

3724

STATUS OF APPLICATION

DESCRIPTION OF WATER RIGHT

FEES PAID

Change in P O D
 Date filed July 8, 1977
 Date of hearing 1-17-78
 Place of hearing Grants Pass
 Date of order 1-17-78 Vol. 30, page 324
 Date for application of water 10-1-79

Name of stream West Fork Williams Creek
 Trib. of _____ County of Josephine
 Use _____
 Quantity of water _____ No. of acres _____
 Name of ditch _____
 Date of priority 1880

Date	Amount	Receipt No.
7-8-77	\$ 80-	62356
TOTAL . . .		
	No Cert. Fee	
Chevron Publishing Co. \$45.83 pd 12/10/77 ck #1837		

Proof mailed _____
 Certificate Issued JAN 17 2013 87886
~~Certificate Issued~~
 Certificate issued DEC 14 2012 87826 (withdrawn)
 Proof to Sat not established
 on lands under 43769 SPOR 88, pg 885

In name of C.O. & Albert Bigelow; M.E. Sullivan
4 27
 Rogue River Adjudication, Vol. _____, page _____
 App. No. 7663 Per. No. 4886 Cert. No. 43769
43772

FEES REFUNDED

Date	Amount	Check No.
Exam	20	
A P O D	15	
P O N	45.83	
	80.83	

Certificate cancelled _____
 Notation made on record by _____
10-18-90 JES

REMARKS

T# 3518 cancels C#43772 and provides for RR Cert.
affidavit received May 12, 1978 provides for
cancellation of right for remaining 10² Ac.
CARD FOR C LCU 26 1979
Certificate 87826 withdrawn by Spov 88 pg 883-884 1/17/2013

INDEX CARDS:	Entered	Checked
Name	lcy	
Stream	lcy	
Pl. of Div.		
Calendar	lcy	
CHECKED TO RECORDS:		
Two. & Rec.	lcy	
Duplicate	lcy	
Deeds	lcy	
Cert. of W/R	lcy	
Particular	lcy	
Challenger		
Order Ref.		
Power Claim		
Abstracts	lcy	

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

RICHARD A MCNIEL
4959 PERIMMON AVE
TEMPLE CITY, CA 91780

confirms the right to use the waters of WEST FORK WILLIAMS CREEK, tributary to WILLIAMS CREEK for IRRIGATION of 7.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1880.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.12 CUBIC FOOT PER SECOND, if available at the original point of diversion, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located between the following points:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
39 S	5 W	WM	5	SW SE			PORTABLE POINT OF DIVERSION LOWER REACH - 1300 FEET SOUTH AND 2600 FEET EAST FROM NW CORNER OF SE SW, SECTION 5
39 S	5 W	WM	8	NW NE			PORTABLE POINT OF DIVERSION UPPER REACH - 1400 FEET SOUTH AND 2610 FEET EAST FROM NW CORNER OF SE SW, SECTION 5

A description of the place of use is as follows:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
39 S	5 W	WM	5	SW SE			7.0

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. The location of the old point of diversion is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
39 S	5 W	WM	8	NE NW			HOXIE DITCH - 1150 FEET SOUTH & 1320 FEET EAST FROM NW CORNER, SECTION 8

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other

NOTICE OF RIGHT TO RECONSIDERATION OR JUDICIAL REVIEW

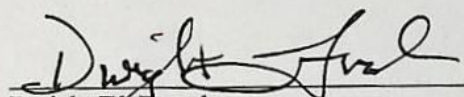
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

suitable device for measuring the water to which the water user is entitled. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered January 17, 1978, at Special Order Volume 30, Page 324, approving Transfer Application 3724, and together with Certificate 57702 and Cancellation Order of September 5, 1978, supersedes Certificate 43772, State record of Water Right Certificates.

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 and is subject to all other conditions and limitations contained in said decree.

