

STATUS OF APPLICATION

Change in POD
Date filed 7-28-77
Date of hearing Oct. 4, 1977
Place of hearing Oregon City
Date of order 11-3-77 Vol. 30, page 7
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued MAR 30 1979 Vol. 40, page 47683

MAR 30 1979 Vol. 40, page 47684

to survey 11/77

57-79-200

DESCRIPTION OF WATER RIGHT

Name of stream BUTTE CREEK
Trib. of _____ County of CLACKAMAS
Use IRR
Quantity of water _____ No. of acres 40±
Name of ditch _____
Date of priority July 17, 1946 & June 6, 1947
In name of Walter Berg
_____ Adjudication, Vol. _____, page _____
App. No. 21811 Per. No. 17336 Cert. No. 16959
22615 17973 16981
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>7-28-77</u>	<u>85-</u>	<u>62804</u>
TOTAL . . .		
<u>3-9-79</u>	<u>\$40.50</u> Cert. Fee	<u>9573</u>
<u>Molalla Pioneer 40.50 10/21/77 at 1694</u>		

FEES REFUNDED

Date	Amount	Check No.
<u>10-21-77</u>	<u>\$ 9.50</u>	<u>1695</u>
Recd		<u>85-</u>
Exam 20		
POD 15		
PON 40.50		
		<u>75.50</u>
		<u>9.50</u>

REMARKS

W.R.I.S.

Assembled 6-19-85 by SDA

Entered _____ by _____

Verified _____ by _____

INDEX CARDS:

TO BE ENTERED WHERE CHECKED	Entered	Checked
<input checked="" type="checkbox"/> Name	<u>lg</u>	<u>---</u>
<input checked="" type="checkbox"/> Stream	<u>lg</u>	<u>---</u>
<input checked="" type="checkbox"/> Pt. of Div.	<u>lg</u>	<u>---</u>
<input checked="" type="checkbox"/> Calendar	<u>lg</u>	<u>---</u>
<input type="checkbox"/> Twp. & Rge.	<u>---</u>	<u>---</u>
<input type="checkbox"/> Decree-vault	<u>---</u>	<u>---</u>
<input type="checkbox"/> Decree-safe	<u>---</u>	<u>---</u>
<input checked="" type="checkbox"/> Cert. of W/R	<u>---</u>	<u>---</u>
<input checked="" type="checkbox"/> Per. Folder	<u>---</u>	<u>---</u>
<input type="checkbox"/> Chainindex	<u>---</u>	<u>---</u>
<input type="checkbox"/> Cross Ref.	<u>---</u>	<u>---</u>
<input type="checkbox"/> Power Claim	<u>---</u>	<u>---</u>
<input checked="" type="checkbox"/> Abstracts	<u>lg</u>	<u>---</u>

OK
Date

STATE OF OREGON
COUNTY OF CLACKAMAS
CERTIFICATE OF WATER RIGHT

This Is to Certify, That **WALTER BERG**

of ^{1025 STARK ST. WOODBURN} ~~Route 2, Woodburn~~, State of Oregon 97071, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of

Butte Creek
a tributary of Pudding River

for the purpose of

irrigation of ^{10.0 acres} ~~10.0 acres~~ under Permit No. 17336 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 July 17, 1946

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 0.125 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 ~~NW 1/4 NW 1/4~~ Section 5, Township 6 South, Range 1 East, W. M. 1390'S. & 660'W. fr. NE COR of SW 1/4 NW 1/4 SEC. 5, BEING WITHIN NW 1/4 SW 1/4 SEC 5 T6S, R1E, WM, CLACKAMAS Co.

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:

10.0 acres in the NW 1/4 NW 1/4

Section 5

T. 6 S., R. 1 E., W. M.

Land on which water is to be used is a part of the property more explicitly described by the appropriator as follows: Beginning at a point 109 rods West of the Northwest corner of the John M. Drake, D. L. C. in Township Six South, of Range One East of the Willamette Meridian, in Clackamas County, Oregon; thence West 21 rods; thence South 40 rods; thence West 30 rods; thence South 38 1/2 rods; thence East 51 rods; thence North 78 1/2 rods to the place of beginning, containing 17.53 acres of land, more or less, and situated in the County of Clackamas and State of Oregon.

