

3516 Water R. Miller
3840 Dequard Drive
Linn 97302

3516

STATUS OF APPLICATION

Change in place of use + add'l point of diversion
Date filed 2-8-77
Date of hearing _____
Place of hearing _____
Date of order 3-22-77 Vol. 28, page 400
Date for application of water 10-1-78
Proof mailed _____
Proof received _____
Certificate issued Sep 12, 1988 Vol. 54, page 57733

Survey

DESCRIPTION OF WATER RIGHT

Name of stream Smallman Creek
Trib. of _____ County of Linn
Use irrigation
Quantity of water _____ No. of acres _____
Name of ditch _____
Date of priority _____
In name of _____
_____ Adjudication, Vol. _____, page _____
App. No. 42256 Per. No. 31615 Cert. No. 36947
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>2-8-77</u>	<u>35.00</u>	<u>57941</u>
<u>2-8-77</u>	<u>23.25 POK</u>	<u>57942</u>
TOTAL . . .		
	Cert. Fee	

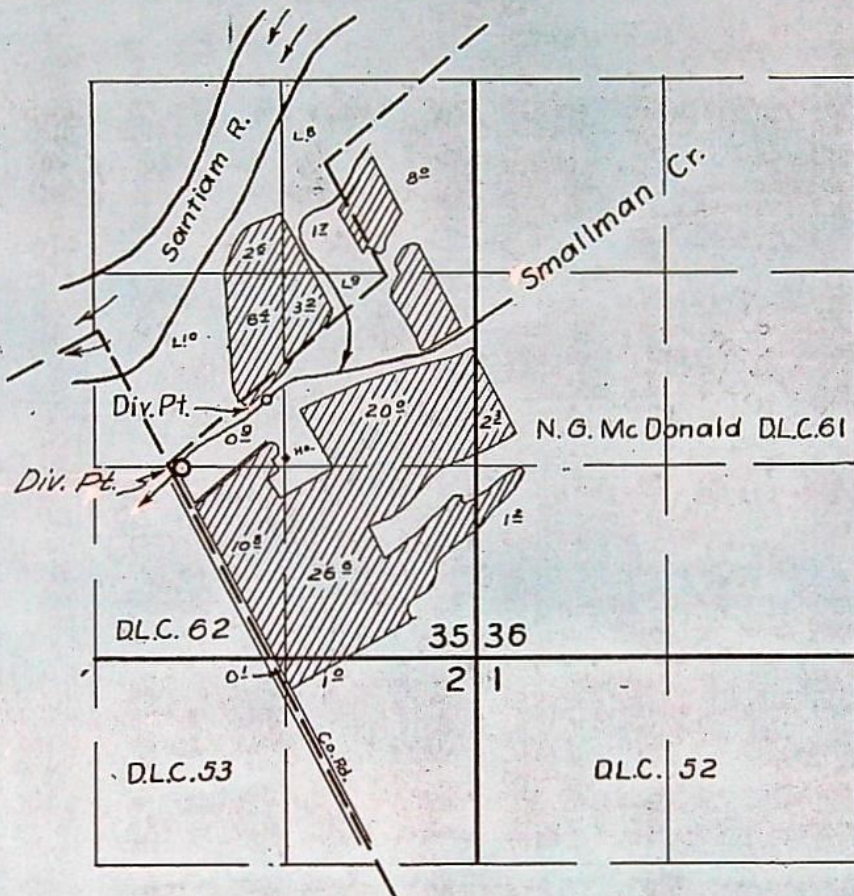
FEES REFUNDED

Date	Amount	Check No.

REMARKS

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

T.9&10S.R.2 W.W.M.



FINAL PROOF SURVEY

UNDER

Transfer | No. 3516

Application No.

Permit No. 6.

IN NAME OF

Walter R. Miller

Surveyed July 3, 1979 by A. C. Brown

DFMA-344-62
INSPECTION

STATE OF OREGON
COUNTY OF LINN
CERTIFICATE OF WATER RIGHT

THIS IS TO CERTIFY, that WALTER R. MILLER, of P.O. BOX 12395, SALEM, OREGON 97309, has a right to the use of the waters of SMALLMAN CREEK, a tributary of NORTH SANTIAM RIVER, for the purpose of IRRIGATION OF 163.3 ACRES AND SUPPLEMENTAL IRRIGATION OF 4.5 ACRES.

The right has been perfected under Permit 31615. The date of priority is MAY 25, 1966. The right is limited to not more than 2.10 cubic feet per second or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW 1/4 SE 1/4, AS PROJECTED WITHIN MCDONALD
DLC 61, SECTION 35, T 9 S, R 2 W, W.M.; #1 - 430 FEET NORTH & 680 FEET
EAST; #2 - 10 FEET SOUTH & 90 FEET EAST BOTH FROM MOST WESTERLY NW
CORNER MCDONALD DLC 61.

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.