Issued JAN 17 2013



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward, Director
Water Resources Department

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

Order in the Matter of Determining Proof
To the Satisfaction of Transfer 3724

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)
)

FINAL ORDER

Findings of Fact

1. Application T-3724, in the name of RICHARD A MCNIEL, was received July 8, 1977. The application requested a change in point of diversion for certificates 43769 and 43772. The request for a new point of diversion was approved on January 17, 1978, by Special Order Volume 30, Page 324.
2. The Order required that the change in the point of diversion be completed and use of water made by October 1, 1979.
3. A Field Inspector, from the Department, made several site visits over approximately a four year period to inspect the lands. The Inspector's notes indicated the following:
 - A. January 16, 1984 – A portion of the lands on tax lot 511 (Certificate 43772 lands) were irrigated in 1981. No equipment available to inspect. Tax lot 511 lands appear to be pasture like. The lands on tax lots 524 and 504 (Certificate 43769 lands) were described as being in "...a natural state of trees and brush. No evidence of any type beneficial watering." Information in the Watermaster's office indicated a pump in the creek the summer of 1979.
 - B. Note on Field Inspection Report indicates that on August 13, 1984, there had been no use for two year and no equipment on site.
 - C. The Department mailed a letter to Don T. Durboran Jr. (owner of tax lot 511 and 524) on January 22, 1985, notifying him that the Field Inspector had obtained additional information in August of 1984, that indicated that lands involved in the transfer were irrigated in 1979 and that a portion of tax lot 511 were irrigated in 1981. The Department was not able to locate any evidence of equipment during the on-site inspection. The letter went on to indicate that in order for the Department to issue a certificate to confirm the change in point of diversion, the Department would need to verify the use by an on-site inspection.

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 183.482. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.482 and ORS 536.075. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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.

- D. September 1986 – The Department received a letter from Louis Van Iersel indicating that he does the hay on tax lot 511. He also indicates that he “makes sure the irrigation takes place” on the McNiel portion of the transfer (tax lot 504).” He describes 2” pvc pipe installed at the creek “more than 10 years ago”, and indicates that two pumps have been stolen over the years. He states that the ground grows good hay.
- E. October 8, 1986 – The Field Inspector contacted Mr. Van Iersel by phone. Mr. Van Iersel indicated by phone that he irrigated and cut a hay crop. In addition, he indicated that he could not recall the horsepower of the portable gas powered pump. The pump was placed at no specific point on the creek; “it was anywhere along bank”. The two inch plastic pipe was moved around the field for flood irrigation. No sprinklers were used. He stated that the land next to the road had not been irrigated.
- F. October 8, 1986 - The Field Inspector visited the site. During the site visit, the Field Inspector found that the property “looks as it did in August of 1984, dry. Mr. Van Iersel stated that he didn’t irrigate this past season (1986). Tax lots 504 and 524 remain in native oaks and poison oaks, wild rose bushes, dry native wild grasses. Tax lot 511 appears to have had farm use. Observed hay field. Observed portable pump location.” In addition, the Field Inspector found approximately 300 feet of plastic pipe lying in the field. Mr. Van Iersel could not recall the years that he irrigated.
- G. October 22, 1986 – The Department mailed a letter to Don T. Durboran Jr. indicating that the Department had “been advised that water has not been used for irrigation purposes on your Tax Lot 511 for several years and since we are unable to find adequate irrigation equipment, proof has not been made and a certificate of water right confirming the change in point of diversion described in the order approving Transfer 3724 cannot be issued.”

The letter goes on to indicate that Mr. Van Iersel, by phone, indicated that he “could not remember when the land was irrigated nor could he give us any information regarding the pump size or where the pump was located.”

A hand written note on the bottom of the letter indicates that Mr. Van Iersel called and said that the land was irrigated in 1985 and that he would meet with the Department next season.

