

2725
7812 H. A. Avenue
White City Ore. 97501

2725

STATUS OF APPLICATION

Change in Point of Diversion
Date filed Oct. 25, 1972
Date of hearing February 8, 1973
Place of hearing Medford, Ore.
Date of order 3-23-73 Vol. 23, page 40
Date for application of water October 1, 1973
Proof mailed _____
Proof received _____
Certificate issued MAY 1 1978 Vol. _____, page 45504
FEB 9 1979 40 Survey 47406

DESCRIPTION OF WATER RIGHT

Name of stream Little Butte Creek
Trib. of _____ County of Jackson
Use Irrigation
Quantity of water _____ No. of acres 0.40
Name of ditch Fryer Ditch
Date of priority Jan. 31, 1870
In name of Fryer Ditch Association (Gladys F. Pearce-Tract 3)
Little Butte Creek Adjudication, Vol. 14, page 515
App. No. _____ Per. No. _____ Cert. No. 29579
Certificate cancelled _____
Notation made on record by _____

FEE PAID

| Date | Amount | Receipt No. |
|-----------------|-----------------------|--------------------|
| <u>10-25-72</u> | <u>25.00</u> | <u>31221</u> |
| <u>10-25-72</u> | <u>40.00 P.O.N.</u> | <u>31222</u> |
| TOTAL . . . | | |
| <u>1-8-73</u> | <u>1.50</u> Cert. Fee | <u>From P.O.N.</u> |

FEE REFUNDED

| Date | Amount | Check No. |
|---------------|----------------------|-------------|
| <u>1-8-73</u> | <u>\$1.83 P.O.N.</u> | <u>5083</u> |

REMARKS

Reference to K-44

D-116

D-119

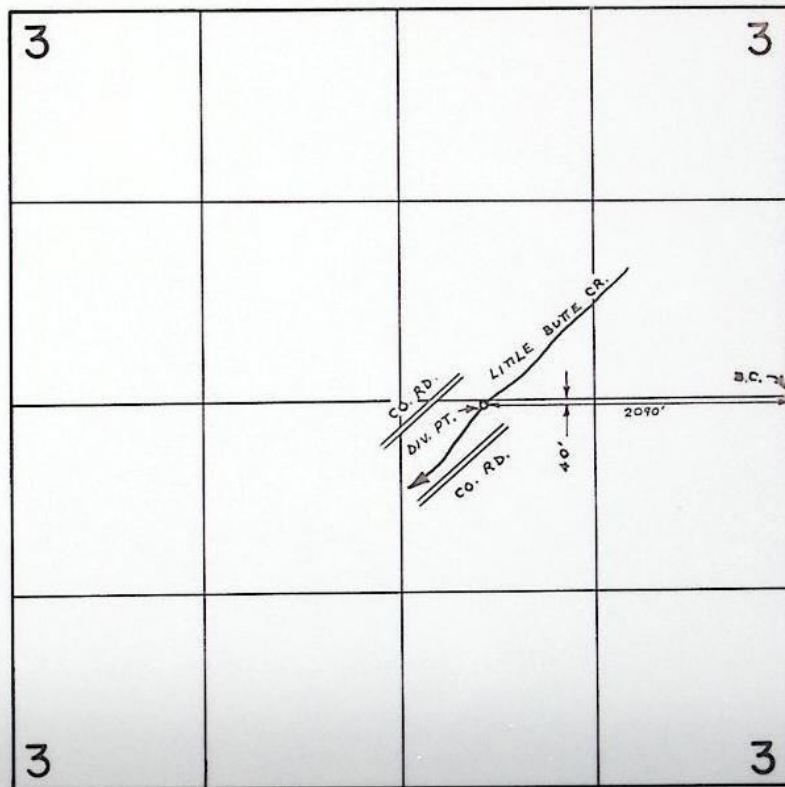
T-2543

H-166

see T-2725
22-213

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

T.36 S., R.1 W., W.M.



FINAL PROOF SURVEY
UNDER

Application No. T-2725 Permit No.
IN NAME OF

LEROY S. & MARY T. LOWMAN

Surveyed MAY 25 1978 by B. SUND

RECEIVED
JAN 8 1973

STATE ENGINEER
SALEM, OREGON

Affidavit of Publication

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

Notice is given hereby that Leroy S. and Mary T. Lowman has filed an application for the approval of a change in point of diversion of water from Little Butte Creek.

