

Name ELMORE E. NICHOLSON
By B. & S.
Address Port Klamath, Oregon 97626

Application No. 39049
Permit No. 29507
Certificate No. 37826

Stream Index, Page No. 14-28

Date filed September 3, 1963
Priority October 30, 1963
Action suspended until OK Cert

Returned to applicant
Date of approval June 19, 1964

CONSTRUCTION

Date for beginning June 19, 1965
Date for completion October 1, 1966
Extended to

Date for application of water October 1, 1967
Extended to

PROSECUTION OF WORK

Form "A" filed
Form "B" filed Complete
Form "C" filed July 28, 1964

FINAL PROOF
NOV 18 1971

Blank mailed
Proof received
Date certificate issued DEC 6 1971

FEES PAID

Date	Amount	Receipt No.
<u>9-3-63</u>	<u>34.50</u>	<u>39561</u>
<u>11-17-71</u>	<u>\$1 Cert. Fee</u>	<u>26144</u>

FEES REFUNDED

Date	Amount	Check No.
------	--------	-----------

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
------	---------	---------	--------	------

REMARKS

1.75 c.f.s. from Annie Creek (Wood River) for the irrigation of 280.0 acres.
(Limited to diversion during the period of July 21 to October 1 of each year.)

Form C

IMPORTANT—This form is a notice to the State Engineer that permittee is ready to make **final proof** to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the **final proof** inspection and survey which will be made in response to the filing of this Form C.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the State Engineer until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.
Fill out, detach and mail to the State Engineer, Salem, Oregon, when all of the water has been applied.

Application No. 39049

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Elmore E. Nicholson, the holder of Permit No. 29507

do appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 27 day of July, 1964.

Remarks: _____

IN WITNESS WHEREOF, I have hereunto set my hand this 27 day of July, 1964.

(Signature of Applicant)

(Address)

The map is a survey of land parcels, likely in the 18th or 19th century. It features a grid of sections. The top-left section is labeled '7' and '18'. The top-right section is labeled '18'. The bottom-left section is labeled '31'. The bottom-right section is labeled '18'. The map includes a grid with sections numbered 7, 18, 31, and 18. Key features include 'T. 33 S.' (Township 33 South), 'Old Co. Rd.' (Old County Road), 'Div. Pt.' (Division Point), 'Annie Cr.' (Annie Creek), and 'Co. Rd.' (County Road). The map also shows various bearings and distances, such as '41°', '40°', '39°', '38°', '18°10'', and '18°20''.

UNDER

IN NAME OF

Surveyed 16 MAY 1970, by D. R. BUELL

STATE OF OREGON
COUNTY OF KLAMATH

RECEIVED
NOV 17 1971
STATE ENGINEER
SALEM OREGON

Proof of Appropriation of Water

ELMORE E. NICHOLSON

of **Fort Klamath**, State of **Oregon**,
has applied beneficially the waters of
Annie Creek

a tributary of **Wood River** for the purpose of
supplemental irrigation of 277.8 acres

under Permit No. **29507** of the State Engineer, and that the use of said waters has been
completed under the terms of said permit; that the priority of the
right dates from **September 3, 1963**

that the amount of water for the purposes aforesaid, has been actually beneficially used in the
amount of
1.74 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 1/4 SW 1/4, Section 31, T. 32 S., R. 7 1/2 E., W. M.**
Diversion point located: **1820 feet North and 1510 feet East from SW Corner,**
Section 31.

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 **3 acre feet per acre** for each acre irrigated
during the irrigation season of each year, and shall be still further limited
to a diversion during the period of **July 21 to October 1** 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, and to which such right is appurtenant, is
as follows:

**40.0 acres SE 1/4 SW 1/4
Section 7**

**40.0 acres NE 1/4 NE 1/4
40.0 acres NW 1/4 NE 1/4
40.0 acres SW 1/4 NE 1/4
40.0 acres NE 1/4 NW 1/4
39.2 acres NW 1/4 SE 1/4
38.6 acres SW 1/4 SE 1/4
Section 18**

T. 33 S., R. 7 1/2 E., W. M.

I have read the above and foregoing proof of appropriation of water; I know the contents
thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of Nov,

1971

Elmore E. Nicholson

**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

516 PUBLIC SERVICE BUILDING • SALEM, OREGON • 97310 • Ph 364-2171

Elmore E. Nicholson
Fort Klamath, OR 97626

November 10, 1971

FILE NO 39049

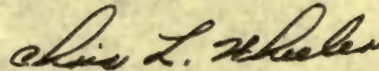
Dear Sir:

Enclosed is the final proof in connection with the incomplete water right represented by your permit No. 29507.