- H. July 13, 1988 – Field Inspector meets with Mr. Van Iersel at property. He shows the Inspector the pump site and explains that the pumps had been stolen at different times. The pumps were 2 horsepower, portable gas. The report indicates “no use on land by road (Owned by McNiel)” and “no use on lands east of hay field. This lot exists as dry native brush.”

Report describes a 3 horsepower pump and some sprinklers.

The report also has a note regarding the drafting of the Final Proof Survey. The note indicates that the map “showed area of use to verify no use on the northerly lot #504. It’s owned by McNiel as previous 1-16-1984 reports state.”

4. The change in point of diversion was completed and water used only on 7.0 acres located within tax lot 511.
5. The change in point of diversion was completed and water not used on the 12.0 acres located within tax lots 504 and 524.

Conclusions of Law

OAR 690-380-6040(1)(b) provides that "The director shall issue a certificate of water right upon satisfactory proof of completing the change or changes authorized by a transfer approval order. Satisfactory proof shall be one of the following:

(b) A determination by the Department that appropriation of water to a beneficial use under the terms of the transfer approval order was completed to an extent less than authorized. Such determination shall constitute proof for that portion of the appropriation."

Satisfactory proof of beneficial use was made on the tax lot 511 portion of the transfer.

Satisfactory proof of beneficial use was not made following the construction of the new point of diversion on tax lots 504 and 524.

Now, therefore, it is ORDERED:

Proof to the satisfaction has been established for the lands irrigated in tax lot 511 from the new point of diversion. A certificate shall be issued to confirm the change in point of diversion for the tax lot 511 lands.

Proof to the satisfaction has not been established for the lands in tax lots 504 and 524 from the new point of diversion. These acres are lost.

Issued JAN 17 2013.



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward, Director
Water Resources Department

Oregon Department of Water Resources

In the Matter of a Request for)
Reconsideration of Certificate of)
Water Right Number 87826)

Final Order in Other
than a Contested Case

On December 14, 2012, the Water Resources Department issued a Final Order in other than a Contested Case described as Certificate of Water Right Number 87826. The Certificate described the extent of use of water, to the satisfaction of the Department, perfected under the terms of Transfer 3724.

The Department is reconsidering the issuance of the above referenced certificate on its own initiative as allowed in OAR 137-004-0080(5) due to the omission of an order regarding "Proof to Satisfaction" that was intended to be issued in conjunction with the certificate.

FINDING OF FACT

1. On December 14, 2012, Water Right Certificate 87826 was issued and mailed.
2. Water Right Certificate 87826 is a Final Order in Other than a Contested Case.
3. Within 60 calendar days after the date of the order, the Department may, on its own initiative, reconsider the final order.
4. The Department discovered that the order regarding "Proof to Satisfaction" was not issued with the certificate

CONCLUSIONS OF LAW

OAR 137-004-0080(5) allows the agency, within 60 calendar days after the date of the order, to on its own initiative, reconsider the final order.

NOTICE OF RIGHT TO RECONSIDERATION OR JUDICIAL REVIEW

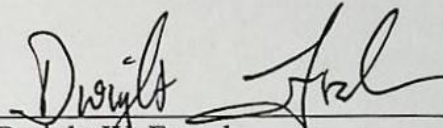
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

ORDER

The Department hereby reconsiders and withdraws Final Order Water Right Certificate Number 87826.

Final Order Certificate Number 87826 is of no further force or effect.

Issued JAN 17 2013.



