

C137 *John Course
Mt. Vernon
Oregon*

T-396 *12-1-77* *New Ord C-137*

STATUS OF APPLICATION

Change in *Additional point of diversion*
 Date filed *7/18/61*
 Date returned for further data _____
 Date application completed _____
 Notice for publication mailed _____
 Date notice published _____
 Date of hearing *Sept. 27*
 Place of hearing *Canyon City, Oregon*
 Date of order *12/13/61* Vol. *11*, page *358*
 Date of application of water *Completed*
 Proof mailed *to Survey - 12/21/61*
 Proof received *5/3/63*
 Certificate issued *AUG 24 1978* Vol. *38*, page *46261*
Surveyed 11/15/62 by R. Jackson
JUN 14 1979 Vol. *41*, page *48136*

DESCRIPTION OF WATER RIGHT

Name of stream *John Day River* **DVA Notification**
 Trib. of _____ County of *Grant*
 Use *irrigation*
 Quantity of water _____ No. of acres *296.2*
 Name of ditch *Blue Mountain Ditch*
 Date of priority *Oct. 23, 1916*
 In name of *Blue Mountain Ditch Company*
 _____ Adjudication, Vol. _____, Page _____
 App. No. *5224* Per No. *3163* Cert. No. *24504*
 Certificate cancelled _____
 Notation made on record by *WAC*

FEE PAID

Date	Amount	Receipt No.
<i>7-18-61</i>	<i>15.00</i>	<i>9912</i>
<i>7-18-61</i>	<i>30.00</i>	<i>9912</i>
Total		
	\$1 Cert. Fee	

FEE REFUNDED

Date	Amount	Check No.
<i>10/9/31</i>	<i>4.87</i>	<i>8889</i>

REMARKS

See P-77 & also partial Canal - V13 p123 which provides for issuance of Cert.

*See files P-77 & 2353 to be surveyed 1974
all related
for Dec 1974*

W.R.I.S.
 Assembled *7-19-84* by *SR*
 d. _____ b. _____
 d. _____ b. _____

**NOTICE OF FILING APPLICATION FOR A CHANGE
IN POINT OF DIVERSION OF WATER**

Notice is given hereby that John Cawrse has filed an application for the approval of a change in point of diversion of water from John Day River.

Certificate of water right issued to Blue Mountain Ditch Company and recorded at page 24504, Volume 17, State Record of Water Right Certificates, confirms a right under Permit No. 3163 to the use of the waters of John Day River for the irrigation of, among other lands, 0.5 acre in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 24.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 37.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 35.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 28.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 36.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 0.9 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26, and 28.1 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 37.4 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 36.9 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 31.2 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 13 S., R. 29 E., W. M., with a date of priority of October 23, 1916. These lands are irrigated thru the Blue Mountain Ditch, the point of diversion of said ditch being located S. 58 degrees E., 3,170 ft. from the NW corner of Sec. 29, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 29, T. 13 S., R. 30 E., W. M.

The applicant herein, owner of the lands above described, proposes to continue the use of the present point of diversion and to maintain a second diversion to be located 530 ft. N. and 500 ft. E. from the SE corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 13 S., R. 29 E., W. M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Canyon City, Oregon, on September ²⁷ 20, 1961, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any objections shall be prepared in writing, one copy to be served on John Cawrse, Mt. Vernon, Ore., and one copy filed with the State Engineer, Salem, Ore., together with a \$2 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 State Engineer without a hearing.

Dated at Salem, Oregon, this 24th day of July, 1961.

LEWIS A. STANLEY, State Engineer

**NOTICE OF FILING APPLICATION FOR A CHANGE
IN POINT OF DIVERSION OF WATER**

Notice is given hereby that John Cawrse has filed an application for the approval of a change in point of diversion of water from John Day River.

Certificate of water right issued to Blue Mountain Ditch Company and recorded at page 24504, Volume 17, State Record of Water Right Certificates, confirms a right under Permit No. 3163 to the use of the waters of John Day River for the irrigation of, among other lands, 0.5 acre in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 24.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 37.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 35.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 28.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 36.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 0.9 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26, and 28.1 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 37.4 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 36.9 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 31.2 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T. 13 S., R. 29 E., W. M., with a date of priority of October 23, 1916. These lands are irrigated thru the Blue Mountain Ditch, the point of diversion of said ditch being located S. 58 degrees E., 3,170 ft. from the NW corner of Sec. 29, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 29, T. 13 S., R. 30 E., W. M.

The applicant herein, owner of the lands above described, proposes to ~~continue~~ the use of the present point of diversion and to maintain a second diversion to be located 530 ft. N. and 500 ft. E. from the SE corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 13 S., R. 29 E., W. M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Canyon City, Oregon, on September ²⁷~~20~~, 1961, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any objections shall be prepared in writing, one copy to be served on John Cawrse, Mt. Vernon, Ore., and one copy filed with the State Engineer, Salem, Ore., together with a \$2 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 State Engineer without a hearing.

Dated at Salem, Oregon, this 24th day of July, 1961.

LEWIS A. STANLEY, State Engineer

Application for Transfer of Water Right

To the STATE ENGINEER OF OREGON:

I, John Cawrse
(Name of applicant)

of Mt. Vernon, County of Grant
(Postoffice)

State of Oregon, do hereby make application for ~~change~~ additional point
of diversion
(In point of diversion; place of use; use heretofore made of the water)

1. The source of present water right is John Day River
(Name of stream)

2. The use to which the water is applied is Irrigation
(Irrigation; Mining; Power; Manufacturing; etc.)

3. The name of the ditch, canal or pipe line is Blue Mountain Ditch

S. 58° E., 3,570 ft. (S. 56° E. 3570')

4. The point of diversion is located 6 ft. and _____ ft. from the NW
(N. or S.) (E. or W.)

corner of Sec. 29, T. 13 S., R. 30 E. W. M. being within the SW 1/4 NE 1/4
(Section or subdivision)

of Section 29 Tp. 13 S. R. 30 E. W. M., in the County of Grant
(No. N. or S.) (No. E. or W.)

5. Give the number of acres irrigated in each smallest legal subdivision (40-acre tract). Only show the acreage which is being transferred. If the water is used for power, mining or other use, show place of use.

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	

see item #12

NOTE: If you own less than 40-acre tracts, attach a description of your land as it appears in your deed.

(Attach separate sheet if necessary)

6. Are you the legal owner of the above described lands? Yes
(If not owner, explain your interest)

6a. Have the lands above described been irrigated during the past 5 years? Yes
 7. What is the priority date of your water right? Oct. 23 1916

8. Was your water right acquired by State Engineer's Permit? Yes If so, give number
(Yes or No)

of permit 3163
Ap. 5224

9. Do you hold a water right certificate? If so, give number of certificate 24504 Vol. 17
(Yes or No)

10. Was your water right determined by State Engineer's order of Determination or Decree of Court?
 If so, give title of proceedings

11. Is the water right recorded in your name? Blue Mountain Ditch Company
(If not, give name)

12. I propose to transfer the water right to the following described lands: (Do not answer if your application is for change in point of diversion only.)

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 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 $\frac{1}{4}$	
135.	29E.	27			28 ¹	37 ⁴									36 ²	31 ²			
"	"	26	_____				0 ⁵	24 ²	37 ⁸	35 ²	28 ³	36 ⁶	0 ⁹	-	-	-	-	-	-

(Attach separate sheet if necessary)

NOTE: Do not answer questions 13, 14, 15 and 16, if the application is not for change in point of diversion.

13. The proposed point of diversion is located 530⁺ ft. N. and 500⁺ ft. W. from the SE corner of NE $\frac{1}{4}$ NW $\frac{1}{4}$ being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26 Tp. 13 S. R. 29 E. W. M., in the county of Grant. The name of the ditch to be used is Pipe, no ditch

14. Are you the owner of the land on which the proposed point of diversion is to be located? Yes

15. If not the owner of the land on which the proposed point of diversion is to be located, give the name and address of owner and submit evidence of your right-of-way for your proposed ditch, canal, or pipe line.

16. Are there any diversions between your present point of diversion and the proposed point of diversion? No.

NOTE: Do not answer questions 17 and 18 if application is for change in point of diversion only.

17. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.?
(Answer Yes or No)

18. If not, give below a description of existing encumbrances:

NATURE OF ENCUMBRANCE	HELD BY	AMOUNT

19. Reasons for the proposed changes are Better utilization of water.

AFFIDAVIT OF APPLICANT

STATE OF OREGON,

County of

} ss.

I, John Course, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 17 day of July, ~~196~~¹⁹⁶¹

John F Course
(Name of applicant)

Subscribed and sworn to before me this 17 day of July, 1961

[Notarial Seal]

David Jones
NOTARY PUBLIC FOR OREGON

My commission expires February 2 1963

Remarks

This application must be accompanied by a map showing the location of the point of diversion, place of use and works utilized under the present water right. The map should also show the new point of diversion or place of use, as the case may be.

Application for Transfer of Water Right

Name of applicant

Date filed

Date returned for further data

Date application completed

Date notice published

Date of hearing

Place of hearing

Date of final order
of State Engineer

Date of issuance of certificate
confirming change

Recorded in State Record of Water Right Certificates,

volume, page

Fees paid

Receipt No.

1 BEFORE THE STATE ENGINEER OF THE STATE OF OREGON

2
3 In the Matter of the Application of)
4 John Cawrse for a change of point)
of diversion of water.)

PROTEST

5 Come now Kate Geisler, John Pereira, Wallace Campbell,
6 Elmer Johnson , Charles Lowry, Mamie Bailey, Charlie Page and
7 Don Ripa and the Eddington Ditch Company and object to the application
8 on file herein to change the point of diversion on the following grounds:

9 1. The protestants individually and as members of the
10 Eddington Ditch company divert water from the John Day River im-
11 mediately below the proposed new point of diversion setforth in the
12 published notice. Diversion of water at the point proposed by the
13 applicant will injure the existing rights of protestants.

