

Name Dan R Russell
By _____
Address Po. Box 20
Yoncalla, OR 97499

Change in Pou + Use
Date filed 10-21-77
Date of hearing 1-4-78
Place of hearing Roseburg
Date of order 1-5-78 Vol. 30, page 228
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued JUL 7 1978 Vol. 38, page 46040

FEB 9 1989

See also T-2662

approved 5-30-78

REMARKS

— finish —

T-8844 Δ USE / POUL spo USS p 954

3831

DESCRIPTION OF WATER RIGHT

Name of stream ELK Creek
Trib. of Umpqua River County of Douglas
Use irrigation
Quantity of water _____ No. of acres _____
Name of ditch _____
Date of priority _____
In name of _____
_____ Adjudication, Vol. _____, page _____
App. No. 24293 Per. No. 19122 Cert. No. 24408
Certificate cancelled _____
Notation made on record by _____

Appl No 56779
Waiting on this

OK - Cert

W.R.I.S.	
Assembled <u>6-26-85</u> by <u>986</u>	
Entered _____ by _____	
Verified _____ by _____	

FEES PAID

Date	Amount	Receipt No.
<u>10-21-77</u>	<u>90.00</u>	<u>64592</u>
TOTAL . . .		
<u>12-14-77</u>	<u>\$ 2 Cert. Fee</u>	<u>Trnst. from 64592</u>
<u>The Drain Enterprise \$36.00 on 12/14/77 Ck # 1840</u>		

FEES REFUNDED

Date	Amount	Check No.
<u>12/14/77</u>	<u>\$ 17.00</u>	<u>1841</u>
Exam	<u>20-</u>	
Use	<u>15-</u>	
Cert	<u>2-</u>	
PON	<u>36-</u>	
	<u>73-</u>	

INDEX CARDS:		Entered	Checked
☒	Name	<u>lg</u>	
☒	Stream	<u>lg</u>	
☒	Pt. of Div.	<u>lg</u>	
☒	Calendar	<u>lg</u>	
CHECKED TO RECORDS:			
☒	Twp. & Rge.	<u>lg</u>	
☒	Decree-vault		
☒	Decree-safe		
☒	Cert. of W/R	<u>lg</u>	
☒	Per. Folder	<u>lg</u>	
☒	Chaindex		
☒	Cross Ref.		
☒	Power Claim		
☒	Abstracts	<u>lg</u>	

STATE OF OREGON

COUNTY OF DOUGLAS

ORDER APPROVING TEMPORARY CHANGES IN USE AND PLACE OF USE

Pursuant to ORS 537.348 and ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 8844 submitted by

OREGON WATER TRUST
111 SW NAITO PARKWAY, SUITE 404
PORTLAND, OREGON 97204.

The right to be modified, as evidenced by Certificate 46040, was perfected under Permit 19122 with a date of priority of NOVEMBER 28, 1949. The right allows the use of ELK CREEK, a tributary of the UMPQUA RIVER, for IRRIGATION OF 15.45 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.115 cubic foot per second, if available at the authorized point of diversion: SE¼ SE¼, AS PROJECTED WITHIN J. SCOTT DLC 37, SECTION 31, T 22 S, R 4 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is 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 2½ acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

NE¼ SE¼	7.00 ACRES
NW¼ SE¼	3.80 ACRES
SW¼ SE¼	1.25 ACRES
SE¼ SE¼	3.40 ACRES

SECTION 31

TOWNSHIP 22 SOUTH, RANGE 4 WEST, W.M.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to TEMPORARILY change the USE and PLACE OF USE to INSTREAM USE in ELK CREEK from the authorized point of diversion, SE¼ SE¼, AS PROJECTED WITHIN J. SCOTT DLC 37, SECTION 31, T 22 S, R 4 W, W.M.; 900 FEET NORTH AND 800 FEET WEST FROM THE SE CORNER, SECTION 31, to the confluence of Elk Creek and Pass Creek, in the NE¼ NW¼, SECTION 17, T 22 S, R 5 W, W.M..

The applicant requests that the water right revert to its authorized use and place of use after October 31, 2013.

The Director's finding under OAR 690-77-075(1) are affirmative.

