

2613 Patrick O'Toole
Drewsey, Oregon 97904

2613

STATUS OF APPLICATION

Change in Point of Diversion
Date filed March 20, 1972
Date of hearing November 28, 1972 9:30
Place of hearing Burns, Ore
Date of order 1-26-73 Vol. 22, page 449
Date for application of water October 1, 1973
Proof mailed _____
Proof received _____
Certificate issued MAR 9 1977 Vol. 34, page 44182

Survey
OK Cert

DESCRIPTION OF WATER RIGHT

Name of stream Stinking Water Cr.
Trib. of _____ County of Harney
Use Irrigation
Quantity of water _____ No. of acres 508
Name of ditch _____
Date of priority August 29, 1952
In name of ANNA O'Toole
_____ Adjudication, Vol. _____, page _____
App. No. 27598 Per. No. 21742 Cert. No. 26614
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>3-20-72</u>	<u>15.00</u>	<u>27725</u>
<u>6/26/72</u>	<u>10.00</u>	<u>29307 29308</u>
<u>11-20-72</u>	<u>30.00 P.O.N.</u>	<u>31500</u>
<u>TOTAL</u>	<u>5.74 P.O.N.</u>	
<u>4/17/77</u>	<u>2 Cert. Fee</u>	<u>57619</u>

FEES REFUNDED

Date	Amount	Check No.

REMARKS

Priority on cert is correct - wrong in order

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	
	Entered	Checked
☒ Name	☒	☐
☒ Stream	☒	☐
☐ Pt. of Div.	☐	☐
☐ Calendar	☐	☐
CHECKED TO RECORDS:		
☐ Twp. & Rge.	☐	☐
☐ Decree-vault	☐	☐
☐ Decree-safe	☐	☐
☒ Cert. of W/R	☒	☐
☒ Per. Folder	☒	☐
☐ Chainindex	☐	☐
☐ Cross Ref.	☐	☐
☐ Power Claim	☐	☐
☐ Abstracts	☐	☐

STATE OF OREGON

COUNTY OF HARNEY

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ^{Patrick} ~~WILLIAM~~ O'TOOLE

Box 17

of Drewsey

, State of Oregon

97904

has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of

Stinkingwater Creek

a tributary of Middle Fork Malheur River

for the purpose of

the irrigation of 50.8 acres,

under Permit No. 21742 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 29, 1952,

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 1.27 cubic foot per second,

SW⁴NW⁴ Sec 33

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the ~~SW¹SE¹~~ Section 28, Township 20 South, Range 35 East, W.M., S 14° 10' E 1565' from the SW cor of Sec 28

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-fortieth 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 3 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:

2.6 acres SW¹₄ NE¹₄
 4.8 acres SE¹₄ NE¹₄
 18.8 acres NE¹₄ SE¹₄
 11.6 acres NW¹₄ SE¹₄
 10.8 acres SW¹₄ SE¹₄
 2.2 acres SE¹₄ SE¹₄

Section 28

Township 20 South, Range 35 East, W.M.

This certificate is issued to confirm a change in

P.O.D.

approved by an order of the ^{SE} ~~Water Resources Director~~ entered

Jan 26, 1973,

and supersedes certificate of water right issued to

above

and recorded at Page 26614, Volume 18, State Record of Water Right Certificates.

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 18, page 26614

BEFORE THE STATE ENGINEER OF OREGON

Harney County

IN THE MATTER OF THE APPLICATION)
OF PATRICK O'TOOLE FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM STINKING WATER CREEK)