14 2. As a matter of law protestants contend that applicant is
15 attempting to initiate a new water right under the guise of a change in
16 a point of diversion and that to allow applicant to have two different
17 points of diversion would in effect grant him a new water right with
18 an old priority for which the engineer lacks statutory authority.

19 John R. Pereira
One of Contestants

20 Roy Kilpatrick
21 Attorney for Contestants
Canyon City, Oregon

22 STATE OF OREGON)
23 COUNTY OF GRANT) ss.

24 I, John Pereira, being first duly sworn say that I am one of the
25 contestants in the within protest and that the foregoing Protest is true
26 as I verily believe.

27 John R. Pereira

28 Subscribed and sworn to before me this 13th day of September,
29 1961.

30 Katherine J. Cushman
31 Notary Public for Oregon
My Commission expires: 4/10/65

32 \$2.00 FEE PAID
31199

ROY KILPATRICK
LAWYER
CANYON CITY, OREGON

STATE OF OREGON, }
County of } ss.

I,
being first duly sworn, say that I am the
in the within entitled
and that the foregoing is true as I verily believe



Subscribed and sworn to before me this day of, 19.....

Notary Public for Oregon.
My Commission expires

STATE OF OREGON, }
County of } ss.

I hereby certify that I have prepared the foregoing copy of
and have carefully compared the same with the original thereof; and that it is a correct copy therefrom and of the whole thereof.
That the said in my opinion is well founded in law.

Dated, 19.....

Attorney..... for

STATE OF OREGON, }
County of } ss.

Due service of the within
is hereby accepted in County,, this day of,
19....., by receiving a copy thereof, duly certified to as such by
of Attorneys for

Attorney..... for

No.	In the Court	OF THE	STATE OF OREGON	FOR	COUNTY	Plaintiff	vs.	Defendant	Attorney..... for
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FORM No. 100 1/2 25938 STEVENS-NESS LAW PUB. CO., PORTLAND

I hereby certify that I served the foregoing Protest on
John Cawrse attorney for the applicant on the
13th day of September, 19 61, by mailing to him a true and correct copy thereof, certified by me as such.
I further certify that said copy was placed in a sealed envelope addressed to John Cawrse
at Mt. Vernon, Oregon his last known
address, and deposited in the Post Office at Canyon City, Oregon on the 13th day of
September, 19 61, and that the postage thereon was prepaid

Attorney..... for Contestants
[Handwritten Signature]

AFFIDAVIT OF PUBLICATION

STATE OF OREGON }
County of Grant } ss.

I, Viola M. Puntney, being first duly sworn, depose and say that I am the ~~owner~~ publisher, ~~and~~ of the GRANT COUNTY BLUE MOUNTAIN EAGLE, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at John Day, in the aforesaid county and state; that the Notice of Filing Application

for a Change in Point of Diversion of Water--

JOHN F. CAWRSE, a printed copy of which is hereto attached, was published in the entire issue of said newspaper for two ~~two~~ three successive and consecutive weeks in the following issues:

August 3, August 10 and August 17, 1961

Viola M. Puntney

Subscribed and sworn to before me this 2nd day of October, 19 61.

Hal J. Leman
Notary Public for Oregon

My Commission expires 4-15, 1965.

Cost of this publication was \$ 25.13.

RECEIVED
OCT 3 1961
STATE ENGINEER
SALEM, OREGON

GRANT COUNTY
Blue Mountain Eagle
 INCORPORATED
 FOUNDED - 1868

OREGON'S OLDEST
 WEEKLY NEWSPAPER

COMMERCIAL PRINTING

TELEPHONE 92
 JOHN DAY, OREGON

RECEIVED
 OCT 3 1961
 STATE ENGINEER
 SALEM, OREGON

State Engineer
 State of Oregon
 Salem, Oregon

DATE

Oct. 1, 1961

C-139

NOTICE—A service charge of 1% with a minimum charge of 50c per month will be made on all accounts past due.

DATE	ITEMS	CREDITS	CHARGES	BALANCE
Aug. 3-10-17				
	Notice of Filling of Application			
	for a Change in Point of Diversion			
	of Water--JOHN F. CAWSE		25.13	
	Printed by Blue Mountain Eagle, John Day			

RECEIVED
 OCT 23 1961
 STATE ENGINEER
 SALEM, OREGON

*Paid by check
 No. 18888
 Oct. 21 - 1961
 J. F. Cawse*

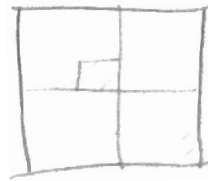
Hearing 10/27/61

Canyon C.F. 1

Court House

133
167
220

A. 1863



185

356.1

L. Dunn

John L. Course

1/1

1st witness

Blair
...

X

w.s.

74

we

Sp

...

July

B.M.

50 H electric

10-12 day

? 12 hrs.

8" main to ditch

judge on Eddington Ditch

9.5

30 H 2-2004

X

6" valve x 6

7 1/2, 2-15 5 1 20 HP 4 54

7.5

system 7 1/2

No intention to use both ditch & pump
 No regulation of Blue Mtn Ditch

211

Bill A. Mattson W.M. 7/19/61

Measurement at
 75.4 ft

← when? immediately above
 Upper N. Side pump.

1 x 1/25 sp 560"

500 m to 530"

low on counter, 621"

& 1/2 inch leak

4 L. 357 ^{ac} 270" constant flow

W.M. gave 1/20

1 x 1/25 sp gauge on 27-6

8/4

0.95 to supply 2.00

8/4 1 108 .78

check gauge 8/11 .80

8/7 150 .86

8/14 via .94

310 .98

(shot pumps ^{N.S.} after)

8/8 B.M. Ditch at div 52' taking all of river;

the measuring lands on any ditch on John Day River

one point 8/4 on Staff Prince & John Day
 substantially the same Aug Sept

Protest

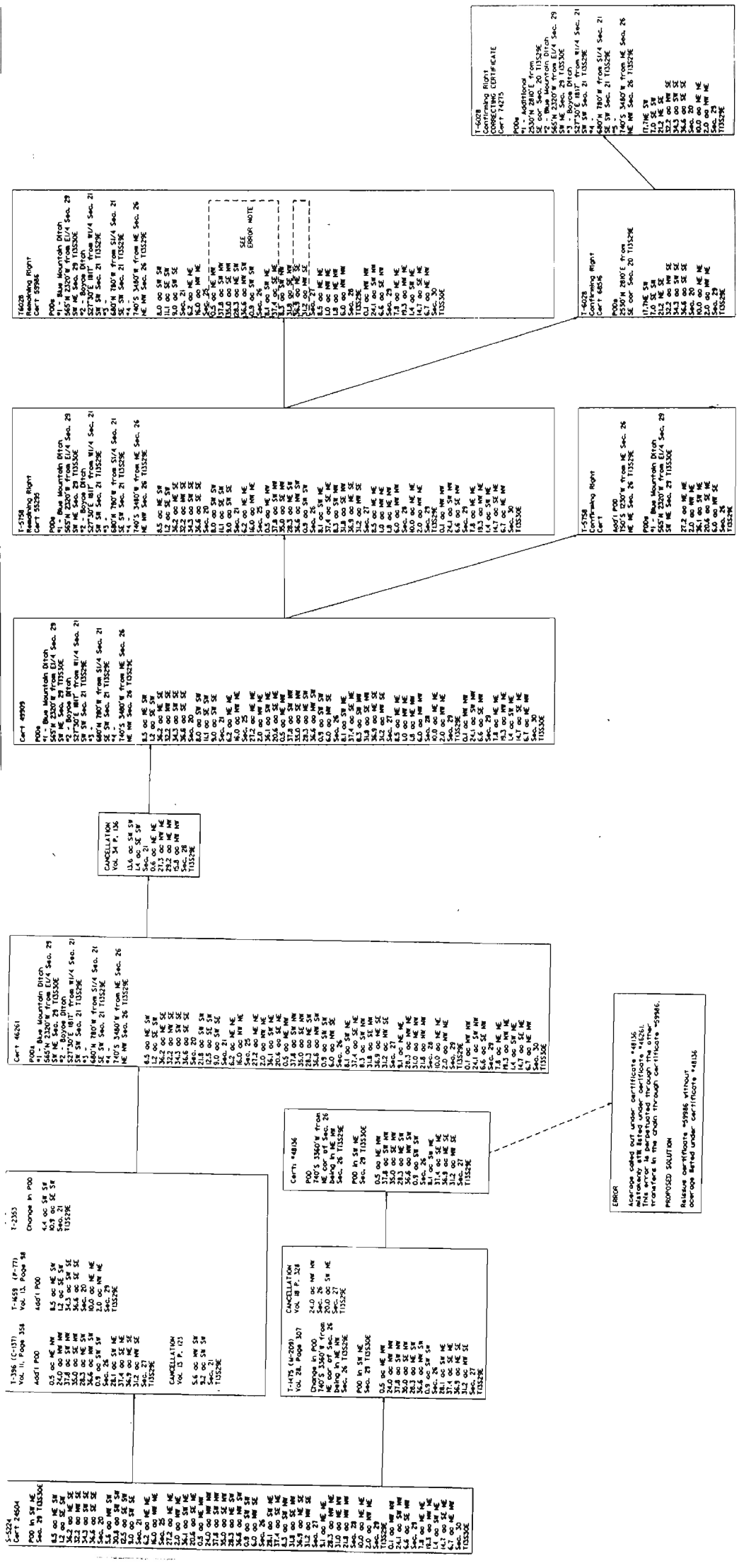
John R. Perera 258 897 11/10 years 25

Agrees with W.M. & check every week or 10 days. 8/8 .89

8/10 .91

25 W. for well and 525 spm

10 W. .50



of diversion and to maintain a second diversion to be located 350 ft. N. and 500 ft. E. from the SE corner of the NE¼ NW¼, and being within the NE¼ NW¼, Sec. 26, T. 13 S., R. 29 E., W. M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Canyon City, Oregon, on September 27, 1961, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any objections shall be prepared in writing, one copy to be served on John Cawrse, Mt. Vernon, Ore., and one copy filed with the State Engineer, Salem, Ore., together with a \$2 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 State Engineer without a hearing.

