

3012 Don S. Orlando
Orlando Trout Creek Ranch
Fields, Or 97710

3012

STATUS OF APPLICATION

Change in place & use
Date filed 4-4-74
Date of hearing _____
Place of hearing _____
Date of order 10-29-76 Vol. 28, page 93
EXT: 10-1-81 10-1-82 10-1-79 10-1-80
Date for application of water 10-1-79 10-1-78
Proof mailed _____
Proof received _____
Certificate issued _____ Vol. _____, page _____

DESCRIPTION OF WATER RIGHT

Name of stream Trout Creek
Trib. of _____ County of Harney
Use irrigation
Quantity of water _____ No. of acres 90⁰
Name of ditch _____
Date of priority 1884
In name of _____
Trout Creek Adjudication, Vol. 3, page 96
App. No. _____ Per. No. _____ Cert. No. none
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>4-4-74</u>	<u>39.75</u>	<u>39389</u>
<u>11-2-75</u>		
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.
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REMARKS

Card for C NOV 20 1981

See also G 4409
Extended to 10-1-82 SpOr V36, p 379
Proof to Sat 10-10-2008 SpOr Vol 76, pg 412

INDEX CARDS:		Entered	Checked
<u>WH</u>	Name	<u>✓</u>	
<u>WH</u>	Stream	<u>✓</u>	
<u>WH</u>	Pt. of Div.		
<u>WH</u>	Calendar	<u>✓</u>	
CHECKED TO RECORDS:			
<u>✓</u>	Twp. & Rge.	<u>WH</u>	
<u>✓</u>	Deeroc-vault	<u>WH</u>	
<u>✓</u>	Deeroc-safe	<u>WH</u>	
<u>✓</u>	Cert. of W/R	<u>none</u>	
	Per. Folder		
	Chalindex		
	Cross Ref.		
	Power Claim		
	Abstracts		

When Trsf 3012 approved, act on Permit for Appl. # G6493

T-7933

495-2212

Don Orlando
20780 Boyce Ln
Saratoga, CA 95070

Monte Siegner 495-2211

**BEFORE THE WATER RESOURCES DEPARTMENT
FOR THE
STATE OF OREGON**

Order of Proper Proof of Changes in Place of
Use Under Transfer 3012

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)
)
)

Final Order

This order confirms the right of record to use the waters of TROUT CREEK for IRRIGATION of 90.0 ACRES.

This right of record was confirmed by decree of the Circuit Court of the State of Oregon for HARNEY County, dated February 13, 1916, in the matter of Edwin B. Hill et al v The American Land and Livestock Company et al. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 3, at Page 89. The date of priority is 1884.

The amount of water to which this right of record is entitled is limited to an amount actually used beneficially, and shall not exceed a diversion of 3.0 acre-feet for each acre irrigated during the irrigation season, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
39 S	36 E	WM	30	NW NE			290 FEET NORTH AND 500 FEET EAST FROM THE SW CORNER, NW¼ NE¼, SECTION 30

A description of the place of use to which this right of record is appurtenant is as follows:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
39 S	35 E	WM	25	NE NE			19.6
39 S	35 E	WM	25	NW NE			21.1
39 S	35 E	WM	25	SE NE			40.0
39 S	35 E	WM	25	NE NW			7.3
39 S	35 E	WM	25	NE SE			2.0

When in the judgment of the Watermaster it becomes necessary to install headgates and measuring devices, the diversion works shall include an in-line flow meter, weir, or other suitable device for measuring the water to which the water user is entitled. The type and plans of the measuring device shall be approved by the Watermaster before the beginning of construction work and the weir or measuring device be installed under the general supervision of the Watermaster.

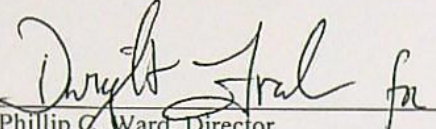
This order is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered October 29, 1977, at Special Order Volume 28, Page 73, approving Transfer Application 3012.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 either 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.

The right of record to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued OCT 10 2008.


Phillip C. Ward, Director

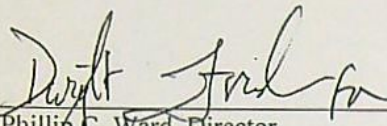
The diversion works shall include a weir or other suitable device for measuring the water to which the water user is entitled.

This order is issued to confirm changes in PLACE OF USE and POINT OF DIVERSION approved by an order of the Water Resources Director entered November 29, 1978, at Special Order Volume 31, Page 463, approving Transfer Application 3590.

