

STATUS OF APPLICATION

Change in Points of Diversion
 Date filed December 2, 1970
 Date of hearing March 10, 1971
 Place of hearing Roseburg, Ore.
 Date of order 8-19-71 Vol. 21, page 198
 Date for application of water completed
 Proof mailed _____
 Proof received _____
 Certificate issued MAY 24 1974 Vol. 32, page 40362

To Survey 8/24/71

2-25-74 68

DESCRIPTION OF WATER RIGHT

Name of stream Melton Creek
 Trib. of _____ County of Douglas
 Use Domestic Stock & Irrigation
 Quantity of water see order No. of acres 9/16
 Name of ditch _____
 Date of priority July 29, 1935 & August 6, 1962
 In name of Stewart L. & Robert A. Hall
 _____ Adjudication, Vol. _____, page _____
 App. No. 37910 Per. No. 28289 Cert. No. 32076
15962 11795 11649
 Certificate cancelled _____
 Notation made on record by slu

FEES PAID

Date	Amount	Receipt No.
12-02-70	25.00	21792
12-02-70	30.00 P.O.N.	21793
2-10-71	2.66 P.O.N.	22634
TOTAL		
2-10-71	\$2 Cert. Fee	22635
2-26-74	1.00	38812

FEES REFUNDED

Date	Amount	Check No.

REMARKS

Note: restriction on ret. excess water to str.

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

BEFORE THE STATE ENGINEER OF OREGON

Douglas County

IN THE MATTER OF THE APPLICATION)
OF ROBERT A. HALL FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM MELTON CREEK)

ORDER APPROVING
TRANSFER NO. 2465

An application in the name of Robert A. Hall for approval of a change in point of diversion of waters appropriated under certain water rights was filed in the office of the State Engineer on December 2, 1970. The subject water rights are described as follows:

- (A) A right established under the terms of water right permit 11795 for appropriation of not to exceed 0.01 cubic foot per second of water from an unnamed creek, with a date of priority of July 29, 1935, for domestic use including irrigation of a garden not exceeding 1/16 acre in area and stock water, all within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 28 South, Range 4 West, W.M. as evidenced by the certificate recorded at Page 11649, Volume 10, State Record of Water Right Certificates, in the name of Stewart L. Hall.
- (B) A right established under the terms of water right permit 28289 for appropriation of not to exceed 0.02 cubic foot per second from Melton Creek, with a date of priority of August 6, 1962, being 0.01 cubic foot per second for domestic use of one family including irrigation of not to exceed one-half acre lawn and garden and 0.01 cubic foot per second for stock water, all within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 28 South, Range 4 West, W.M. as evidenced by the certificate recorded at Page 32076, Volume 24, State Record of Water Right Certificates, in the name of Robert A. Hall.

The old diversion point for the right described in Paragraph "A" above is described as being 2 feet north and 2 feet east from the southwest corner of Section 7 and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 28 South, Range 4 West, W.M. The old point of diversion for the right described in Paragraph "B" above is described as being 2 feet south and 2 feet east from the northwest corner of Section 18 being

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within the NW¼ NW¼ of Section 18, Township 28 South, Range 4 West, W.M.

In fact, a single pump has been used to divert the water appropriated under both of said rights.

The proposed new point of diversion for water appropriated under both subject water rights is described as being located 265 feet north and 1780 feet west from the east one-quarter corner of Section 18 being within the SW¼ NE¼ of Section 18, Township 28 South, Range 4 West, W.M., Douglas County, Oregon.

Pursuant to the provisions of ORS 540.520 (2) notice of filing of the application for change in point of diversion was published in The News-Review newspaper, Roseburg, Oregon, in the issues of January 15, January 22, and January 29, 1971.

On February 26, 1971, a protest in the name of William Lloyd Fummerton was filed in the office of the State Engineer against the approval of the subject application by Robert A. Hall for a change in point of diversion. In the protest it is alleged that the proposed change in point of diversion would result in injury to existing water rights including a claimed vested water right held by the protestant.