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:

	PRIMARY	SUPPLEMENTAL
SW 1/4 NE 1/4	3.4 ACRES	0.6 ACRES
SE 1/4 NE 1/4	8.0 ACRES	1.8 ACRES
AS PROJECTED WITHIN DLC 61		
LOT 8 (SE 1/4 NE 1/4)	5.0 ACRES	2.0 ACRES
LOT 9 (NE 1/4 SE 1/4)	3.6 ACRES	
NE 1/4 SE 1/4	24.1 ACRES	0.1 ACRE
NW 1/4 SE 1/4	1.3 ACRES	
BOTH AS PROJECTED WITHIN DLC 61		
LOT 10 (NW 1/4 SE 1/4)	8.7 ACRES	
SW 1/4 SE 1/4	11.5 ACRES	
SE 1/4 SE 1/4	35.2 ACRES	
BOTH AS PROJECTED WITHIN DLC 61		
SECTION 35		
NW 1/4 SW 1/4	2.3 ACRES	
SW 1/4 SW 1/4	18.6 ACRES	
BOTH AS PROJECTED WITHIN DLC 61		
SECTION 36		
TOWNSHIP 9 SOUTH, RANGE 2 WEST, W.M.		

SEE NEXT PAGE

NW 1/4 NW 1/4 12.2 ACRES
AS PROJECTED WITHIN DLC 52
SECTION 1

NE 1/4 NE 1/4 29.3 ACRES
NW 1/4 NE 1/4 0.1 ACRE
BOTH AS PROJECTED WITHIN DLC 52
SECTION 2
TOWNSHIP 10 SOUTH, RANGE 2 WEST, W.M.

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.

This certificate is issued to confirm a change in PLACE OF USE, ADDITIONAL POINT OF DIVERSION, AND REMAINING RIGHT AS PROVIDED by an order of the Water Resources Director entered MARCH 22, 1977, and supersedes certificate 36947, 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.

The right is subject to minimum flows established by the Water Resources Commission with and effective date prior to this right.

WITNESS the signature of the Water Resources Director, affixed this date SEPTEMBER 27, 1988.

/s/ WILLIAM H. YOUNG
Water Resources Director

Recorded in State Record of Water Right Certificates numbered 57733

T-3516

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Linn County

IN THE MATTER OF THE APPLICATION
OF WALTER R. MILLER FOR THE APPROVAL
OF A CHANGE IN PLACE OF USE AND POINT
OF DIVERSION OF WATER FROM SMALLMAN
CREEK

ORDER APPROVING
TRANSFER NO. 3516

On February 8, 1977, Walter R. Miller filed an application in the office of the Water Resources Director for the approval of a change in place of use and an additional point of diversion of water from Smallman Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at Page 36947, Volume 28, State Record of Water Right Certificates, in the name of Walter D. and Patricia R. Miller describes an existing right of record for the use of not to exceed 2.10 cubic feet per second from Smallman Creek for irrigation of 0.8 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3.3 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.7 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 0.7 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$, and 8.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35; 17.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, Township 9 South, Range 2 West, W.M.; 5.8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 42.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 29.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 5.7 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.3 acre in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1; 32.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 9.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 10 South, Range 2 West, W.M.; and supplemental irrigation of 0.6 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, and 0.1 acre in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 9 South, Range 2 West, W.M., all with a date of priority of May 25, 1966.

Water for the said right is diverted at a point located 7.0 chains North and 9.5 chains East from the most Westerly Northwest corner of the McDonald DIC No. 61, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 9 South, Range 2 West, W.M.

The applicant herein, owner of the lands above described, proposes to sever the right from a certain 5.8 acres in $NE\frac{1}{4} NW\frac{1}{4}$, 30.0 acres in $NW\frac{1}{4} NW\frac{1}{4}$, 29.5 acres in $SW\frac{1}{4} NW\frac{1}{4}$, 5.7 acres in $SE\frac{1}{4} NW\frac{1}{4}$ and 0.3 acre in $NW\frac{1}{4} SW\frac{1}{4}$ of Section 1; 4.4 acres in $NE\frac{1}{4} NE\frac{1}{4}$ and 9.1 acres in $SE\frac{1}{4} NE\frac{1}{4}$ of Section 2, Township 10 South, Range 2 West, W.M., of the said lands and, without loss of priority, in lieu thereof irrigate a certain 2.6 acres in $SW\frac{1}{4} NE\frac{1}{4}$, 9.7 acres in $SE\frac{1}{4} NE\frac{1}{4}$, 23.2 acres in $NE\frac{1}{4} SE\frac{1}{4}$, 7.3 acres in $NW\frac{1}{4} SE\frac{1}{4}$, 10.8 acres in $SW\frac{1}{4} SE\frac{1}{4}$ and 26.6 acres in $SE\frac{1}{4} SE\frac{1}{4}$ of Section 35; 2.3 acres in $NW\frac{1}{4} SW\frac{1}{4}$ and 1.2 acres in $SW\frac{1}{4} SW\frac{1}{4}$ of Section 36, Township 9 South, Range 2 West, W.M.; 1.0 acre in $NE\frac{1}{4} NE\frac{1}{4}$ and 0.1 acre in $NW\frac{1}{4} NE\frac{1}{4}$ of Section 2, Township 10 South, Range 2 West, W.M.