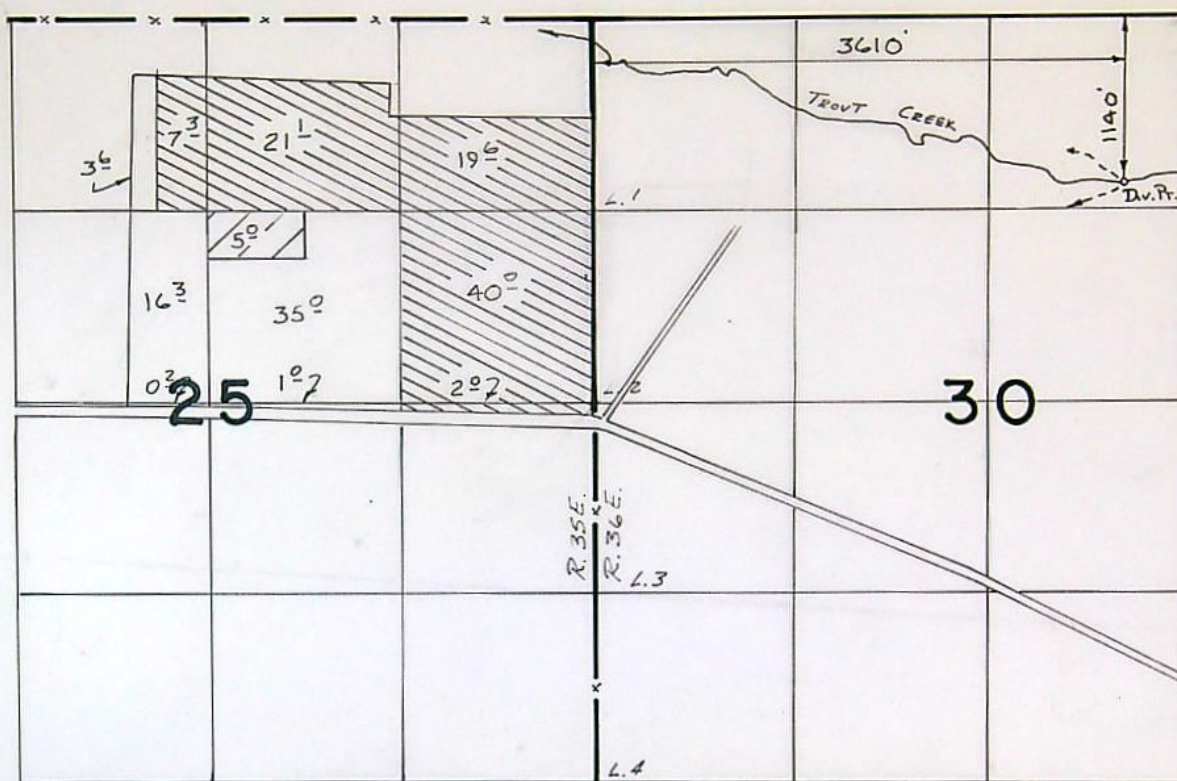
The right of record to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

OCT 10 2008

Issued _____.


Phillip C. Ward, Director

T. 39S., R. 35 & 36E., W.M.



T-3012



T-3590

FINAL PROOF SURVEY
UNDER

TRANSFERS 3012, 3590
IN NAME OF

.....DON.....ORLANDO.....

Surveyed ...7-14... 1988, by ...V.L. Church.....

Scale 1"=1320'

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Harney County

IN THE MATTER OF THE APPLICATION
OF DON S. ORLANDO FOR THE APPROVAL
OF A CHANGE IN PLACE OF USE OF
WATER FROM TROUT CREEK

ORDER APPROVING
TRANSFER NO. 3012

On April 4, 1974, Don S. Orlando filed an application for transfer of water right in the office of the Water Resources Director proposing a change in place of use under an existing right of record to appropriate water from Trout Creek, with a date of priority of 1884, at a point of diversion located 290 feet North and 500 feet East from the Southwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 39 South, Range 36 East, W.M., for the irrigation of 20.0 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 40.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, 20.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 10.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 39 South, Range 36 East, W.M., being a portion of the right recognized in the name of Thomas & Walter by Decree of the Court for Harney County, dated February 23, 1916, in the Matter of Edwin B. Hill et al v. The American Land and Livestock Company et al, appurtenant to said lands in part as tabulated in the Decree and in part by change in place of use under the provisions of an order of the State Engineer, dated July 9, 1942, and recorded at Page 253, Volume 4, Special Order Record.

The applicant herein, owner of the lands above described, proposes to sever the said right therefrom and to irrigate 20.0 acres in S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, 30.0 acres in S $\frac{3}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 39 South, Range 35 East, W.M.

Mr. William H. Beal, Watermaster of District No. 10, has filed a statement to the effect that the proposed change in place of use may be made without injury to existing rights.

No objection having been filed and it appearing that the proposed change in place of use may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in place of use described herein, without loss of priority, is approved.

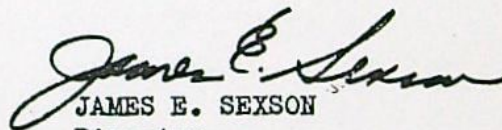
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices:

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 said water so transferred shall be applied to beneficial use on or before October 1, 1977.

Dated at Salem, Oregon, this 29th day of October, 1976.


