

3081 J. W. Auer
Route 1, Box 232
Monmouth, IL 62341

3081

STATUS OF APPLICATION

Change in place of use and point of diversion
Date filed 7-1-74
Date of hearing March 9, 1976
Place of hearing Dallas
Date of order 4-14-76 Vol. 27, page 99
Date for application of water 10-1-77
Proof mailed _____
Proof received _____
Certificate issued AUG 30 1976 Vol. 35, page 43607
MAR 16 1979 40 47650
to survey 2/78

DESCRIPTION OF WATER RIGHT

Name of stream Big Lickcreek R
Trib. of _____ County of Polk
Use irrigation
Quantity of water _____ No. of acres 29 5
Name of ditch _____
Date of priority April 30, 1970
In name of J.W. Auer
_____ Adjudication, Vol. _____, page _____
App. No. 46612 Per. No. 34980 Cert. No. 70693
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>7-1-74</u>	<u>40.00</u>	<u>41733</u>
TOTAL . . .		
<u>4-1-76</u>	<u>\$4</u> Cert. Fee	<u>52263</u>

FEES REFUNDED

Date	Amount	Check No.

REMARKS

See 46612 See T-3080
24601
T-11437 temp Δ POU, POU approved 1.88 pg 30x

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

608

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11437, Polk County)	TEMPORARY CHANGE IN PLACES
)	OF USE AND POINTS OF DIVERSION

Authority

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion authorized under an existing water right.

OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

OLSEN AGRICULTURE, LLC
ROGER OLSEN
8930 SUVER RD
MONMOUTH, OR 97361

Findings of Fact

1. On June 25, 2012, OLSEN AGRICULTURE, LLC filed an application to temporarily change the places of use and points of diversion to serve the proposed places of use under Certificates 26578, 32343, 43607, and 47650 for a period of 2 years. The Department assigned the application number T-11437.
2. On July 19, 2012, the applicant's agent amended the "from" place of use for Certificate 26578.
3. The portion of the first right to be temporarily transferred is as follows:
Certificate: 26578 in the name of V. L. MATHANY (perfected under Permit S-19903)
Use: IRRIGATION OF 127.9 ACRES
Priority Date: NOVEMBER 10, 1950
Rate: 1.49 CUBIC FEET PER SECOND

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Limit/Duty: 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year and shall be further limited to a diversion of not to exceed 1.49 cubic feet per second.

Source: (BIG) LUCKIAMUTE RIVER, a tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
9 S	6 W	WM	24	SW SE
9 S	6 W	WM	24	SE SE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	5 W	WM	19	SW SW		34.8
9 S	5 W	WM	19	SE SW		10.2
9 S	6 W	WM	24	NE SE		0.4
9 S	6 W	WM	24	SW SE	4	19.2
9 S	6 W	WM	24	SE SE		30.0
9 S	6 W	WM	25	NE NE		17.6
9 S	6 W	WM	25	NW NE	1	15.7
TOTAL						127.9

4. Temporary Transfer Application T-11437 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	29	NE SW	2.0
9 S	4 W	WM	29	NW SW	12.2
9 S	4 W	WM	29	SW SW	36.0
9 S	4 W	WM	29	SE SW	6.1
9 S	4 W	WM	32	NE NW	6.5
9 S	4 W	WM	32	NW NW	38.0
9 S	4 W	WM	32	SW NW	24.0
9 S	4 W	WM	32	SE NW	3.1
TOTAL					127.9

5. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11437 proposes to move the authorized points of diversion approximately 24.5 stream miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	1000 FEET NORTH AND 100 FEET WEST FROM THE NORTHERLY SE CORNER OF DLC 46

6. The second right to be temporarily transferred is as follows:

Certificate: 32343 in the name of V. L. MATHANY (perfected under Permit S-28593)

Use: IRRIGATION OF 91.3 ACRES

Priority Date: JANUARY 18, 1963

Rate: 1.14 CUBIC FEET PER SECOND

Limit/Duty: 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: (BIG) LUCKIAMUTE RIVER, a tributary of the WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
9 S	5 W	WM	19	NW SW	
9 S	5 W	WM	24	NW SE	3
9 S	5 W	WM	25	SE SE	

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	5 W	WM	30	NE NW		14.4
9 S	5 W	WM	30	NW NW		38.0
9 S	6 W	WM	25	NE NE		20.4
9 S	6 W	WM	25	NW NE	1	18.5
TOTAL						91.3