Dated at Salem, Oregon, this 24th day of July, 1961.

STANLEY A. STANLEY,
State Engineer

Cert 24504

Vol 13 p 123

Partial Canal
Proceeding to
Cavaliers Bay

" 13 98

Partial, Ivan
P-77

Vol 11 358 - C-137

Order Vol 12 p 123

canal part
also 2 dir chgs

unless final line

is also

Vol 11 { --- Transf.

Use hole to have 11.1

Blue mt. Dist

3 down the go
11.1 - 12.1 - 13.1 - 14.1 - 15.1

Need F.P. Survey for P-77
before issuing Cert. 1/25/68 m.B.

26 ac NW⁴ SW⁴ } Partial 11-18-63
30.8 SW⁴ SW⁴ } Canaled 9.2 ac.

P-3163

F.P.

A.S. 11.1

DO
1970

TOM S. WANTS
THIS AS SOON AS
SURVEY COMPLETE

WHD - THE REPORT

0127 73
011 4 21
011 11 04
~~011 11 04~~

JEAN FROST
Portland

100
001252
100

CHANGE IN POINT OF DIVERSION ONLY

932-4655

REPORT ON INSPECTION UNDER
TRANSFER OF WATER RIGHT

Dennis Cawrse
Mt. Vernon
County Grant

MS 1962M 11/15/62

Transfer No. C-137

Name John Cawrse Address Mt. Vernon, Oregon

2. Source of Supply John Day River, Trib. of _____

3. Amount of Water _____ Priority Date October 23, 1916

4. Use irrigation

5. Location of Point of Diversion 740' E 3960' W FROM NE COR SEC 26
~~530' feet North and 500' feet West from the southeast~~

~~corner of the NE 1/4 NW 1/4~~ and being within the NE 1/4 NW 1/4, Section 26, Township 13

South, Range 29 East, W.M.

Inspection 6-8-78 6-35D

Township	Range	Section	Forty Acre Tract	No. Acres in Transfer	No. Acres Found Irrigated

7. If for power, mining, municipal, manufacturing or any other purpose than irrigation, give method and extent of such use: _____

10" PVC steel 1200 ft
3-6 1200 ft 1200 ft
6 1200 ft 1200 ft

DESCRIPTION OF WORKS

CANAL: Width on top (at waterline) _____; Width on bottom _____; depth of water _____; grade _____ ft. fall per 1,000 ft. Actual capacity _____ sec. ft.; Give general description _____

PUMP AND PIPE OR SPRINKLER SYSTEMS:

Pump - Make Corliss Type Cent Dir Dr. No. 200B905

Intake size 8" Discharge size 6"

Suction head 6' Discharge head ±35'

Rating: G.P.M. _____ R.P.M. _____ Pressure _____

Power Plant - Type _____ Make GE 3 phase electric

H. P. Rating 75 hp R.P.M. 1770

Power connection - Direct connected unit —

If belt driven: Size of Drive Pulley _____ Driven Pulley _____

Distribution System - Main line: Size 10" Length 2800 Kind of pipe steel

Lateral lines: Size _____ Length _____ Kind of pipe _____

Sprinkler heads:- Make _____ Size of nozzles _____

Number of heads used _____ Discharge capacity of each _____ G.P.M.

Operating pressure _____ lbs.

REMARKS Pumps directly from River into Blue Mtn. Ditch to irrigate lands under the ditch.

Surveyed new pt. of diversion along with other lands covered under A-34754

Tied to SW corner section 22.

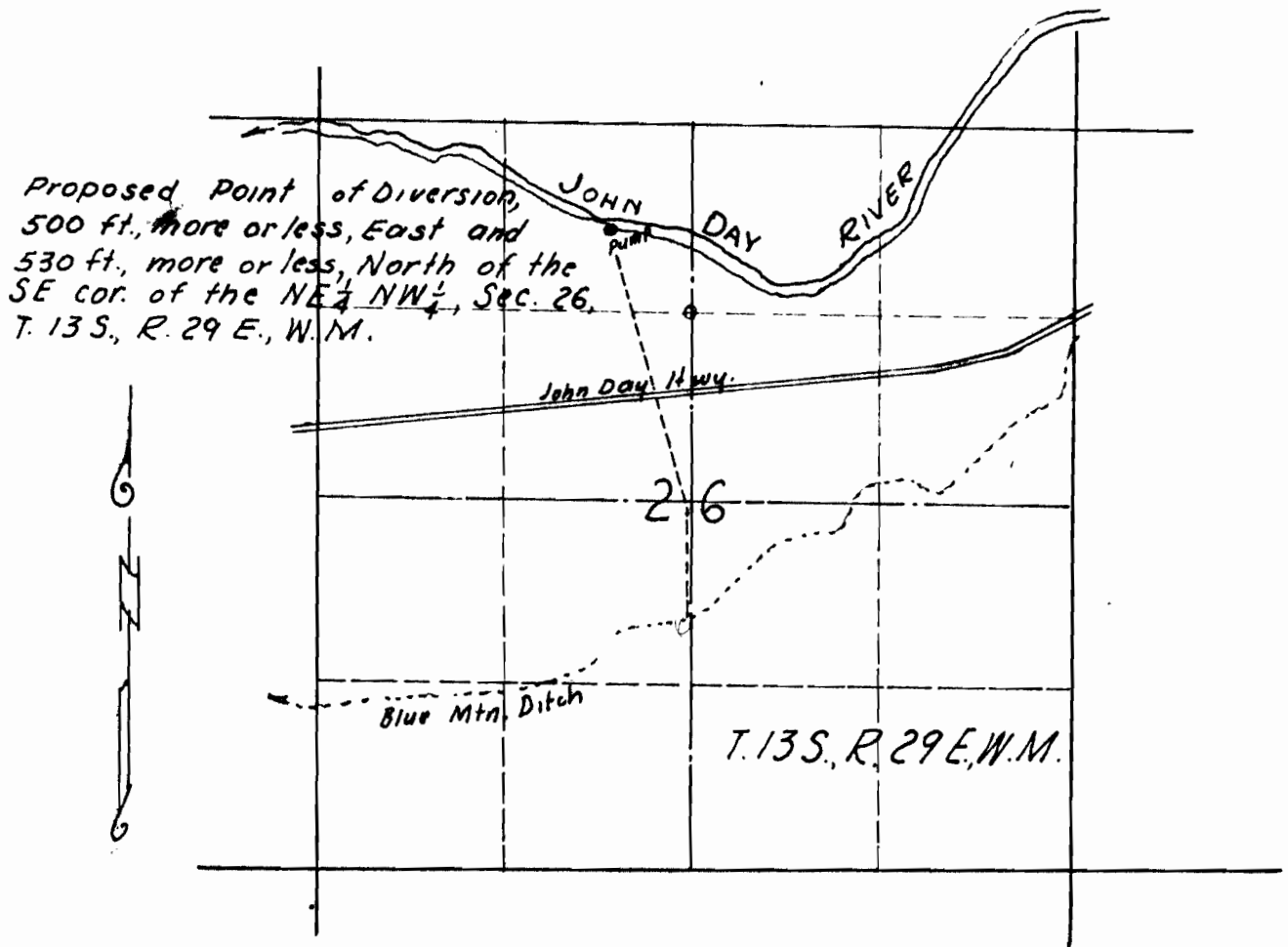
Information from John Course

11/15/62

Date

[Signature]

Inspector's Signature



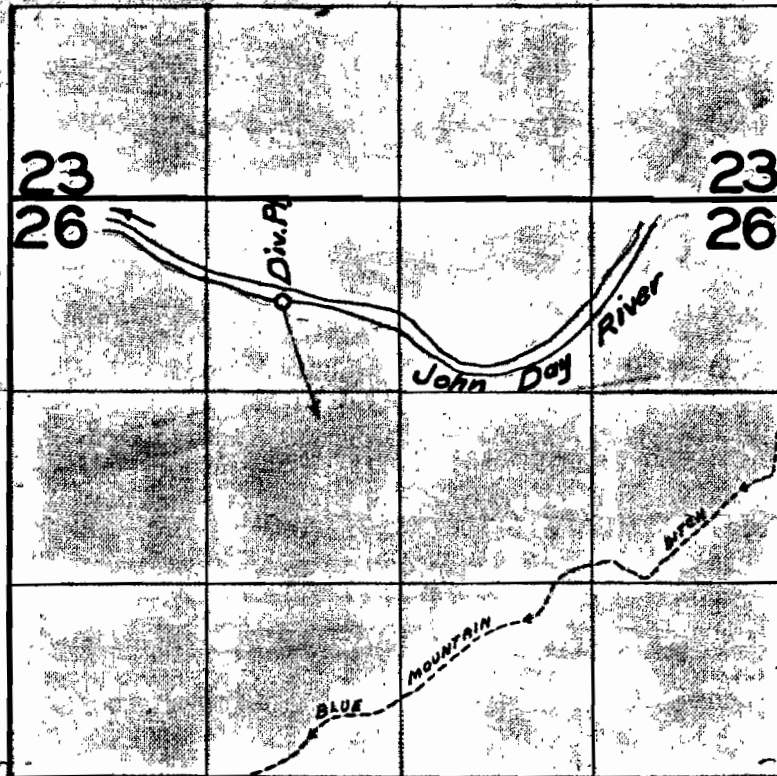
MAP TO ACCOMPANY APPLICATION FOR
ADDITIONAL POINT OF DIVERSION

SCALE 1" = 1320'

JULY 17, 1961

John Cawrse, Applicant

T.13S. R.29E.W.M.



