

Name Kenneith D. + Barbara Powell

By _____

Address 17515 S. Abigwa Road
Silverton, OR 97381

Change in POD

Date filed March 22, 1978

Date of hearing _____

Place of hearing _____

✓ Date of order 6-19-78 Vol. 30, page 1

Date for application of water 10-1-79

Proof mailed _____

Proof received _____

Certificate issued AUG 10 1978 Vol. 38, page 46237

MAY 10 1988 53 57204

3909

DESCRIPTION OF WATER RIGHT

Name of stream Abigwa Creek

Trib. of _____ County of Marion

Use _____

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority Feb. 19, 1937

In name of Murray Winstead

_____ Adjudication, Vol. _____, page _____

App. No. 16585 Per. No. 12647 Cert. No. 19432

Certificate cancelled _____

Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>3-22-78</u>	<u>35.00</u>	<u>1709</u>
TOTAL . . .		
<u>4-4-78</u>	<u>\$2 Cert. Fee</u>	<u>1937</u>

FEES REFUNDED

Date	Amount	Check No.

REMARKS

W.R.I.S.	
Assembled <u>5-10-85</u>	by <u>SA</u>
Entered _____	by _____
Verified _____	by _____

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

STATE OF OREGON
COUNTY OF MARION
CERTIFICATE OF WATER RIGHT

THIS IS TO CERTIFY, that

KENNETH D. AND BARBARA POWELL,
of 17515 S. ABIQUA ROAD, SILVERTON, OREGON 97381, has a right to the
use of the waters of ABIQUA CREEK, TRIBUTARY OF PUDDING RIVER for the
purpose of IRRIGATION OF 1.0 ACRE.

The right has been perfected under Permit 12647. The date
of priority is FEBRUARY 19, 1937. The right is limited to not more
than 0.01 CUBIC FOOT PER SECOND or its equivalent in case of rotation,
measured at the point of diversion from the source.
The point of diversion is located as follows:

NW1/4 SW1/4, AS PROJECTED WITHIN ANDREW J.
SHEPARD DLC 38, SECTION 28, T6S, R1E, WM; BEING 520 FEET SOUTH & 380
FEET EAST FROM THE E1/4 CORNER SECTION 29.

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 2.5 acre-feet per acre for
each acre irrigated during the irrigation season of each year.

The right 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, and to
which such right is appurtenant, is as follows:

1.0 ACRE NW1/4 SW1/4
AS PROJECTED WITHIN ANDREW J. SHEPARD DLC 38
SECTION 28
TOWNSHIP 6 SOUTH, RANGE 1 EAST, WM

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.

This certificate is issued to confirm a change in point of diversion
approved by an order of the Water Resources Director entered June 19,
1978, and together with certificate 46237, State Record of Water Right
Certificates, supersedes certificate 19432.

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 is subject to minimum flows established by the Water
Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director,
affixed this date May 10, 1988.

/s/ William H. Young
Water Resources Director

Recorded in State Record of Water Right Certificates numbered 57204

T-3909

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MARION COUNTY

IN THE MATTER OF THE APPLICATION)
OF KENNEITH D. & BARBARA POWELL)
FOR APPROVAL OF A CHANGE IN POINT)
OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER NO. 3909

On March 22, 1978, an application was filed in the office of the Water Resources Director by Kenneith D. and Barbara Powell for approval of a change in point of diversion from Abiqua Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 19432, Volume 14, State Record of Water Right Certificates, in the name of Murray Winstead, describes a right which includes the use of not to exceed 0.01 cubic foot per second from Abiqua Creek for irrigation of a certain 1.0 acre in NW $\frac{1}{4}$ SW $\frac{1}{4}$, as projected on Andrew J. Shepard D.L.C. No. 38, Section 28, Township 6 South, Range 1 East, W.M., with a date of priority of February 19, 1937.

Water for the said right is diverted from a point located 290 feet South and 200 feet West from the East Quarter Corner of Section 29, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 6 South, Range 1 East, W.M.

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 470 feet South and 380 feet East from the East Quarter Corner of Section 29, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, Township 6 South, Range 1 East, W.M.

Mr. Clifton R. King, 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, as described herein, without loss of priority, is approved.

If 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 0.01 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;

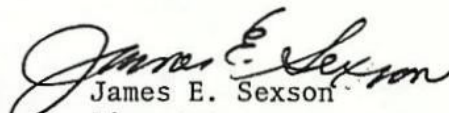
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Murray Winstead and recorded at page 19432, 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 applicants herein.