7. Temporary Transfer Application T-11437 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	29	SE SW	0.5
9 S	4 W	WM	29	SW SE	4.0
9 S	4 W	WM	31	SE NE	3.0
9 S	4 W	WM	31	NE SE	10.5
9 S	4 W	WM	31	SE SE	7.0
9 S	4 W	WM	32	NW NE	6.5
9 S	4 W	WM	32	SW NE	6.5
9 S	4 W	WM	32	NE NW	5.2
9 S	4 W	WM	32	SW NW	14.5
9 S	4 W	WM	32	SE NW	2.9
9 S	4 W	WM	32	SE NW	7.7
9 S	4 W	WM	32	NE SW	5.4
9 S	4 W	WM	32	NW SW	9.5
9 S	4 W	WM	32	SW SW	5.0
9 S	4 W	WM	32	NW SE	3.1
TOTAL					91.3

8. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11437 proposes to move the authorized points of diversion approximately 24.5 stream miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	1000 FEET NORTH AND 100 FEET WEST FROM THE NORTHERLY SE CORNER OF DLC 46

9. The portion of the third right to be temporarily transferred is as follows:

Certificate: 43607 in the name of J. W. AUER (perfected under Permit S-34980)

Use: IRRIGATION OF 104.9 ACRES

Priority Date: APRIL 30, 1970

Rate: 1.31 CUBIC FEET PER SECOND

Limit/Duty: 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LUCKIAMUTE RIVER, a tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SE SE	69	560 FEET NORTH AND 1090 FEET WEST FROM THE SE CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	20	NE NE	69	30.9
9 S	5 W	WM	20	NW NE	69	1.0
9 S	5 W	WM	20	SW NE	69	13.5
9 S	5 W	WM	20	SE NE	69	31.2
9 S	5 W	WM	21	NW NW	69	22.2
9 S	5 W	WM	21	SW NW	69	6.1
TOTAL						104.9

10. Temporary Transfer Application T-11437 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	29	SW SE	19.8
9 S	4 W	WM	29	SE SE	5.0
9 S	4 W	WM	32	NE NE	10.0
9 S	4 W	WM	32	NW NE	33.5
9 S	4 W	WM	32	SW NE	33.5
9 S	4 W	WM	32	SE NE	3.1
TOTAL					104.9

11. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11437 proposes to move the authorized points of diversion approximately 21.0 stream miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	1000 FEET NORTH AND 100 FEET WEST FROM THE NORTHERLY SE CORNER OF DLC 46

12. The fourth right to be temporarily transferred is as follows:

Certificate: 47650 in the name of J.W. AUER (perfected under Permit S-34980)

Use: IRRIGATION OF 29.5 ACRES

Priority Date: APRIL 30, 1970

Rate: 0.37 CUBIC FOOT PER SECOND

Limit/Duty: 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 of 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LUCKIAMUTE RIVER, a tributary to the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	16	SE SE	59	600 FEET NORTH AND 500 FEET WEST FROM THE SE CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	15	SW SW	59	0.3
9 S	5 W	WM	16	SW SE	59	1.7
9 S	5 W	WM	16	SE SE	59	12.4
9 S	5 W	WM	21	NE NE	59	10.0
9 S	5 W	WM	21	NW NE	59	4.5
9 S	5 W	WM	22	NW NW	59	0.6
TOTAL						29.5

13. Temporary Transfer Application T-11437 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	32	SE NE	6.9
9 S	4 W	WM	32	NE SE	5.5
9 S	4 W	WM	32	NW SE	17.1
TOTAL					29.5

14. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11437 proposes to move the authorized points of diversion approximately 19.5 stream miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	1000 FEET NORTH AND 100 FEET WEST FROM THE NORTHERLY SE CORNER OF DLC 46

15. Notice of the application for transfer was published on July 3, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

16. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
17. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
18. The applicant has indicated that they propose to irrigate the proposed temporary place of use to October 31. However, the irrigation season for the Luckiamute River has been fixed by the Luckiamute River decree as being April 1 through September 30.
19. The proposed changes would not result in enlargement of the rights.
20. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

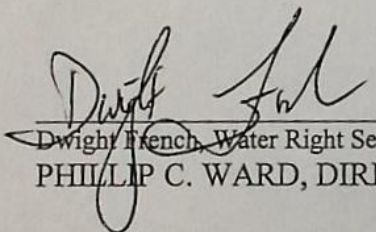
The temporary change in places of use and points of diversion to convey water to the temporary places of use proposed in application Temporary Transfer Application T-11437 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in places of use and points of diversion to convey water to the temporary places of use proposed in Temporary Transfer Application T-11437 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2012 and 2013 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2013 irrigation season. The authorization to use the temporary points of diversion shall be terminated concurrently.