Pursuant to the said notice the matter was brought to hearing before James W. Carver, Jr., Deputy State Engineer, at the Douglas County Courthouse at Roseburg, Oregon, on March 10, 1971. The applicant, Mr. Robert A. Hall, appeared and represented himself during the hearing. The protestant, William Lloyd Fummerton, appeared and was represented by Mr. William D. Green, Jr., Attorney at Law, Roseburg, Oregon. In addition to the applicant and the protestant, Mr. Harlan Melton, Sr., Mrs. Estella V. Oden, and Mr. Boley J. Rudzik were called and gave testimony in the matter.

FINDINGS OF FACT

Testimony established that the old point of diversion of water under the subject water rights located at the southwest corner of Section 7, Township 28 South, Range 4 West, W.M. on the channel of Melton Creek is the uppermost point of diversion for any water appropriated from Melton Creek.

The proposed new point of diversion is located at a spring at the head of one of the channels which forms the Melton Creek system above the old point of diversion. Testimony was substantially in agreement that if one were to begin at the old point of diversion and follow the channel upstream keeping to the main channel at points of confluence, he would arrive at the proposed new point of diversion. The proposed new point of diversion is approximately three-fourths mile southeasterly of and approximately 800 feet higher in elevation than the residences served with domestic water under the subject water right. The system of works installed to divert water at the proposed new point of diversion and convey it to the places of use consist of 15 to 20 feet of perforated tile buried in a seepage area at the said point of diversion. The water collected in the tile flows into the inlet end of a one-inch plastic pipe which conveys the water northwesterly down the slope of Brushy Butte to a gravity storage tank located near the south line of Section 7. A second plastic pipeline receives water from the storage tank and conveys it on to the places of use served under the subject water rights. Due to the extreme elevation difference, the pipeline between the point of diversion and the gravity storage tank is provided with a number of siphon-breaking junction boxes. There are no valves or other controlling works to regulate the water flowing into the pipeline at the point of diversion or to control the flow at any point along the pipeline. Excess water flowing into the gravity storage tank would, under natural conditions, overflow from the tank

into a channel which bypasses the places of use to the northeast and flows toward a confluence with Melton Creek about 1000 feet downstream from the old point of diversion. Testimony further established that evaporation and seepage losses occur in the channel between the gravity storage tank and Melton Creek so that at times of the year a substantial portion of the water overflowing from the gravity storage tank is lost and does not return to Melton Creek and is therefore not available to downstream appropriators appropriating water under claimed vested rights.

CONCLUSIONS

The proposed change in point of diversion of water under the subject water right could be carried out without injury to other existing water rights if excess waters entering the pipeline at the proposed new point of diversion were returned to the channel of Melton Creek, without waste, at or above the old point of diversion. The requested change in point of diversion under the subject water rights should be approved with the provision that the applicant be required to install, maintain, and operate a pipeline to receive any excess water entering the gravity storage tank and convey it to the channel of Melton Creek at or above the old point of diversion.

ORDER

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

From a point located 2 feet north and 2 feet east from the southwest corner of Section 7 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 28 South, Range 4 West, W.M., with a date of priority of July 29, 1935,

and

From a point located 2 feet south and 2 feet east from the northwest corner of Section 18 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 28 South, Range 4 West, W.M., with a date of priority of August 6, 1962,

To a point to be located 265 feet north and 1780 feet west from the E $\frac{1}{4}$ corner of Section 18 being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, Township 28 South, Range 4 West, W.M.

for domestic, stock and irrigation of 1/16 acre, with a date of priority of July 29, 1935, and domestic, stock and irrigation of 1/2 acre, with a date of priority of August 6, 1962, within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 28 South, Range 4 West, W.M., is approved.

It is FURTHER ORDERED that no time need be fixed for completion as the change in point of diversion is completed, and the new diversion is in operation.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion and shall not exceed 0.01 cubic foot per second, with a date of priority of July 29, 1935, and 0.02 cubic foot per second, with a date of priority of August 6, 1962.

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.

It is FURTHER ORDERED that excess waters flowing into the gravity storage tank be returned to the channel of Melton Creek at or above the old diversion point by means of a pipeline.

