

3679

Mc LIND

3679

STATUS OF APPLICATION

Change in POD
Date filed 5-20-77
Date of hearing _____
Place of hearing _____
Date of order 8-29-77 Vol. 29, page 252
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued _____ Vol. _____, page 60840

APR 14 1989

to survey 10/79

DESCRIPTION OF WATER RIGHT

Name of stream Dry Creek
Trib. of _____ County of Umatilla
Use irrigation
Quantity of water _____ No. of acres 7 1/2
Name of ditch _____
Date of priority _____
In name of _____
_____ Adjudication, Vol. 7, page 162
App. No. _____ Per. No. _____ Cert. No. 5538
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>5-20-77</u>	<u>\$ 35.00</u>	<u>60660</u>
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

Surveyed 4/25/84

— finish —

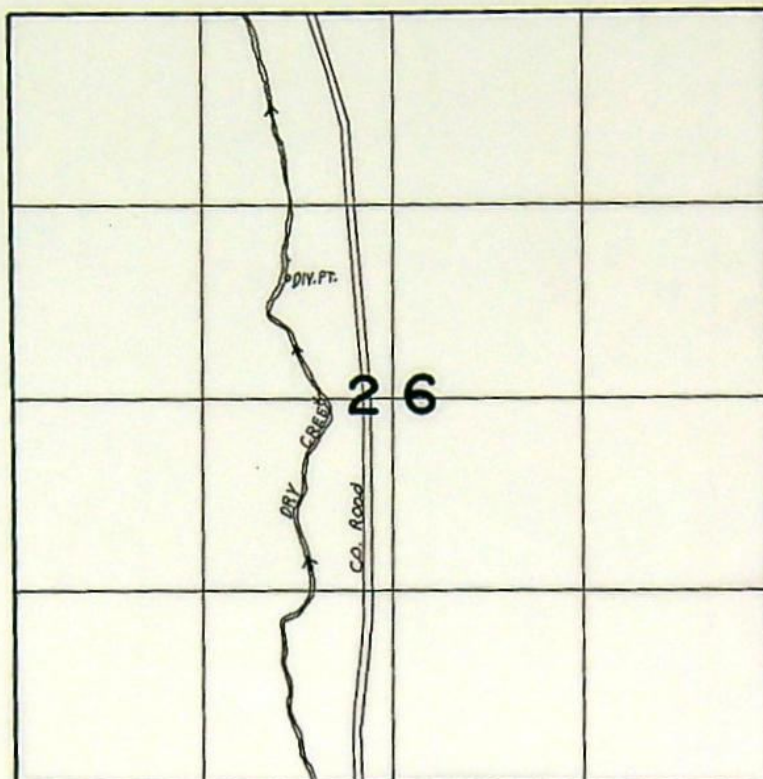
	INDEX CARDS:	
	Entered	Checked
<input checked="" type="checkbox"/> Name	<u>lg</u>	_____
<input checked="" type="checkbox"/> Sec. No.	<u>lg</u>	_____
<input checked="" type="checkbox"/> Ft. & Div.	<u>lg</u>	_____
<input checked="" type="checkbox"/> Calendar	<u>lg</u>	_____
CHECKED TO RECORDS:		
<input checked="" type="checkbox"/> Top. & Rge.	_____	_____
<input checked="" type="checkbox"/> Bureau-vault	<u>lg</u>	_____
<input checked="" type="checkbox"/> Bureau-safe	<u>lg</u>	_____
<input checked="" type="checkbox"/> Cert. of W/R	_____	_____
<input checked="" type="checkbox"/> Per. Folder	_____	_____
<input checked="" type="checkbox"/> Checkbook	_____	_____
<input checked="" type="checkbox"/> Cross Ref.	_____	_____
<input checked="" type="checkbox"/> Power Claim	<u>lg</u>	_____
<input checked="" type="checkbox"/> Abstracts	<u>lg</u>	_____

CCB

T. 5 N. R. 35 E. W. M.



SCALE: 1"=1320'



DIV. PT. NEW P.O.D., LOCATED 181.0' S. AND 1900' E. FROM
N.W. COR. SEC. 26

FINAL PROOF SURVEY
UNDER

TRANSFER 3679

IN NAME OF

..... VICTOR M. McLIND

Surveyed 4-25 1984, by V.L. CHURCH.....