DIV. PT. LOC. 740'S & 3480' W. FROM NE COR SEC. 26

FINAL PROOF SURVEY
UNDER

Transfer No. C-137
Application No. _____ Permit No. _____
IN NAME OF

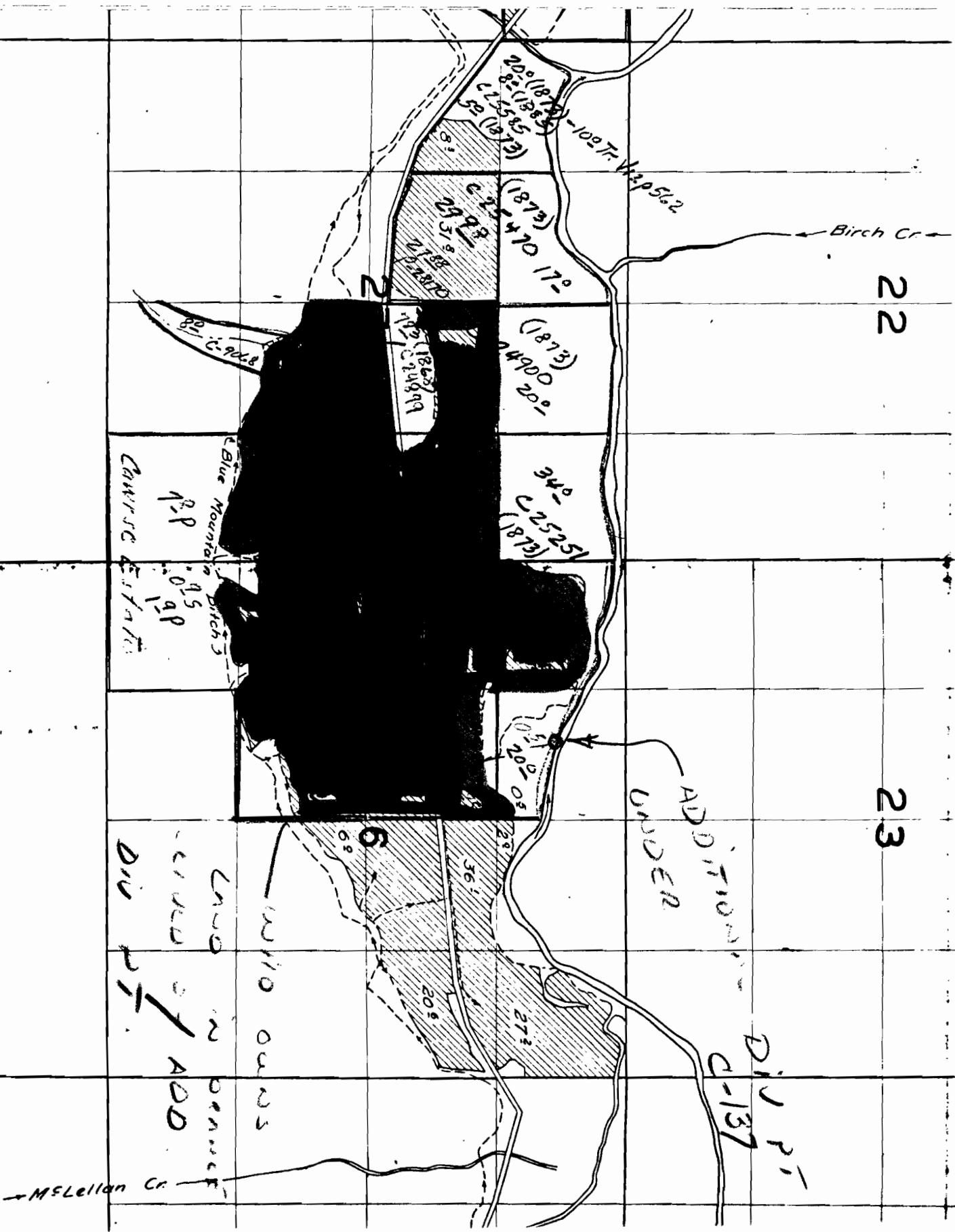
Surveyed Nov. 15, 1962, by Ralph Jackson.

*This prop. now
owned by diff. party
1/25/68 m.B.*

--	--

22

23



Transfers C-137
M-209

Info: Dennis Course owner of land, water is no longer pumped into Blue Mountain Ditch. Land between Blue Mtn Ditch and Hwy. is sprinkle irrigated directly from John Day River.

Div. Pumps from fiberglass structure 4' wide 20' wide ~~is~~ set into bank on edge of river.

Pump & Motor: Newman 100 hp @ 1780 rpm.
Goulds Turbine 10" dia

Pipe: 2800' 10" PVC & Steel buried
1500' 2 - 6" 1 buried 1 on top of ground
1500' 6" alum
9600' 4" alum wheel line
2000' 3" alum hand line

Heads: 80 RB 30 5/32 x 0 }
80 RB 30 11/64 x 0 } all max
80 RB 30 3/16 x 0 }

Lift: + 10' to + 40'

Crop: Hay & Pasture

Tie: Inspection

Steve Donaldson
FE '6-8-78

RECEIVED

SEP 12 1986

WATER RESOURCES DEPT

9/10/86 SALEM, OREGON

TO: Bruce Estes

FROM: Jerry Rodgers
WM #4

I've been working on my field records for the Blue Mountain Ditch and came across a 1979 memo of yours. (copy attached) The memo is correct as it relates to the 12/13/61 order allowing an additional diversion by transfer C-137.

However, a subsequent order dated 2/15/1977 approving transfer M-209 was a complete transfer off the ditch to the pumping diversion. Specifically refer to special order Vol. 28, Page 308, paragraph #1. In this transfer the applicant requested to use the pumping point the entire season and discontinue use of the ditch.

The reason I am bringing this matter up again is that Certificate 49909 has been cancelled for a different transfer. The opportunity exists to correct the record by dropping 252.7 acres from the certificate when reissued. Certificate 48136 accurately describes the land and only diversion point actually used.

Feel free to call if you have any questions.

WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

To: Jerry Rogers, Watermaster

Date: August 3, 1979

From: Bruce A. Estes

Subject: July 13, memo

Jerry, your memo of July 13, 1979 regarding permit No. 3163 involved the confirming certificate 48136 under transfer M-209 as regards the placement of the same 252.7 acres previously listed under certificate 46261. You felt that we should not have it listed on both certificates; however, if you will inspect the transfers involved M-209 and C-137, you will find that certificate 48136 allows a 252.7 acres to be diverted from the pumping diversion point during the early season, April 1 to about July 1 of each year. Certificate 46261 allowed the use of the Blue Mountain Ditch for those lands in the early season and the pumping diversion afterwards, however, this was not specifically defined but was on the certificate by reference to the transfer entered December 13, 1961, which in essence relates to transfer C-137. I believe that if we had really been on our toes we could have made this more clear in the certificates, however, it is there by reference and the land should be listed on both certificates to allow the use of the pumping diversion point throughout the season.

Thanks for the response and a copy of this memo will go in both files so that should this come up again, it will be made clear.

T-330
330

RECEIVED

TO: Bruce Estes

9/10/86

SEP 10 1986

FROM: Jerry Rodgers
WM #4

WATER RESOURCES DEPT.
SALEM, OREGON

I've been working on my field records for the Blue Mountain Ditch and came across a 1979 memo of yours. (copy attached) The memo is correct as it relates to the 12/13/61 order allowing an additional diversion by transfer C-137.

However, a subsequent order dated 2/15/1977 approving transfer M-209 was a complete transfer off the ditch to the pumping diversion. Specifically refer to special order Vol. 28, Page 308, paragraph #1. In this transfer the applicant requested to use the pumping point the entire season and discontinue use of the ditch.

The reason I am bringing this matter up again is that Certificate 49909 has been cancelled for a different transfer. The opportunity exists to correct the record by dropping 252.7 acres from the certificate when reissued. Certificate 48136 accurately describes the land and only diversion point actually used.

Feel free to call if you have any questions.

Steve, I've been working on my field records for the Blue Mountain Ditch and came across a 1979 memo of yours. (copy attached) The memo is correct as it relates to the 12/13/61 order allowing an additional diversion by transfer C-137.

STEVE:

ATTACHED ARE 2 MEMOS I MENTIONED TO YOU AT THE CONFERENCE LAST WEEK - IF THEY COULD BE BROKE OUT FOR TRANSFER IT WOULD BE MUCH EASIER TO MANAGE. EACH TRANSFER & ORDER ONLY REFERS TO SPECIFIC ACREAGE, NOT THE ENTIRE ACREAGE.