ORDER APPROVING
TRANSFER NO. 2613

On March 20, 1972, Patrick O'Toole filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Stinking Water Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Anna O'Toole and recorded at page 26614, Volume 18, State Record of Water Right Certificates, confirms a right to the use of not to exceed 1.27 cubic feet per second of water from Stinking Water Creek for the irrigation of 2.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 18.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 11.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 10.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 2.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 20 South, Range 35 East, W.M., with a date of priority of April 29, 1952. These lands are irrigated from a point of diversion located 2510 feet North 69° 24' West from the SE corner of Section 28, Township 20 South, Range 35 East, W.M. being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, Township 20 South, Range 35 East, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located 1565 feet South 14° 10' East from the SW corner of Section 28, Township 20 South, Range 35 East, W.M., being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 20 South, Range 35 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 point of diversion of water, if any there were, namely: at the county courthouse in Burns, Oregon, on November 28, 1972 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 October 5, 12, and 19, 1972. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Phillip W. Hiibel, Watermaster of District No. 10, has filed a report 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 proposed change in point of diversion of water from Stinking Water Creek, to-wit:

From a point located 2510 feet North $69^{\circ} 24'$ West from the SE corner of Section 28, Township 20 South, Range 35 East, W.M. being within the $SW\frac{1}{4} SE\frac{1}{4}$ of Section 28, Township 20 South, Range 35 East, W.M.

To a point to be located 1565 feet South $14^{\circ} 10'$ East from the SW corner of Section 28, Township 20 South, Range 35 East, W.M., being within the $SW\frac{1}{4} NW\frac{1}{4}$ of Section 33, Township 20 South, Range 35 East, W.M.

for the irrigation of 2.6 acres in $SW\frac{1}{4} NE\frac{1}{4}$, 4.8 acres in $SE\frac{1}{4} NE\frac{1}{4}$, 18.8 acres in $NE\frac{1}{4} SE\frac{1}{4}$, 11.6 acres in $NW\frac{1}{4} SE\frac{1}{4}$, 10.8 acres in $SW\frac{1}{4} SE\frac{1}{4}$ and 2.2 acres in $SE\frac{1}{4} SE\frac{1}{4}$, Section 28, Township 20 South, Range 35 East, W.M., with a date of priority of April 29, 1952, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water 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 available at the old point of diversion and shall not exceed 1.27 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.

It is FURTHER ORDERED that certificate of water right heretofore issued to Anna O'Toole and recorded at page 26614, Volume 18, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to Patrick O'Toole confirming the change in point of diversion.

Dated at Salem, Oregon, this 26th day of January, 1973.

CHRIS L. WHEELER
State Engineer

**NOTICE OF
FILING APPLICATION FOR
A CHANGE IN POINT OF
DIVERSION OF WATER**

Notice is given hereby that Patrick O'Toole has filed an application for the approval of a change in point of diversion of water from Stinkingwater Creek.

Certificate of water right issued to Anna O'Toole and recorded at page 26614, Volume 18, State Record of Water Right Certificates, confirms a right to the use of 1.27 cubic feet per second of water from Stinkingwater Creek for the irrigation of 2.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 18.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 11.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 10.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 20 South, Range 35 East, W.M., with a date of priority of April 29, 1952.

The point of diversion is located 2510 feet North, 69° 24' West, from the Southeast corner of Section 28, being within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 28, Township 20 South, Range 35 East, W.M.

The applicant herein, owner of the lands above described, proposes to convey water to these lands by means of the O'Toole Ditch located at a point of diversion 1565 feet South 14° 10' East from the SW corner of Section 28, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 20 South, Range 35 East, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Burns, Oregon, on November 28, 1972 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 Patrick O'Toole, 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. Administrative rules pertaining to the filing of a protest will be furnished by the State Engineer upon request.

Dated at Salem, Oregon, this 28th day of September, 1972.

CHRIS L. WHEELER

State Engineer

(Publish Oct. 5, 12, 19, 1972c)

RECEIVED
OCT 24 1972
STATE ENGINEER
SALEM, OREGON

Burns Times-Herald

AFFIDAVIT OF PUBLICATION

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

I, Ethel E. Huishaw, 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 Filing for Change in
point of Diversion of Water
(Patrick O'Toole)

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:

Oct. 5, 12, 19, 1972

Signed Ethel E. Huishaw

Subscribed and sworn to before me this 19th day of

October

1972

Don S. [Signature]
Notary Public for Oregon

(My commission expires 12-19-73)

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 _____

ST