In the Little Butte Creek Adjudication proceedings, a water right was established in the name of Fryer Ditch Association for the use of the waters of Little Butte Creek for the irrigation of, among other lands, 0.40 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Tract 3, Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of January 31, 1870. These lands are irrigated by means of the Fryer Ditch from a point of diversion located 720 feet North and 1220 feet West from the East $\frac{1}{4}$ corner of Section 3 being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 36 South, Range 1 West, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located 50 feet South and 2100 feet West from the East $\frac{1}{4}$ corner of Section 3 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 36 South, Range 1 West, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Medford, Oregon, on February 8, 1973, 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 Leroy S. and Mary T. Loman, 7887 Ajax Avenue, White City, Oregon 97501, 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 8th day of December, 1972.

CHRIS L. WHEELER
State Engineer

State of Oregon, }
County of Jackson } ss.

I, Evalynne D. Smith, being first duly

sworn, depose and say that I am the

(OWNER, EDITOR, PUBLISHER, MANAGER,

Principal Clerk

ADVERTISING MANAGER, PRINCIPAL CLERK, PRINTER OR PRINTER'S FOREMAN)

of Medford Mail Tribune, a newspaper of general circulation, as defined by ORS 193,010 and 193,020; printed and published at Medford in the aforesaid county and state;

that the Notice of Filing Appl. for a Change in Pt.

of Div. of Water - Lowman, 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 Dec. 15, 22, 29, 1972

(HERE SET FORTH DATES OF ISSUES IN WHICH THE SAME WAS PUBLISHED)

Evalynne D. Smith

Subscribed and sworn to before me this 29th day of Dec., 1972

Alta M. Radsey
NOTARY PUBLIC FOR OREGON

My Commission expires 16th day of October, 1973

st

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF LEROY S. AND MARY T. LOWMAN)
FOR THE APPROVAL OF A CHANGE IN)
POINT OF DIVERSION OF WATER FROM)
LITTLE BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. 2725

On October 25, 1972, Leroy S. and Mary T. Lowman filed an application in the office of the State Engineer for a change in point of diversion of water from Little Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Little Butte Creek and Its Tributaries, a water right was established in the name of Fryer Ditch Association for the use of the waters of Little Butte Creek for the irrigation of, among other lands, 0.40 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of January 31, 1870 tabulated in the name of Gladius F. Pearce. These lands are irrigated from a point of diversion located 720 feet North and 1220 feet West from the East $\frac{1}{4}$ corner of Section 3, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

The applicant herein, owner of the lands above described, proposes to divert the water for irrigation through a pump at a point of diversion 50 feet South and 2100 feet West from the East $\frac{1}{4}$ corner of Section 3, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 36 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 point of diversion of water, if any there were, namely; at the county courthouse in Medford, Oregon, on February 8, 1973, at 9:30 a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of December 15, 22 and 29, 1972. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. David C. Hendrix, Watermaster of District No. 13, 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 Little Butte Creek, to-wit:

From a point located 720 feet North and 1220 feet West from the East $\frac{1}{4}$ corner of Section 3, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 36 South, Range 1 West, W.M.

To a point to be located 50 feet South and 2100 feet West from the East $\frac{1}{4}$ corner of Section 3, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 0.40 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of January 31, 1870.

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 0.01 cubic foot 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 certificate of water right heretofore issued to Fryer Ditch Association and recorded at page 29579, Volume 21, State Record of Water Right Certificates has been canceled in prior orders of the State Engineer.

It is FURTHER ORDERED that a new certificate be issued covering the balance of the lands not involved in this proceeding and excluding lands involved in changes approved by orders of the State Engineer entered February 23, 1966, May 6, 1966, October 6, 1966, and September 18, 1972, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate shall be issued to Leroy S. and Mary T. Lowman confirming the change in point of diversion.

Dated at Salem, Oregon, this 23rd day of March, 1973.

/s/ CHRIS L. WHEELER
State Engineer

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That Fryer Ditch Association

of Eagle Point

, State of Oregon

, has a right to the use of

the waters of Little Butte Creek

trib Rogue River

for the purpose of ~~the~~ Irrigation of ^{84.72} 95.49 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 14, at page 498; that the priority of the right thereby confirmed dates from 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 ^{2.39} 2.39 cubic feet per second; measured at the head of the ditch or the point where the same leaves the natural stream, from April 1st to October 1st of each year.