THANKS - HAVE FUN.
Jerry

PERTINENT ORDERS

- Vol 13 P. 98 10/29/63 (T-P77)
- Vol 11 P. 358 12/13/61 (T-C137)
- Vol. 20 P. 380 ~~1/29/71~~ } (T-2353)
- Vol 28 P. 307 1/29/77 }
- Vol 18 P. 328 6/30/69 (T-M209)
- Vol 40 P. 292 8/21/86 (T-S758)

BE FILED

11 11 1979

WATER RESOURCES DEPT
SALMON OREGON

WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

To: Jerry Rogers, Watermaster

Date: August 3, 1979

From: Bruce A. Estes

Subject: July 13, memo

Jerry, your memo of July 13, 1979 regarding permit No. 3163 involved the confirming certificate 48136 under transfer M-209 as regards the placement of the same 252.7 acres previously listed under certificate 46261. You felt that we should not have it listed on both certificates, however, if you will inspect the transfers involved M-209 and C-137, you will find that certificate 48136 allows a 252.7 acres to be diverted from the pumping diversion point during the early season, April 1 to about July 1 of each year. Certificate 46261 allowed the use of the Blue Mountain Ditch for those lands in the early season and the pumping diversion afterwards, however, this was not specifically defined but was on the certificate by reference to the transfer entered December 13, 1961, which in essence relates to transfer C-137. I believe that if we had really been on our toes we could have made this more clear in the certificates, however, it is there by reference and the land should be listed on both certificates to allow the use of the pumping diversion point throughout the season.

Thanks for the response and a copy of this memo will go in both files so that should this come up again, it will be made clear.

T
3

TO: Bruce Estes

9/10/86

FROM: Jerry Rodgers
WM #4

Subject - Cert. 49909

Several confusing transfers have taken place over the years on this certificate. Changes in diversion points were left on the original certificate as was the practice in years past.

If possible, now that this cert has been cancelled, I would like to see the remaining right issued as several certificates to ease confusion. It would sure save research time through the half dozen or so special orders and clarify actual field conditions.

For example Transfer 2353 approved on 1/29/1971 is still on this cert (as near as I can figure) involving just 15.3 acres. This should be on a separate certificate in the name of Floyd Habbe. The Blue Mountain Ditch Company has no interest or even means to convey water to this land.

The same circumstances are true for lands (92.6 acres) involved in transfer P-77 approved by an order entered 10/29/1963. The Blue Mountain Ditch Company again has no interest or means to convey water to this land.

An attached separate memo describes a third case involving transfer M-209.

Without researching all the special orders and trying to figure each out, it is impossible to determine which of the 4 diversions on this certificate go with which lands.

My recommendation when issuing the remaining right Blue Mountain Ditch Certificate is to include just those lands remaining under the ditch. See my attached marked up copy.

Feel free to call if you have any questions.

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

140 p. 12

This Is to Certify, That BLUE MOUNTAIN DITCH COMPANY

of Mt. Vernon, State of Oregon, 97865, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of John Day River

WATER RES. SALEM

a tributary of Columbia River irrigation of 694.0 acres for the purpose of

5 HAVE OR 241.5 AC. REMOVING & OLD TRANSFERS

under Permis No. 3163 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 October 23, 1916

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 8.66 cubic feet per second

7.51

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the S 1/4 SW 1/4, SE 1/4 SW 1/4, Section 21, NE 1/4 NW 1/4, Section 26, T13S, R2E, W4, Boyce ditch South 27 degrees 30 minutes East, 2,817 feet from W 1/4 Corner, Section 21; 680 feet North and 780 feet West from S 1/4 Corner, Section 21; 740 feet South and 3,490 feet West from NE Corner, Section 26; SW 1/4 NE 1/4, Section 29, T13S, R30E, W4, Blue

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 limited to a diversion of not to exceed 1 acre-foot per acre for each acre irrigated during any month prior to July 1, and thereafter 3/4 of one acre-foot per acre for each acre irrigated and shall be further limited to a total diversion of not to exceed 5 acre-feet per acre for each acre irrigated during the irrigation season from April 1 to September 30 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:

SEE NEXT PAGE

*Mountain Ditch-565 feet North and 2,320 feet West from the E 1/4 Corner, Section 29.

ELIMINATE ALL DIVERSIONS TO SEPARATE CERTS EXCEPT BLUE MTN.

T-2353 - SEE NEXT PAGE

T-M207 - NOW ON CERT 48136

T-P77 - SHOULD BE SEPARATE CERT SPEC. OR. V13 P98

Basin Vol. John Day River above Kimberly

SEE
T-P 71

~~8.5 acres NE 1/4 SW 1/4~~
~~1.2 acres SE 1/4 SW 1/4~~
~~36.2 acres NE 1/4 SE 1/4~~
~~32.2 acres NW 1/4 SE 1/4~~
~~34.5 acres SW 1/4 SE 1/4~~
~~36.6 acres SE 1/4 SE 1/4~~
Section 20

~~8.1 acres SW 1/4 NE 1/4~~
~~37.4 acres SE 1/4 NE 1/4~~
~~8.3 acres SW 1/4 NW 1/4~~
~~31.8 acres SE 1/4 NW 1/4~~
~~38.7 acres NE 1/4 SE 1/4~~
~~31.2 acres NW 1/4 SE 1/4~~
Section 27

ON
CERT 48136

SEE
T-2353
(Pumping
0.10031017)

~~4.4~~ ³⁶ ~~8.0~~ acres SW 1/4 SW 1/4
~~11.1~~ acres SE 1/4 SW 1/4
9.0 acres SW 1/4 SE 1/4
Section 21

8.5 acres NE 1/4 NE 1/4
1.0 acre NW 1/4 NE 1/4
1.8 acres NE 1/4 NW 1/4
6.0 acres NW 1/4 NW 1/4
Section 28

6.2 acres NE 1/4 NE 1/4
16.0 acres NW 1/4 NE 1/4
Section 25

10.0 acres NE 1/4 NE 1/4
2.0 acres NW 1/4 NE 1/4
Section 29

Township 13 South, Range 29 East, WM

SEE
T-5758

~~27.2~~ acres NE 1/4 NE 1/4
~~2.0~~ acres NW 1/4 NE 1/4
~~36.2~~ acres SW 1/4 NE 1/4
~~20.6~~ acres SE 1/4 NE 1/4
~~0.5~~ acre NE 1/4 NW 1/4
~~17.0~~ acres SW 1/4 NW 1/4
~~35.0~~ acres SE 1/4 NW 1/4
~~28.7~~ acres NE 1/4 SW 1/4
~~36.6~~ acres NW 1/4 SW 1/4
~~0.9~~ acre SW 1/4 SW 1/4
~~8.0~~ acres NW 1/4 SE 1/4
Section 26

ON CERT
48136
T-1206

0.1 acre NW 1/4 NW 1/4
24.1 acres SW 1/4 NW 1/4
6.6 acres SE 1/4 NW 1/4
Section 29

7.8 acres NE 1/4 NE 1/4
19.3 acres NW 1/4 NE 1/4
1.4 acres SW 1/4 NE 1/4
14.7 acres SE 1/4 NE 1/4
6.7 acres NE 1/4 NW 1/4
Section 30

Township 13 South, Range 30 East, WM

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 46261, Volume 38, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on December 18, 1980.

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. April 23, 1981

James E. Seaman
Water Resources Director

GRANT/BO

DEC 03 1985

NOTICE OF INTEREST IN WATER RIGHT

RECEIVED

DEC 3 1985

WATER RESOURCES DEPT.
SALEM, OREGON

To: Director of Water Resources
555 13th Street, N.E.
Salem, Oregon 97310

This is to notify you of an interest in the following described water right:

Loan Number P-14920
Borrower's Name Harrison, Homer L.
Mailing Address _____

Property being served by the water:

Township 13 S Township _____ Township _____
Range 29 E Range _____ Range _____
Section 23, 26 Section _____ Section _____
Tract _____ Tract _____ Tract _____

Water Right Numbers:
Permit Number(s) 55580 62756 641778 61881 C-130
41655 47357 47302 42253
Certificate Number(s) Survey NC C Form Extension 86 Survey 40 4990
Irrigation District _____ Blue Mountain Ditch
654 ac Rm 48 ac Rm 22.54
PRIM PRIM PRIM
22.5 supp