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward, Director

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

RICHARD A MCNIEL
4959 PERIMMON AVE
TEMPLE CITY, CA 91780

confirms the right to use the waters of WEST FORK WILLIAMS CREEK, tributary to WILLIAMS CREEK for IRRIGATION of 7.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1880.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.12 CUBIC FOOT PER SECOND, if available at the original point of diversion, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located between the following points:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
39 S	5 W	WM	5	SW SE			PORTABLE POINT OF DIVERSION LOWER REACH - 1300 FEET SOUTH AND 2600 FEET EAST FROM NW CORNER OF SE SW, SECTION 5
39 S	5 W	WM	8	NW NE			PORTABLE POINT OF DIVERSION UPPER REACH - 1400 FEET SOUTH AND 2610 FEET EAST FROM NW CORNER OF SE SW, SECTION 5

A description of the place of use is as follows:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
39 S	5 W	WM	5	SW SE			7.0

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. The location of the old point of diversion is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
39 S	5 W	WM	8	NE NW			HOXIE DITCH - 1150 FEET SOUTH & 1320 FEET EAST FROM NW CORNER, SECTION 8

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other

NOTICE OF RIGHT TO RECONSIDERATION OR JUDICIAL REVIEW

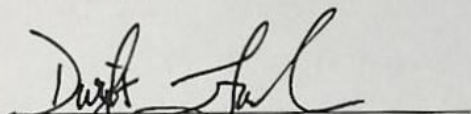
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

suitable device for measuring the water to which the water user is entitled. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered January 17, 1978, at Special Order Volume 30, Page 324, approving Transfer Application 3724, and together with Certificate 57702 and Cancellation Order of September 5, 1978, supersedes Certificate 43772, State record of Water Right Certificates.

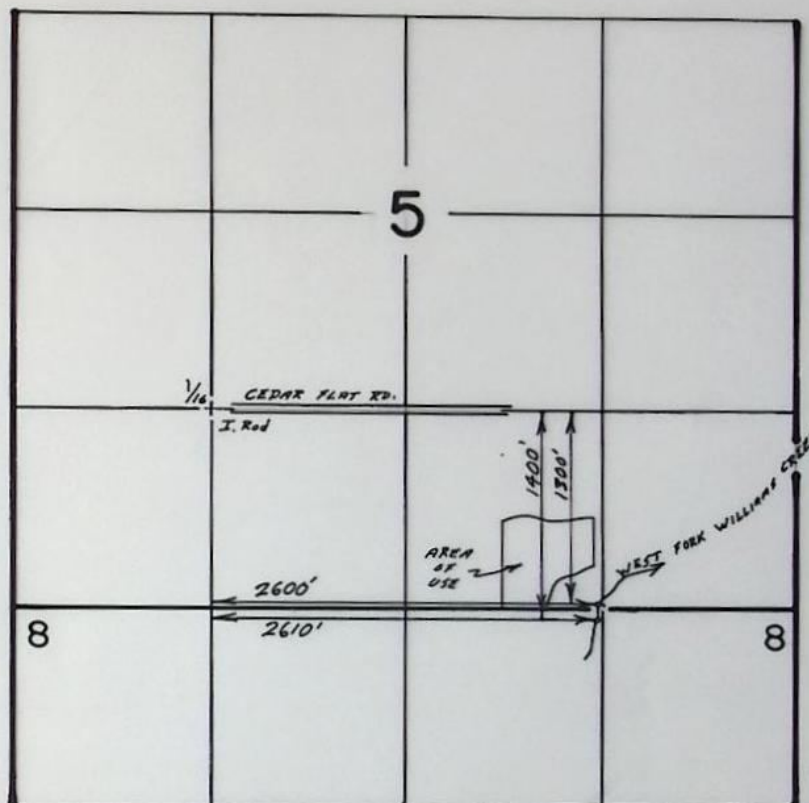
The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

Issued DEC 14 2012



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward, Director
Water Resources Department

T. 39 S., R. 5 W., W.M.



Scale 1"=1320'

FINAL PROOF SURVEY
UNDER

Transfer No. 3724

Application No. Permit No.
IN NAME OF

.....DON T. DURBORAN Jr.....

Surveyed July 13, 1988, by B.S. JAMES.....