The applicant herein also proposes to establish an additional point of diversion from Smallman Creek at a point located 0.3 chains North and 0.6 chains East from the most Westerly Northwest corner of the McDonald DLC No. 61, being within the $NW\frac{1}{4} SE\frac{1}{4}$ of Section 35, Township 9 South, Range 2 West, W.M., for irrigation of all of the lands under the subject right, being irrigation of 3.4 acres in $SW\frac{1}{4} NE\frac{1}{4}$, 13.0 acres in $SE\frac{1}{4} NE\frac{1}{4}$, 27.7 acres in $NE\frac{1}{4} SE\frac{1}{4}$, 10.0 acres in $NW\frac{1}{4} SE\frac{1}{4}$, 11.5 acres in $SW\frac{1}{4} SE\frac{1}{4}$ and 35.2 acres in $SE\frac{1}{4} SE\frac{1}{4}$ of Section 35; 2.3 acres in $NW\frac{1}{4} SW\frac{1}{4}$, and 18.6 acres in $SW\frac{1}{4} SW\frac{1}{4}$ of Section 36, Township 9 South, Range 2 West, W.M.; 12.2 acres in $NW\frac{1}{4} NW\frac{1}{4}$ of Section 1; and 29.3 acres in $NE\frac{1}{4} NE\frac{1}{4}$ and 0.1 acre in $NW\frac{1}{4} NE\frac{1}{4}$ of Section 2, Township 10 South, Range 2 West, W.M.; and supplemental irrigation of 0.6 acre in $SW\frac{1}{4} NE\frac{1}{4}$, 3.8 acres in $SE\frac{1}{4} NE\frac{1}{4}$ and 0.1 acre in $NE\frac{1}{4} SE\frac{1}{4}$ of Section 35, Township 9 South, Range 2 West, W.M.

Mr. Keith Palmer, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objection having been filed and it appearing that the proposed changes 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 requested change in place of use and additional point of diversion from Smallman Creek, described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 2.10 cubic feet 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 construction work shall be completed and the change in point of diversion of water made and said water so transferred applied to beneficial use on or before October 1, 1978.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Walter D. and Patricia R. Miller and recorded at Page 36947, Volume 28, 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 22nd day of March, 1977.

/s/ JAMES E. SEXSON
Director

STATE OF OREGON

COUNTY OF LINN

Superseded by
Cult. No. 57733

CERTIFICATE OF WATER RIGHT

This Is To Certify, That WALTER D. and PATRICIA R. MILLER

of P.O. Box 496, Stayton, 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
Smallman Creek

a tributary of North Santiam River for the purpose of
irrigation of 163.3 acres and supplemental irrigation of 4.5 acres
under Permit No. 31615 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 25, 1966

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
2.10 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 NW $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within McDonald DLC 61,
Section 35, T. 9 S., R. 2 W., W. M. Diversion point located: 4700 feet North
and 1580 feet West from SW Corner, McDonald DLC 52.

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:

Primary	Supplemental	
0.8 acre	0.6 acre	SW $\frac{1}{4}$ NE $\frac{1}{4}$
3.3 acres	2.0 acres	Lot 8 (SE $\frac{1}{4}$ NE $\frac{1}{4}$)
	1.8 acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$ as projected within McDonald DLC 61
0.4 acre		Lot 9 (NE $\frac{1}{4}$ SE $\frac{1}{4}$)
4.1 acres	0.1 acre	NE $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within McDonald DLC 61
2.3 acres		Lot 10 (NW $\frac{1}{4}$ SE $\frac{1}{4}$)
0.4 acre		NW $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within McDonald DLC 61
0.7 acre		SW $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within McDonald DLC 61
8.6 acres		SE $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within McDonald DLC 61
		Section 35
17.4 acres		SW $\frac{1}{4}$ SW $\frac{1}{4}$ as projected within McDonald DLC 61
		Section 36
		T. 9 S., R. 2 W., W. M.

Primary	Supplemental
5.8 acres	NE¼ NW¼ as projected within McDonald DLC 52
42.2 acres	NW¼ NW¼ as projected within McDonald DLC 52
29.5 acres	SW¼ NW¼ as projected within McDonald DLC 52
5.7 acres	SE¼ NW¼ as projected within McDonald DLC 52
0.3 acre	NW¼ SW¼ as projected within McDonald DLC 52
	Section 1
32.7 acres	NE¼ NE¼ as projected within McDonald DLC 52
9.1 acres	SE¼ NE¼ as projected within McDonald DLC 52
	Section 2
	T. 10 S., R. 2 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 10th day of August, 1970.

CHRIS L. WHEELER
 State Engineer

Recorded in State Record of Water Right Certificates, Volume 28, page 36947