ALSO: Beginning at a point which is ten (10) rods east of the Northwest corner of the West Half of the Northwest quarter of Section Five in Township Six South of Range One East of the Willamette Meridian, in Clackamas County, Oregon; thence East Twenty rods; thence South Forty rods; thence West Thirty rods; thence North twenty Four rods; thence East Ten rods; thence North sixteen rods. to the place of beginning and containing Six and one half acres of land, all situated in Township Six South and in Section Five (5), Range One East of the Willamette Meridian, in Clackamas County, Oregon.

STATE OF OREGON

DEPARTMENT OF WATER RESOURCES

WATER RIGHT CERTIFICATE

I, the State Engineer, do hereby certify that the water right described in the foregoing certificate is a valid and lawful water right under the laws of the State of Oregon.

In testimony whereof,

I have hereunto set my hand and the seal of the Department of Water Resources at Salem, Oregon, this 30th day of January, 1950.

CHAS. E. STRICKLIN
State Engineer

This certificate is issued to confirm a change in point of diversion approved by an order of the WRD entered Nov 3, 1977 and supersedes certificate of water right recorded on Page 16959, Volume 14, SRWRC.

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

use herein described.

WITNESS the signature of the State Engineer, affixed
this 30th day of January, 19 50

CHAS. E. STRICKLIN

State Engineer
16959

Recorded in State Record of Water Right Certificates, Volume 14, page

STATE OF OREGON
COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **WALTER BERG**
of ^{1025 STARK ST. WOODBURN} ~~Route 2, Woodburn~~, State of Oregon 97071, has made proof
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of
Butte Creek
a tributary of Pudding River
irrigation of 30.0 acres for the purpose of
under Permit No. 17973 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 June 6, 1947

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
0.38 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 ~~NW 1/4 NW 1/4~~ Section 5, Township 6 South, Range 1
East, W. M. 1390'S & 660'W. fr NE COR of SW 1/4 NW 1/4 SEC 5, BEING WITHIN
NW 1/4 SW 1/4 SEC 5, T6S, R1E, W.M. CLACKAMAS Co.

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:

21.6 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$
8.4 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 5
T. 6 S., R. 1 E., W. M.

Land on which water is to be used is a part of the property more explicitly de-
scribed by the appropriator as follows: Beginning at a point 109 rods West of the
Northwest corner of the John M. Drake, D.L.C. in Township Six South, of Range One
East of the Willamette Meridian, in Clackamas County, Oregon; thence West 21 rods;
thence South 40 rods; thence West 30 rods; thence South $38\frac{1}{2}$ rods; thence East 51
rods; thence North $78\frac{1}{2}$ rods to the place of beginning, containing 17.53 acres of
land, more or less, and situated in the County of Clackamas and State of Oregon.

ALSO: Beginning at a point which is ten (10) rods east of the Northeast corner of
the West Half of the Northwest quarter of Section Five in Township Six South of
Range One East of the Willamette Meridian, in Clackamas County, Oregon; thence East
Twenty rods; thence South Forty rods; thence West Thirty rods; thence North twenty
Four rods; thence East Ten rods; thence North sixteen rods, to the place of beginning
and containing Six and one half acres of land, all situated in Township Six South
and in Section Five (5), Range One East of the Willamette Meridian, in Clackamas
County, Oregon.

This certificate is issued to confirm a change in point of diversion approved by an order of the WRD entered Nov 3, 1977 and supersedes certificate of water right recorded on Page 16981, Volume 14, SRWRC.

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
use herein described.*

WITNESS the signature of the State Engineer, affixed

this 30th day of January, 1980.

