

2735 John Molthan
Inside
Dec. 97908

2735

STATUS OF APPLICATION

Change in Additional Pt. of Diversion
Date filed Nov. 13, 1972
Date of hearing Feb. 20, 1973
Place of hearing Vale, Ore
Date of order April 17, 1973 Vol. 23, page 122
Date for application of water 10-1-74
Proof mailed _____
Proof received _____
Certificate issued OCT 20 1978 Vol. 39, page 46694
JAN 29 1979 Vol. 40, page 47308

DESCRIPTION OF WATER RIGHT

Name of stream So. Fork Willow Creek
Trib. of Malheur River County of Malheur
Use Irrigation
Quantity of water _____ No. of acres 402
Name of ditch Bottom, Hill, Island, ditches Elma Young or Duncanditches
Date of priority 1882
In name of S.M. Molthan
Willow Creek Adjudication, Vol. 3, page 295
App. No. G-341 Per. No. G-116 Cert. No. 1600
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>11-13-72</u>	<u>21.50</u>	<u>31417</u>
<u>12-1-72</u>	<u>3.50</u>	<u>31614</u>
<u>12-1-72</u>	<u>40.00 P.O.N.</u>	<u>31615</u>
TOTAL . . .		
<u>12-1-72</u>	<u>3.00 Cert. Fee</u>	<u>31616</u>

FEES REFUNDED

Date	Amount	Check No.
<u>1-19-73</u>	<u>*5.22 P.O.N.</u>	<u>5116</u>

REMARKS

Additional lands under Cert. 1600 involved in transfer 2952.

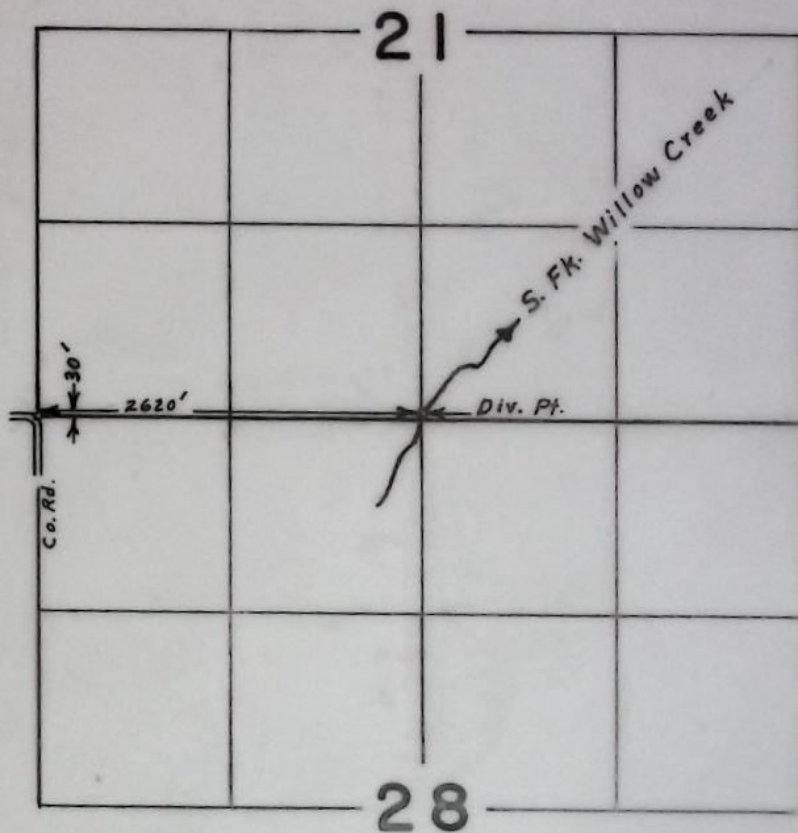
See G 341

G-6391

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

630

T.14 S. R.39 E. W.M..



FINAL PROOF SURVEY
UNDER

Application No. _____ Transfer No. 2735
Permit No. _____
IN NAME OF
JOHN MOLTHAN

Surveyed April 28, 1976, by L. E. Gould

STATE OF OREGON

COUNTY OF *Malheur*

CERTIFICATE OF WATER RIGHT

This Is to Certify, That *John Moltan*of *Ironside*, State of *OR 97908* , has

a right to the use of the waters of

*South Fork Willow Creek*a tributary of *Willow Creek*

for the purpose of

the irrigation of 40.0 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for *Malheur* County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume *3* , at page *258*; that the priority of the right thereby confirmed dates from *1880*

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 *a rate of flow of 1.0 cubic foot per second from April 1st to May 1st and 0.5 cfs between May 1st and September 1st of each year, or the equivalent in case of rotation, the total quantity diverted during each ~~season~~ irrigation season not to exceed 120 acre feet.*

