer* 7/27/67  
MAY 6, 1955  
M. A. PALMER  
350

Revised 3-18-70 *MaPalmer*



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MAR 26 1970  
STATE ENGINEER  
SALEM, OREGON

RECEIVED  
JUN 23 1970  
STATE ENGINEER  
SALEM, OREGON

## Application for Transfer of Water Right

To the STATE ENGINEER OF OREGON:

I, J. W. and CAROL ROBERTSON and ARLEY ROBERTSON HUNT  
(Name of applicant)

of Drewsey, County of Harney  
(Postoffice)

State of Oregon, do hereby make application for change of the place of use of

irrigation waters and points of diversion  
(In point of diversion; place of use; use heretofore made of the water)

1. The source of present water right is Cottonwood Creek  
(Name of stream)

2. The use to which the water is applied is Irrigation  
(Irrigation; Mining; Power; Manufacturing; etc.)

3. The name of the ditch, canal or pipe line is Robertson

4. The point of diversion is located 620 ft. S. and 520 ft. E. from the Northwest  
(N. or S.) (E. or W.)

corner of Section 33 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$   
(Section or subdivision)

of Section 33 Tp. 19 S. R. 36 E. W. M., in the County of Harney  
(No. N. or S.) (No. E. or W.)

5. List the number of acres irrigated in each smallest legal subdivision (40-acre tract) involved in this transfer. If for any other use, indicate place of use.

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
19 S	36 E	32														17.8		

NOTE: If you own less than 40-acre tracts, attach a description of your land as it appears in your deed.

20

(Attach separate sheet if necessary)

6. Are you the legal owner of the above described lands? ARLEY ROBERTSON HUNT, as to an undivided one-half interest, and J. W. ROBERTSON, as trustee for the benefit of Russell R. Robertson, as to an undivided one-half interest.  
(If not owner, explain your interest)

7. Has water been used beneficially for the purposes indicated herein during the past 5 years? Yes.

8. What is the date of priority of your water right? April 1885 and supplemental rights granted 1959.

9. Was your water right acquired by State Engineer's Permit? Yes If so, give number  
(Yes or No)

of permit 31115, (1959 supplemental rights)



10. Do you hold a water right certificate? Yes If so, give number of certificate 7003  
(Yes or No)

11. Was your water right determined by State Engineer's order of Determination or Decree of Court?  
Yes If so, give title of proceedings In the Matter of the Determination of the  
(Yes or No) Relative Rights of the Various Claimants  
of the Malheur River and Tributaries. 5-13-25

12. Is the water right recorded in your name? Joseph Robertson Estate.  
(If not, give name)

13. I propose to transfer the water right to the following described lands: (Do not answer if your application is for change in point of diversion only.)

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
19 S	36 E	33									17.8							

(Attach separate sheet if necessary)

NOTE: Answer questions 14, 15, 16 and 17, if the application is for change in point of diversion.

See attached exhibit "B"

14. The proposed point of diversion is located 1329 ft South and 1922 ft East from the N.W.  
(N. or S.) (E. or W.)  
corner of Sec. 33 being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 33 Twp. 19 S. R. 36 E. M. ---  
(Smallest legal subdivision) (No. N. or S.) (No. E. or W.)  
in the county of Harney The name of the ditch to be used is --- (unnamed) ---

15. Are you the owner of the land on which the proposed point of diversion is to be located? No

16. If not the owner of the land on which the proposed point of diversion is to be located, give the name and address of owner and submit evidence of your right-of-way for your proposed ditch, canal, or pipe line.

Diatomite Products Company

17. Are there any diversions between your present point of diversion and the proposed point of diversion? No

NOTE: Answer questions 18 and 19 if application is for change in use or place of use.

18. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.? Yes  
(Answer Yes or No)

19. If not, give below a description of existing encumbrances:

NATURE OF ENCUMBRANCE	HELD BY	AMOUNT
See Attached Exhibit A		

20. Reasons for the proposed changes are to consolidate present irrigation  
system, and to put water on land potentially more valuable.