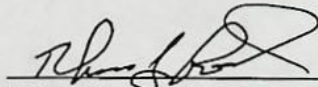
THESE TEMPORARY CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The changes are temporary. The changes shall be effective upon issuance of this order.
2. The former place of use shall not be irrigated as part of this water right during the term of this order.
3. The use shall revert to the authorized use and place of use on November 1, 2013.
4. The amount of water to which this right is entitled shall be limited to 0.115 cubic foot per second, if available at the authorized point of diversion, and shall be further limited to an appropriation not to exceed 38.63 acre-feet from May 16 to October 31 of each year.

A temporary instream flow of 0.115 cubic foot per second will be maintained from MAY 16 TO OCTOBER 31 of each year, in Elk Creek, a tributary of the Umpqua River, from the authorized point of diversion, SE¼ SE¼, AS PROJECTED WITHIN J. SCOTT DLC 37, SECTION 31, T 22 S, R 4 W, W.M.; 900 FEET NORTH AND 800 FEET WEST FROM THE SE CORNER, SECTION 31, to the confluence of Elk Creek and Pass Creek, in the NE¼ NW¼, SECTION 17, T 22 S, R 5 W, W.M..

WITNESS the signature of the Water Resources

Director, affixed SEP 10 2001.


for Paul R. Cleary, Director

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DOUGLAS COUNTY

IN THE MATTER OF THE APPLICATION)
OF DAN R. RUSSELL FOR APPROVAL OF)
A CHANGE IN USE OF WATER)

ORDER APPROVING
TRANSFER NO. 3831

On October 21, 1977, an application was filed in the office of the Water Resources Director by Dan R. Russell for approval of a change in use heretofore made of water from Elk Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 24408, Volume 17, State Record of Water Right Certificates, in the names of Dan R. Russell and Fred Booth, describes a right which includes the use of not to exceed 0.005 cubic foot per second from Elk Creek for irrigation of a certain 0.65 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 22 South, Range 4 West, W.M., with a date of priority of November 28, 1949.

Water for the said right is diverted from a point located 930 feet North and 725 feet West from the Southeast Corner of Section 31, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 31.

The applicant herein, owner of the lands above described, proposes to change the use heretofore made of water, without loss of priority, to hereafter use the water appropriated for the purpose of domestic use in one residence, including irrigation of one-fourth acre of lawn and garden, in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31, within the limits of the irrigation season of each year.

Notice of the application, pursuant to ORS 540.510, was published in The Drain Enterprise, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of November 10, 17 and 24, 1977.

Mr. M. John Youngquist, Watermaster, has filed a statement to the effect that the proposed change in use heretofore made of water may be made without injury to existing rights.

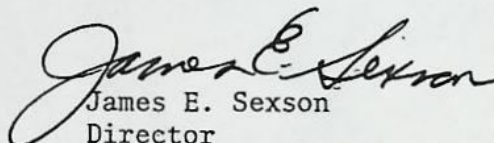
No objections having been filed and it appearing that the proposed change in use heretofore made of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in use heretofore made of water from Elk Creek, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that 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 Dan R. Russell and Fred Booth and recorded at page 24408, Volume 17, 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 5th day of January 1978.


James E. Sexson
Director

STATE OF OREGON

COUNTY OF

DOUGLAS

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

DAN R. RUSSELL AND FRED BOOTH

of Yoncalla, State of Oregon, 97499, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Elk Creek

a tributary of Umpqua River
irrigation of 15.45 acres

for the purpose of

under Permit No. 19122 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 November 28, 1949 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 0.115 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 SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected within J. Scott DLC 37, Section 31, T. 22 S., R. 4 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-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:

7.00 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
3.80 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
1.25 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
3.40 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 31

T. 22 S., R. 4 W., W. M.

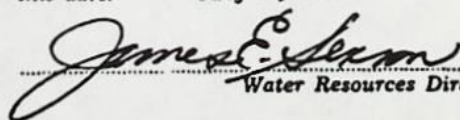
All as projected within J. Scott DLC 37

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 24408, Volume 17, State Record of Water Right Certificates, NOT modified by the provisions of orders of the Water Resources Director entered on January 5, 1978, approving transfer application No. 3831 and on May 30, 1978, approving transfer application No. 2662. 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. July 7, 1978