The point of diversion is located in the *NE¹/₄ NW¹/₄ Sec 28 T14S R39EWM, 1040'S & E60'W from the N¹/₄ cor Sec 28; SE¹/₄ Sec 21 T14S R39EWM, 30'N & 2620'E from the SW cor Sec 21*

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

*27.0 acres SE¹/₄SW¹/₄**13.0 " SW¹/₄SE¹/₄**Sec 21**T14S R39EWM*

This certificate is issued to confirm the additional point of diversion approved by an order of the WRD entered April 17, 1973 and together with the provisions of transfer application T-2982 supersedes certificate of water right recorded on page 1600 V. 2, SRWRC.

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 Water Resources Director, affixed

this date

, 19 .

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume

, page

46694

BEFORE THE STATE ENGINEER OF OREGON

Malheur County

IN THE MATTER OF THE APPLICATION)
OF JOHN MOLTHAN FOR THE APPROVAL)
OF ESTABLISHING AN ADDITIONAL)
POINT OF DIVERSION OF WATER FROM)
SOUTH FORK WILLOW CREEK)

ORDER APPROVING
TRANSFER NO. 2735

On November 13, 1972, John Molthan filed an application in the office of the State Engineer for the approval of establishing an additional point of diversion of water from South Fork Willow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Malheur County, Oregon entered June 6, 1916, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Willow Creek and its Tributaries, a water right was established in the name of S. M. Molthan for the use of the waters of South Fork Willow Creek for the irrigation of, among other lands, 27.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 13.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, Township 14 South, Range 39 East, W.M., with a date of priority of 1882, as evidenced by certificate of water right recorded at page 1600, Volume 2, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 1040 feet South and 860 feet West from the N $\frac{1}{4}$ corner of Section 28, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 14 South, Range 39 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion for irrigation of these lands and establish an additional point of diversion to be located 5 feet North and 20 feet East from the S $\frac{1}{4}$ corner of Section 21, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, Township 14 South, Range 39 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 additional point of diversion of water, if any there were, namely: at the

county courthouse in Vale, Oregon on February 20, 1973 at 9:30 a.m. The notice was published in the Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of December 27, 1972, January 3, and 10, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Frank W. Elfering, Watermaster of District No. 9, has filed a report to the effect that the proposed additional point of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed additional point of diversion may be established without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the applicant may maintain the present point of diversion of water from South Fork Willow Creek, to-wit:

At a point 1040 feet South and 860 feet West from the $N\frac{1}{2}$ corner of Section 28, being within the $NE\frac{1}{4}$ $NW\frac{1}{4}$ of Section 28, Township 14 South, Range 39 East, W.M.

and may establish and maintain an additional point of diversion to be located:

At a point 5 feet North and 20 feet East from the $S\frac{1}{2}$ corner of Section 21, being within the $SW\frac{1}{4}$ $SE\frac{1}{4}$ of Section 21, Township 14 South, Range 39 East, W.M.

for the irrigation of 27.0 acres in $SE\frac{1}{4}$ $SW\frac{1}{4}$ and 13.0 acres in $SW\frac{1}{4}$ $SE\frac{1}{4}$, Section 21, Township 14 South, Range 39 East, W.M., with a date of priority of 1882, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the additional point of diversion of water established 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 together with the amount diverted at the original point of diversion shall not exceed 1.0 cubic foot per second from April 1, to May 1,

and 0.5 cubic foot per second from May 1, to September 1, of each year.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed.

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 S. M. Molthan and recorded at page 1600, Volume 2, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding and upon receipt of proof satisfactory to the State Engineer of completion of the establishment of the authorized additional point of diversion, a certificate of water right shall be issued to John Molthan confirming the additional point of diversion.

Dated at Salem, Oregon, this 17th day of April, 1973.

CHRIS L. WHEELER
State Engineer

AFFIDAVIT OF PUBLICATION

Vale, Oregon,

January

1967

TO MALHEUR ENTERPRISE, Dr.

To publishing attached Legal Notice in 3 issues \$ 34.78

STATE OF OREGON }
County of Malheur } ss.