Umatilla County

IN THE MATTER OF THE APPLICATION
OF WM. H. STEEN FOR APPROVAL OF A
CHANGE IN POINT OF DIVERSION OF
WATER FROM DRY CREEK.

ORDERAPPROVING APPLICATION

S-28

Pursuant to the provisions of Section 116-606, O. C. L. A., Wm. H. Steen of Milton, Oregon, on November 14, 1941, filed in the office of Chas. E. Stricklin, State Engineer, an application for the approval of a change in point of diversion of water from Dry Creek, a tributary of Pine Creek, in Umatilla County, Oregon.

By decree of the Circuit Court for Umatilla County, Oregon, dated March 17, 1924, a water right was allowed Wm. H. Steen for the irrigation of 11.9 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 11.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 5 North, Range 35 East, W. M., with a priority of 1882, through the Steen Ditch which, it appears, diverts from Dry Creek 610 feet south and 577 feet east of the northwest corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 5 North, Range 35 East, W. M., being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said section.

In accordance with Section 116-606, O. C. L. A., notice of filing of said application and time for hearing was duly published, and within ten days prior to the date set for hearing in said notice protests against the allowance of said application were filed with the State Engineer by R. H. Lee, Andrew Zessin, Harold Harder, Minna E. Still, and J. N. York.

The date of the hearing as set forth in the published notice was postponed to February 4, 1942, and the place of the hearing transferred to the City Hall in Milton, Oregon. On this date, the applicant and the objectors appeared at the City Hall in Milton and introduced oral and documentary evidence in support of their respective claims.

The objections to the approval of the application are based upon the following:

I

"That the objectors right is for domestic purposes and is by law superior to the rights of the applicant to take water from said creek for agriculture purposes.

II

"That the applicant forfeited his right to use water from said creek for agriculture purposes for the reason that he has not used the same for more than five years.

III

"That the applicant will use part of the water secured from said creek on other land of the applicant not described in the application.

IV

"That the proposed change of point of diversion and installing of pumping system will permit the applicant to take more water from said creek than he has ever used under supposed water right and will prevent objector during certain months using the right he has for domestic purposes."

The water right of the applicant has been adjudicated by the Circuit Court for Umatilla County, Oregon, and the presumption is that such right continues in existence until a court of competent jurisdiction has otherwise determined. No such determination has been made of this right. The application is only for the approval of a change in the point of diversion. The approval by the State Engineer would not in any way modify or change the provisions in the court's decree as to the place of use, rate or quantity of water diverted, or the priority of the applicant's right. The only question for consideration by the State Engineer is will the change in point of diversion result in injury to existing rights.

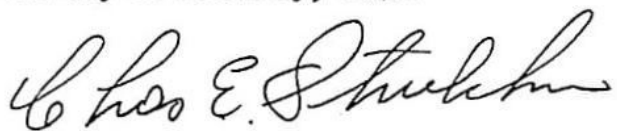
The lands of all the objectors are located below the lands of the applicant.

It appears that water for irrigation of the lands of the applicant from the point of diversion from Dry Creek was carried in a concrete pipe for a distance of some 700 or 800 feet and from the pipe-line in a ditch for about three-fourths mile to the lands irrigated. The lands irrigated by the applicant are in a relatively narrow strip about one-half mile in length, lying east and adjacent to Dry Creek. The topography is uneven, sloping to the creek. It appears that the applicant plans to install a sprinkler system, using a pump to divert the water. In order to save in pipe, it is proposed to have a portable pumping plant and pipe-line, the diversion being within the $E\frac{1}{2}$ NW $\frac{1}{4}$, Section 26, Township 5 North, Range 35 East, W. M.

After careful consideration of the evidence submitted in the matter, it appears that the approval of the application of Wm. H. Steen for a change in point of diversion would not be an injury to existing rights as contemplated by Section 116-606, O. C. L. A.

NOW, THEREFORE, it hereby is ORDERED that the present point of diversion of water from Dry Creek for the irrigation of 11.9 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 11.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 5 North, Range 35 East, W. M., as determined by the decree of the Circuit Court for Umatilla County, Oregon, dated March 17, 1924, under the name of Wm. H. Steen, which point is 610 feet south and 577 feet east of the northwest corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 5 North, Range 35 East, W. M., be changed downstream to within the $E\frac{1}{2}$ NW $\frac{1}{4}$, Section 26, Township 5 North, Range 35 East, W. M.