The data contained in the proof, which is based on an inspection and survey of your project made by a representative of this department, defines the extent to which your water right has been completed within the terms of your permit. The proof should be dated and signed by you and returned to this office.

Upon receipt of the proof, properly executed and accompanied by the statutory recording fee of \$1, a certificate of water right will be issued confirming the right thereunder and, after being recorded in the county records, will be forwarded to you.

Very truly yours,



CHRIS L. WHEELER
State Engineer

Form 117

Enclosure

reo



STATE OF OREGON
STATE ENGINEER
516 PUBLIC SERVICE BUILDING
SALEM 10

REFER TO
FILE NO.

39049

July 29, 1964

Elmore E. Nicholson
Fort Klamath,
Oregon

Gentlemen:

This will acknowledge receipt of your notice to the effect that complete application of water has been made under permit No. 29507.

Pursuant to your report and in line with the general practice of this office, a survey will be made at a later date.

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

In the meantime, the permit which you hold will be valid evidence of the water right in question so long as you continue to use the water.

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 128

jb

39019

July 22, 1964

Mr. Elmore E. Nicholson
Fort Klamath
Oregon

39049, permit No. 29507 with blueprint.

June 23, 1964

Regional Director
Bureau of Reclamation
P. O. Box 2511
Sacramento, California 95811

Attention Mr. C. H. Kadie

Gentlemen:

Re: 2-770

I have your letter of June 11, 1964 in regard to several applications for water right permits for appropriation of public waters within the Klamath Basin.

Application No. 38664 in the name of A. H. Lepley will be held without action for 30 days from the date of this letter to allow you opportunity to file a formal protest.

This will also acknowledge receipt of and thank you for your letter of June 5 stating that the Bureau of Reclamation does not wish to maintain protests against applications numbered 38124, 39047, 39048, 39040 and 39670.

The State Engineer will now proceed to consideration of the applications for approval.

We will continue to give you notice of all new filings in the Klamath Basin.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By

James W. Carver, Jr., Assistant

JWC:eh

39047-9
39670

May 14, 1964

Bureau of Reclamation
P. O. Box 2511
Sacramento, California 95811

Attention Mr. C. H. Kadie

Gentlemen:

Re:2-770

Pursuant to your request of April 30, 1964, we will continue to hold applications numbered 39047, 39048, 39049 and 39670 without action until June 8, 1964 to allow you the opportunity to re-evaluate your position in regard to this portion of the Upper Klamath Watershed.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
James W. Carver, Jr., Assistant

JWC:eh

cc - Mr. Stewart E. Nicholson

March 13, 1964

Bureau of Reclamation
Regional Office
P. O. Box 2511
Sacramento, California

Attention Mr. Glenn G. Laursgard

Gentlemen:

In response to your telephone request of March 10, 1964, the following is a brief resume of water right applications for appropriation of water within the Klamath Basin which have been the subject of correspondence in recent months and/or were discussed in our telephone conversation, and three recently filed applications.

<u>Application No.</u>	<u>Name</u>
36393	Willow Valley Irrigation District and Johnson Stock Company
37761	Lloyd Gift
37972	Willow Valley Irrigation District
38124	William E. and Donna L. Nicholson
E-38725	Willow Valley Irrigation District
39047	Lloyd Nicholson
39048	Lloyd A. and Lucille A. Nicholson
39049	Elmore E. Nicholson
39401	Willow Valley Irrigation District,

are being held without action pending settlement of protests by the Bureau of Reclamation against approval of them.

<u>Application No.</u>	<u>Name</u>
37479 and E-37480	Henry C. Gerber
38664	A. E. Lopley
39242	Bumbrus and Yancey Land and Cattle Co.
39264	Paul H. and Ann E. Fairale
39591	Earl Harris
39608 and 39609	William and Virginia Bumbrus,

were pending before the State Engineer as of March 10, 1964, but have not been made the subject of protests by the Bureau of Reclamation.

Bureau of Reclamation

2

March 13, 1964

You will receive notices of filing in regard to applications numbered 39591, 39608 and 39609 within the next few days.

Our records show that photographic copies of applications numbered 37479 and R-37480 in the name of Henry C. Gerber have been supplied to you with previous correspondence and that you have received notice in regard to application No. 38664 in the name of A. M. Lopley by my letter of October 7, 1963.