AFFIDAVIT OF APPLICANT

STATE OF OREGON,

County of Harney.

} ss.

I, J. W. Robertson, and I, Carol Robertson, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 26 day of August, 1969.

J. W. Robertson  
Carol Robertson  
(Name of applicant)

Subscribed and sworn to before me this 26 day of August, 1969.

[Notarial Seal]

Sam Burt  
NOTARY PUBLIC FOR OREGON

My commission expires Jan 19 1970

~~Rehinks~~

STATE OF WASHINGTON,)

} ss.

County of King.)

I, Arley Robertson Hunt, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 8th day of June, 1970.

Arley Robertson Hunt  
Arley Robertson Hunt

Subscribed and sworn to before me this 8th day of June, 1970.

Emerson A. Lutsch  
Notary Public for Washington  
My Commission Expires: Feb 10, 1973

THIS APPLICATION MUST BE ACCOMPANIED BY A MAP SHOWING THE LOCATION OF THE POINT OF DIVERSION, PLACE OF USE AND WORKS UTILIZED UNDER THE PRESENT WATER RIGHT. THE MAP SHOULD ALSO SHOW THE NEW POINT OF DIVERSION OR PLACE OF USE, AS THE CASE MAY BE.



EXHIBIT "A" - APPLICATION FOR TRANSFER OF WATER RIGHT

1. POWER LINE EASEMENT, including the terms and provisions therein, over, on and across the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec. 32, Twp. 19 S., R. 36 E. W.M., in favor of Idaho Power Company, a corporation, dated Dec. 30, 1948, recorded Mar. 23, 1951, in Book 53, Page 320, Deeds.
2. CONTRACT OF SALE, including the terms and provisions therein, from Mary Jane Robertson, a widow, Seller, to J. W. Robertson and Carol Robertson, husband and wife, Purchasers, dated Feb. 26, 1954, recorded April 13, 1954, in Book 58, Page 228, Deeds; and MODIFICATION thereto dated Aug. 3, 1959, recorded Aug. 21, 1959, in Book 66, Page 577, Deeds.
3. RESERVATION in Contract of Sale from Mary Jane Robertson, a widow, to J. W. Robertson and Carol Robertson, husband and wife, dated Feb. 26, 1954, recorded April 13, 1954, in Book 58, Page 228, Deeds, to-wit:

RESERVING, HOWEVER, unto the Seller, her heirs and assigns, all minerals, mineral rights, oil and oil rights including gas, upon and under the above described premises, or any part thereof, subject however, to the payment to the purchasers of a reasonable compensation for any damage or injury which may be caused to the surface rights of said premises by reason of the prospecting, development or mining of said minerals, oil and gas.

4. MINERAL DEED from Mary Jane Robertson, a widow, to D. E. Masterson and Helen Masterson, husband and wife, dated May 17, 1954, recorded May 19, 1954, in Book 58, Page 363, Deeds, which conveys an undivided one-third interest in and to all minerals, mineral rights, and oil and oil rights, including gas.
5. MORTGAGE from John W. Robertson, also known as J. W. Robertson and Carol I. Robertson, also known as Carol Robertson, husband and wife, to the United States of America, acting through the Farmers Home Administration, its terms and conditions, dated Aug. 20, 1959, recorded Aug. 21, 1959, in Book "A-1", Page 304, Mortgages, securing a note in the sum of \$18,000.00 as provided therein.
6. TAXES for the fiscal year 1968-69 are paid in full.

NOTE: TAXES for the fiscal year 1969-70, as of July 1st, 1969, are now a line on the premises, but not yet payable.  
First quarter due Nov. 15th, 1969.