I, W.G. Auyer being first duly sworn, depose and say that I am the Forman Publisher of the printers of The Malheur Enterprise, which is a weekly newspaper of general circulation, printed and published in Vale in said county and state that such newspaper is made up of at least four pages of six columns each and at least 17 3/4 inches in depth of matter; that such newspaper was regularly and uninterruptedly published each week for at least twelve consecutive months immediately preceeding the first publication of attached

Legal Notice and has more than 200 bona fide subscribers within said county; that the Legal Notice

of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, once each week for 3 successive and consecutive weeks, being published 3 times commencing with the issue dated the 27 day of December, 1972 and ending with the issue dated the 10 day of January, 1973

That the amount of charge actually made and to be collected for such newspaper for such newspaper for such publication is \$ 34.78

W.G. Auyer
Foreman Publisher of the Printers

Subscribed and sworn so before me, this 15 day of January

19 73

John L. Wheeler
Notary Public for Oregon

(My commission expires July 2 1974)

RECEIVED
JAN 17 1973
STATE ENGINEER
SALEM, OREGON

NOTICE OF FILING APPLICATION FOR ADDITIONAL POINT OF DIVERSION

Notice is given hereby that John Molthan has filed an application for the approval of an additional point of diversion of water from South Fork Willow Creek.

In the Willow Creek Adjudication proceedings, a water right was established in the name of S. M. Molthan for the use of the waters of the South Fork and North Fork of Willow Creek for the irrigation of, among other lands, 27.0 acres in SE 1/4 SW 1/4, and 13.0 acres in SW 1/4 SE 1/4, Section 28, Township 14 South, Range 39 East, W.M., with a date of priority of 1882.

The point of diversion is located 1040 feet South and 860 feet West from the North 1/4 corner of Section 28, being within the NE 1/4 NW 1/4, of Section 28, Township 14 South, Range 39 East, W.M.,

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion and establish an additional point of diversion to be located 5 feet North and 20 feet East from the South 1/4 corner of Section 21 being within the SW 1/4 SE 1/4 of Section 21, Township 14 South, Range 39 East, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Vale, Oregon, on February 20, 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 John Molthan, Ironside, Oregon, 97908, 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 20th day of December, 1972.

CHRIS L. WHEELER
State Engineer

Publish: Dec. 27, 1972

Jan. 3, 10, 1973

AFFIDAVIT OF PUBLICATION

Vale, Oregon,

January

1973

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County of Malheur } ss.

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Legal Notice and has more than 200 bona fide subscribers within said county; that the Legal Notice of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, once each week for 3 successive and consecutive weeks, being published 3 times commencing with the issue dated the 27 day of December, 1972 and ending with the issue dated the 10 day of January, 1973

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W. G. Auer
Foreman Publisher of the Printers

Subscribed and sworn so before me this 15 day of January, 1973

Boydian
Notary Public for Oregon

(My commission expires July 2, 1974)

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JAN 17 1973
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Dated at Salem, Oregon, this 20th day of December, 1972.

CHRIS L. WHEELER
State Engineer

Publish: Dec. 27, 1972

Jan. 3, 10, 1973

STATE OF OREGON

WATER DIVISION NO. 2 COUNTY OF MALHEUR

CERTIFICATE OF WATER RIGHT

(For Rights which have been confirmed by the Courts)

This is to Certify, That S. M. MOLTHAM
of Ironside State of Oregon has a right to the use of
the waters of South Fork of Willow Creek and North Fork of Willow Creek, tributary
of Willow Creek,

for the purpose of the irrigation of 223.5 acres of land, domestic and stock use,

and that said right has been confirmed by decree of the Circuit Court of the State of
Oregon for Malheur County, and the said decree entered of record at Salem,
in the Order Record of the ~~Malheur~~ STATE WATER BOARD of the State of Oregon, in Volume 3, at
page 258 ; that the priority of the right hereby confirmed dates from the year 1880
for 86 acres and 1882 for 137.5 acres;

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 pur-
poses, and shall not exceed a rate of flow of 5.59 sec. ft. from April 1st to
May 1st and 2.80 sec. ft. from May 1st to September 1st of each year, or the
equivalent in case of rotation; the total quantity diverted during each irrigation
season not to exceed 670.5 acre feet.

A description of the lands irrigated under such right, and to which the water
hereby confirmed is appurtenant, or, if for other purposes, the place where such water
is put to beneficial use, is as follows: 20 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$; 29 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$;
10 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ (the foregoing being Government land, the right to water is
dependent upon lawful possession of said land by claimant and his grantees)
40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$; 13 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$; 38 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$;
13 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21; 20.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Tp. 14 S.,
R. 39 E. W. M., in Malheur County, Oregon.

The right to the use of the water aforesaid hereby confirmed is restricted to the
lands or place of use herein described.

WITNESS the seal and signature of the State
Water Board

~~of Malheur County~~ affixed this 11th day

of June . 1917..

STATE WATER BOARD

~~BOARD OF COMMISSIONERS~~

(SEAL OF STATE WATER BOARD)

By JOHN H. LEWIS
State Engineer, President

Attest:

M. F. MERS

Secretary