It is FURTHER ORDERED that certificates of water right heretofore issued to Stewart L. Hall and recorded at page 11649, Volume 10, and Robert A. Hall and recorded at page 32076, Volume 24, State Record of Water Right Certificates, are canceled and upon receipt of

proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, two certificates of water right shall be issued to Robert A. Hall confirming the change in point of diversion.

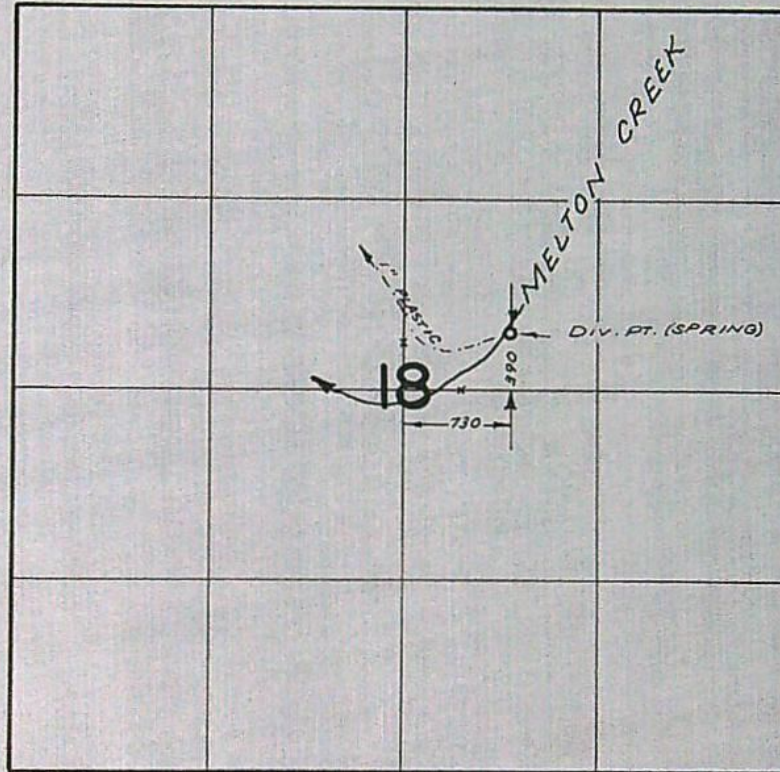
Dated at Salem, Oregon, this 19th day of August, 1971.

/s/ CHRIS L. WHEELER
State Engineer



OLD COUNCIL TREE
BANDS IN
100% COTTON FIBER

T.28S.R4W.W.M.



FINAL PROOF SURVEY
UNDER

TRANSFER NO. 2465

Application No. _____ Permit No. _____
IN NAME OF

_____ ROBERT A. HALL _____

Surveyed MAY 10, 1972, by R. MUCKEN

Affidavit of Publication
The News-Review
Roseburg, Oregon

RECEIVED
FEB 1 1971
STATE ENGINEER
SALEM, OREGON

ISSUED DAILY EXCEPT SUNDAY

STATE OF OREGON }
COUNTY OF DOUGLAS } ss.

I, Addye Wright, being
first duly sworn, depose and say that I am the Business Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg in the aforesaid county and state; that the

Notice of Filing Application for

Changes in pts. of water diversion

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:
January 15, 22, 29, 1970

The fee actually charged by such newspaper for such publication is \$ 32.66

Addye Wright

Subscribed and sworn to before me this 29th day of

January, 19 71

Oliver M. Ellis
Notary Public of Oregon

My Commission expires 2nd day of March, 19 73

**NOTICE OF FILING APPLICATION
FOR CHANGES IN POINTS OF
DIVERSION OF WATER**

Notice is given hereby that Robert A. Hall has filed an application for the approval of changes in points of diversion of water from Melton Creek.