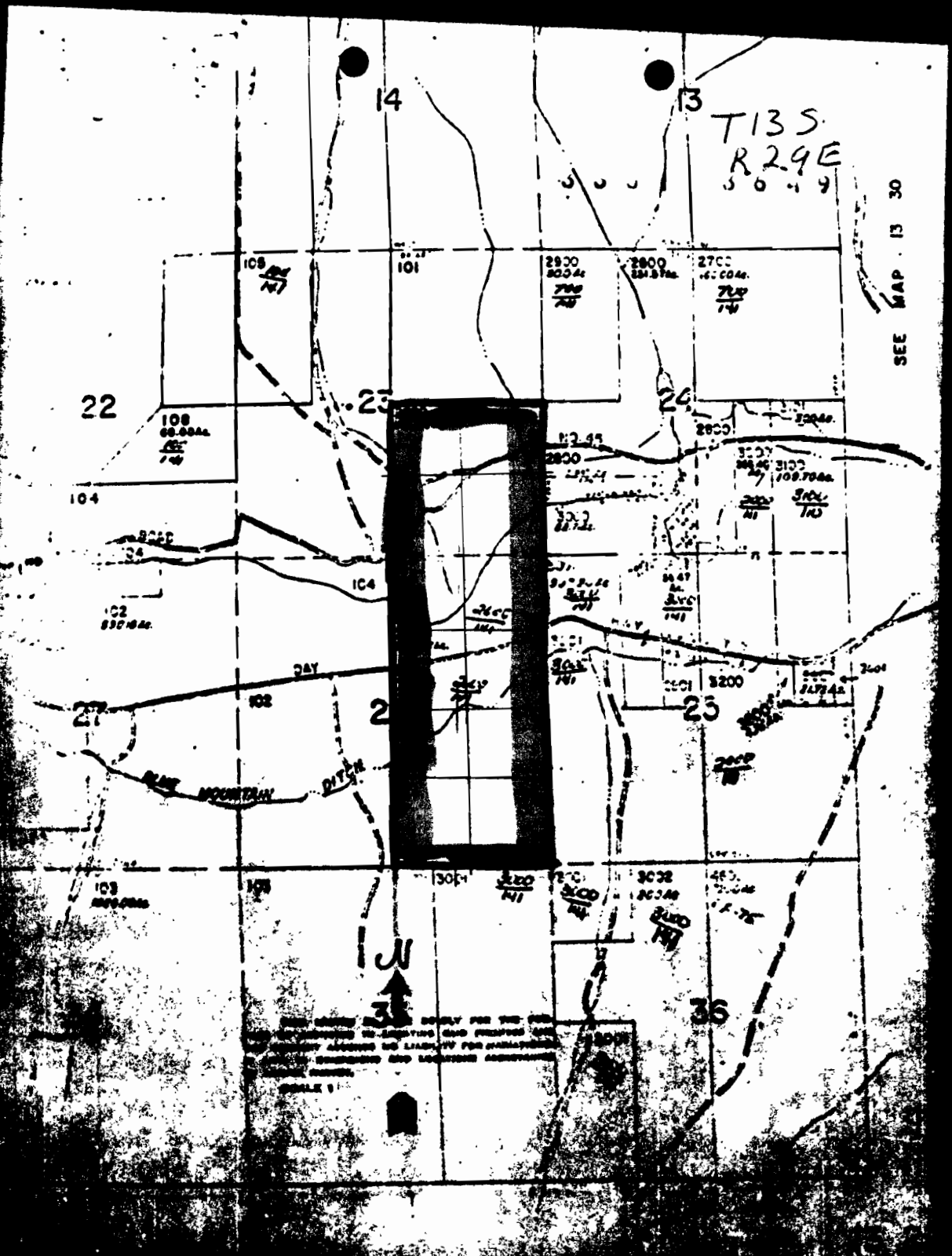
The State of Oregon, by and through the Director of Veterans' Affairs, has a security interest in the above described property and hereby requests that no action be taken to diminish the water right without notifying the Department of Veterans' Affairs, 700 Summer Street, N.E., Salem, Oregon, 97310.

Attention: Butch Gehley, Appraisal Coordinator

12-4-85
OM

Attachments:

- Legal Descriptions
- Tax Lot Maps
- Please return copy to ODVA



T13S
R29E
5049

SEE MAP 13 30

THIS MAP IS TO BE USED ONLY FOR THE PURPOSES OF RECORDING AND PRESENTING THE RESULTS OF THE SURVEY AND IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SURVEYOR'S NAME AND LOCATION ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.



SCALE 1"

WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

To: Jerry Rogers, Watermaster

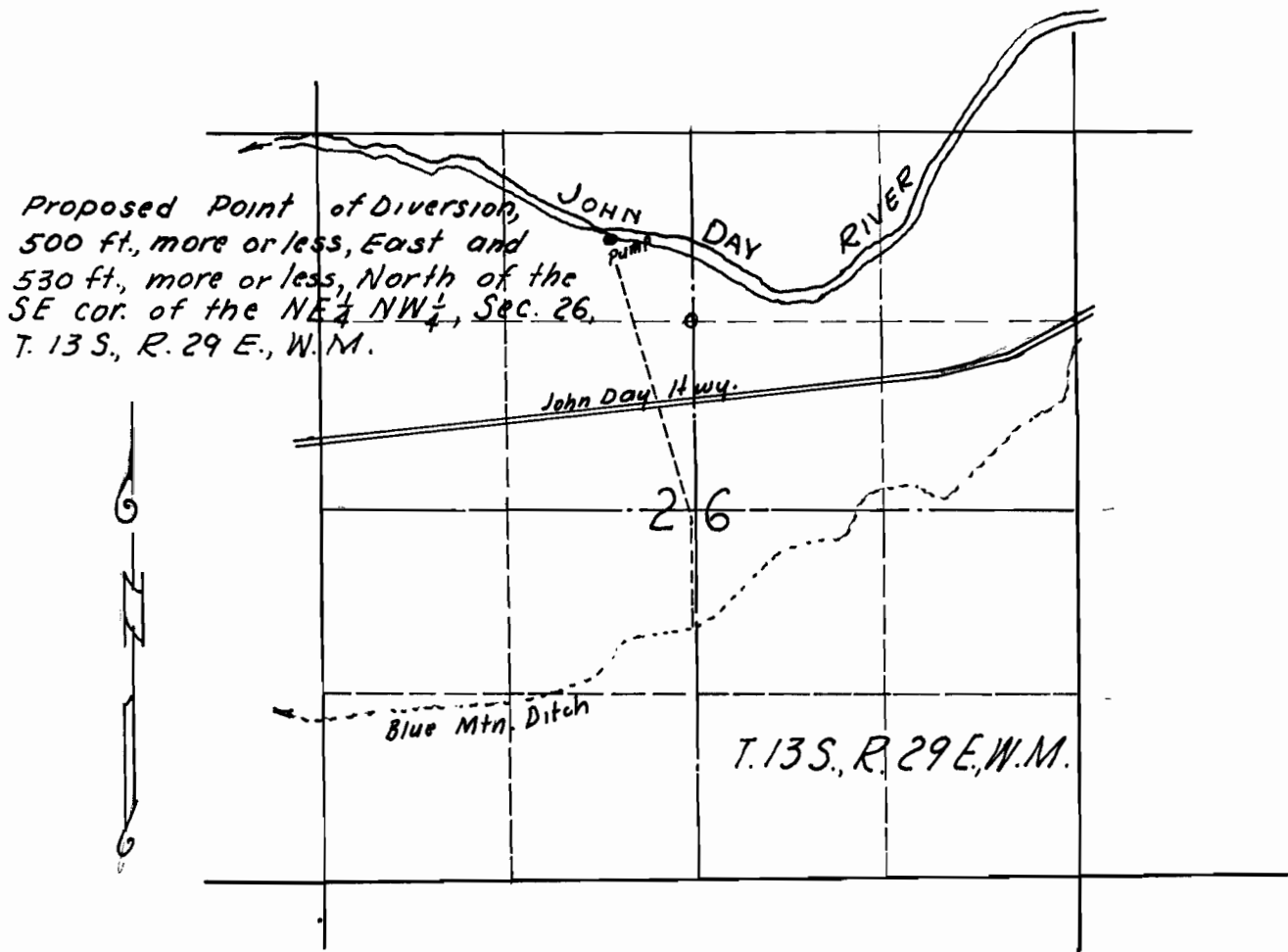
Date: August 3, 1979

From: Bruce A. Estes

Subject: July 13, memo

Jerry, your memo of July 13, 1979 regarding permit No. 3163 involved the confirming certificate 48136 under transfer M-209 as regards the placement of the same 252.7 acres previously listed under certificate 46261. You felt that we should not have it listed on both certificates, however, if you will inspect the transfers involved M-209 and C-137, you will find that certificate 48136 allows a 252.7 acres to be diverted from the pumping diversion point during the early season, April 1 to about July 1 of each year. Certificate 46261 allowed the use of the Blue Mountain Ditch for those lands in the early season and the pumping diversion afterwards, however, this was not specifically defined but was on the certificate by reference to the transfer entered December 13, 1961, which in essence relates to transfer C-137. I believe that if we had really been on our toes we could have made this more clear in the certificates, however, it is there by reference and the land should be listed on both certificates to allow the use of the pumping diversion point throughout the season.

Thanks for the response and a copy of this memo will go in both files so that should this come up again, it will be made clear.



MAP TO ACCOMPANY APPLICATION FOR
ADDITIONAL POINT OF DIVERSION

SCALE 1" = 1320'

JULY 17, 1961

John Cawrse, Applicant

courthouse at Canyon City, Oregon, on September 27, 1961, at 9:30 o'clock a.m. The notice was published in the Blue Mountain Eagle, a newspaper printed and having general circulation in Grant County, Oregon, for a period of three weeks in the issues of August 3, 10 and 17, 1961. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Protest of Kate Geisler, John Pereira, Wallace Campbell, Elmer Johnson, Charles Lowry, Mamie Bailey, Charlie Page and Don Ripa and Eddington Ditch Company against the approval of the application was filed on September 14, 1961.

The hearing was held by Chris L. Wheeler, Assistant State Engineer, at the time and place set. The applicant, John Course, appeared represented by his attorney, Jack H. Dunn and the protestants appeared represented by their attorney, Roy Kilpatrick.

Based on the testimony presented at the hearing, the application for a change in point of diversion of water and the records on file in the office of the State Engineer pertaining to the water right involved herein, the State Engineer now makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

The Blue Mountain Ditch Company, a private corporation, owns and maintains the ditch from which John Course, applicant herein, proposes to change his point of diversion during a portion of the irrigation season. According to the records of the State Engineer, the Blue Mountain ditch was completed in about 1919, is approximately eight miles long, and diverts water from the John Day River for the irrigation of 840.7 acres. From Mr. Course's application and his testimony, it appears he is the owner of 296.7 acres of land irrigated from the ditch, or about 1/3 of the entire ditch right; that originally the land was irrigated by surface methods, but

since acquiring the property, he has constructed four pump stations from the ditch for sprinkler irrigation of his land; that the pump station and pipeline discharging into the Blue Mountain ditch above the four sprinkler pump stations as proposed in his application has been constructed; that it is his intention to utilize the ditch diversion early in the season and about July 1 of each year, when ditch loss is high and river flow low, to cease using the upper part of the ditch and start using the pump on the river; that the four pumps taking water from the ditch for sprinkling the land will operate the same in either case; and that the pump at the river is powered by a 50 horsepower electric motor and discharges into an 8 inch pipeline, approximately 2900 feet long to the ditch.

