

Phone 623-2923

T 3574

3524
KENNETH GARDNER
17400 Gardner Road
Dallas, OR 97338
20/105

STATUS OF APPLICATION

Change in point of diversion & place of use
Date filed 3-10-77
Date of hearing 7-19-77
Place of hearing Dallas
Date of order 4-28-78 Vol. 30, page 544
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued JUN 9 1978 Vol. 38, page 45807
Sept 27, 1988 54 57701

DESCRIPTION OF WATER RIGHT

Name of stream Little Luckiamute R.
Trib. of _____ County of Polk
Use irrigation
Quantity of water _____ No. of acres 240
Name of ditch _____
Date of priority _____
In name of _____
_____ Adjudication, Vol. _____, page _____
App. No. 17909 Per. No. 13595 Cert. No. 17041
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
3-10-77	45.00	58940
6-16-77	PON 80.00	58941
TOTAL . . .	PON 41.59	61654
3-10-77	#2 Cert. Fee	58942 RR
Pd. Polk Co. Stenigal Observer *121.59 ck. #1435 8/29/77		

FEES REFUNDED

Date	Amount	Check No.
Exam	20	
POU	10	
POD	15	
	45	

REMARKS

See T#3575 (cross switch)
CARD FOR C LUG 26 1979

W.R.I.S.	
Assembled	7-29-83 by SPB
Entered	_____ by _____
Verified	_____ by _____

INDEX CARDS:		Entered	Checked
✓	Name	Cij	_____
✓	Stream	Cij	_____
✓	Pt. of Div.	_____	_____
✓	Calendar	Cij	_____
CHECKED TO RECORDS			
✓	Twp. & Pgs.	db	Cij
✓	Decree-vault	_____	_____
✓	Decree-safe	_____	_____
✓	Cert. of W/R	JWC	_____
✓	Per. Folder	JWC	_____
✓	Chaindex	_____	_____
✓	Cross Ref.	_____	_____
✓	Power Claim	_____	_____
✓	Abstracts	Cij	_____

BEFORE THE WATER RESOURCES DIRECTOR OR OREGON

POLK COUNTY

IN THE MATTER OF THE APPLICATION)
OF KENNETH GARDNER FOR APPROVAL)
OF CHANGES IN PLACE OF USE AND)
POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER NO. 3574

On March 10, 1977, an application was filed in the office of the Water Resources Director by Kenneth Gardner for approval of changes in place of use and point of diversion from Little Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

The Certificate recorded at page 17041, Volume 14, State Record of Water Right Certificates, in the name of Wiley M. Gardner, describes a right which includes the use of not to exceed 0.3 cubic foot per second from Little Luckiamute River for irrigation of a certain 8.7 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, 2.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, 6.3 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, and 7.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 8 South, Range 6 West, W.M., with a date of priority of April 18, 1939.

Water for the said right is diverted from a point located 700 feet North and 850 feet West from the Southeast Corner of Section 26, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, Township 8 South, Range 6 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof a certain 0.1 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, 4.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 19.4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.5 acre in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 8 South, Range 6 West, W.M., from a point of diversion located 430 feet North and 2560 feet East from the Southwest Corner of Section 25, Township 8 South, Range 6 West, W.M., being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 25.

Notice of the application, pursuant to ORS 540.510, was published in the Polk County Itemizer-Observer, a newspaper printed and having general circulation in Polk County, Oregon, for a period of three weeks in the issues of May 25; June 1 and 8, 1977.

Mr. Benjamin E. Monroe, 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 objections 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 changes in place of use and point of diversion, as described herein, without loss of priority, are 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, and shall not exceed 0.3 cubic foot per second.

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

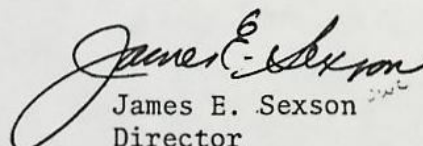
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 shall be applied to beneficial use on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Wiley M. Gardner and recorded at page 17041, Volume 14, 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 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 28th day of April, 1978.