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION)
OF RICHARD A. McNIEL FOR APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER)

ORDER APPROVING
TRANSFER NO. 3724

On July 8, 1977, an application was filed in the office of the Water Resources Director by Richard A. McNiel for approval of a change in point of diversion from West Fork Williams Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 43769, Volume 35, State Record of Water Right Certificates, in the name of M. E. Sullivan, describes a right for the use of not to exceed 0.16 cubic foot per second from West Fork Williams Creek, with a date of priority of December 15, 1920, for irrigation of a certain 12.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 39 South, Range 5 West, W.M.

The certificate recorded at page 43772 of said Volume 35, in the names of C. O. and Albert Bigelow, describes a right which includes the use of not to exceed 0.12 cubic foot per second from West Fork Williams Creek, with a date of priority of 1880, for irrigation of a certain 7.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5.

The authorized point of diversion of water for the said rights is located 1150 feet South and 1320 feet East from the Northwest Corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 39 South, Range 5 West, W.M. (Hoxie Ditch).

The applicant herein proposes to change the point of diversion therefrom, without loss of priority, to a point located 40 feet North and 1350 feet West from the Southeast Corner of Section 5, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5.

Notice of the application, pursuant to ORS 540.510, was published in the Grants Pass Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of November 23 and 30; and December 7, 1977.

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

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

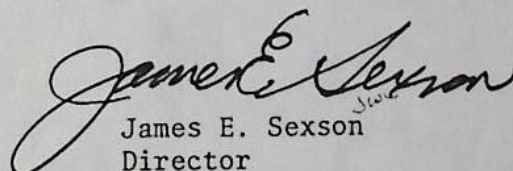
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to C.O. and Albert Bigelow and recorded at page 43772, Volume 35, 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.

It is FURTHER ORDERED that the certificate of water right heretofore issued to M. E. Sullivan and recorded at page 43769, Volume 35, 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 17th day of January, 1978.


James E. Sexson
Director

10320
630

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS IS TO CERTIFY, that STEPHEN L. VANIERSEL, of 220 CHINA CREEK ROAD, WILLIAMS, OREGON 97544, has a right to the use of waters of WEST FORK WILLIAMS CREEK, a tributary of WILLIAMS CREEK, for the purpose of IRRIGATING 15.38 ACRES.

The right has been confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 4, at page 1. The date of priority is 1880.

The right is limited to not more than 0.26 CUBIC FOOT PER SECOND IF AVAILABLE AT THE ORIGINAL POINT OF DIVERSION: HOXIE DITCH, NE 1/4 NW 1/4, SECTION 8, T 39 S, R 5 W, W.M.; 1150 FEET SOUTH AND 1320 FEET EAST FROM NW CORNER SECTION 8.

The point of diversion is located as follows:

NE 1/4 NW 1/4, SECTION 8, T 39 S, R 5 W, W.M., 675 FEET SOUTH AND 2140 FEET EAST FROM NW CORNER SECTION 8.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

NE 1/4 NW 1/4 15.38 ACRES
SECTION 8
TOWNSHIP 39 SOUTH, RANGE 5 WEST, W.M.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered JULY 25, 1977, and together with TRANSFER 3724 AND CANCELLATION ORDER OF SEPTEMBER 5, 1978, supersedes certificate 43772, 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 to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and shall be subject to all other conditions and limitations contained in said decree.

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 57702

T-3518

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION)
OF STEPHEN L. VAN IERSEL FOR)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM WEST FORK)
WILLIAMS CREEK)

ORDER APPROVING
TRANSFER NO. 3518

On February 8, 1977, an application was filed in the office of the Water Resources Director by Stephen L. Van Iersel 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 43772, Volume 35, State Record of Water Right Certificates, in the name of C.O. and Albert Bigelow, describes a right which includes the use of not to exceed 0.26 cubic foot per second from West Fork Williams Creek for irrigation of 15.38 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 39 South, Range 5 West, W.M., with a date of priority of 1880.