The general testimony of both sides was to the effect that the land along this section of the river is very porous, and a substantial part of the water applied through any ditch system of irrigation returns to the river immediately below. There are also very substantial transmission losses in the main ditches. The watermaster measured the Eddington Ditch at the diversion and about 500 feet below the diversion point on July 25, 1961, and found 30 miners inches (0.75 cubic foot per second) loss in the 500 feet. There are no records of losses on other ditches, but this is described as being typical of the area. In view of this condition and the lack of adequate distribution service, it has been the practice for each large ditch to bulldoze up a gravel dam in the river diverting essentially all of the flow into the ditch without any regard to priority or total quantity diverted. From the maps prepared in connection with the adjudication of the John Day River and its tributaries, the proposed point of diversion is located about 4.8 river miles downstream from the point of diversion of the Blue Mountain ditch and about one mile above the point of diversion at the Eddington ditch, protestants herein. All of the users of the Eddington ditch, the protestants

herein have a date of priority earlier than that of the Blue Mountain ditch, except Kate Geisler's rights under the Geisler extension as evidenced by Certificate recorded at page 21688, Volume 16, State Record of Water Right Certificates.

CONCLUSIONS

In the protest, two allegations are made requesting the denial of the application. Neither appears to be sufficiently well founded to justify denial of the application.

As a matter of law, CRS 540.030, there can be no injury to the existing rights of the protestants since they are prior in time and must be satisfied prior to any legal diversion by Mr. Course, either at the Blue Mountain ditch diversion or at the proposed pump site. An administrative problem may be created, but this is not grounds under the statute for denying the application.

Protestants contend that the statute does not provide for changing diversion works to provide two points of diversion. There is no restriction that the change must be for all of a right, nor would such a restriction be reasonable. The change in diversion from one point to two points or from a ditch to a pumping plant does not, in itself, constitute an injury.

The proposed change can result in less waste of water. Most of the water lost in transmission in the ditch returns to the John Day River and is available for lower appropriators, yet some is lost through transpiration from undesirable brush and swamp growth lining the areas of heavy return. Beneficial use without waste is the governing principle behind all appropriations. Any change which can be made without injury to existing rights and that reduces waste of water should be encouraged.

It appears the change in point of diversion can be made without injury to existing rights. The right, as changed, should be conditioned upon adequate measuring devices being installed to insure distribution of

water in accordance with relative priorities and be limited to the amount of water available for distribution at the original point of diversion.

ORDER

NOW, THEREFORE, it hereby is ORDERED that the proposed change in point of diversion of water from John Day River, to-wit:

From a point located South 56 degrees East 3,570 feet from the northwest corner of Section 29, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 29, Township 13 South, Range 30 East, W.M.

To a point located 530+ feet North and 500+ feet West from the southeast corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 13 South, Range 29 East, W.M.

for the irrigation of 296.7 acres hereinbefore described, beginning about July 1st of each year, with a date of priority of October 23, 1916, be and the same hereby is approved.

It is FURTHER ORDERED that no time need be fixed for completion of construction as the pumping plant has been installed and is in operation.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion, and the total quantity from both points of diversion shall not exceed 3.71 cubic feet per second, except in event of rotation.

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 pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Grant County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon, this 13th day of December, 1961.

/s/ LEWIS A. STANLEY
State Engineer

*copy
Sent to Cassady*

BEFORE THE STATE ENGINEER OF OREGON

Grant County

**IN THE MATTER OF THE APPLICATION)
OF JOHN CAWSE FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM JOHN DAY RIVER)
- - - - -**

**FINDINGS, CONCLUSIONS AND
ORDER
APPROVING APPLICATION**

On July 18, 1961, John Cawse of Mt. Vernon, Oregon, filed an application in the office of the State Engineer for approval of a change in point of diversion of water from John Day River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Blue Mountain Ditch Company and recorded at page 24504, Volume 17, State Record of Water Right Certificates, confirms a right under Permit No. 3163 to the use of the waters of John Day River for the irrigation of, among other lands, 0.5 acre in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 24.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 37.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 35.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 28.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 36.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.9 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26 and 28.1 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 37.4 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 36.9 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 31.2 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, all in Township 13 South, Range 29 East, W. M., with a date of priority of October 23, 1916. These lands are irrigated through the Blue Mountain Ditch, the point of diversion of said ditch being located South 56 degrees East 3,570 feet from the northwest corner of Section 29, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 29, Township 13 South, Range 30 East, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate said lands by means of an additional point of diversion to be located 530+ feet North and 500+ feet West from the southeast corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 13 South, Range 29 East, W. M.

Notice of the filing of the application was given by publication setting forth a time and place for hearing objections to the proposed change in point of diversion of water, if any there were, namely: at the county

courthouse at Canyon City, Oregon, on September 27, 1961, at 9:30 o'clock a.m. The notice was published in the Blue Mountain Eagle, a newspaper printed and having general circulation in Grant County, Oregon, for a period of three weeks in the issues of August 3, 10 and 17, 1961. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Protest of Kate Geisler, John Pereira, Wallace Campbell, Elmer Johnson, Charles Lowry, Mamie Bailey, Charlie Page and Don Rips and Edington Ditch Company against the approval of the application was filed on September 14, 1961.

The hearing was held by Chris L. Wheeler, Assistant State Engineer, at the time and place set. The applicant, John Gourse, appeared represented by his attorney, Jack H. Dunn and the protestants appeared represented by their attorney, Roy Kilpatrick.

Based on the testimony presented at the hearing, the application for a change in point of diversion of water and the records on file in the office of the State Engineer pertaining to the water right involved herein, the State Engineer now makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

The Blue Mountain Ditch Company, a private corporation, owns and maintains the ditch from which John Gourse, applicant herein, proposes to change his point of diversion during a portion of the irrigation season. According to the records of the State Engineer, the Blue Mountain ditch was completed in about 1919, is approximately eight miles long, and diverts water from the John Day River for the irrigation of 840.7 acres. From Mr. Gourse's application and his testimony, it appears he is the owner of 296.7 acres of land irrigated from the ditch, or about 1/3 of the entire ditch right; that originally the land was irrigated by surface methods, but

since acquiring the property, he has constructed four pump stations from the ditch for sprinkler irrigation of his land; that the pump station and pipeline discharging into the Blue Mountain ditch above the four sprinkler pump stations as proposed in his application has been constructed; that it is his intention to utilize the ditch diversion early in the season and about July 1 of each year, when ditch loss is high and river flow low, to cease using the upper part of the ditch and start using the pump on the river; that the four pumps taking water from the ditch for sprinkling the land will operate the same in either case; and that the pump at the river is powered by a 50 horsepower electric motor and discharges into an 8 inch pipeline, approximately 2900 feet long to the ditch.

The general testimony of both sides was to the effect that the land along this section of the river is very porous, and a substantial part of the water applied through any ditch system of irrigation returns to the river immediately below. There are also very substantial transmission losses in the main ditches. The watermaster measured the Eddington Ditch at the diversion and about 500 feet below the diversion point on July 25, 1961, and found 30 miners inches (0.75 cubic foot per second) loss in the 500 feet. There are no records of losses on other ditches, but this is described as being typical of the area. In view of this condition and the lack of adequate distribution service, it has been the practice for each large ditch to bulldoze up a gravel dam in the river diverting essentially all of the flow into the ditch without any regard to priority or total quantity diverted. From the maps prepared in connection with the adjudication of the John Day River and its tributaries, the proposed point of diversion is located about 4.8 river miles downstream from the point of diversion of the Blue Mountain ditch and about one mile above the point of diversion at the Eddington ditch, protestants herein. All of the users of the Eddington ditch, the protestants

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CONCLUSIONS

In the protest, two allegations are made requesting the denial of the application. Neither appears to be sufficiently well founded to justify denial of the application.

As a matter of law, ORS 540.030, there can be no injury to the existing rights of the protestants since they are prior in time and must be satisfied prior to any legal diversion by Mr. Course, either at the Blue Mountain ditch diversion or at the proposed pump site. An administrative problem may be created, but this is not grounds under the statute for denying the application.

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The proposed change can result in less waste of water. Most of the water lost in transmission in the ditch returns to the John Day River and is available for lower appropriators, yet some is lost through transpiration from undesirable brush and swamp growth lining the areas of heavy return. Beneficial use without waste is the governing principle behind all appropriations. Any change which can be made without injury to existing rights and that reduces waste of water should be encouraged.

It appears the change in point of diversion can be made without injury to existing rights. The right, as changed, should be conditioned upon adequate measuring devices being installed to insure distribution of

water in accordance with relative priorities and be limited to the amount of water available for distribution at the original point of diversion.

ORDER

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To a point located 530+ feet North and 500+ feet West from the southeast corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 13 South, Range 29 East, W.M.

for the irrigation of 296.7 acres hereinbefore described, beginning about July 1st of each year, with a date of priority of October 23, 1916, be and the same hereby is approved.

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It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion, and the total quantity from both points of diversion shall not exceed 3.71 cubic feet per second, except in event of rotation.

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 pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Grant County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon, this 13th day of December, 1961.

/s/ LEWIS A. STANLEY
State Engineer

May 7, 1963

Mr. John Cawrse
Mt. Vernon
Oregon

Dear Mr. Cawrse:

Re: Transfer No. C-137

An inspection of your premises made by a representative of this office indicates that the additional point of diversion has been constructed in accordance with our order approving your application for said change.

Upon receipt of \$1.00 fee for having the certificate recorded in the Grant County records, a new certificate will be issued to the Blue Mountain Ditch Company confirming the change in point of diversion of water.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Max F. Rogers, Deputy

ks

December 15, 1961

Mr. Jack H. Dunn
Attorney at Law
923 Pittsack Block
Portland 3, Oregon

Dear Mr. Dunn:

Re: Transfer No. G-137

Enclosed is a certified copy of the order of the State Engineer, entered December 13, 1961, approving the application of John Course for a change in point of diversion of water from John Day River.