James E. Sexson
Director

CERTIFICATE NO. 75807

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

Kenneth Gardner
WILEY M. GARDNER

17400 Gardner Rd.
of Route 2, Box 148, Dallas, State of Oregon 97338, has made proof
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of
Little Luckiamute River and Teal Creek, tributary of Little Luckiamute River,
a tributary of Luckiamute River for the purpose of
irrigation of 24.0 acres
under Permit No. 13595 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 18, 1939

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
0.50 cubic foot per second, if available at the original point of diversion;
0.30

SE 1/4 SE 1/4, section 26, T. 8 S., R. 6 W., W. 1/2.

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 1/4 SW 1/4, Section 25 and S 1/2 SE 1/4, Section 26, as
projected on Samuel J. Gardner D.L.C. No. 42, Township 8 South, Range 6 West, W. 1/2.
SE 1/4 SW 1/4, section 25, T. 8 S., R. 6 W., W. 1/2; 430' N 6 2560' E from SW cor of sec 25.

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,

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
8.7 acres in the SW 1/4 SW 1/4, as projected on Samuel J. Gardner D.L.C. No. 42-
Section 25
10.7 acres in the SW 1/4 SE 1/4, as projected on Samuel J. Gardner D.L.C. No. 42-
1.0 7.3 acres in the SE 1/4 SE 1/4, as projected on Samuel J. Gardner D.L.C. No. 42-
Section 26
19.4 6.3 acres in the NE 1/4 NE 1/4, as projected on Samuel J. Gardner D.L.C. No. 42-
Section 35
0.5 7.0 acres in the NW 1/4 NW 1/4, as projected on Samuel J. Gardner D.L.C. No. 42-
Section 36
all three
T. 8 S., R. 6 W., W. 1/2.

1 Clause

This certificate is issued to confirm a change in place of use and point of diversion approved
by an order of the Water Resources Director entered April 28, 1978, and
together with certificate 45807, supersedes certificate 17041,
State Record of Water Right Certificates.

The issuance ... 540.610

CHAS. E. STRICKLIN
State Engineer

RECEIVED

JUN - 9 1977

WATER RESOURCES DEPT.
SALEM, OREGON

Affidavit Of Publication

NOTICE OF WATER RIGHT TRANSFER
APPLICATION NOS. 3574, 3575,
3576 and 3577

Notice is given hereby that four applications have been filed in the office of the Water Resources Director by Kenneth Gardner for approval of changes in place of use and point of diversion from Little Luckiamute River.

The certificate recorded at Page 17041, Vol. 14, State Record of Water Right Certificates, describes a right which includes the use of not to exceed 0.30 cubic foot per second from Little Luckiamute River for irrigation of 8.7 acres in SW 1/4 SW 1/4 of Sec. 25; 2.0 acres in SE 1/4 SE 1/4 of Sec. 26, 6.3 acres in NE 1/4 NE 1/4 of Sec. 35; and 7.0 acres in NW 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M., with a date of priority of April 18, 1939.

Water for the said right is diverted from a point located 700 ft. N. and 850 ft. W. from the SE corner of Sec. 26, being within the SE 1/4 SE 1/4 of Sec. 26, T. 8 S., R. 6 W., W.M.

By application No. 3574, the applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, and without loss of priority, to irrigate a certain 0.1 acre in SW 1/4 SW 1/4 of Sec. 25; 4.0 acres in NE 1/4 NW 1/4, 19.4 acres in NW 1/4 NW 1/4 and 0.5 acre in SW 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M., from a point of diversion located 430 ft. N. and 2560 ft. E. from the Southwest corner of Sec. 25, being within the SE 1/4 SW 1/4 of Sec. 25, T. 8 S., R. 6 W., W.M.

The certificate recorded at Page 39287, Vol. 31, State Record of Water Right Certificates, describes a right which includes the use of not to exceed 0.28 cubic foot per second from Little Luckiamute River for irrigation of 0.1 acre in SW 1/4 SW 1/4 of Sec. 25; 4.0 acres in NE 1/4 NW 1/4, 19.4 acres in NW 1/4 NW 1/4 and 0.5 acre in SW 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M., with a date of priority of March 15, 1966.

Water for the said right is diverted from a point located 430 ft. N. and 2560 ft. E. from the SW corner of Sec. 25, being within the SE 1/4 SW 1/4 of Sec. 25, T. 8 S., R. 6 W., W.M.