**RECEIVED**  
MAR 26 1970  
STATE ENGINEER  
SALEM, OREGON



EXHIBIT "B"

The proposed point of diversion is located 250 feet South and 740 feet West from the North Quarter-corner of Section 28, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 28, Township 19 South, Range 36 E.W.M., in the County of Harney. The name of the ditch to be used is Altnow-Cottonwood Ditch.

Robertson



NOTICE OF COMPLETE APPLICATION  
OF WATER TO BENEFICIAL USE

Transfer No. 2352

I, J. W. Robertson hereby certify that  
on \_\_\_\_\_, 19\_\_\_\_, the water has been applied to the lands to  
which the water right was transferred by an order of the State Engineer  
dates October 30, 1970 approving an application for a change in place  
of use of water from Cottonwood Creek.

Sept 16, 1971  
Date

J. W. Robertson  
Signature

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SEP 17 1971  
STATE ENGINEER  
SALEM OREGON



Transfer No. 2352

NOTICE OF COMPLETION OF CONSTRUCTION

I, J. W. Robertson, hereby certify  
that the construction work has been completed and the change in  
point of diversion of water made as set forth in the order of  
the State Engineer dated October 30, 1970, approving an appli-  
cation for a change in point of diversion of water from \_\_\_\_\_  
Cottonwood Creek.

Sept 16, 1971  
Date

J. W. Robertson  
Name

RECEIVED

SEP 17 1971

STATE ENGINEER  
SALEM, OREGON



**NOTICE OF FILING, APPLICATION FOR A CHANGE IN PLACE OF USE AND POINT OF DIVERSION OF WATER**

Notice is given hereby that J. W. and Carol Robertson and Arley Robertson Hunt have filed an application for the approval of a change in place of use and point of diversion of water from Cottonwood Creek.

In the Malheur River Adjudication proceedings, a water right was established in the name of Joseph Robertson Estate for the use of the waters of Cottonwood Creek for the irrigation of, among other lands, 17.8 acres in NW 1/4 SE 1/4, Sec. 32, T. 19 S., R. 36 E., W.M., with a date of priority of April, 1885. These lands are irrigated by means of the Robertson Ditch from a point of diversion located 620 ft. S and 520 ft. E from the NW corner of Sec. 33 being within the NW 1/4 NW 1/4 of Sec. 33, T. 19 S., R. 36 E., W.M.

The applicants herein, owners of the lands above described, propose to change the place of use to the irrigation of 17.8 acres in NW 1/4 SW 1/4, Sec. 33, T. 19 S., R. 36 E., W.M.

and irrigate these lands by means of the Robertson-Altnow Cottonwood Ditch from a point of diversion to be located 250 ft. S. and 740 ft. W from the N 1/4 corner of Sec. 28 being within the NE 1/4 NW 1/4 of Sec. 28, T. 19 S., R. 36 E., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Burns, Oregon, on October 21, 1970, at 9:30 a. m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing, one copy to be served on J. W. and Carol Robertson and Arley Robertson Hunt, Drewsey, Oregon, and one copy filed with the State Engineer, Salem, Oregon, together with a \$5 filing fee at least 10 days prior to the date set for hearing. If no objections are filed, the application may be approved by the State Engineer without a hearing.

Dated at Salem, Oregon, this 17th day of August, 1970.

CHRIS L. WHEELER  
State Engineer

(Publish August 27, September 3, 10, 1970c)

# Burns Times-Herald

## AFFIDAVIT OF PUBLICATION

STATE OF OREGON ( ) ss.  
County of Harney ( )

I, Ethel E. Hushaw, being first duly sworn, depose and say that I am the publisher of the Burns Times-Herald, a newspaper of general circulation, as defined by ORS 193.010 and 193.020, printed and published at Burns, in the aforesaid County and State by the Burns Times-Herald that the

Notice of Diversion of  
Water (Robertson Altnow)

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for three successive and consecutive weeks in the following issues: Aug. 27, Sept. 3, 10, 1970

Ethel E. Hushaw

Subscribed and sworn to before me this 10 day of

Sept, 1970

Notary Public for Oregon

(My commission expires Oct. 6, 1972)

No. \_\_\_\_\_

In the \_\_\_\_\_ Court of the

STATE OF OREGON  
for the  
COUNTY OF HARNEY

Filed \_\_\_\_\_, 19\_\_\_\_

Clerk.