Water for the said right is diverted, through the Hoxie Ditch, from a point located 1150 feet South and 1320 feet East from the Northwest corner of Section 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 8.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 640 feet South and 2120 feet East from the Northwest corner of Section 8, being within the said NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8.

Mr. Robert B. Steimer, 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 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 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, and shall not exceed 0.26 cubic foot 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 head-gates and measuring devices:

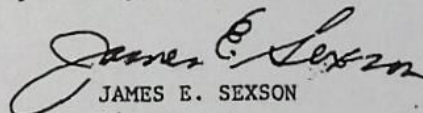
That the diversion works shall include an in line flow meter, a weir or other suitable device for measuring the water to which the applicant is entitled;

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 made on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to C.O. and Albert Bigelow and recorded at page 43772, Volume 35, 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 25th day of July, 1977.


JAMES E. SEXSON
Director

T- 3724

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION)
OF A WATER RIGHT IN THE NAMES)
OF C.O. & ALBERT BIGELOW)

O R D E R

On May 12, 1978, William J. and Judith Santos submitted an affidavit that they are the owners of a certain water right and the lands to which the water right is appurtenant; that they have abandoned any and all interest in and to said water right and request the same be canceled.

The water right in question was allowed by Decree of Circuit Court for Jackson County, entered April 26, 1919, in the Matter of the Determination of the Relative Rights to the Use of the Waters of West Fork Williams Creek, tabulated at page 27, Volume 4, Order Record of the Water Resources Department, in the names of C. O. and Albert Bigelow, and is described by the certificate recorded at page 43772, Volume 35, State Record of Water Right Certificates, and is for the use of not to exceed 0.16 cubic foot per second of water from West Fork Williams Creek, with a date of priority of 1880, for the irrigation of 10.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 39 South, Range 5 West, W.M.

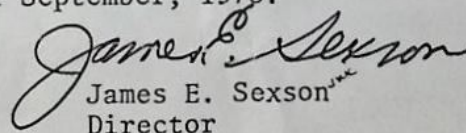
ORS 540.621 provides that: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Director that the water right has been abandoned by him and that he desires cancellation thereof, the Water Resources Director shall enter an order canceling the water right."

NOW, THEREFORE, it hereby is ORDERED that the said water right, being a portion of the right described by the certificate recorded at page 43772, Volume 35, State Record of Water Right Certificates, is canceled.

The orders of the Water Resources Director entered July 25, 1977 and January 17, 1978, approving transfer applications No. 3518 and 3724, provided for the cancellation of said certificate and issuance of a new certificate covering the balance of the right NOT involved in the transfer proceedings, which balance of the water right is canceled herein; therefore,

It is FURTHER ORDERED that NO new certificate be issued covering the balance of the right, as provided by said orders approving transfer applications No. 3518 and No. 3724.

Dated at Salem, Oregon, this 5th day of September, 1978.


James E. Sexson
Director

V 31, P 203 20

STATE OF OREGON

COUNTY OF

JOSEPHINE

Put Canceled Sp. On Rec. Vol. 31 P. 203
 Superseded by
 Cert. No. 57702

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

C. O. AND ALBERT BIGELOW

of Williams

a right to the use of the waters of
West Fork Williams Creek

, State of Oregon, 97544 , has

a tributary of Williams Creek
irrigation of 32.38 acres

for the purpose of

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
 Jackson County, and the said decree entered of record at Salem, in the Order Record of
 the WATER RESOURCES DIRECTOR, in Volume 4 , at page 1 ; that the priority of the
 right thereby confirmed dates from 1880

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 0.54 cubic foot per
 second.

140 & 1/2

The point of diversion is located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, T. 39 S., R. 5 W., W. M.,
 1150 feet South and 1320 feet East from the NW Corner of Section 8.

A description of the place of use under the right, and to which such right is appurtenant, is as
 follows:

15.38 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ T-3518 (POD)
 Section 8

17.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ T-3724 (POD fr. 72 acres)
 Section 5 V31 p 203 cancels 100 acres
 T. 39 S., R. 5 W., W. M.

