

2789

STATUS OF APPLICATION

Change in Point of Diversion
Date filed April 17, 1973
Date of hearing _____
Place of hearing _____
Date of order 6-20-78 Vol. 31, page 9
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued SEP 4 1980 Vol. 43, page 49440
to Sen 6/78

DESCRIPTION OF WATER RIGHT

Name of stream N. F. K. John Day River
Trib. of _____ County of Grant
Use Irrigation
Quantity of water _____ No. of acres 4⁰⁴
Name of ditch _____
Date of priority Nov. 6, 1963
In name of Ben M. Spain

Adjudication, Vol. _____, page _____
App. No. 39228 Per. No. 29229 Cert. No. 35950
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
4-17-73	15.00	33327
4-21-78	15.00	2394
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED[illegible]

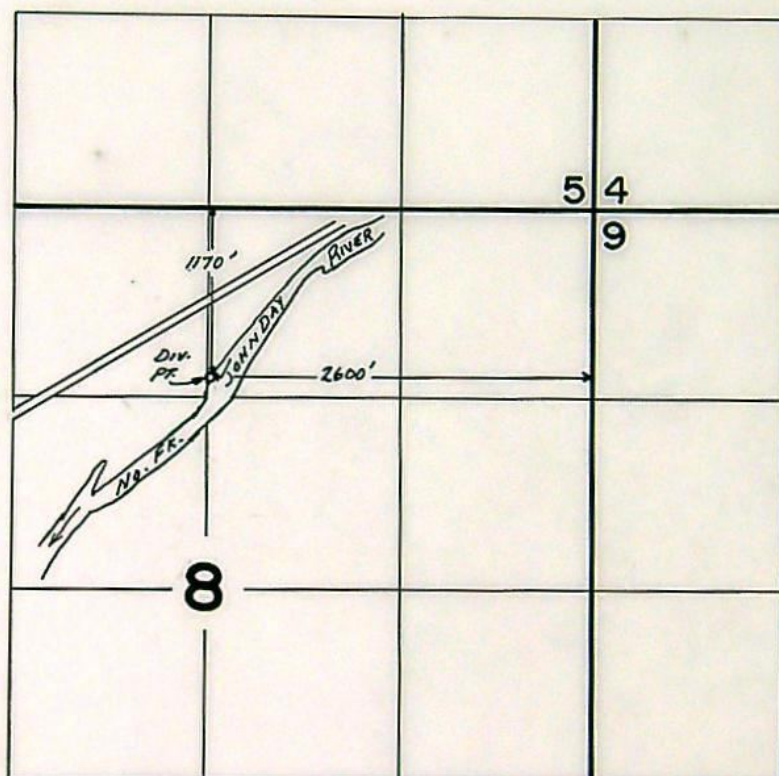
REMARKS

W.R.I.S.	
Assembled	<u>7-18-89</u> by <u>521</u>
Entered	_____ by _____
Verified	_____ by _____

W.R.I.S.
Assembled 7-18-84 by 521
Entered _____ by _____
Verified _____ by _____

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	Entered	Checked
<input checked="" type="checkbox"/>	Name	<i>li</i>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Stream	<i>li</i>	<input type="checkbox"/>
<input type="checkbox"/>	Pt. of Div.		<input type="checkbox"/>
<input checked="" type="checkbox"/>	Calendar	<i>ley</i>	<input type="checkbox"/>
CHECKED TO RECORD:			
<input checked="" type="checkbox"/>	Twp. & Rge.		<input type="checkbox"/>
<input type="checkbox"/>	Decree-vault		<input type="checkbox"/>
<input type="checkbox"/>	Decree-safe		<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 type="checkbox"/>
<input type="checkbox"/>	Catindex		<input type="checkbox"/>
<input type="checkbox"/>	Cross Ref.		<input type="checkbox"/>
<input type="checkbox"/>	Power Claim		<input type="checkbox"/>
<input checked="" type="checkbox"/>	Abstracts	<i>li</i>	<input type="checkbox"/>

T. 9S. R. 27E. W.M.



FINAL PROOF SURVEY
UNDER

TRANSFER No. 2789
Application No. Permit No.
IN NAME OF

..... **BEN M. SPAIN**

Surveyed Aug. 29. 1978., by J.S. Donaldson....

STATE OF OREGON
COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That BEN M. SPAIN

of Monument ⁹⁷⁸⁶⁴, 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 North Fork John Day River

a tributary of John Day River for the purpose of irrigation of 4.04 acres

under Permit No. 29229 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 November 6, 1963

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 0.10 cubic foot per second, if available at the original diversion point;

or its equivalent in case of rotation measured at the point of diversion from the stream. The point of diversion is located in the NW¹ NE¹, Section 8, T. 9 S., R. 27 E., W. M.

Diversion point located 2300 feet South and 3820 feet West from NE Corner, SW¹ SW¹, Section 4.

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 5 acre feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right to use of water is limited to the period when the flow of the John Day River is more than 30 c.f.s. at USGS Gage No. 14-0465 and more than 20 c.f.s. at USGS Gage No. 14-0480,

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:

4.04 acres NE¹ NW¹
Section 8
T. 9 S., R. 27 E., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of

This certificate is issued to confirm a change in point of diversion approved by an order of the WRD entered 6-20-78 and supersedes certificate of water right recorded at page 35950 Vol. 27 SRWRC.

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

POD: NWNE Sec 8 T9S R27E WM
1170' S & 2600' W from NE cor Sec 8

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

GRANT COUNTY

IN THE MATTER OF THE APPLICATION)
OF BEN M. SPAIN FOR APPROVAL OF)
A CHANGE IN POINT OF DIVERSION)
OF WATER)

ORDER APPROVING
TRANSFER NO. 2789

On April 17, 1973, an application was filed in the office of the Water Resources Director by Ben M. Spain for approval of a change in point of diversion from North Fork John Day River, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 35950, Volume 27, State Record of Water Right Certificates, in the name of Ben M. Spain, describes a right for the use of not to exceed 0.1 cubic foot per second from North Fork John Day River for irrigation of 4.04 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 9 South, Range 27 East, W.M., with a date of priority of November 6, 1963.

The authorized point of diversion is located 2300 feet South and 3820 feet West from the Northeast Corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, Township 9 South, Range 27 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 1250 feet South and 2750 feet West from the Northeast Corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 9 South, Range 27 East, W.M.

Mr. Jerry Rodgers, Watermaster, has filed a statement 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 requested change in point of diversion, as described herein, without loss of priority, is approved.

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 under the subject right, and shall not exceed 0.1 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and

and measuring devices:

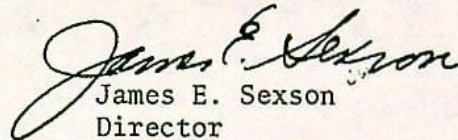
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right recorded at page 35950, Volume 27, State Record of Water Right Certificates, is canceled; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 20th day of June, 1978.


James E. Sexson
Director