By \_\_\_\_\_ Deputy.

From the Office of \_\_\_\_\_

Attorney for \_\_\_\_\_

**RECEIVED**  
SEP 14 1970  
STATE ENGINEER  
SALEM OREGON



BEFORE THE STATE ENGINEER OF OREGON

Harney County

IN THE MATTER OF THE APPLICATION )  
OF J. W. AND CAROL ROBERTSON AND )  
ARLEY ROBERTSON HUNT FOR THE AP- )  
PROVAL OF A CHANGE IN POINT OF )  
DIVERSION AND PLACE OF USE OF )  
WATER FROM COTTONWOOD CREEK )  
-----

ORDER APPROVING  
TRANSFER NO. 2352

On March 26, 1970, J. W. and Carol Robertson and Arley Robertson Hunt 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 Cottonwood Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Harney County, Oregon, entered May 13, 1925, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Malheur River and its Tributaries, a water right was established in the name of Joseph Robertson Estate for the use of the waters of Cottonwood Creek for the irrigation of, among other lands, 17.8 acres in NW¼ SE¼, Section 32, Township 19 South, Range 36 East, W.M., with a date of priority of April, 1885. This right is evidenced by certificate recorded at page 7003, Volume 7, State Record of Water Right Certificates. These lands are irrigated by means of the Robertson Ditch from a point of diversion located 620 feet south and 520 feet east from the NW corner of Section 33 being within the NW¼ NW¼ of Section 33, Township 19 South, Range 36 East, W.M.

The applicants herein, owners of the lands above described, propose to change the place of use to the irrigation of 17.8 acres in NW¼ SW¼, Section 33, Township 19 South, Range 36 East, W.M. and irrigate these lands by means of the Robertson-Altnow-Cottonwood Ditch from a point of diversion to be located 250 feet south and 740 feet west from the NW corner of Section 28 being within the NE¼ NW¼ of



Section 28, Township 19 South, Range 36 East, 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 Burns, Oregon, on October 21, 1970, at 9:30 a.m. The notice was published in the Burns Times-Herald, a newspaper printed and having general circulation in Harney County, Oregon, for a period of three weeks in the issues of August 27, September 3, and 10, 1970. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Phil Hiibel, Watermaster of District No. 10, 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.

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 17.8 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 32, Township 19 South, Range 36 East, W.M., with a date of priority of April, 1885, be severed therefrom and simultaneously and without loss of priority transferred to 17.8 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 33, Township 19 South, Range 36 East, W.M.

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

From a point located 620 feet south and 520 feet east from the NW corner of Section 33 being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 33, Township 19 South, Range 36 East, W.M.

To a point to be located 250 feet south and 740 feet west from the NW corner of Section 28 being



within the NE¼ NW¼ of Section 28, Township 19  
South, Range 36 East, W.M.

for the irrigation of 17.8 acres in NW¼ SW¼, Section 33, Township  
19 South, Range 36 East, W.M., with a date of priority of April,  
1885, 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, 1971.

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 1½ acre feet per acre in any 30 day period prior to June 1st, 1  
acre foot per acre in any 30 day period after June 1st, of each year,  
or 3 acre feet per acre during any season diverted at a rate of not to  
exceed one-twentieth of a cubic foot per second per acre.

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 en-  
titled.