CHAS. E. STRICKLIN
State Engineer

Recorded in State Record of Water Right Certificates, Volume 14, page 16981.

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CLACKAMAS COUNTY

IN THE MATTER OF THE APPLICATION)
OF WALTER BERG FOR APPROVAL OF A)
CHANGE IN POINT OF DIVERSION OF)
WATER FROM BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. 3741

On July 28, 1977, an application was filed in the office of the Water Resources Director by Walter Berg 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 16959, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for the use of not to exceed 0.125 cubic foot per second from Butte Creek for irrigation of 10.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 6 South, Range 1 East, W.M., with a date of priority of July 17, 1946.

The certificate recorded at page 16981, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for the use of not to exceed 0.38 cubic foot per second from Butte Creek for irrigation of 21.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 8.4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 6 South, Range 1 East, W.M., with a date of priority of June 6, 1947.

Water for the said rights is diverted from a point located 60 feet North and 950 feet West from the Southeast corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 5.

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 1311 feet South and 640 feet West from the Northeast corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 5.

Notice of the application, pursuant to ORS 540.510, was published in the Molalla Pioneer, a newspaper printed and having general circulation in Clackamas County, Oregon, for a period of three weeks in the issues of August 10, 17 and 24, 1977.

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

1130
P7

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 rights.

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:

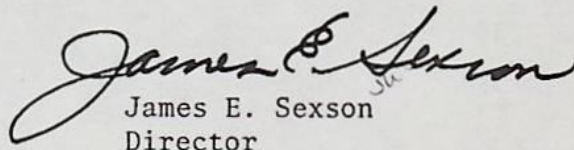
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the certificates of water right heretofore issued to Walter Berg and recorded, pages 16959 and 16981, Volume 14, State Record of Water Right Certificates, are 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, confirming certificates of water right shall be issued to the applicant herein.

Dated at Salem, Oregon, this 3rd day of November, 1977.


James E. Sexson
Director

Notices

NOTICE OF WATER RIGHT TRANSFER

APPLICATION NO. 3741

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Walter Berg for approval of a change in point of diversion from Butte Creek.

The certificate recorded at page 19595, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for the use of not to exceed 0.125 cubic foot per second from Butte Creek for irrigation of 10.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 6 South, Range 1 East, WM, with a date of priority of July 17, 1946.

The certificate recorded at page 16981, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for use of not to exceed 0.38 cubic foot per second from Butte Creek for irrigation of 21.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 8.4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 6 South, Range 1 East, WM, with a date of priority of June 6, 1947.

Water for the said rights is diverted from a point located 60 ft. N and 950 ft. W from the SE corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 5, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Sec. 5.

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 1311 ft. S and 640 ft. W from the NE corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 5, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Sec. 5.

All persons intersted are notified hereby that a hearing will be held at the county courthouse at Oregon City, Oregon, on October 4, 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 Walter Berg, 1025 Stark St., Woodburn, OR 97071 and one copy filed with the Water Resources Department, Salem, ORE 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. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

James E. Sexson
Director

Affidavit of Publication

STATE OF OREGON

COUNTY OF CLACKAMAS

SS

I, Orrin K. Carhart Jr.,

being first duly sworn, depose and say that I am the publisher of the Molalla Pioneer, a newspaper of general circulation as defined by ORS 193.010 and 193.020; printed and published at Molalla in the aforesaid county and state;

that the Notice of Water Right Transfer Legal

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 3 (three) successive and consecutive weeks in the following issues: 8/10/77, 8/17/77 and 8/24/77

Subscribed and sworn to before me this 2nd day of September, 1977

Maryanne Crowe

Notary Public for Oregon

(My Commission Expires Nov 28, 1980)

No.

In the Court of the

STATE OF OREGON

for the

COUNTY OF CLACKAMAS

RECEIVED

SEP - 7 1977

WATER RESOURCES DEPT
SALEM, OREGON

Affidavit of Publication

Filed 197 ..

.....
Clerk

By

Deputy

From the Office of

Attorney for