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 38, page 46040

59998

JS

STATE OF OREGON

COUNTY OF DOUGLAS

CERTIFICATE OF WATER RIGHT

This Is to Certify, That DAN R. RUSSELL and FRED BOOTH

of Yoncalla, 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 Elk Creek a tributary of Umpqua River 15.45 for the purpose of irrigation of 35.8 acres under Permit No. 19122 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 November 28, 1949,

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 0.27 cubic foot per second, 0.115

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ as projected within J. Scott DLC #37, Section 31, Township 22 South, Range 4 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,

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:

T-2831 T-2662

7.0⁰ acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
3.8⁰ acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
1.25 ~~8.4~~ acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ ~~0.65 ac~~ 6.5
3.4 ~~15.8~~ acres SE $\frac{1}{4}$ SE $\frac{1}{4}$ ~~12.4~~
Section 31
Township 22 South, Range 4 West, W.M.
~~0.6~~ acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ ~~0.6~~
~~0.2~~ acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ ~~0.2~~
Section 6
~~Township 23 South, Range 4 West, W.M.~~
All as projected within J. Scott DLC #37
15.45 0.115 cfs 0.005 0.115 cfs

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 24408, Volume 17, State Record of Water Right Certificates, NOT modified by the provisions of ~~the~~ orders of the Water Resources Director entered on Jan 5, 1978, approving transfer application No. 3831 and on May 30, 1978, " " " " " 2662
The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17, page 24408

T-2662 T-3831

0.00754/Ac.

Office of
THE DRAIN ENTERPRISE

P.O. Box 26 Issued Every Thursday Drain, Oregon

STATE OF OREGON,
COUNTY OF DOUGLAS

} ss

I, Lowell R. Anderson, being first duly sworn, say that I am the principal clerk of the publishers of THE DRAIN ENTERPRISE; that said DRAIN ENTERPRISE is a weekly newspaper published and issued weekly and regularly at Drain, Douglas County, Oregon, and is of general circulation in said county and state; that said DRAIN ENTERPRISE is made up of four pages or more, of five columns each and with type matter of a depth of 16 inches, and has more than 850 bonafide subscribers living within Douglas County, Oregon; that said DRAIN ENTERPRISE has been established and regularly and uninterruptedly published in Douglas County, Oregon, at least once a week during a period of more than twelve consecutive months

immediately preceeding the first publication of the Notice of Water Right Transfer Application # 3831 hereinafter referred to.

That the Notice of R 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: Nov 10, 17, 24, 1977

That said Notice of Water Right Transfer was published in the regular and entire issue of said newspaper during the period and times of publication, and was published in the newspaper proper and not in a supplement.

That the fee actually charged for such publication was \$ 36.00

Subscribed and sworn before me this 13th day of Dec, 1977

Betty L. Anderson
Notary Public for Oregon.

MY COMMISSION EXPIRES AUGUST 10, 1980

RECEIVED

DEC 14 1977

WATER RESOURCES DEPT
SALEM, OREGON

**NOTICE OF WATER RIGHT
TRANSFER APPLICATION
NO. 3831**

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Dan R. Russell for approval of a change in use heretofore made of water from Elk Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 24408, volume 17, State Record of Water Right Certificates in the names of Dan R. Russell and Fred Booth, describes a right which includes the use of not to exceed 0.005 cubic ft per second from Elk Creek for irrigation of a certain 0.65 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 22 South, Range 4 West, VM, with a date of priority of November 28, 1949.

Water for the said right is diverted from a point located

930 ft. N and 725 ft. W from the SE corner of Sec. 31, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 31..

The applicant herein, owner of the lands described, proposes to change the use heretofore made of water, without loss of priority, to hereafter use the water appropriated for the purpose of domestic use in one residence, including irrigation of one-fourth acre of lawn and garden, in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Sec 31.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Roseburg, Oregon, on January 4, 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 Dan R. Russell, P.O. Box 20, Yoncalla, OR 97499 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. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

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

James E. Sexson

Director Nov. 10-17-24, 1977