

2820

STATUS OF APPLICATION

Change in Point of Diversion
Date filed MAY 24, 1973
Date of hearing October 9, 1973
Place of hearing Albany, Ore.
Date of order 1-3-74 Vol. 24, page 39
Date for application of water 10-1-74
Proof mailed _____
Proof received _____
Certificate issued NOV 23 1976 Vol. 36, page 44012

DESCRIPTION OF WATER RIGHT

Name of stream Bilyeu Creek
Trib. of _____ County of Linn
Use Irrigation
Quantity of water _____ No. of acres 43^B
Name of ditch _____
Date of priority April 2, 1959
In name of Madeline Lackner
_____ Adjudication, Vol. _____, page _____
App. No. 33014 Per. No. 26103 Cert. No. 32468
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>5-24-73</u>	<u>25.00</u>	<u>33990</u>
<u>5-24-73</u>	<u>40.00 P.O.N.</u>	<u>33991</u>
TOTAL . . .		
<u>11-29-73</u>	<u>*150 Cert. Fee</u>	<u>From P.O.N.</u>

FEES REFUNDED

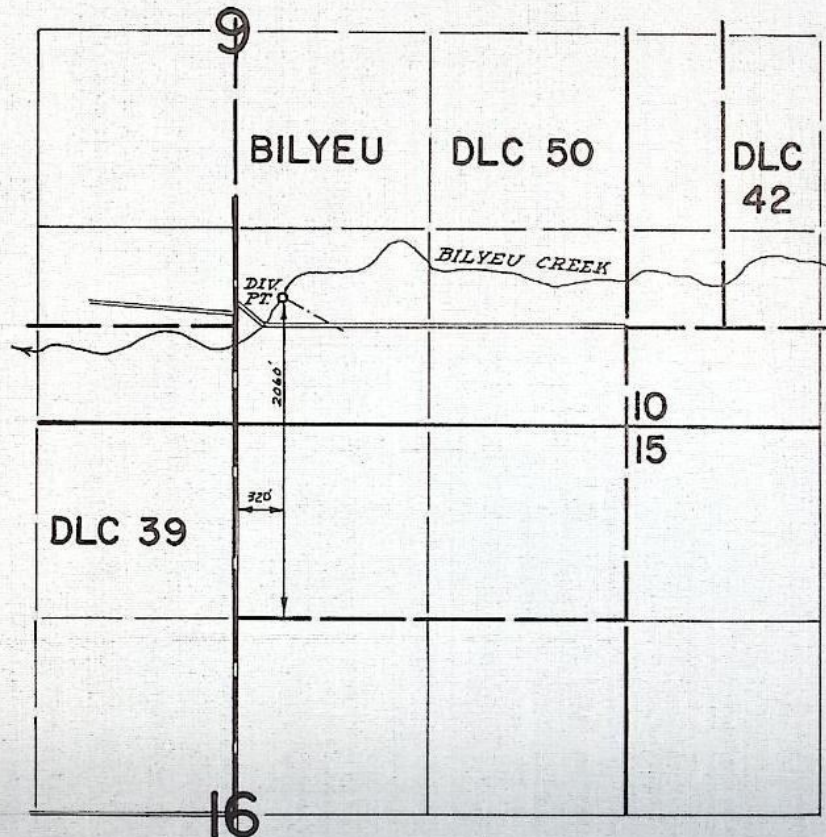
Date	Amount	Check No.
<u>11-29-73</u>	<u>*4.27 P.O.N.</u>	<u>5530</u>

REMARKS

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

712

T.10S., R.1E., W.M.



FINAL PROOF SURVEY
UNDER

Transfer No. 2820

Application No. _____ Permit No. _____

IN NAME OF

MADELINE LACKNER

Surveyed Oct. 17 1974, by D. Norby

STATE OF OREGON

COUNTY OF LINN

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **MADELINE LACKNER**

of Route 1, Box 91, Scio, 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 Bilyeu Creek

a tributary of Thomas Creek for the purpose of irrigation of 43.8 acres

under Permit No. 26103 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 April 2, 1959

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 0.34 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within Bilyeu DLC 50, Section 9, T. 10 S., R. 1 E., 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-eightieth 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 2 $\frac{1}{2}$ 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:

11.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
 12.9 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$
 both as projected within J. Bilyeu DLC 50
 Section 9
 10.1 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
 9.4 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
 both as projected within J. Bilyeu DLC 50
 Section 16
 T. 10 S., R. 1 E., 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. September 27, 1965

CHRIS L. WHEELER

State Engineer

BEFORE THE STATE ENGINEER OF OREGON

Linn County

IN THE MATTER OF THE APPLICATION
OF MADELINE LACKNER FOR THE APPROVAL
OF A CHANGE IN POINT OF DIVERSION OF
WATER FROM BILYEU CREEK

ORDER APPROVING
TRANSFER NO. 2820

On May 24, 1973, Madeline Lackner filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Bilyeu Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Madeline Lackner and recorded at page 32468, Volume 24, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.34 cubic foot per second of water from Bilyeu Creek for the irrigation of 11.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, 10.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 9.4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 10 South, Range 1 East, W.M., with a date of priority of April 2, 1959. These lands are irrigated from a point of diversion located 425 feet North and 1225 feet East from the Northeast corner of Bilyeu D.L.C. #39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Township 10 South, Range 1 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 150 feet North and 400 feet East from the Northeast corner of Bilyeu D.L.C. #39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Township 10 South, Range 1 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 Albany, Oregon on January 2, 1974 at 9:30 a.m.

The notice was published in the Scio Tribune, a newspaper printed and having general circulation in the Linn County, Oregon, for a period of three weeks in the issues of November 8, 15 and 22, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Gene McGinnis, Watermaster of District No. 2, has filed a report to the effect that the proposed change in 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 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 point of diversion of water from Bilheu Creek, to wit:

From a point located 425 feet North and 1225 feet East from the Northeast corner of Bilyeu D.L.C. #39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 10 South, Range 1 East, W.M.

To a point to be located 150 feet North and 400 feet East from the Northeast corner of Bilyeu D.L.C. #39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 10 South, Range 1 East, W.M.

for the irrigation of 11.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, 10.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 9.4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 10 South, Range 1 East, W.M., with a date of priority of April 2, 1959, 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, 1974.

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 0.34 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.

It is FURTHER ORDERED that certificate of water right heretofore issued to Madeline Lackner and recorded at page 32468, Volume 24, 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 Madeline Lackner confirming the change in point of diversion.

Dated at Salem, Oregon, this 3rd day of January, 1974.

/s/ CHRIS L. WHEELER
State Engineer

Affidavit of Publication

STATE OF OREGON, }
COUNTY OF LINN, } SS.

I, E. H. HAYWARD, being first duly sworn, depose and say:
That I am the Publisher of

THE SCIO TRIBUNE

a weekly newspaper of general circulation, as defined in Sections 1-609 and 1-610, Oregon
Compiled Laws Annotated, printed and published at Scio, in the aforesaid county and
state; that the Notice of Application for change in
point of Diversion of Water in Bilyeu Creek,
a printed copy of which is hereto attached, was published in the entire issue of said
newspaper for three successive and consecutive issues of the following dates:
November 8, 15, and 22, 1973.

Subscribed and sworn to before me this 28 th day of April, 19 73

Amos Drushella
Notary Public for Oregon.

My commission expires 7-19-75

RECEIVED

NOV 29 1973

STATE ENGINEER
SALEM, OREGON

Notice of Filing Application For Change in Point of Diversion of Water

Notice is given hereby that Madeline Lackner has filed an application for the approval of a change in point of diversion of water from Bilyeu Creek.

Certificate of water right issued to Madeline Lackner and recorded at page 32468, Volume 24, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.34 cubic foot per second of water from Bilyeu Creek for the irrigation of 11.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, 10.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 9.4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 10 South, Range 1 East, W.M., with a date of priority of April 2, 1959.

The water is conveyed to these lands by means of a pump located at a point of diversion 425 feet North and 1225 feet East from the NE corner of Bilyeu DLC No. 39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Township 10 South, Range 1 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 150 feet North and 400 feet East from the NE corner of Bilyeu DLC No. 39, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 10 South, Range 1 East, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Albany, Oregon, on January 2, 1974, 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 Madeline Lackner, Route 1, Box 91, Scio, Oregon, 97374, 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 29th day of October, 1973.

CHRIS L. WHEELER
State Engineer

Publish Nov. 8, 15, and 22, 1973.