Since the construction has been completed, a survey of the property will be made at a later date to map the location of the new point of diversion.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

ls

Enclosure

cc: John Course
Morley Lamp

December 15, 1961

Mr. Roy Kilpatrick
Attorney at Law
Canyon City, Oregon

Dear Mr. Kilpatrick:

Re: Transfer No. C-137

Enclosed is a certified copy of the order of the State Engineer, entered December 13, 1961, approving the application of John Course for a change in point of diversion of water from John Day River.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

ks

Enclosure

Appearances

~~Jack H. Dunn, Attorney at Portland for applicant Roy
Kilpatrick, Attorney at Canyon City, for protestants.~~

FINDINGS OF FACT

The Blue Mountain Ditch Company owns and maintains the ditch from which John Cawrse, applicant herein, proposes to change his point of diversion during a portion of the irrigation season. According to the records of the State Engineer, the Blue Mountain ditch was completed in about 1919, is approximately eight miles long, and diverts water from the John Day River for the irrigation of 840.7 acres. From Mr. Cawrse's application and ^{his} ~~testimony~~ ^{It appears}, he is the owner of 296.7 acres of land irrigated from the ditch, or about 1/3 of the entire ditch right. ^{his} Originally, the land was irrigated by surface methods, but since acquiring the property, ^{his} Mr. Cawrse has constructed four pump stations from the ditch for sprinkler irrigation of his land. ^{his} The pump station and pipeline discharging into the Blue Mountain ditch above the four sprinkler pump stations as proposed in his application, has been constructed. ^{his} It is ~~Mr. Cawrse's~~ ^{his} intention to utilize the ditch diversion early in the season and about July 1 of each year, when ditch loss is high ^{at} ~~in the flow~~ ^{at the river}, ~~to cease using the~~ ^{that} upper part of the ditch and start using the pump on the river. The four pumps taking water from the ditch for sprinkling the land will ^{and that} operate the same in either case. The pump at the river is powered by a 50 h.p. electric motor and discharges into an 8" pipeline approximately 2900 feet long to the ditch.

The general testimony of both sides was to the effect that the land along this section of the river is very porous, and a substantial

part of the water applied through any ditch system of irrigation returns to the river immediately below. There are also very substantial transmission losses in the main ditches. The watermaster measured the Eddington Ditch at the diversion and about 500 feet below the diversion point on July 25, 1961, and found 30 miners inches (0.75 c.f.s.) loss.^{in the 500'} There are no records of losses on other ditches, but this is described as being typical of the area. In view of this condition and the lack of adequate distribution service, it has been the practice for each large ditch to bulldoze up a gravel dam in the river diverting essentially all of the flow into the ditch without any regard to priority or total quantity diverted. From the maps prepared in connection with the adjudication of the John Day River and its tributaries, the proposed point of diversion is located about 4.8 river miles downstream from the point of diversion of the Blue Mountain ditch and about one mile above the point of diversion at the Eddington ditch, protestants herein. ~~As set forth in the Decree of the Circuit Court in the Matter of the Adjudication of the John Day River and its Tributaries,~~ All of the uses of the Eddington ditch, the protestant^s herein, have a date of priority earlier than that of the Blue Mountain ditch. *except to the extent of the water rights as established by the state*

CONCLUSIONS

In the protest, two allegations are made requesting the denial of the application. Neither appears to be sufficiently well founded to justify denial of the application.

1. As a matter of law, ORS 540.030, there can be no injury to the existing rights of the protestants since they are prior in time and must be satisfied prior to any legal diversion by Mr. Cawrse, either at the Blue Mountain ditch diversion or at the proposed pump site. An administrative problem may be created, but this is not grounds under the statute for denying the application.

2. Protestants contend that the statute does not provide for changing diversion works to provide two points of diversion. ~~ORS 540.510~~ reads as follows:

~~"540.510 Appurtenancy of water to premises; restrictions on change of use or place of use or point of diversion.~~

~~All water used in this state for any purpose shall remain appurtenant to the premises upon which it is used and no change in use or place of use of any water for any purpose may be made without compliance with the provisions of ORS 540.520 and 540.530."~~

The statute further provides that "If after hearing or examination, the State Engineer finds that the proposed change can be affected without injury to existing rights, he shall make an order approving the transfer and fixing a time limit within which ~~application of water may be made to the new use."~~

There is no restriction that the change must be for all of a right, nor would such a restriction be reasonable. The change in diversion from one point to two points or from a ditch to a pumping plant does not, in itself, constitute an injury.

The proposed change can result in less waste of water. Most of the water lost in transmission in the ditch returns to the John Day River and is available for lower appropriators, yet some is lost through transpiration from undesirable brush and swamp growth lining the areas of heavy return. Beneficial use without waste is the governing principle behind all appropriations. Any change which can

be made without injury to existing rights and that reduces waste of water should be encouraged.

It appears the change in point of diversion can be made without injury to existing rights. The right as changed should be conditioned upon adequate measuring devices being installed to insure distribution of water in accordance with relative priorities and be limited to the amount of water available for distribution at the original point of diversion.

ORDER

NOW THEREFORE, it is hereby ORDERED that the ~~proposed~~ ~~change~~ for an additional point of diversion ~~for 3.71 c.f.s.~~ for the irrigation of 296.7 acres hereinbefore described (being a part of etc. right) is approved. Said additional point of diversion is to be located 530' N. and 500' W. of the SE corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T. 13 S., R. 29 E., W.M., and is to be utilized beginning about July 1st of each year.

It is further ORDERED that the quantity of water ~~authorized~~ to be diverted at the new point of diversion shall not at any time exceed that which is available for diversion under this priority at the point of diversion of the Blue Mountain ditch, and the total quantity from both points of diversion shall not exceed ^{3.71} 10.5 c.f.s., *except in event of retardation.*

It is further ORDERED that ~~any~~ and all measuring devices ordered by the State Engineer or the watermaster for ~~the~~ district when in their judgment measuring devices are required for proper distribution of the water.

It is further ORDERED that when said change is completed and the water put to ~~your~~ standard paragraph on proof, beneficial use from

the new point of diversion that the certificate heretofore issued to and recorded on Page 24504, etc. shall be canceled and a new certificate issued in lieu thereof be issued correctly describing the points of diversion.

October 19, 1961

Mr. John Cawrse
Mt. Vernon
Oregon

Dear Mr. Cawrse:

Re: Transfer No. C-137

Publication of notice in connection with your transfer No. C-137 amounted to \$25.13, leaving an unused balance of your \$30 deposit for that purpose in the amount of \$4.87. Our check No. 8889 covering the unused portion of your deposit is enclosed.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

ks

Enclosure

October 19, 1961

Blue Mountain Eagle
John Day
Oregon

Gentlemen:

Re: Transfer No. C-137

Enclosed is our check No. 8888 in the amount of \$25.13
in payment of your statement of October 1, 1961.

Kindly receipt the enclosed statement and return it to
this office.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

ks

Enclosure

DOMESTIC SERVICE	
Check the class of service desired; otherwise this message will be sent as a full rate telegram.	
FULL RATE TELEGRAM	SERIAL
DAY LETTER	NIGHT LETTER

WESTERN UNION

1206

INTERNATIONAL SERVICE	
Check the class of service desired; otherwise this message will be sent at the full rate	
FULL RATE	LETTER TELEGRAM
VICTORY LETTER	SHIP RADIOGRAM

W. P. MARSHALL, PRESIDENT

NO. WDS.-CL. OF SVC.	FD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	TIME FILED
			State Engineer, 251 Finance Bldg. Salem, Oregon	

Send the following message, subject to the terms on back hereof, which are hereby agreed to

**Blue Mountain Eagle
John Day, Oregon**

John Cawse application involved in litigation. Necessary we have affidavit of publication of notice of filing for a change in point of diversion of water.

**Max F. Rogers, Deputy
State Engineer**

September 20, 1961

Mr. John Liveira
Grant County Clerk
County Courthouse
Canyon City, Oregon

Dear Mr. Liveira:

We have a hearing scheduled beginning at 9:30 a.m.,
September 27.

Would it be possible to secure the use of the Circuit
courtroom for this purpose. A smaller room would be satisfactory.
Thank you.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

MFR:ks

ROY KILPATRICK
Lawyer
Canyon City, Oregon
Telephone 757

13 September 1961

STATE ENGINEER
SALEM, OREGON
RECEIVED
SEP 14 1961
10:07 AM

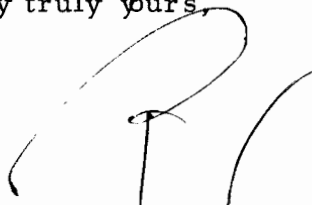
State Engineer
Salem, Oregon

Re: In the Matter of the Application
of John Cawrse for a change of point
of diversion of water.

Dear Sir:

Enclosed please find Protest in the
above application and check in the amount
of \$2.

Very truly yours,



Roy Kilpatrick

RK/kje
Enc.

July 25, 1961

Blue Mountain Eagle
John Day
Oregon

Gentlemen:

Re: Transfer No. C-137

Enclosed is notice for publication in the August 3, 10
and 17, 1961, issues of the Blue Mountain Eagle.

After completion please furnish this office with an affi-
davit of publication, together with your statement covering the cost
of this service.

Please advise if the notice will be published as requested.
If for any reason you are unable to publish the notice on the dates
specified above, please return it to this office.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Max F. Rogers, Deputy

ks

Enclosure

cc: John Cawrse

~~F-3-90 BE~~
SM

C-137-P-77
M-209-T-2353

Floyd Habbe

New Card