

3058

STATUS OF APPLICATION

Change in point of diversion
 Date filed 6-3-74
 Date of hearing _____
 Place of hearing _____
 ✓ Date of order 12-24-75 Vol. 26, page 261
 Date for application of water 10-1-76
 Proof mailed _____
 Proof received _____
 Certificate issued OCT 18 1976 Vol. 35, page 43785
7/26/88 53 57353

Summary
2-79
Recheck
12-79

REMARKS

- SINIS -

DESCRIPTION OF WATER RIGHT **DVA Notification**

Name of stream Buttle Creek
 Trib. of _____ County of Marion
 Use irrigation
 Quantity of water _____ No. of acres 356
 Name of ditch _____
 Date of priority May 9, 1963
 In name of John Clary
 _____ Adjudication, Vol. _____, page _____
 App. No. 38717 Per. No. 28831 Cert. No. 34698
 Certificate cancelled _____
 Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>4/3/74</u>	<u>26.50</u>	<u>40421</u>
<u>12-23-75</u>	<u>3.50</u>	<u>50795</u>
TOTAL . . .		
<u>6/3/74</u>	<u>3.00</u> Cert. Fee	<u>40422</u>
<u>12-23-75</u>	<u>1.00</u>	<u>50796</u>

FEES REFUNDED

Date	Amount	Check No.

INDEX CARDS:

Entered

Checked

✓	Name	<u>WH</u>	
✓	Stream	<u>WH</u>	
<u>WH</u>	Pt. of Div.		
	Calendar		
	CHECKED TO RECORDS:		
✓	Twp. & Rge.	<u>WH</u>	
	Decree-vault		
	Decree-safe		
✓	Cert. of W/R	<u>WH</u>	
✓	Per. Folder	<u>WH</u>	
	Chaindex		
	Cross Ref.		
	Power Claim		
	Abstracts		

574

Superseded by

Cert. No.

43785

STATE OF OREGON
COUNTY OF MARION

Sp. Or. V. 26p. 267
(7-1-58)

CERTIFICATE OF WATER RIGHT

This Is to Certify, That JOHN CLARY

of Route 1, Box 36, Mt. Angel, 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 Butte Creek

a tributary of Pudding River
irrigation of 110.5 acres

for the purpose of

under Permit No. 28831 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 May 8, 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 0.63 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 $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ both as projected within Jack DLC 41, Sec. 8, T. 6 S., R. 1 E., W.M. Diversion points located below:

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, 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:

0.1 acre	NW $\frac{1}{4}$ NE $\frac{1}{4}$	As projected within Jack DLC 41
20.5 acres	SW $\frac{1}{4}$ NE $\frac{1}{4}$	As projected within Jack DLC 41
14.1 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$	As projected within Jack DLC 41
28.4 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$	As projected within Jack DLC 41
0.6 acre	Lot 1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$)	
3.2 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$	As projected within Jack DLC 41
32.2 acres	SE $\frac{1}{4}$ NW $\frac{1}{4}$	As projected within Jack DLC 41
3.6 acres	NE $\frac{1}{4}$ SW $\frac{1}{4}$	As projected within Jack DLC 41
7.8 acres	NW $\frac{1}{4}$ SE $\frac{1}{4}$	As projected within Jack DLC 41

Section 8
T. 6 S., R. 1 E., W.M.

*2140 feet South and 3680 feet East and 720 feet South and 2080 feet East, both from NW corner, Section 8.

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. March 29, 1968

CHRIS L. WHEELER

State Engineer

STATE OF OREGON
COUNTY OF MARION
CERTIFICATE OF WATER RIGHT

THIS IS TO CERTIFY, that JOHN CLARY AND DON CROXTON, of 16694 SOUTH DRAKE ROAD, MT. ANGEL, OREGON 97362, has a right to the use of the waters of BUTTE CREEK, TRIBUTARY OF PUDDING RIVER, for the purpose of IRRIGATING 35.6 ACRES.

The right has been perfected under Permit 28831. The date of priority is MAY 8, 1963. The right is limited to not more than 0.20 CUBIC FOOT PER SECOND IF AVAILABLE AT THE ORIGINAL POINT OF DIVERSION or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NE1/4 NW1/4 AS PROJECTED WITHIN DLC 41, SECTION 8,
T6S, R1E, WM; 180 FEET SOUTH AND 1450 FEET EAST AND 440 FEET SOUTH AND
1480 FEET EAST, BOTH FROM NW CORNER, SECTION 8

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 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right 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, and to which such right is appurtenant, is as follows:

NE1/4 NW1/4	5.6	ACRES
NW1/4 NW1/4	28.2	ACRES
BOTH AS PROJECTED WITHIN DLC 41		
LOT 1(NW1/4 NW1/4)	0.6	ACRE
SW1/4 NW1/4	1.2	ACRES
AS PROJECTED WITHIN DLC 41		
SECTION 8		
TOWNSHIP 6 SOUTH, RANGE 1 EAST, WM		

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered DECEMBER 24, 1975, and together with certificate 43785, supersedes certificate 34698, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