JAMES E. SEXSON
Director

SPECIAL ORDER RECORD

OCT 7, 1976-APRIL 26, 1977

VOL 28

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

HARNEY COUNTY

IN THE MATTER OF APPLICATION FOR)
EXTENSION OF TIME FOR COMPLETION)
OF A CHANGE IN PLACE OF USE OF)
WATER UNDER TRANSFER 3012 IN THE)
NAME OF ORLANDO TROUT CREEK RANCH)

STATEMENT, FINDINGS
CONCLUSIONS & ORDER

STATEMENT

On January 8, 1982, Don Orlando of Orlando Trout Creek Ranch filed an application for an extension of time in which to complete a change in place of use of waters of Trout Creek for irrigation purposes as authorized by the order of the Water Resources Director entered on October 29, 1976, in approval of Water Right Transfer Application 3012. The application requests that the time be extended from October 1, 1981, to October 1, 1982.

On February 12, 1982, a protest was filed by Monte Seigner and others against approval of the said application for extension of time. In the protest it is alleged that the applicant has failed to exercise reasonable diligence toward completion of the change in place of use.

The said order dated October 29, 1976, authorized the severing of an existing 1884 priority water right from a certain 90 acres within the E 1/2 SW 1/4 SW 1/4 and SE 1/4 SW 1/4 of Section 19 and the NE 1/4 NW 1/4 and NE 1/4 NW 1/4 NW 1/4 of Section 30, Township 39 South, Range 36 East, WM, and irrigating, in lieu thereof, a certain 20 acres in S 1/2 NE 1/4 NE 1/4, 30 acres in S 3/4 NW 1/4 NE 1/4 and 40 acres in SE 1/4 NE 1/4 of Section 25, Township 39 South, Range 35 East, WM. The order provided that the authorized change in place of use was to be completed on or before October 1, 1977.

The time allowed by the said order was extended from time to time, the last such extension expiring on October 1, 1981.

Pursuant to notice to the parties, the matter of the application for further extension of time and the protest against it was brought to hearing before James W. Carver, Jr., an employee of the Water Resources Department, authorized to preside in behalf of the Director, on May 27, 1982, in the Harney County Courthouse in Burns, Oregon.

Protestant Monte Seigner appeared in person without the services of legal counsel and stated that he was authorized to speak in behalf of the other protestants.

Applicant Don Orlando was present at the hearing and was represented by Cliff S. Bentz of the law firm of Yturri, Rose, Burnham, Ebert and Bentz of Ontario, Oregon.

FINDINGS OF FACT

Within the time period of October 1, 1980, to October 1, 1981, being the duration of the last extension of time allowed for completion of the authorized change in place of use of water, the lands to be irrigated under the provisions of the approving order were surveyed for land leveling and surface irrigation system design purposes, the design plans were prepared by personnel of the U.S. Department of Agriculture, Soil Conservation Service office at Burns, Oregon, the subject lands were staked for land leveling, and approximately 47,500 cubic yards of soils materials were moved in a cut and fill land leveling operation.

With reference to the 60 acres of the subject lands within the E 1/2 NE 1/4 of Section 25, the land leveling operations were carried out by employees of the applicant using the applicant's own equipment.

With reference to the 30 acres of the subject lands within the NW 1/4 NE 1/4 of Section 25, the leveling operations were carried out by a land leveling contractor working under contract with the applicant.

The question before the Water Resources Director in this matter is: "Has the applicant shown reasonable diligence toward completion of the change in place of use of water as authorized by the aforesaid administrative order, particularly within the duration of the last approved extension of time, being from October 1, 1980 to October 1, 1981?"

Webster's New Universal Dictionary of the English Language, Unabridged, 1976, defines the word diligence as, "2. steady application to business of any kind; constant effort to accomplish what is undertaken . . .".

While considerable time has elapsed since the change in place of use was authorized, substantial progress was made toward completion of the authorized change in place of use in preparation of the land for irrigation by surface flooding application of water within the period of October 1, 1980 to October 1, 1981.

ULTIMATE FINDING OF FACT

The applicant did show reasonable diligence toward completion of the change in place of use of water as authorized by the aforesaid administrative order, particularly within the duration of the last approved extension of the time, being from October 1, 1980 to October 1, 1981.

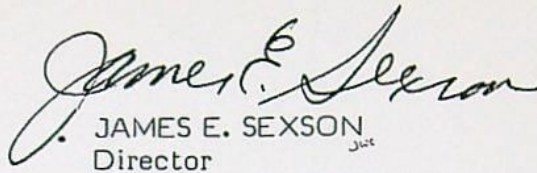
CONCLUSION

Although the applicant has had nearly five years within which to complete the authorized change in place of use of water for irrigation of a certain 90 acres of land, he has shown a sufficient degree of diligence, particularly within the year ending with October 1, 1981, to merit approval of one additional year to provide opportunity for him to fully complete the authorized change.

ORDER

NOW, THEREFORE, it is ORDERED that the subject application for extension of time from October 1, 1981, to October 1, 1982, for completion of the change in place of use of water from Trout Creek as authorized by the administrative order approving Transfer Application 3012 be and the same hereby is approved.

Dated in Salem, Oregon this 27th day of July, 1982.


JAMES E. SEXSON
Director

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1824B