

2652 MAXWELL Bros.
Mitchell
Oregon 97750

2652

DVA Notification

STATUS OF APPLICATION

DESCRIPTION OF WATER RIGHT

FEES PAID

Change in Place of Use + Pt. of Diversion
Date filed ~~February~~ ^{May} 30, 1972
Date of hearing November 28, 1972 9:30
Place of hearing Fossil Ore
Date of order 4-4-73 Vol. 23, page 68
Date for application of water October 1, 1973
Proof mailed
Proof received
Certificate issued APR 15 1977 Vol. 36, page 44343

Name of stream Thompson Creek
Trib. of Gable Creek County of Wheeler
Use Irrigation + Stock Water
Quantity of water No. of acres 146
Name of ditch Vaughan ditch (Large + Small)
Date of priority 1897 + 1898
In name of N. E. Vaughan
Bridge Creek Adjudication, Vol. 12, page 431
App. No. Per. No. Cert. No. 13597
Certificate cancelled
Notation made on record by

Date	Amount	Receipt No.
5-30-72	30.00	28554
5-30-72	30.00 P.O.N.	28555
11-16-72	13.09 P.O.N.	31466
TOTAL	200	
5-10-77	\$1 Cert. Fee	59911

FEES REFUNDED

Date	Amount	Check No.
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REMARKS

See also App. #49019

W.R.I.S.

Assembled 2/16/84 by CLM
Entered by
Verified by

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

STATE OF OREGON

COUNTY OF WHEELER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That Maxwell Bros of the State of Oregon

P.O. Box 158

of Mitchell, State of Oregon, has a right to the use of East Fork & West Fork tributary Thompson Creek the waters of Thompson Creekfor the purpose of irrigation and stock the irrigation of 14.6 acres and stockand that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Wheeler County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 12, at page 388; that the priority of the right thereby confirmed dates from 1898 for Tract #1 and 1897 for Tract #2;SW 1/4 NE 1/4 Sec 25 T12S R20E WM 1440'S & 1500' W
from NE cor sec 25that 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 one-eightieth of one cubic foot per second per acre of land irrigated before June 15, and one-hundredth of one cubic foot per second per acre after June 15, during the irrigation season from March 1 to October 1 of each year, measured at the point of diversion from the stream.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use) is as follows:

TRACT #1

4.6 SW 1/4 SE 1/42.4 acres in NE 1/4 SW 1/42.2 acres in SE 1/4 SW 1/4Section 6

T. 12 S., R. 21 E., W. M.

.M. W. E. O. S. J. .S. J. .T

TRACT #2

2.2 NW 1/4 SE 1/4 3 acres in NE 1/4 SW 1/47.8 SW 1/4 SE 1/4 7 acres in SE 1/4 SW 1/4Section 6

T. 12 S., R. 21 E., W. M.

(small) Vaughan ditch

(large) Vaughan ditch

This certificate is issued to confirm a change in place of use and point of diversion approved by an order of the Water Resources Director entered April 4, 1973, and supersedes certificate of water right issued to 13597and WITNESS the signature of the State Engineer,affixed this 1st day of July, 1971

CHAS. E. STRICKLIN

State Engineer.

Recorded in State Record of Water Right Certificates, Volume 12 page 13597

P.O.D.: East Fork Thompson Creek - SE 1/4 NE 1/4 Sec 25, T12S R20E WM 1750'S & 590' W from the NE cor sec 25 West Fork Thompson Creek

BEFORE THE STATE ENGINEER OF OREGON

Wheeler County

IN THE MATTER OF THE APPLICATION)
OF THE MAXWELL BROS. FOR THE)
APPROVAL OF A CHANGE IN POINT)
OF DIVERSION AND PLACE OF USE)
OF WATER FROM THOMPSON CREEK)

ORDER APPROVING
TRANSFER NO. 2652

On May 30, 1972, the Maxwell Brothers 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 Thompson Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Wheeler County, Oregon, entered March 30, 1937, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Bridge Creek and Its Tributaries, a water right was established in the name of N. E. Vaughan for the use of the waters of Thompson Creek for stock use and the irrigation of 2.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 2.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 12 South, Range 21 East, W.M., having a date of priority of 1898, and 3.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 7.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 12 South, Range 21 East, W.M., having a date of priority of 1897. This right is evidenced by certificate of water right recorded at page 13597, Volume 12, State Record of Water Right Certificates. These lands are irrigated by means of the Vaughan ditches, small and large respectively, the points of diversion being located (small) 50 feet North and 1130 feet West from the South $\frac{1}{4}$ corner of Section 5, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 12 South, Range 21 East, W.M., and (large) 850 feet South and 1950 feet West from the South $\frac{1}{4}$ corner of Section 5, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 12 South, Range 21 East, W.M.