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:

| Date of Priority | Quantity of water in C.F.S. | No. of Acres | Place of Use |
|-------------------|-----------------------------|-----------------------|--|
| (2) 1885 | 0.08 | 3 | (Tract 1) Gus Nichols 3.00 acres in NW ¹ / ₄ NW ¹ / ₄ Section 2 and NE ¹ / ₄ NE ¹ / ₄ Section 3 T. 36 S., R. 1 W., W.M. |
| (1) Jan. 31, 1870 | ^{0.24} 0.35 | 15.1 10.49 | (Tract 3) Gladius F. Pearce ^{0.70} 2.45 acres in SW ¹ / ₄ NE ¹ / ₄ and NW ¹ / ₄ SE ¹ / ₄ -0.35 (a) -0.40 (e) (Tract 4) Gladius F. Pearce 4.42 acres in NE ¹ / ₄ SW ¹ / ₄ and NW ¹ / ₄ SE ¹ / ₄ (Tract 5) Gladius F. Pearce 0.50 acre in NE ¹ / ₄ SW ¹ / ₄ (Tract 6) Gladius F. Pearce 0.25 acre in SW ¹ / ₄ NE ¹ / ₄ and NW ¹ / ₄ SE ¹ / ₄ (Tract 7) Mrs. Arglee Green 3.59 acres in NW ¹ / ₄ SE ¹ / ₄ and NE ¹ / ₄ SW ¹ / ₄ SE ¹ / ₄ SW ¹ / ₄ and SW ¹ / ₄ SE ¹ / ₄ -3.59 (a) (Tract 8) Mrs. Arglee Green 1.93 acres in NE ¹ / ₄ SW ¹ / ₄ (Tract 9) Mrs. Arglee Green 0.85 acre in NE ¹ / ₄ SW ¹ / ₄ (Tract 10) Clara Young 0.25 acre in SW ¹ / ₄ NE ¹ / ₄ and NW ¹ / ₄ SE ¹ / ₄ (Tract 11) Dave Gingcade 0.70 acre in SW ¹ / ₄ NE ¹ / ₄ and NW ¹ / ₄ SE ¹ / ₄ (Tract 12) Dolly Mathews 0.23 acre in SW ¹ / ₄ NE ¹ / ₄ (Tract 13) F. Ayers 0.46 acre in SW ¹ / ₄ NE ¹ / ₄ (Tract 14) F. Ayers 0.20 acre in SW ¹ / ₄ NE ¹ / ₄ (Tract 15) Mrs. Arglee Green 0.27 acre in NE ¹ / ₄ SW ¹ / ₄ -0.27 (d) All in Section 3 T. 36 S., R. 1 W., W.M. |