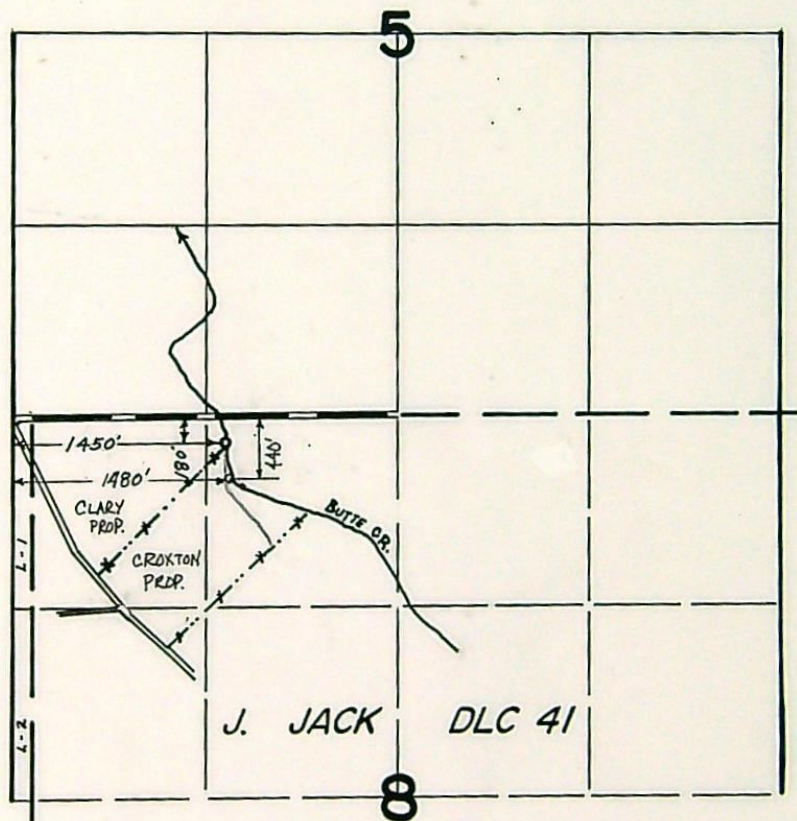
WITNESS the signature of the Water Resources Director, affixed this date July 26, 1988.

/S/ WILLIAM H. YOUNG
Water Resources Director

Recorded in State Record of Water Right Certificates numbered 57353

T-3058

T.6S. R.1E., W.M.



FINAL PROOF SURVEY
UNDER

Transfer No. 3058

IN NAME OF

PIRFIL CAM

Surveyed JUNE 6, 1979, by L. H. NUNN
NOV. 9, 1983 M. CAHILL

CERTIFICATE OF WATER RIGHT

This Is to Certify, That JOHN CLARY

of Rt. 1 Box 36, Mt. Angel, , State of Oregon, 97362 , has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Butte Creek

a tributary of Pudding River for the purpose of irrigating 74.90 acres

under Permit No. 28831 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 May 8, 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 0.43 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 $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ NW $\frac{1}{4}$, both projected within Jack DLC 41, Section 8, T. 6 S., R. 1 E., W. M., 2140 feet South and 3680 feet East; 720 feet South and 2080 feet East, Both from the NW Corner of Section 8.

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:

0.1 acre NW $\frac{1}{4}$ NE $\frac{1}{4}$	32.2 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
20.5 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$	3.6 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
8.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$	7.8 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
0.2 acre NW $\frac{1}{4}$ NW $\frac{1}{4}$	All projected within Jack DLC 41
2.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$	Section 8
	T. 6 S., R. 1 E., W. M.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at Page 34698, Volume 26, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on December 24, 1975.

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

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described, and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. October 18, 1976

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Marion County

IN THE MATTER OF THE APPLICATION)
OF PIRFIL CAM FOR THE APPROVAL OF)
A CHANGE IN POINT OF DIVERSION OF)
WATER FROM BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. 3058

On June 3, 1974, Pirfil Cam filed an application in the office of the Water Resources Director for the approval of a change in point of diversion of water from Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to John Clary and recorded at Page 34698, Volume 26, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.63 cubic foot per second of water from Butte Creek for the irrigation of, among other lands, 5.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 28.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 6 South, Range 1 East, W.M., with a date of priority of May 8, 1963. These lands are irrigated from a point of diversion located 720 feet South and 2080 feet East from the Northwest corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 6 South, Range 1 East, W.M.

The applicant herein, contract purchaser of the lands above described, proposes to irrigate these lands from a point of diversion to be located 450 feet South and 1550 feet East from the Northwest corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 6 South, Range 1 East, W.M.

John Clary, contract seller of the lands above described, has submitted written approval of the proposed change in point of diversion.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

Mr. Keith Palmer, Watermaster of District No. 16, 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 Butte Creek, to wit:

From a point located 720 feet South and 2080 feet East from the Northwest corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 6 South, Range 1 East, W.M.

To a point to be located 450 feet South and 1550 feet East from the Northwest corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 6 South, Range 1 East, W.M.

for the irrigation of 5.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 28.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 6 South, Range 1 East, W.M., with a date of priority of May 8, 1963, 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, 1976.

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 0.2 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 John Clary and recorded at Page 34698, Volume 26, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate be issued covering the balance of the right 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 Firfil Cam confirming the change in point of diversion.

Dated at Salem, Oregon, this 24th day of December, 1975.

/s/ JAMES E. SEXSON
Director