A few of the applications discussed in our telephone conversation have been either rejected by the State Engineer or approved by issuance of permits with wording regarding prior rights or pursuant to notice by your office that no protest would be made.

Application No. 37474 in the name of Johnson Stock Company was rejected by the State Engineer.

Application No. 37132 in the name of Johnson Stock Company, application No. 37400 in the name of Floyd A. and Laura W. Martin, application No. 37498 in the name of Mike Deely and application No. 39178 in the name of Guiley have been approved by issuance of permits numbered 27712, 28023, 27913 and 29189, respectively.

Very truly yours,

CHRIS L. WHITMAN
State Engineer

By
James W. Carver, Jr., Assistant

JWC:eh

36593
57972
57781
58126
5-38725
39401
39047-9

March 16, 1964

Mr. William L. Vetter, Jr.
1740 Austin
Klamath Falls, Oregon

Dear Mr. Vetter:

In reply to your letter of January 12, the following is a brief summary of those applications within the Klamath Basin which have been processed by the U. S. Department of Interior, Bureau of Reclamation:

Application No. 36593 in the name of Willow Valley Irrigation District and Johnson Stock Company for a permit to appropriate 20 second feet of water from the North Fork of Rock Creek and 60 second feet from the East Fork of Rock Creek in sections 8 and 9, Township 41 South, Range 15 East, W.M., for irrigation of 835.9 acres of land by Johnson Stock Company and 2495.4 acres of land by Willow Valley Irrigation District.

Our records show that the application was returned to you on October 7, 1963, being endorsed so that in order to retain 100 priority it had to be returned to this office on or before December 6, 1963 and that to date, the application has not yet been returned. It is my understanding that the applicants are no longer interested in completing this application. Unless it is returned within 30 days from the date of this letter, we will proceed to rejection of the application without further notice.

Application No. 37972 in the name of Willow Valley Irrigation District and Johnson Stock Company for a permit to appropriate 200 second feet of water from Rock Creek within section 27, Township 40 North, Range 8 East, W.M., Modoc County, California, for irrigation of 2741.5 acres of land on Antelope Valley Ranch and 2645.8 acres of land within the Willow Valley Irrigation District.

Our records show that this application was also returned to you on October 7, 1963, being endorsed so that in order to retain 100 priority it had to be returned to this office on or before December 6, 1963, and that the application has not been returned to this office. It is also my understanding that your clients are no longer interested in completing this application. Therefore, if the application is not returned to this office within 30 days from the date of this letter, we will also proceed to rejection of this application without further notice.

Mr. William L. Wales, Jr.

2

March 16, 1964

Application No. 37781 in the name of Lloyd Galt for a permit to appropriate 2.5 second feet from an unnamed creek within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Township 39 South, Range 15 East, W.M., for irrigation of 336.1 acres of land in Section 32, Township 38 South, Range 15 East, and Sections 5 and 6, Township 39 South, Range 15 East, W.M.

Application No. 36124 in the name of William S. and Donna L. Nicholson for a permit to appropriate 6.29 second feet from an unnamed drain in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 33 South, Range 6 East, W.M., for supplemental irrigation of 314.6 acres of land in said Section 36, and Section 31, Township 33 South, Range 7 $\frac{1}{2}$ East, W.M.

Applications numbered R-38725 and 39401 in the name of Willow Valley Irrigation District for permits to construct an enlargement to Three Mile Flat Reservoir and store therein an additional 425 acre feet of water, and to appropriate the said stored water for supplemental irrigation of 2608.1 acres of land within the Willow Valley Irrigation District.

Application No. 39047 in the name of Lloyd Nicholson for a permit to appropriate 5.8 second feet from drainway No. 2 and 9.0 second feet from drainway No. 1 located within Section 19, Township 33 South, Range 7 $\frac{1}{2}$ East, and Section 13, Township 33 South, Range 6 East, W.M., respectively, for supplemental irrigation of 634.3 acres of land in Sections 19, 20, and 30, Township 33 South, Range 7 $\frac{1}{2}$ East, W.M.

Application No. 39048 in the name of Lloyd G. and Lucille A. Nicholson for a permit to appropriate 6.4 second feet of water from Seven Mile Creek during the period of July 20 to October 1 of each year at a point of diversion within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 33 South, Range 6 East, W.M., for supplemental irrigation of 634.3 acres of land in Sections 19, 20, and 30, Township 33 South, Range 7 $\frac{1}{2}$ East, W.M.

