

# STATUS OF APPLICATION

Change in Place of Use & Pt. of Div.  
 Date filed July 21, 1971  
 Date of hearing December 28, 1971  
 Place of hearing Allany, Oregon  
 Date of order June 29, 1972 Vol. 22, page 82  
 Date for application of water 10-1-73  
 Proof mailed \_\_\_\_\_  
 Proof received \_\_\_\_\_  
 Certificate issued FEB 26 1974 Vol. 31, page 39839

11-1-72 Survey

## REMARKS

# DESCRIPTION OF WATER RIGHT

Name of stream Hamilton Creek  
 Trib. of — County of Linn  
 Use Irrigation  
 Quantity of water \_\_\_\_\_ No. of acres 14 8  
 Name of ditch —  
 Date of priority September 14, 1951  
 In name of F.R. & Zelpha Burian  
 \_\_\_\_\_ Adjudication, Vol. \_\_\_\_\_, page \_\_\_\_\_  
 App. No. 26449 Per. No. 20738 Cert. No. 27555  
 Certificate cancelled \_\_\_\_\_  
 Notation made on record by slv

## FEES PAID

Date	Amount	Receipt No.
7-21-71	30.00	24857
8-9-71	30.00 <sup>7014</sup>	25143
TOTAL . . .	<sup>*2</sup>	
11-17-71	<del>\$1</del> Cert. Fee	From Pub. Notice

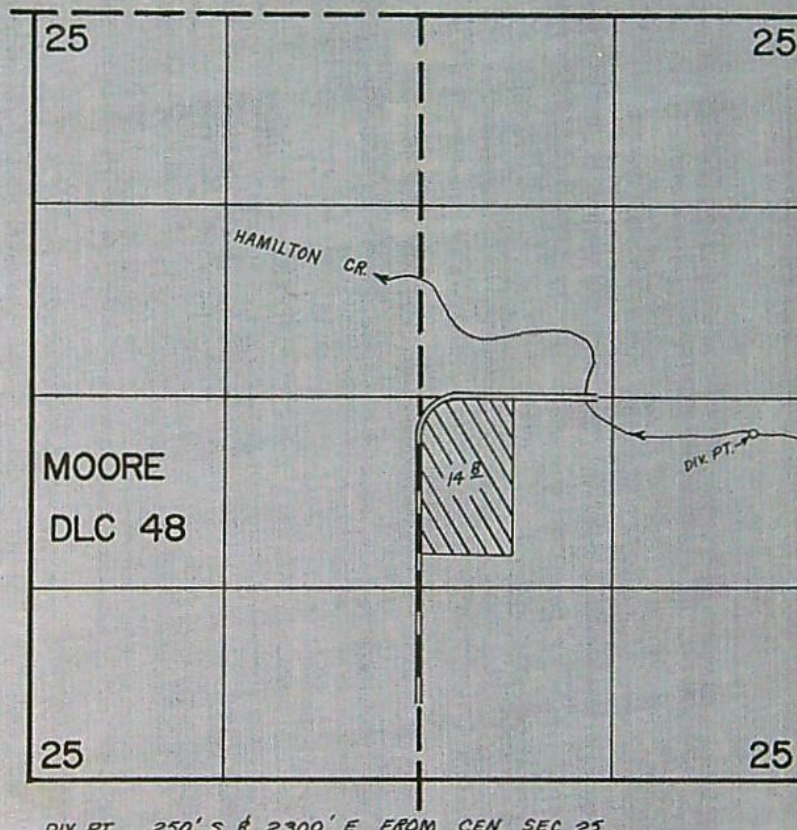
## FEES REFUNDED

Date	Amount	Check No.
11-17-71	3.33 Pub. Notice	4471
1-25-74	509 Cert. Fee	5613

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



T. 12 S. R. 1 W. W. M.



**FINAL PROOF SURVEY**  
UNDER

TRANSFER NO. 2548  
Application No. \_\_\_\_\_ Permit No. \_\_\_\_\_  
IN NAME OF

ZELPHA M. BURIAN GILBERT

Surveyed MAY 9 1973, by R.G. MUCKEN



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, mortgagee 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.



MILLERS FALLS  
ALL BOTTOM

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

/s/ CHRIS L. WHEELER  
State Engineer

Gibraltar Onion Skin

MILLERS FALLS

ALL COTTON



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

Notice is given hereby that Zelpha M. Burian Gilbert has filed an application for the approval of a change in point of diversion and place of use of water from Hamilton Creek.

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 0.26 cubic foot per second of water from Hamilton Creek for the irrigation of, among other lands, 6.1 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 8.7 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 25, T. 12 S., R. 1 W., W.M., with a date of priority of September 14, 1901. These lands are irrigated from a point of diversion located 1850 Ft. S and 600 ft. W from the NE $\frac{1}{4}$  corner of Sec. 25 being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec. 25, T. 12 S., R. 1 W., W.M.

The applicant herein, owner of the lands above described, propose to change the place of use to the irrigation of 14.8 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 25, T. 12 S., R. 1 W., W.M. and irrigate these lands from a point of diversion to be located 2310 ft. N and 594 ft. E from the SE corner of Sec. 25 being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 25, T. 12 S., R. 1 W., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Albany, Oregon, on December 28, 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 Zelpha M. Burian Gilbert, Route 3, Box 124, Lebanon, 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 26th day of October, 1971.

CHRIS L. WHEELER  
State Engineer

November 1, 8, 15, 1971

# Affidavit of Publication

RECEIVED

NOV 16 1971

STATE ENGINEER  
SALEM OREGON

STATE OF OREGON, }  
County of Linn. } ss.  
Emma Fair

I, \_\_\_\_\_, being first duly sworn, depose and say that

I am \_\_\_\_\_ clerk \_\_\_\_\_ of The Lebanon Express, a newspaper of

general circulation, as defined by ORS 193,010 and 193,020; published at Lebanon

in the aforesaid county and state, that the \_\_\_\_\_

Notice of Filing Application

a printed copy of which is hereto annexed, was published in the entire issue of  
said newspaper for ~~XXXX~~ three (3) successive and consecutive weeks in  
the following issues: \_\_\_\_\_

November 1, 8, 15, 1971

Subscribed and sworn to before me this 15 day of November 19 71

*Anna J. Ray*

Notary Public for Oregon

(My Commission expires \_\_\_\_\_).