

BEFORE THE STATE ENGINEER OF OREGON

Wallowa County

IN THE MATTER OF THE APPLICATION)
OF LYLE K. BONER FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM HURRICANE CREEK)

ORDER APPROVING
TRANSFER NO. 2351

On March 26, 1970, Lyle K. Boner filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Hurricane Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Wallowa County, Oregon, entered January 20, 1919, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Wallowa River and its Tributaries, a water right was established in the name of E. P. Castor for the use of the waters of Hurricane Creek for domestic and stock use, with a date of priority of 1879, and the irrigation of, among other lands, 20.0 acres in NE¼ NE¼, 18.5 acres in NW¼ NE¼, with a date of priority of 1881, and 33.0 acres in SW¼ NE¼, with a date of priority of 1892, Section 36, Township 2 South, Range 44 East, W.M. The water is conveyed to these lands by means of the Robbins-Bonner Ditch from a point of diversion located S 36° 31' W 588 feet from the W¼ corner of Section 36, Township 2 South, Range 44 East, W.M. being within the NE¼ SE¼ of Section 35, Township 2 South, Range 44 East, W.M. The diversion point of record is through the Old Settlers Slough, Castor and Page Ditches from a point of diversion located 680 feet south and 650 feet east from the NW corner of Section 36 being within the NW¼ NW¼ of Section 36, Township 2 South, Range 44 East, W.M.

The applicant herein, owner of the lands above described, proposes to convey water to these lands by means of the Moonshine

Ditch from a point of diversion to be located S 76° 02' W 49 feet from the NE corner of Section 3 being within the NE¼ NE¼ of Section 3, Township 3 South, Range 44 East, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed change in point of diversion of water, if any there were, namely: at the county courthouse in Enterprise, Oregon, on July 3, 1970, at 9:30 a.m. The notice was published in the Wallowa County Chieftain, a newspaper printed and having general circulation in Wallowa County, Oregon, for a period of three weeks in the issues of May 7, 14, and 21, 1970. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Walter L. Astwood, Watermaster of District No. 7, has filed a report to the effect that the proposed change in point of diversion of water may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the change in point of diversion of water from Hurricane Creek, to-wit:

From a point located S 36° 31' W 588 feet from the NW corner of Section 36, Township 2 South, Range 44 East, W.M. being within the NE¼ SE¼ of Section 35, Township 2 South, Range 44 East, W.M.

To a point to be located S 76° 02' W 49 feet from the NE corner of Section 3 being within the NE¼ NE¼ of Section 3, Township 3 South, Range 44 East, W.M.

for domestic and stock use, with a date of priority of 1879, and the irrigation of, among other lands, 20.0 acres in NE¼ NE¼, 18.5 acres in NW¼ NE¼, with a date of priority of 1881, and 33.0 acres in SW¼ NE¼, with a date of priority of 1892, Section 36, Township 2 South, Range

44 East, W.M.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1971.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion and shall not exceed 1½ acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed.

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

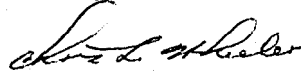
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

The right to the use of water from Hurricane Creek for the irrigation of 9.0 acres in NE¼ NE¼, Section 36, Township 2 South, Range 44 East, W.M. evidenced by certificate of water right recorded at page 2976, Volume 4, State Record of Water Right Certificates, was canceled by an order of the State Engineer entered September 21, 1970.

It is FURTHER ORDERED that certificate of water right heretofore issued to E. P. Castor and recorded at page 2976, Volume 4, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be

issued to Lyle K. Boner confirming said change in point of diversion.

Dated at Salem, Oregon, this 30th day of September, 1970.



CHRIS L. WHEELER
State Engineer