

3577

KENNETH GARDNER

3577

STATUS OF APPLICATION

Change in place of use & point of diversion
 Date filed 3-10-77
 Date of hearing 7-19-77
 Place of hearing Dallas
 Date of order 4-28-78 Vol. 30, page 550
 Date for application of water 10-1-79
 Proof mailed _____
 Proof received _____
 Certificate issued JUN 9 1978 Vol. 38, page 45805
Sept 27, 1988 54 57698

to survey 1/50

DESCRIPTION OF WATER RIGHT

DVA Notification

Name of stream Little Luckiamute R.
 Trib. of _____ County of Polk
 Use irrigation
 Quantity of water _____ No. of acres _____
 Name of ditch _____
 Date of priority _____
 In name of _____
 _____ Adjudication, Vol. _____, page _____
 App. No. 23759 Per. No. 18813 Cert. No. 21278
 Certificate cancelled _____
 Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
3-10-77	\$ 45.00	58944
TOTAL . . .		
3-10-77	\$ 2 Cert. Fee	58945

FEES REFUNDED

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

REMARKS

Cross switch with T#3576

CARD FOR C DEC 26 1979

W.R.I.S.

Assembled 7-29-85 by 823

Entered _____ by _____

Verified _____ by _____

INDEX CARDS:

Entered

Checked

✓	Name	<u>lig</u>	_____
✓	Stream	<u>lig</u>	_____
✓	Pt. of Div.	<u>lig</u>	_____
✓	Calendar	<u>lig</u>	_____
✓	Twp. & Rge.	<u>lig</u>	_____
✓	Decree-vault	<u>lig</u>	_____
✓	Decree-safe	<u>lig</u>	_____
✓	Cert. of W/R	<u>JWC</u>	_____
✓	Per. Folder	_____	_____
✓	ChainIndex	_____	_____
✓	Cross Ref.	_____	_____
✓	Power Claim	_____	_____
✓	Abstracts	<u>lig</u>	_____

STATE OF OREGON

COUNTY OF POLK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ELDON R. FRINK

of Route 2, Box 128, Dallas, 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 Little Luckiamute River and Teal Creek, a tributary of Luckiamute River, for the purpose of irrigation of 50.4 acres under Permit No. 18813 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 2, 1949, for ~~0.38~~ c.f.s., July 12, 1949, for ~~0.50~~ c.f.s. and September 15, 1949, for ~~0.08~~ c.f.s. ^{0.25} ~~0.33~~; 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 ~~0.96~~ cubic foot per second, ^{0.63}

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 $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ S $\frac{1}{4}$, as projected within Smith D.L.C. No. 43, Section 26, Township 8 South, Range 6 West, W. M.

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; 0.13 c.f.s. to be diverted from Teal Creek when available and any deficiency in the available supply in Teal Creek is to be made up by diversion from Little Luckiamute River, providing that the total quantity diverted from both streams shall not exceed 1/50th c.f.s. for each acre irrigated

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:

73577

2.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$	
2.2 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$	
209 28.4 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$	- 75
96 20.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$	- 112
04 4.2 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$	- 32
33 7.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$	- 37
6.8 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$	
5.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$	

All as projected within Smith D.L.C. No. 43 ¹⁸
 Section 26 ²⁶²
 Township 8 South, Range 6 West, W. M.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 21278, Volume 15, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on April 28, 1978, approving transfer application No. 3577.

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

WITNES 10th day of May, 1956.

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 15, page 21278.

STATE OF OREGON

COUNTY OF

POLK

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **ELDON R. FRINK**

of Rt. 2, Box 128, Dallas, State of Oregon, 97338, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Little Luckiamute River and Teal Creek

a tributary of Luckiamute River for the purpose of irrigation of 50.4 acres

under Permit No. 18813 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 2, 1949 for 0.25 c.f.s., July 12, 1949 for 0.33 c.f.s. and September 15, * 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 $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, as projected within Smith DLC 43, Section 26, T. 8 S., R. 6 W., W. M.

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-eighth 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; 0.13 c.f.s. to be diverted from Teal Creek when available and any deficiency in the available supply in Teal Creek is to be made up by diversion from Little Luckiamute River, providing that the total quantity diverted from both streams shall not exceed 1/80th c.f.s. for each acre irrigated

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:

SEE NEXT PAGE

* 1949 for 0.05 c.f.s.

2.2 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
2.2 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
20.9 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
9.6 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$
0.4 acre SW $\frac{1}{4}$ SW $\frac{1}{4}$
3.3 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
6.8 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
5.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$

All as projected within Smith DLC 43
Section 26
T. 8 S., R. 6 W., W. M.

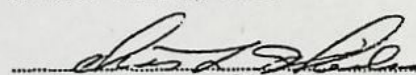
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 21278, Volume 15, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on April 28, 1978, approving transfer application No. 3577.

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, June 9, 1978.

 DEPUTY
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 38 , page 45805.

BEFORE THE WATER RESOURCES DIRECTOR OF 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. 3577

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 21278, Volume 15, State Record of Water Right Certificates, in the name of Eldon R. Frink, describes a right which includes the use of not to exceed 0.13 cubic foot per second, with a date of priority of May 2, 1949; 0.17 cubic foot per second, with a date of priority of July 12, 1949; and 0.03 cubic foot per second, with a date of priority of September 15, 1949, for the irrigation of a certain 7.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 11.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 3.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 3.7 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 8 South, Range 6 West, W.M.

Water for the said right is diverted from a point located 1780 feet North and 3430 feet East from the Southwest Corner of Section 26, being within the NW $\frac{1}{4}$ 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 8.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 0.3 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.3 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, and 15.8 acres in SE $\frac{1}{4}$ 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, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, Township 8 South, Range 6 West, W.M.

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 with-

out 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 0.33 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:

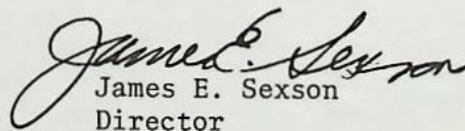
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 Eldon R. Frink and recorded at page 21278, Volume 15, 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



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 376-3066

January 17, 1980

Kenneth Gardner
Route 2, Box 184
Dallas, Oregon 97338

RE: Files Nos. T-3574, T-3575, T-3576, T-3577

Dear Mr. Gardner:

The notices of completion of works and use of water under the provisions of the orders of the Water Resources Director approving water right transfer applications Nos. 3574, 3575, 3576 and 3577, for changes in place of use and point of diversion of water from Little Luckiamute River, were received and, in line with the general practice of this office, a survey will be made at a later date.

After the survey, proof may be made and certificate of water right issued covering the actual use of water as found by the engineer. (In case of irrigation, any lands described in the order that have not been irrigated will be automatically eliminated from the water right.)

In the meantime, the order will be evidence of the water right in question as long as the authorized beneficial use of water is continued.

Sincerely,

Samuel R. Allison
Supervisor
Transfer Section

SRA:lej
cc: Michael F. Ladd, Watermaster

COPY