Certificate of water right issued to Stewart L. Hall and recorded at page 11649, Volume 10, State Record of Water Right Certificates, confirms a right to the use of 0.01 cubic foot per second of water from an unnamed stream (Melton Creek) for domestic, including irrigation of a garden not exceeding 1-16 acre in area, and stock in the SW 1/4 SW 1/4, Sec. 7, T. 28 S., R. 4 W., W.M., with a date of priority of July 29, 1935. Water is conveyed to these lands from a point of diversion located 2 ft. N and 2 ft. E from the SW corner of Sec. 7 being within the SW 1/4 SW 1/4 OF Sec. 7, T. 28 S., R. 4 W., W.M.

Certificate of water right issued to Robert A. Hall and recorded at page 32076, Volume 24, State Record of Water Right Certificates, confirms a right to the use of 0.02 cubic foot per second of water from Melton Creek for domestic use of one family, including irrigation of not to exceed 1/2 acre lawn and garden, and stock in the SW 1/4 SW 1/4, Sec. 7, T. 28 S., R. 4 W., W.M., with a date of priority of August 6, 1962. Water is conveyed to these lands from a point of diversion located 2 ft. S. and 3 ft. E from the NW corner of Sec. 18 being within the NW 1/4 NW 1/4 of Sec. 18, T. 28 S., R. 4 W., W.M.

The applicant herein, owner of the lands above described, proposes to convey water to these lands from a point of diversion to be located 265 ft. N and 1780 ft. W from the E 1/4 corner of Sec. 18 being within the SW 1/4 NE 1/4 of Sec. 18, T. 28 S., R. 4 W., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Roseburg, Oregon, on March 10, 1971, 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 Robert A. Hall, Rt. 1, Box 628, Roseburg, 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 8th day of January, 1971.
CHRIS L. WHEELER
State Engineer
Publication dates: January 15, 22, 29, 1971.

STATE OF OREGON

COUNTY OF DOUGLAS

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ROBERT A. HALL

of Route 1, Box 628, Roseburg, 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 Melton Creek

a tributary of South Deer Creek for the purpose of domestic use of one family and stock

under Permit No. 28289 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 August 6, 1962

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 0.02 cubic foot per second; being 0.01 c.f.s. for domestic use of one family, including irrigation of not to exceed $\frac{1}{2}$ acre lawn and garden, and 0.01 c.f.s. for stock

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 28 S., R. 4 W., 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 ----- of one cubic foot per second per acre,

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:

Domestic and Stock
SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 7
T. 28 S., R. 4 W., W. M.

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. April 20, 1965

CHRIS L. WHEELER

State Engineer

STATE OF OREGON
COUNTY OF DOUGLAS TO YTHUOD -

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **STEWART L. HALL**

of **Roseburg**, 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 **An unnamed creek** a tributary of **South Deer Creek** flowing into the **South Umpqua River** for the purpose of **Domestic**, including irrigation of a garden not exceeding **1/16 acre** in area, and stock under **Permit No. 11795** 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 **July 29, 1935**;

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 **0.01 cubic foot per second** measured at the point of diversion from the stream,

or its equivalent in case of rotation.

The point of diversion is located in the **SW $\frac{1}{4}$ SW $\frac{1}{4}$** , **Section 7**, **Township 28 South**, **Range 4 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 cubic foot per second per acre**,

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:

PLACE OF USE:

SW $\frac{1}{4}$ SW $\frac{1}{4}$, **Section 7**,
Township 28 South, **Range 4 West**, **W. M.**

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

After the expiration of fifty years from the date of this certificate or on the expiration of any federal power license issued in connection with this right, and after not less than two years' notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have the right to take over the dams, plants and other structures and all appurtenances thereto which have been constructed for the purpose of devoting to beneficial use the water rights specified herein, upon condition that before taking possession the State or municipality shall pay not to exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable, serviceable and dependable property of the holder of this certificate, not taken over, as may be caused by the severance therefrom of the property taken in accordance with the provisions of section 47-508, Oregon Code 1930.

WITNESS the signature of the State Engineer, affixed

this 7th day of December, 1936.

CHAS. E. STRICKLIN

State Engineer

Recorded in State Record of Water Right Certificates, Volume 10, page 11649