(2) D-119 May 6, 1966

(a) T-2543 Sept 18, 1972

(b) T# M-166 Oct 6, 1966

(c) T# D-116 May 6, 1966

(d) T# K-44 Feb 23, 1966

(e) T-2725 March 23, 1973

| ate of Priority | Quantity of water in C.F.S. | No. of Acres | Place of Use | |
|--------------------|-----------------------------------|-------------------------|--|--|
| ① Jan. 31, 1870 | 0.25 0.24 | 10 9.65 | (Tract 16 A. A. Newman) | 9.65 10.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. - 0.35 (d) |
| ④ 1908 | 0.46 0.48 | 19.3 18.5 | (Tract 16 A. A. Newman) | 13.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ |
| | | | (Tract 17 A.C. Mittelstaedt) | 2.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ |
| | | | (Tract 18 A.C. Mittelstaedt) | 0.8 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 0.0 (d) All in Section 3 T. 36 S., R. 1 W., W.M. |
| ③ 1907 | 0.13 | 5 | (Tract 19 J. F. Brown) | 5.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3 |
| | | | Tract 20 - Geo. Brown Est. | |
| | | | Tract 21 - Wm. Von der Hellen | T. 36 S., R. 1 W., W.M. |
| | | | Tract 22 - J. A. Miller | |
| | | | Tract 23 - T. F. Nichols | |
| | | | Tract 24 - W. H. Brown | |
| | | | Tract 25 - R. S. Brown | |
| | | | Tract 26 - Cecelia Holmes | |
| | | | Tract 27 - J. B. Rader | |
| ① Jan. 31, 1870 | 0.3 | 12 | (Tract 28 - Fred Thompson) | 1.0 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ |
| | | | (Tract 29 - A. H. Thompson) | 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ |
| | | | (Tract 30 - Geo. Lewis) | 9.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. |
| ① 1908 | 0.05 | 2 | (Tract 30 - Geo. Lewis) | 2.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. |
| ① Jan. 31, 1870 | 0.04 | 1.3 | (Tract 31 - Gladius F. Pearce Clarence P. Henderson) | 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.7 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.2 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. |
| ① Jan. 31, 1870 | 0.13 | 5 | (Tract 32 - A. R. McDonald) | 5.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. |
| ① Jan. 31, 1870 | 0.13 0.12 | 5 4.6 | (Tract 33 Ira Grove) | 4.6 5.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3 - 0.4 (b) |
| | | | Tract 34 - Grace Dahack | |
| | | | Tract 35 - W. W. Taylor | |
| | | | Tract 36 - Ira Grove | |
| | | | Tract 37 - Tom Cingcade | T. 36 S., R. 1 W., W.M. |
| ① Jan. 31, 1870 | 0.01 | 0.54 | (Tract 38 - O. M. Goss) now Block 2, Fryer's Addition to Eagle Point more explicitly described as Richard G. & Helen M. Wolgamott | 0.54 acre, being: 0.32 acre within Lots 1 & 2 and adjacent portion of 9th Street, Block 2, Fryer's Add'n to Eagle Point, appurtenant to: 0.14 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.18 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3 T. 36 S., R. 1 W., W.M. |

| Date of Priority | Quantity of water in C.F.S. | No. of Acres | Place of Use |
|------------------|-----------------------------|--------------|--|
| | | | Lawrence D. & Rose Marie Davis |
| | | | 0.22 acre within Lot 3 and adjoining portion of alley along northwesterly edge, Block 2, Fryer's Add'n to Eagle Point, appurtenant to: |
| | | | 0.03 acre in NE 1/4 SW 1/4 |
| | | | 0.19 acre in NW 1/4 SE 1/4 |
| | | | Section 3 |
| | | | T. 36 S., R. 1 W., W.M. |
| ① Jan. 31, 1870 | 0.03 | 1 | (Tract 39) - Walter A. Wood |
| | | | 1.0 acre in NE 1/4 SW 1/4 |
| | | | Section 3 |
| | | | T. 36 S., R. 1 W., W.M. |
| ④ 1908 | 0.41 | 16.25 | (Tract 40) - Wm. Lewis |
| 1908 | 0.29 | 11.64 | (Tract 41) - Geo. Phillips |
| | | | (Tract 42) - Ada Matthews |
| | | | (Tract 43) - Catholic Church |
| | | | (Tract 44) - E. Clark |
| | | | (Tract 45) - Jackson County |
| | | | (Tract 46) - Jackson County |
| | | | (Tract 47) - Jackson County |
| | | | (Tract 48) - Mrs. Anglee Green |
| | | | (Tract 49) - Faye J. Hall |
| | | | Clarence P. Henderson |
| | | | 0.4 acre in SE 1/4 NE 1/4 |
| | | | 1.2 acres in NE 1/4 SE 1/4 |
| | | | Section 3 |
| | | | T. 36 S., R. 1 W., W.M. |

* 1.7 ac - 150 70
+ 0.68 " " " " 150 67
0.03 " " " " " "

Notes:

This certificate is issued to define the water right remaining appurtenant to Tract 38. (now designated Block 2, Fryer's Addition to Eagle Point), as

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 29579, Volume 21, State Record of Water Right Certificates, NOT modified by the provisions of any orders of the Water Resources Director entered on Feb. 23, 1966, approving transfer application No. K-44.

| | | |
|----------|------|---------|
| May 6 | 1966 | D-116, |
| May 6 | 1966 | D-119, |
| Oct 6 | 1966 | M-166, |
| Sept 18 | 1972 | 2543, f |
| March 23 | 1973 | 2725 |

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

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 9th day of March, 19 62

LEWIS A. STANLEY
State Engineer