Application No. 39049 in the name of Elmore E. Nicholson for a permit to appropriate 1.75 second feet from Annie Creek during the period of July 20 to October 1 of each year at a diversion point located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, Township 32 South, Range 7 $\frac{1}{2}$ East, W.M., for supplemental irrigation of 280 acres of land in Sections 7 and 18, Township 33 South, Range 7 $\frac{1}{2}$ East, W.M.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
James W. Carver, Jr., Assistant

JWC:eh

36593
37479
37480
37781
37972
38124
38664
38725
39047
39048
39049
39242
39264
39401

March 3, 1964

Mr. E. F. Sullivan
Assistant Regional Director
Bureau of Reclamation
Regional Office, Region 2
P. O. Box 2911
Sacramento, California

Dear Mr. Sullivan:

I have considered suggestions made in your letter of November 19, together with several that have been made by applicants or their representatives. The water rights which may exist for the operation of the Klamath project have not been defined and cannot be except through appropriate court action. Under these circumstances, I cannot say what, if any, rights do exist on the Klamath project. However, I believe that all concerned would recognize the existence of some rights. The Bureau, of course, is not actually the owner of any water rights, but is merely operating as a trustee for the water user who is a recipient of the benefits and the actual owner of the right.

Within the stated purpose of the stipulations or provisions to be included in the permit (that of calling attention to the prospective appropriator or subsequent purchaser of the land that certain rights exist for the project), I believe that too much argument is being held on the specific wording. In as far as these rights can be defined outside of an appropriate adjudication, they are set forth in the Oregon Water Law and the Klamath Compact. I do not think that it is necessary or that anything would be gained by attempting to expand or further define the project rights in the permits as issued. Regardless of what rights the project has, they are fully protected by the laws and the Klamath Compact without any restriction or comment in any subsequent permit.

Some of these applications have been pending for a long time and it appears action should be taken thereon. I believe all parties have copies of provisions which were placed in some permits by this office and suggestions which have been made both

Mr. Sullivan

-2-

March 3, 1964

by you and Mr. Ganong, as attorney for some of the applicants. If you are able to reach an agreement on some such stipulation, I will issue the permits with it included. If you are not able to, I will set the matter down for hearing on those which have been protested and proceed thereon. The order that I would then enter disposing of the matter could be appealed by either side to the courts. Those applications which have not been protested would be approved specifically subject to all existing rights which would include whatever rights the Klamath project has. Unless I hear to the contrary within the next 30 days, I will so proceed.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:ks

cc: Willow Valley Irrigation District, c/o Lloyd Gift
William Wales, Jr.
A. M. Lepley
Lloyd Nicholson
Elmore E. Nicholson
William S. Nicholson
William Ganong
Johnson Stock Company
Henry C. Garber
Paul H. Fairclo
George H. Procter
Yansay Land and Cattle Company and William Zumbrun

November 13, 1963

U. S. Department of the Interior
Bureau of Reclamation
P. O. Box 2511
Sacramento California 95811

Attention Mr. E. F. Sullivan

Gentlemen:

Re: 2-770

I have your letter of October 30 transmitting protests by the United States of America, Bureau of Reclamation, against approval of application No. R-38725 in the name of Willow Valley Irrigation District, in care of Lloyd Gift; application No. 39047 in the name of Lloyd Nicholson; application No. 39048 in the name of Lloyd G. and Lucille A. Nicholson, and application No. 39049 in the name of Elmore E. Nicholson.

Each of the four protests was filed as provided by law on November 1, 1961. Our receipt No. 40169 in acknowledgement of payment of the statutory filing fees in the total amount of \$8 is enclosed.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
James W. Carver, Jr., Assistant

JWC:eh

enclosure

P. O. Box 388
 Sacramento 2, California
 STATE WATER RIGHTS BOARD
 P. O. Box 1592
 Sacramento, California
 BUREAU OF RECLAMATION
 Regional Office, Region 2
 P. O. Box 2511
 Sacramento, California



STATE OF OREGON
 STATE ENGINEER
 WATER RESOURCES DEPARTMENT
 516 PUBLIC SERVICE BUILDING
 SALEM 10

REFER TO
 FILE NO. 39049

NOTICE OF FILING APPLICATION FOR A PERMIT TO APPROPRIATE WATER

Name Elmore E. Nicholson
 Address Fort Klamath, Oregon
 Source of water supply Annie Creek (Wood River)
 Use Irrigation
 Point of diversion NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, T.32 S., R.7 $\frac{1}{2}$ E., W.M.
 Amount of water 1.75 c.f.s. (July 20 to October 1)

DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
33S	7 $\frac{1}{2}$ E	7												40				
		18	40	40	40		40									40	40	

Any person desiring to protest the approval of this application shall file a written protest in the office of the State Engineer at Salem, Oregon, within thirty days from the date of this notice.