4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 26578, 32343, 43607, and 47650 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 26578, 32343, 43607, and 47650.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. The use of water under these rights on the proposed temporary places of use is limited to the irrigation season of April 1 to September 30.
9. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at the new point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
10. The use of the remaining water rights described by Certificates 26578 and 32343 shall continue to be in accordance with the terms and conditions of Certificates 26578 and 32343.

Dated at Salem, Oregon this 7 day of August, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: AUG 13 2012

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That J. W. AUER

97361.

of Route 1, Box 232, Monmouth, 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 Luckiamute River

a tributary of Willamette River
irrigation of 151.7 acres ✓

for the purpose of

under Permit No. 34980 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 30, 1970

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 1.90 cubic feet 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 SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected within Simpson DLC 69, Section 17, T. 9 S., R. 5 W., W. M., 560 feet North and 1090 feet West from SE Corner, Section 17.

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:

5.2 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ ✓	37.9 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
19.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$ ✓	15.3 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
Both as projected within Simpson DLC 69	14.5 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
0.3 acre SE $\frac{1}{4}$ SE $\frac{1}{4}$ ✓	31.2 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
As projected within Smith DLC 56	All as projected within Simpson DLC 69
Section 17	Section 20
T. 9 S., R. 5 W., W. M.	22.2 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ ✓
	6.1 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$ ✓
	Both as projected within Simpson DLC 69
	Section 21
	T. 9 S., R. 5 W., 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. July 24, 1974

Chris L. Wheeler

State Engineer

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Polk County

IN THE MATTER OF THE APPLICATION }
OF J. W. AUER FOR THE APPROVAL OF }
A CHANGE IN PLACE OF USE AND POINT }
OF DIVERSION OF WATER FROM }
LUCKIAMUTE RIVER }

ORDER APPROVING
TRANSFER NO. 3081

On July 1, 1974, J. W. Auer filed an application in the office of the Water Resources Director for the approval of a change in point of diversion and place of use of water from Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to J. W. Auer and recorded at Page 40693, Volume 32, State Record of Water Right Certificates, confirms a right to the use of not to exceed 1.90 cubic feet per second of water from Luckiamute River for the irrigation of, among other lands, 1.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 16.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970. These lands are irrigated from a point of diversion located 560 feet North and 1090 feet West from the Southeast corner of Section 17, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Township 9 South, Range 5 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use to the irrigation of 1.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15, 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, and 0.6 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 9 South, Range 5 West, W.M., and to irrigate these lands from a point of diversion to be located 600 feet North and 500 feet West from the Southeast corner of Section 16, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, Township 9 South, Range 5 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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in Dallas, Oregon, on March 9, 1976, at 9:30 a.m. The notice was published in the Polk Sun, a newspaper printed and having general circulation in Polk County, Oregon, for a period of three weeks in the issues of January 14, 21 and 28, 1976. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Benjamin Monroe, Watermaster of District No. 18, 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 proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 1.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 16.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970, be severed therefrom and simultaneously and without loss of priority transferred to 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, 1.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, and 0.6 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, Township 9 South, Range 5 West, W.M.

It is FURTHER ORDERED that the change in point of diversion of water from Luckiamute River, to wit:

From a point located 560 feet North and 1090 feet West from the Southeast corner of Section 17, being within the $SE\frac{1}{4} SE\frac{1}{4}$ of Section 17, Township 9 South, Range 5 West, W.M.

To a point to be located 600 feet North and 500 feet West from the Southeast corner of Section 16, being within the $SE\frac{1}{4} SE\frac{1}{4}$ of Section 16, Township 9 South, Range 5 West, W.M.

for the irrigation of 0.3 acre in $SW\frac{1}{4} SW\frac{1}{4}$, Section 15, 1.7 acres in $SW\frac{1}{4} SE\frac{1}{4}$, 12.4 acres in $SE\frac{1}{4} SE\frac{1}{4}$, Section 16, 10.0 acres in $NE\frac{1}{4} NE\frac{1}{4}$, 4.5 acres in $NW\frac{1}{4} NE\frac{1}{4}$, Section 21, and 0.6 acre in $NW\frac{1}{4} NW\frac{1}{4}$, Section 22, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970, 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, 1977.

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 0.37 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 the certificate of water right heretofore issued to J. W. Auer and recorded at Page 40693, Volume 32, 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 Water Resources Director of completion of the authorized change in point of diversion, a certificate of water right shall be issued to J. W. Auer confirming the extent to which water

has been applied beneficially and confirming the change in point of diversion.

Dated at Salem, Oregon, this 14th day of April, 1976.

/s/ JAMES E. SEXSON
Director

ALL COTTON

MILLERS FALLS

Gibson Union Skin