The applicants herein, owners of the lands above described, propose to transfer the water right to 14.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 12 South, Range 21 East, W.M., and to irrigate these lands by means of the Thompson Creek ditch, the point of diversion for which is located 1800 feet South and 1600 feet West from the NE corner of Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 12 South, Range 20 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 Fossil, Oregon, on November 28, 1972, at 9:30 a.m. The Notice was published in the Fossil Journal, a newspaper printed and having general circulation in Wheeler County, Oregon, for a period of three weeks in the issues of October 5, 12, & 19, 1972. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Monte E. Graham, Watermaster of District No. 4, 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 2.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 2.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, having a date of priority of 1898 and 3.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 7.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 12 South,

Range 21 East, W.M., having a date of priority of 1897, be severed therefrom and simultaneously and without loss of priority transferred to 14.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 12 South, Range 21 East, W.M.

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

From a point located 50 feet North and 1130 feet West from the South $\frac{1}{4}$ corner of Section 5, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 12 South, Range 21 East, W.M., and

from a point located 850 feet South and 1950 feet West from the South $\frac{1}{4}$ corner of Section 5, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 12 South, Range 21 East, W.M.

To a point to be located 1800 feet South and 1600 feet West from the NE corner of Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 12 South, Range 20 East, W.M.

for the irrigation of 4.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 12, South, Range 21 East, W.M., with a date of priority of 1898, and 10.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 12 South, Range 21 East, W.M., with a date of priority of 1897, 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.

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 N. E. Vaughan and recorded at page 13597, Volume 12, 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 and place of use, a certificate of water right shall be issued to Maxwell Bros. confirming the extent to which the water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 4th day of April, 1973.

/s/ CHRIS L. WHEELER
State Engineer

RECEIVED
OCT 31 1972
STATE ENGINEER
SALEM, OREGON

Affidavit OF Publication

STATE OF OREGON, COUNTY OF WHEELER, ss:

I James W. Mahaffey
being first duly sworn, depose and say that I am the
Publisher of the
FOSSIL JOURNAL, a newspaper of general circula-
tion as defined by Sections 1-509, 1-510, Oregon
Code; printed and published at Fossil in the aforesaid
county and state; that the Notice of Filing, a printed
copy of which is hereto annexed, was published in the
entire issue of said newspaper for 3 successive
and consecutive weeks in the following issues:

October 5, 1972

October 12, 1972

October 19, 1972

James W. Mahaffey

Subscribed and sworn to before me this 30th

day October, 1972

County Clerk
Gilliam County Oregon

NOTARY PUBLIC FOR OREGON

(My Commission expires Jan 1975)

Received \$ _____, payment in full of publication of
above notice.

FOSSIL JOURNAL

By _____

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

Notice is given hereby that Maxwell Bros. have filed an application for the approval of a change in point of diversion and place of use of water from Thompson Creek.

In the Bridge Creek Adjudication proceedings a water right was established in the name of N.E. Vaughan for the use of the waters of Thompson Creek for stock, and irrigation of 2.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 2.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, with a priority date of 1898, and 3.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 7.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, with a priority date of 1897, all in Township 12 South, Range 21 East, W.M. Water for this use is diverted through the Vaughan Ditches (Small and Large) at the following points of diversion: Small Ditch - 50 feet North, 1130 feet West from the South $\frac{1}{4}$ corner, Section 5, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5; Large Ditch - 850 feet South, 1950 feet West from the South $\frac{1}{4}$ corner of Section 5, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, both in Township 12 South, Range 21 East, W.M.

The applicant herein, owner of the land above described, proposes to change the place of use to the irrigation of 14.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 12 South, Range 21 East, W.M., and irrigate these lands by means of the Thompson Creek Ditch at a point of diversion 1800 feet South and 1600 feet West from the NE corner of Section 25, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 12 South, Range 20 East, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Fossil, 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 Maxwell Bros., Mitchell, 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 27th day of September, 1972.

CHRIS L. WHEELER
State Engineer

Published October 5, 12, 19,
1972. FJ-64