A copy of the Rules for Administrative Procedures in Contested Cases Before the State Engineer of Oregon will be supplied free upon request.

Dated at Salem, Oregon, this 3 day of October, 1943.

CHRIS L. WHEELER
 LEWIS A. STANLEY
 State Engineer

September 20, 1963

Mr. Elmore E. Nicholson
Fort Klamath
Oregon

Dear Mr. Nicholson:

This will acknowledge your application for a permit to appropriate 1.75 cubic feet of water per second from Annie Creek for the irrigation of 280 acres, the accompanying tracing, legal description, and fees in the sum of \$34.50 for which our receipt numbered 39561 was handed to you.

Your application, which has been examined and filed under file number 39049, appears to be in satisfactory form to be considered for approval by issuance of a permit with the next group.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Walter N. Perry, Assistant

egw



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

REGIONAL OFFICE, REGION 2

P. O. BOX 2511

SACRAMENTO, CALIFORNIA 95811

(TOWN AND COUNTRY AREA)

ADDRESS ALL
COMMUNICATIONS TO
THE REGIONAL DIRECTOR

IN REPLY
REFER TO: 2-770

RECEIVED
NOV - 1 1963
STATE ENGINEER
SALEM, OREGON

OCT 30 1963

REGISTERED LETTER - RETURN RECEIPT REQUESTED

Elmore E. Nicholson
Fort Klamath, Oregon

Dear Mr. Nicholson:

We have received a copy of the State Engineer's Notice of Filing, dated October 3, 1963, concerning your Application 39049 for the appropriation of 1.75 c.f.s. (July 20 to October 1) from Annie Creek, a tributary of Wood River and Upper Klamath Lake, for irrigation use on 280 acres.

As you may know, the United States has acquired rights to the use of water from Wood River and its tributaries for operation of the Klamath Project. These rights, recognized in the Klamath River Basin Compact, are based on a 1905 Oregon statute and a Notice of Intention to Utilize all Waters of the Klamath Basin filed with the State Engineer on May 19, 1905, in accordance with the requirement of this statute.

Accordingly, we are obliged to initiate formal protest action with the State Engineer to assure that these prior vested rights of the Klamath Project will not be impaired by your intended appropriation. A copy of our protest is attached. You will note it contains the following stipulations which we are proposing as conditions in the permit:

- (1) This permit is junior to the rights of prior appropriators, as recognized in the Klamath River Basin Compact, including rights of the United States for the Klamath Project; therefore, diversions authorized under this permit are limited to surplus flows of Annie Creek not required for use within the Klamath Project; and

(2) "The proposed diversion works will be so constructed that the unregulated runoff can be passed through the works without impeding the flow downstream from the works or impairing downstream rights."

With your acceptance of these permit conditions, our protest against your application will be withdrawn.

If you have any questions on this matter, we suggest you contact our Klamath Project Manager, C. D. Lawrence, at Klamath Falls.

Sincerely yours,

E. F. Sullivan

E. F. Sullivan
Acting Regional Director

Enclosure

Copy to: Mr. Chris E. Wheeler
State Engineer, Oregon
516 Public Service Building
Salem 10, Oregon
(w/o enclosure)



North Half of Northeast Quarter of Section 18 ($N\frac{1}{2} NE\frac{1}{4}$)
Northeast Quarter of Northwest Quarter ($NE\frac{1}{4} NW\frac{1}{4}$) of Section 18.
Southeast Quarter of Southwest Quarter ($SE\frac{1}{4} SW\frac{1}{4}$) of Section 7
Township 33 South Range $7\frac{1}{2}$ East Willamette Meridian.

Southwest Quarter of Northeast Quarter ($SW\frac{1}{4} NE\frac{1}{4}$) Section 18
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4} SE\frac{1}{4}$) Section 18
North Half of Southwest Quarter of Southeast Quarter ($N\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$)
of Section 18 Township 33 South Range $7\frac{1}{2}$ East Willamette Meridian.

South Half of Southwest Quarter of Southeast Quarter
($S\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$) of Section 18 Township 33 South Range $7\frac{1}{2}$ East
Willamette Meridian.

Application No. 39049
Permit No. 29507

Filed this 1st day of November 1963

Chris L. Wheeler

STATE ENGINEER

James W. Carver Jr.