Dated at Salem, Oregon, this 6th day of February, 1942.



CHAS. E. STRICKLIN

State Engineer

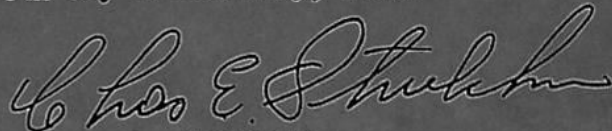
East, W. M.

Dated at Salem, Oregon, this 6th day of February, 1942.

Notation made on

Decree Vol. 17 p. 162

Case # 5130

A handwritten signature in cursive script, reading "Chas. E. Stricklin". The signature is fluid and elegant, with a large initial "C" and a long, sweeping underline.

CHAS. E. STRICKLIN

State Engineer

OK Cont
AE

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

This is to Certify, That

Victor M. McLind

WM. H. STEEN

of Rt. 3 Box 2, Milton Freewater, State of Oregon 97862 has a right to the use of the waters of Dry Creek, a tributary of Pine Creek

for the purpose of Irrigation 23.4 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 7, at page 148; that the priority of the right thereby confirmed dates from 1882;

0.39 cfs if available at the original point of diversion: Steen Ditch, NE 1/4 NW 1/4 Section 35, T.5N., R.35E., W.M.,

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 One acre foot per acre during any thirty-day period, nor three acre feet per acre during the irrigation season beginning April 1st and ending October 1st.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:
POD #1 portable pumping in E 1/2 NW 1/4, Sec 26, T.5N., R.35E., W.M.; #2 SE 1/4 NW 1/4, Section 26, T.5N., R.35E., W.M., 1810'S & 1900'E from NW cor sec 26.

Eleven and nine tenths (11.9) acres in the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) and Eleven and five tenths (11.5) acres in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section Twenty-six (26), Township Five (5) North, Range Thirty-five (35) East of the Willamette Meridian, containing 23.4 acres.

diver

Change in point of diversion.
S-280 Sp Or Vol. 4 p. 197

Diversion #1
NE 1/4 NW 1/4 11.9 acres
SE 1/4 NW 1/4 4.0 acres
Section 26

Diversion #2
SE 1/4 NW 1/4 7.5 acres
Section 26

Townships 5 North, Range 35 East, W.M.

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 irrigation purposes is restricted to the lands or place of use herein described.

3 Clause

This certificate is issued to confirm a change in point of diversion and an additional point of diversion approved by an order of the Water Resources Director entered Feb 6, 1942 & Aug 29, 1977 and supersedes certificate 5538, 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.

Recorded in State Record of Water Right Certificates, Volume 10, page 5538

S-28 T-3679

6840

S-28 T-3679

Orig POD: Steen Ditch, NE 1/4 NW 1/4 sec 35, T.5N., R.35E., W.M., 610'S & 577'E from NW cor of NE 1/4 NW 1/4
VA p100 Cw POD to E 1/2 NW 1/4 Sec 26

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

UMATILLA COUNTY

IN THE MATTER OF THE APPLICATION)
OF VICTOR M. MCLIND FOR APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM DRY CREEK)

ORDER APPROVING
TRANSFER NO. 3679

On May 20, 1977, an application was filed in the office of the Water Resources Director by Victor M. McLind for a change in point of diversion under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 5538, Volume 6, State Record of Water Right Certificates, in the name of Wm. H. Steen, as modified under the provisions of an administrative order entered February 6, 1942 approving transfer application No. S-28, describes a right to use of water from Dry Creek for irrigation of a certain 7.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 5 North, Range 35 East, W.M., with a date of priority of 1882.

Water for the said right is diverted from a point located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 26.

The applicant herein, owner of the lands above described, proposes to change the point of diversion, without loss of priority, to a point located 1838 feet South and 1795 feet East from the Northwest corner of Section 26, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 26.

Mr. William I. Profily, Watermaster, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change

129
P252-253

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 requested change in point of diversion as described herein, without loss of priority, is approved.

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 under the subject right.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install head-gates 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 on or before October 1, 1979.

It is FURTHER ORDERED that 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 the certificate of water right heretofore issued to Wm. H. Steen and recorded at page 5538, Volume 6, State Record of Water Right Certificates, be canceled, and in lieu thereof a new confirming certificate of water right be issued to the applicant herein.

Dated at Salem, Oregon, this 29th day of August, 1977.

/s/ James E. Sexson
Director

253