This certificate describes that portion of the water right confirmed by the prior
 certificate recorded at Page 40387, Volume 32, State Record of Water Right
 Certificates, NOT modified by the provisions of an order of the Water Resources
 Director entered on June 18, 1976, approving transfer application No. 3415.

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

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 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 WITNESS the signature of the Water Resources Director, affixed
 Board.

this date October 18 , 1976 .

James E. Sexson
 Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 35 , page 43772 part. cancel

T#3724 T-3518

1.6 cfs / 96.0 acres — 16318

STATE OF OREGON
COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That M. E. SULLIVAN

of Williams, State of Oregon, 97544, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of West Fork of Williams Creek

a tributary of Williams Creek (Applegate River) for the purpose of irrigating 12.6 acres

under Permit No. 4886 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 December 15, 1920 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 0.16 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 NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, T. 39 S., R. 5 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~~ ^{one-eighth} of one cubic foot per second per acre,

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:

12.6 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 5
T. 39 S., R. 5 W., W. M.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at Page 36487, Volume 28, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on July 7, 1976, approving transfer application No. 3110.

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. October 18, 1976

James E. Sexson
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 35, page 43769

v PR

T # 3724

LEGAL NOTICE

NOTICE OF WATER RIGHT
TRANSFER APPLICATION

No. 3724

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Richard A. McNeil for approval of a change in point of diversion from West Fork Williams Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 43769, Volume 35, State Record of Water Right Certificates, in the name of M. E. Sullivan, describes a right for the use of not to exceed 0.16 cubic foot per second from W. Fk. Williams Creek, with a date of priority of December 15, 1920, for irrigation of a certain 12.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec 5, T 39 S, R 5 W, WM.

The certificate recorded at page 43772 of said Volume 35, in the names of C. O. and Albert Bigelow, describes a right which includes the use of not to exceed 0.12 cubic foot per second from W. Fk. Williams Creek, with a date of priority of 1880, for irrigation of a certain 7.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 5.

The authorized point of diversion of water for the said rights is located 1150 ft S and 1320 ft E from the NW Corner of Sec 8, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 8, T 39 S, R 5 W, WM (Hoxie Ditch).

The applicant herein proposes to change the point of diversion therefrom, without loss of priority, to a point located 40 ft N and 1350 ft W from the SE Corner of Sec 5, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 5.

All persons interested are notified hereby that a hearing will be held at the county courthouse of Grants Pass, Oregon, on January 17, 1978, 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 Richard A. McNeil, 2633 Cedar Flat Rd., Williams, OR 97544 and one copy filed with the Water Resources Department, Salem, OR 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTIONS ARE FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Instructions pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 17th day of November, 1977.

James E. Sexson
Director

No. 168—Wed.—Nov. 23, 30 & Dec. 7, 1977

RECEIVED
DEC 8 1977
WATER RESOURCES DEPT
SALEM, OREGON

AFFIDAVIT OF PUBLICATION

State of Oregon
County of Josephine

} ss.

I, Charles J. Moore, being first duly sworn, depose and say that I am the owner, editor, publisher, manager, advertising manager, principal clerk of the Grants Pass Daily Courier, printer or his foreman of the Grants Pass Daily Courier, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Grants Pass, in the aforesaid county and state; that the

NOTICE OF WATER RIGHT TRANSFER
APPLICATION NO. 3724

, 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 November 23, 30 and December 7, 1977

Subscribed and sworn to before me this 7th day of

December, 19 77

L. Kathleen Zolner
Notary Public of Oregon.

My commission expires 4th day of February, 19 80.

No.

In the Court of the

STATE OF OREGON
for the
COUNTY OF JOSEPHINE

Affidavit of Publication

Filed, 19

.....
Clerk.

By
Deputy.

From the Office of

.....

Attorney for.....