ASSISTANT

1 FRANK B. HORNE
2 Regional Solicitor
3 P. O. Box 21-4527
4 Sacramento, California 95821
5 Telephone: IVanhoe 9-7631

6 Attorney for the UNITED STATES
7 OF AMERICA, acting by and through
8 the Bureau of Reclamation of the
9 Department of the Interior

STATE OF OREGON - STATE ENGINEER
Water Resources Department
516 Public Service Building
Salem 10, Oregon

9 In the Matter of Application 39049)
10 ELMORE E. NICHOLSON,)
11 FORT KLAMATH, OREGON)
12 Applicant)
13 UNITED STATES OF AMERICA,)
14 BUREAU OF RECLAMATION)
15 Protestant)

PROTEST
BY THE UNITED STATES
OF AMERICA THROUGH
THE BUREAU OF RECLAMATION
OF THE DEPARTMENT OF
THE INTERIOR

16 COMES NOW the United States of America acting by and through the
17 Bureau of Reclamation of the Department of the Interior, a protestant in the
18 above-captioned proceedings, and respectfully alleges:

19 I.

20 That its address is P. O. Box 2511, Sacramento, California 95811.

21 II.

22 That it is a party in interest in respect to the above-captioned
23 application to appropriate water in that the source of the said proposed
24 appropriation is the same source of supply for the Klamath Project, which
25 project was constructed by the United States and is now operated and main-
26 tained for the benefit of the Klamath Project Water Users.

27 III.

28 That the applicant plans to construct and/or operate diversion
29 works in the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 31, Township 32 South, Range 7 $\frac{1}{2}$ East,
30 Willamette Meridian, for the diversion of 1.75 c.f.s. (July 20 to October 1)
31 from Annie Creek, a tributary of Wood River, Klamath County, Oregon, for
32 irrigation use on 280 acres of land located in Klamath County, Oregon, as

1 follows:

Sections (Willamette	Township Base & Meridian)	Range	Acreage
7	33 S	7½ E	40
18	33 S	7½ E	240

3 and that said proposed appropriation will interfere with the prior rights of
4 the Protestant.

6 IV.

7 That the granting of a permit on the above-captioned application
8 will interfere with the property rights of the Protestant, and that said
9 Protestant will suffer irreparable damage from the issuance of such a permit,
10 unless said permit is conditioned by the following stipulations:

11 "This permit is junior to the rights of prior appropriators, as
12 recognized in the Klamath River Basin Compact, including rights
13 of the United States for the Klamath Project; therefore, diver-
14 sions authorized under this permit are limited to surplus flows
15 of Annie Creek not required for use within the Klamath Project;
16 and

14 "The proposed diversion works will be so constructed that the
15 unregulated runoff can be passed through the works without
16 impeding the flow downstream from the works or impairing down-
stream rights."

17 WHEREFORE Protestant prays for an order of the State Engineer of
18 the State of Oregon incorporating the above conditions in any permit or
19 refusing, denying, and disallowing Application 39049 of Applicant.

20 DATED THIS 30th day of October, 1963.

21 UNITED STATES OF AMERICA

22 By: E. F. Sullivan
23 Acting Regional Director, Region 2
24 Bureau of Reclamation
Department of the Interior

25 FRANK B. HORNE
26 Regional Solicitor
27 Attorney for the United States
28 of America, acting by and
through the Bureau of Reclamation
of the Department of the Interior

28 By: Frank B. Horne
29 Frank B. Horne
30 Regional Solicitor
31
32

1 STATE OF CALIFORNIA,)
2 COUNTY OF SACRAMENTO) ss.

3 I, E. F. SULLIVAN, being first duly sworn, depose
4 and say:

5 That I am the Acting Regional Director, Region 2,
6 Bureau of Reclamation, the herein named Contestant; that I have read the
7 foregoing Protest, know the contents thereof, and the same is true as I
8 verily believe.

9 E. F. Sullivan
10 Subscribed and sworn to before me
11 on this 30th day of October, 1963.

12 Mary R. Mulcahy
13 Mary R. Mulcahy
14 Notary Public in and for the County of
15 Sacramento, State of California.

16 My commission expires June 4, 1967.

17 STATE OF CALIFORNIA,)
18 COUNTY OF SACRAMENTO) ss.

19 I, Helen W. Quinlan, being sworn, say that I am a
20 citizen of the United States, over 18 years of age, a resident of Sacramento
21 County, and not a party to the within action.