By application No. 3575 the applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, and without loss of priority, to irrigate a certain 8.7 acres in SW 1/4 SW 1/4 of Sec. 25; 2.0 acres in SE 1/4 SE 1/4 of Sec. 26; 6.3 acres in NE 1/4 NE 1/4 of Sec. 35, and 7.0 acres in NW 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M., from a point of diversion located 700 ft. N. and 850 ft. W. from the SE corner of Sec. 26, being within the SE 1/4 SE 1/4 of Sec. 26, T. 8 S., R. 6 W., W.M.

The said certificate recorded at page 39287, Vol. 31, also describes a right which includes the use of not to exceed 0.28 c.f.s. from Little Luckiamute River for irrigation of 8.6 acres in NE 1/4 NW 1/4, 0.3 acres in NW 1/4 NW 1/4, 1.3 acres in SW 1/4 NW 1/4 and 15.8 acres in SE 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M., with a date of priority of March 15, 1966.

Water for the said right is diverted from a point located 430 ft. N. and 2560 ft. E. from the SW corner of Sec. 25, being within the SE 1/4 SW 1/4 of Sec. 25, T. 8 S., R. 6 W., W.M.

By application No. 3576, the applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, and without loss of priority to irrigate a certain 7.5 acres in NE 1/4 SW 1/4, 11.0 acres in NW 1/4 SW 1/4, 3.8 acres in SW 1/4 SW 1/4 and 3.7 acres in SE 1/4 SW 1/4 of Sec. 26, T. 8 S., R. 6 W., W.M., from a point of diversion located 1780 ft. N. and 3430 ft. E. from the SW corner of Sec. 26, being within the NW 1/4 SE 1/4 of said Sec. 26.

The certificate recorded at Page 21278, Vol. 15, State Record of Water Right Certificates, describes a right which includes the use of not to exceed 0.33 c.f.s. from Little Luckiamute River for irrigation of 7.5 acres in NE 1/4 SW 1/4, 11.0 acres in NW 1/4 SW 1/4, 3.8 acres in SW 1/4 SW 1/4 and 3.7 acres in SE 1/4 SW 1/4 of Sec. 26, T. 8 S., R. 6 W., W.M., with dates of priority of 5/2/49 for 0.13 c.f.s., 7/12/49 for 0.17 c.f.s. and 9/15/49 for 0.03 c.f.s.

Water for the said right is diverted from a point located 1780 ft. N. and 3430 ft. E. from the SW corner of Sec. 26, being within the NW 1/4 SE 1/4 of said Sec. 26.

By application No. 3577, the applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion, and without loss of priority to irrigate a certain 8.6 acres in NE 1/4 NW 1/4, 0.3 acre in NW 1/4 NW 1/4, 1.3 acres in SW 1/4 NW 1/4 and 15.8 acres in SE 1/4 NW 1/4 of Sec. 36, T. 8 S., R. 6 W., W.M. from a point of diversion located 430 ft. N. and 2560 ft. E. from the SW corner of Sec. 25, being within the SE 1/4 SW 1/4 of Sec. 25, T. 8 S., R. 6 W., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Dallas, Oregon, on July 19, 1977, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing, one copy to be served on Kenneth Gardner, Rt. 2, Box 184, Dallas, Oregon 97338, and one copy filed with the Water Resources Department, Salem, Oregon 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTION IS FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 11th day of May, 1977.

JAMES E. GEXSON
Director

(May 25, June 1, 8, 1977)

STATE OF OREGON, } ss.
County of Polk

I, Joseph W. Blaha, being

first duly sworn, depose and say I am the PUBLISHER
of the Polk County Itemizer-Observer, a newspaper of general circulation
as defined by ORS 193.010 and 193.020, printed and published at Dallas in
the aforesaid county and state; that the Water Right Transfer

....., a printed copy of which is hereto annexed,
was published in the entire issue of said newspaper for 3

successive and consecutive weeks in the following issues:

May 25, June 1, 8, 1977

Joseph W. Blaha

Subscribed and sworn to before me this 8 day of
June, 1977.

John A. Smith
Notary Public for Oregon.

(My Commission Expires 9/5/78)

OK
MD