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 certificate of water right hereto-  
fore issued to Joseph Robertson Estate and recorded at page 7003, Volume  
7, State Record of Water Right Certificates, is canceled and in lieu  
thereof a new certificate be issued covering the balance of the lands  
not involved in this proceeding, and upon receipt of proof satisfactory  
to the State Engineer of completion of the authorized change in point  
of diversion and place of use, a certificate of water right shall be



issued to J. W. and Carol Robertson and Arley Robertson Hunt confirming the extent to which the water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 30<sup>th</sup> day of October, 1970.

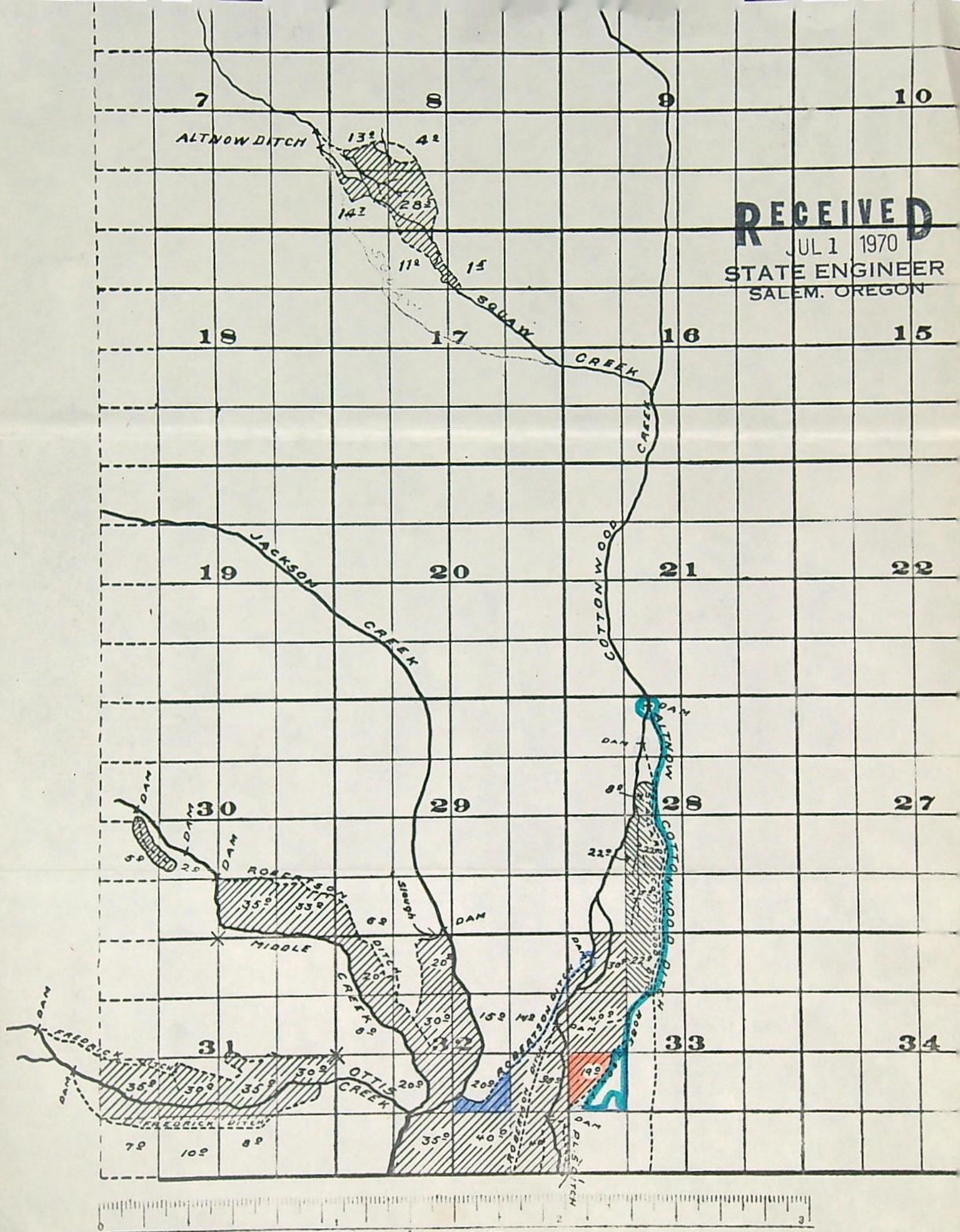
/s/ CHRIS L. WHEELER  
State Engineer



OLD COUNCIL TREE  
ONIONS  
100% COTTON FIBER



**RECEIVED**  
 JUL 1 1970  
 STATE ENGINEER  
 SALEM, OREGON



Scale of Feet

— LEGEND —

1885 Cotton wood Co. Survey May, 1913.



EASEMENT FOR DIVERSION DITCH

**RECEIVED**  
MAR 26 1970  
STATE ENGINEER  
SALEM, OREGON

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, in consideration of the sum of \$10.00 cash in hand paid, receipt of which is hereby acknowledged, grant to J. W. ROBERTSON and CAROL ROBERTSON, husband and wife, their heirs and assigns, to the extent assignable pursuant to further provision hereof, a right of way and easement for the construction and maintenance of an irrigation ditch for the diversion of waters of Cottonwood Creek previously diverted by the Altnow-Robertson Ditch, said easement more specifically described as follows:

Commencing at the intersection of the center line of the existing Altnow-Robertson Ditch and the north line of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 33, Twp. 19 S. of R. 36 E., Willamette Meridian, said point being S. 55° 20' E., a distance of 2336.4 feet, more or less, from the Northwest corner of said Section 33, thence Southwesterly across the said SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section, a distance of 1500 feet, more or less, to a point on the West boundary of said NE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , said easement being 15 feet in width.

The easement herein granted is revocable by Grantor upon the happening of any one of the following events:

1. If the ditch to be constructed is not used for irrigation purposes for two consecutive growing seasons, a growing season being defined as beginning March 1 and ending November 1 of each year.
2. If the water passing through the ditch is used for any purpose other than irrigation, without the written consent of Grantor having been first obtained.
3. If the Grantor, in the normal development of the property for the production of diatomaceous earth products reasonably needs to encroach upon the easement area hereinabove described, and would incur additional expense in the production of its product or products by being unable so to do.
4. If the easement is assigned by Grantees without the prior written consent of Grantor having been first obtained; provided that devolution to the heirs and legatees of Grantees shall be permitted. Consent to assign may not be unreasonably withheld.

Dated: February 5, 1970.

Diatomite Products Company

W. William E Miller, Pres

by Sarah H Miller, secretary



STATE OF OREGON, } ss. \_\_\_\_\_, 1970.  
County of \_\_\_\_\_

Personally appeared the above named \_\_\_\_\_  
\_\_\_\_\_ and acknowledged the foregoing instrument  
to be \_\_\_\_\_ voluntary act and deed.

Before me: \_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON, } ss. \_\_\_\_\_, 1970.  
County of \_\_\_\_\_

Personally appeared the above named \_\_\_\_\_  
\_\_\_\_\_ and acknowledged the foregoing instrument  
to be \_\_\_\_\_ voluntary act and deed.

Before me: \_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON, } ss. February 5, 1970.  
County of Dechutes

Personally appeared William H Miller Pres and  
Sarah H Miller Secretary who, being duly sworn, each for himself  
and not one for the other, did say that the former is the \_\_\_\_\_  
existing president and that the latter is the \_\_\_\_\_  
existing secretary of Diatomite Products Company  
corporation, and that the seal affixed to the foregoing instrument is  
the corporate seal of said corporation and that said instrument was  
signed and sealed in behalf of said corporation by authority of its  
board of directors; and each of them acknowledged said instrument  
to be its voluntary act and deed.

Before me: /s/ Leona Rose  
Notary Public for Oregon  
My Commission Expires: Sept 5, 1972