22 This affiant's business address is 2929 Fulton Avenue, Sacramento,
23 California; that affiant served a copy of the attached Protest of the
24 United States dated October 31, 1963, by placing said copy in
25 franked envelope(s) marked "Postage and Fees Paid, U. S. Department of the
26 Interior," addressed to the following:

27 Elmore E. Nicholson
28 Fort Klamath, Oregon

29 which envelope(s) was/were then sealed and thereafter on October 31, 1963
30 deposited in the United States mail at Sacramento, California.

31 Helen W. Quinlan

32 Subscribed and sworn to before me
on this 31st day of October, 1963.

33 Mary R. Mulcahy
34 Mary R. Mulcahy
35 Notary Public in and for the County of
36 Sacramento, State of California.

37 My commission expires June 4, 1967.



FRANK B. HORNE
Regional Solicitor
P. O. Box 21-4527
Sacramento, California 95821
Telephone: IVanhoe 9-7631

Attorney for the UNITED STATES
OF AMERICA, acting by and through
the Bureau of Reclamation of the
Department of the Interior

STATE OF OREGON - STATE ENGINEER
Water Resources Department
516 Public Service Building
Salem 10, Oregon

In the Matter of Application 39049)

ELMORE E. NICHOLSON,
FORT KLAMATH, OREGON

Applicant

UNITED STATES OF AMERICA,
BUREAU OF RECLAMATION

Protestant

PROTEST
BY THE UNITED STATES
OF AMERICA THROUGH
THE BUREAU OF RECLAMATION
OF THE DEPARTMENT OF
THE INTERIOR

COMES NOW the United States of America acting by and through the
Bureau of Reclamation of the Department of the Interior, a protestant in the
above-captioned proceedings, and respectfully alleges:

I.

That its address is P. O. Box 2511, Sacramento, California 95811.

II.

That it is a party in interest in respect to the above-captioned
application to appropriate water in that the source of the said proposed
appropriation is the same source of supply for the Klamath Project, which
project was constructed by the United States and is now operated and main-
tained for the benefit of the Klamath Project Water Users.

III.

That the applicant plans to construct and/or operate diversion
works in the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 31, Township 32 South, Range 7 $\frac{1}{2}$ East,
Willamette Meridian, for the diversion of 1.75 c.f.s. (July 20 to October 1)
from Annie Creek, a tributary of Wood River, Klamath County, Oregon, for
irrigation use on 280 acres of land located in Klamath County, Oregon, as

1 follows:

Sections (Willamette Base & Meridian)	Township	Range	Acreage
7	33 S	7 1/2 E	40
18	33 S	7 1/2 E	240

2
3
4 and that said proposed appropriation will interfere with the prior rights of
5 the Protestant.

6 IV.

7 That the granting of a permit on the above-captioned application
8 will interfere with the property rights of the Protestant, and that said
9 Protestant will suffer irreparable damage from the issuance of such a permit,
10 unless said permit is conditioned by the following stipulations:

11 "This permit is junior to the rights of prior appropriators, as
12 recognized in the Klamath River Basin Compact, including rights
13 of the United States for the Klamath Project; therefore, diver-
14 sions authorized under this permit are limited to surplus flows
15 of Annie Creek not required for use within the Klamath Project;
16 and

17 "The proposed diversion works will be so constructed that the
18 unregulated runoff can be passed through the works without
19 impeding the flow downstream from the works or impairing down-
20 stream rights."

21 WHEREFORE Protestant prays for an order of the State Engineer of
22 the State of Oregon incorporating the above conditions in any permit or
23 refusing, denying, and disallowing Application 39049 of Applicant.

24 DATED THIS 20th day of October, 1963.

25 UNITED STATES OF AMERICA

26 By: E. F. Sullivan
27 Regional Director, Region 2
28 Bureau of Reclamation
29 Department of the Interior

30 FRANK B. HORNE
31 Regional Solicitor
32 Attorney for the United States
of America, acting by and
through the Bureau of Reclamation
of the Department of the Interior

By: Frank B. Horne
Frank B. Horne
Regional Solicitor

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32 My commission expires June 4, 1967.

~~62K-81~~ Partial

29507

Certificate No.