Dated at Salem, Oregon this 19th day of June, 1978.


James E. Sexson
Director

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

This Is to Certify, That MURRAY WINSTEAD

of Route 1, Box 292, Silverton, 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 Abiqua Creek

a tributary of Pudding River for the purpose of irrigation of 33.9 acres under Permit No. 12647 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 February 19, 1937

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 0.44 cubic feet per second,

0.43

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 $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, as projected on Jerome B. Post D.L.C. No. 49, Township 6 South, Range 1 East, 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:

3.0 ~~4.0~~ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, as projected on Andrew J. Shepard D.L.C. No. 38
1.6 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, as projected on Andrew J. Shepard D.L.C. No. 38
Section 28; 24

1. 2.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, as projected on Jerome B. Post D.L.C. No. 49

2. 6.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, as projected on Jerome B. Post D.L.C. No. 49

5. 4.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected on Andrew J. Shepard D.L.C. No. 38

3. 14.4 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected on Jerome B. Post D.L.C. No. 49

4. 0.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected on Jerome B. Post D.L.C. No. 49

6. 0.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected on Andrew J. Shepard D.L.C. No. 38

Section 29;

Township 6 South, Range 1 East, W. M.

Land on which water is to be used is a part of that more explicitly described by appropriator as follows:

Commencing on the South boundary of the Donation Land Claim of George Woolen and wife at the most Easterly intersection with the middle of the Abiqua Creek; thence west on aforesaid South boundary Six chains and fourteen links to the North and South line extended from between the lands of Amelie and John Woolen, continuing on said South boundary a total distance of thirteen chains and Sixty four links to a point in the middle of Abiqua Creek and five chains and fifty one links from the Northwest corner of the Donation Land Claim of Jerome B. Post; thence up the middle of the Abiqua Creek to the beginning and containing eight acres, more or less, in Township 6 South, Range 1 East, in Marion County, Oregon.

Also the following, to-wit: - Commencing at the most Northerly North East corner of the Donation Land Claim of J. B. Post and wife in Township Six South, Range 1 East of the Willamette Meridian, in Marion County, Oregon; thence West on said

46237, 57204

Donation Land Claim line, Eighteen and Twenty Hundredths Chains to the middle of said line, thence South Fifty eight and Sixty-four Hundredths chains to a point on the South boundary of a tract of Two Hundred eighty-two and Ninety four Hundredths acres of land deeded by the said J. B. Post to Al Coolidge on the 30th day of May, 1857, as shown by Deed recorded in Book 2, page 56, Marion County Records of Deeds, thence East Seventeen and Ninety seven Hundredths chains to the South East corner of land described in said Deed to Al Coolidge; thence North Fifty eight and Sixty four Hundredths chains to the place of beginning, and containing 106 acres, more or less except from the above lands, all those certain premises lying North of Abiqua Creek. Also commencing in the middle of Abiqua Creek, Seventeen (17) rods West of the Section line between Sections Twenty eight and Twenty nine, in Township 6 South, Range 1 East, Willamette Meridian; thence up the Abiqua Creek to the center of the mill dam; thence North eight rods, thence East Twenty one rods to a maple tree fourteen inches in diameter and blazed; thence South eight rods to the middle of the Abiqua Creek; thence South easterly along said Creek to the line dividing Andrew Shepherd's and John O. Putnam's land claims; thence South to the section line between sections twenty eight and thirty three; thence West to the line between the land Claims of Andrew Shepherd and J. B. Post; thence North on said line to the place of beginning, and containing 65 acres of land, be the same more or less.

Except from the above described premises the lands as shown in Marion County Deed Records; - Lands described in Volume 91, page 26; Volume 95, page 60; Volume 96, page 263; Volume 6, page 6; Volume 162, page 93; Volume 198 page 388 and Volume 207 Page 77; the Amount of land conveyed hereby being 119.00 acres more or less, All being situated in Marion County, State of Oregon.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 19432, Volume 14, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on June 19, 1978, approving transfer application No. 3909.

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.

WITNESS the signature of the State Engineer, affixed

this 31st day of January, 19 51

CHAS. E. STRICKLIN
State Engineer

Recorded in State Record of Water Right Certificates, Volume 14, page 19432