Elmore E. Nicholson

Fort Klamath, Oregon

Annie Creek, trib. Wood River

Irrigation $\frac{1}{2}$ 277.81

1820' N & 1510' E

1770' N & 1740' E from SW cor., Sec. 31, being within NE, SW, Sec. 31, T. 38N, R. 7E, N.M., in county of Blount

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4
33S	7 1/2	✓ 7																
			~~30~~	~~40~~	~~40~~	~~40~~	~~40~~									~~40~~	~~40~~	
			7	SE 1/4 SW 1/4	✓									40.0		1.0		
			15	NE 1/4 NE 1/4	✓									40.0				
				NW 1/4 NE 1/4	✓									40.0				
				SW 1/4 NE 1/4	✓									40.0		~~40~~		
				NE 1/4 NW 1/4	✓									40.0				✓
				NW 1/4 SE 1/4	✓									39.2	✓			
				SW 1/4 SE 1/4	✓									38.6	✓			

Sept. 3 1963

174 ✓

~~June 19, 1965~~

10-2-46 extended to

extended to
10-2-67

Remarks: This appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year, ~~provided further that the amount of water allowed herein, together with the amount secured under any other right existing for the same lands, shall not exceed the limitation allowed herein, and shall be still further limited to diversion during the period of July 21 to October 1 of each year, and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.~~

London 240, Vol.

NFO: ELMORE NICHOLSON

DIV. PT.: ANNIE CR. DIV. PT. HAS BEEN PREVIOUSLY
LOCATED & DESCRIBED BY THIS OFFICE

SYSTEM: FLOOD IRRIGATION

THE MAIN DITCH IS DESCRIBED, IN THE REPORT FOR
A# 39670, AS BEING 1⁰ DEEP, 9⁰ WIDE, TOP & BOTTOM & FLOWING
ON THE SURFACE AT THE RATE OF $3\frac{1}{3}$ FT/SEC. THIS IS ALL
PART OF THE SAME SYSTEM AS A# 39670.

LAND IS IRRIGATED BY A NETWORK OF LATERALS
AND HEADGATES PARTIALLY SHOWN ON CND-2JJ-8.

ALL AREAS WITH TREES ARE FREE OF UNDERBRUSH
AND IRRIGATED.

THE HOUSE LAWN AND GARDEN ARE ALSO FLOODED

CROPS: PASTURE, LAWN, & GARDEN

LAND SHOWN ON CND-2JJ-8, SCALE ON 1970-B,
Annie Cr. Div. from F.R. Map A 22220.

Donald R Bull
Field Engineer
May 16, 1970

WATER RIGHTS INFORMATION FOR: *N. C. Holson, E*
39049

Date _____

RIGHT	PRIORITY	Twp.	Rnge	Sec	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				SOURCE	DITCH
					NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$		
<i>220</i> <i>1.60</i> <i>Dec + 00</i>	<i>1883</i>	<i>32S</i>	<i>7 1/2 E</i>	<i>7</i>					<i>40°</i>	<i>40°⁵⁵</i>	<i>40°⁵²</i>	<i>40°</i>	<i>40°⁴⁶</i>								<i>Anna Cr.</i>	<i>10917</i>
<i>00</i> <i>3.00</i>	<i>"</i>	<i>"</i>	<i>"</i>	<i>"</i>											<i>40°</i>	<i>40°</i>					<i>"</i>	<i>1105</i>
<i>"</i>	<i>"</i>	<i>"</i>	<i>"</i>	<i>17</i>									<i>40°</i>	<i>40°</i>	<i>40°</i>	<i>40°</i>					<i>"</i>	<i>"</i>
<i>"</i>	<i>"</i>	<i>"</i>	<i>"</i>	<i>18</i>				<i>40°</i>		<i>40°</i>	<i>40°</i>						<i>40°</i>		<i>40°</i>	<i>40°</i>	<i>"</i>	<i>"</i>
<i>33</i> <i>1.66</i>	<i>"</i>	<i>"</i>	<i>"</i>	<i>18</i>	<i>40°</i>	<i>40°</i>	<i>40°</i>		<i>40°</i>			<i>40°</i>					<i>40°</i>				<i>"</i>	<i>1089</i>

REMARKS: * Full duty to 20 July, cut by 1/2 after 20 July

Cut 1089 priority 1905 25° ac. SE 1/4 SW 1/4 sec 31 T32S R7 1/2 E

T. 39 S.

7

18

41°

40°

40°

40°

18

Old Co. Rd.

31

8

39°

38°

18

Co. Rd.

Div. Pt.

Annie Cr.

18.30'

18.10'

T. 39 S.

9 35 50

UNDER

IN NAME OF

Surveyed 16 MAY 1970, by D. R. BUELL

LANDS TO BE IRRIGATED
BY
ELMORE E. NICHOLSON
KLAMATH COUNTY, OREGON
Scale 1" = 1320'

Application No. 39049
Permit No. 29507