

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATIONS)
OF DONALD E. AND ADA RUTH KIMMEL)
AND RAY E. AND HELEN E. BARROW FOR)
THE APPROVAL OF CHANGES IN PLACES)
OF USE AND POINTS OF DIVERSION OF)
WATER FROM LITTLE BUTTE CREEK)
-----)

O R D E R
APPROVING APPLICATION

On June 14, 1962, Donald E. and Ada Ruth Kimmel and Ray E. and Helen E. Barrow of Eagle Point, Oregon, filed applications in the office of the State Engineer for the approval of changes in places of use and points of diversion of water from Little Butte Creek.

By decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Little Butte Creek and its Tributaries, a water right was established in the name of Little Butte Irrigation Company for the use of the waters of Little Butte Creek for the irrigation of, among other lands, 15 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 34.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of 1883, and 14.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, with a date of priority of 1908. These lands are irrigated through the Little Butte Irrigation Company ditch, the point of diversion of said ditch being located 560 feet North and 2990 feet East from the southwest corner of Section 31, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 31, Township 35 South, Range 1 East, W. M.

Donald E. and Ada Ruth Kimmel, owners of 1.2 acres of the above described lands, being in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, propose to transfer the water right therefrom without loss of priority to 0.3 acre in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2 and 0.9 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M.

Ray E. and Helen E. Barrow, owners of 2.6 acres of the lands above described, to-wit: 2.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 0.1 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, propose to transfer the water right therefrom without loss of priority to 2.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, Township 36 South, Range 1 West, W. M. All

of the lands to which the water is being transferred hereby will be irrigated by means of a pumping plant, the point of diversion of said pumping plant to be located 370 feet South and 365 feet East from the northwest corner of Section 2, and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 2, Township 36 South, Range 1 West, 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 changes in places of use and point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on August 23, 1962, at 9:30 o'clock a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of July 2, 9 and 16, 1962. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. David C. Hendrix, Watermaster of District No. 13, has filed a report to the effect that the proposed changes in places of use and point of diversion may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the proposed changes in places of use of water be and the same is approved and that the water right hereinbefore described as appurtenant to 1.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of 1883, owned by Donald E. and Ada Ruth Kimmel, be severed therefrom and simultaneously and without loss of priority transferred to 0.3 acre in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2 and 0.9 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, and the water right described as appurtenant to 0.1 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, with a date of priority of 1883, and 2.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, with a date of priority of 1908, owned by Ray E. and Helen E. Barrow, be severed therefrom and simultaneously

and without loss of priority transferred to 2.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2. All of these lands are within Township 36 South, Range 1 West, W. M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Little Butte Creek, to-wit:

From a point located 560 feet North and 2990 feet East from the southwest corner of Section 31, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 31, Township 35 South, Range 1 East, W. M.

To a point to be located 370 feet South and 365 feet East from the northwest corner of Section 2, and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 2, Township 36 South, Range 1 West, W. M.

for the irrigation of 0.3 acre in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2 and 0.9 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, with a date of priority of 1883, owned by Donald E. and Ada Ruth Kimmel, and 2.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, owned by Ray E. and Helen E. Barrow, of which 0.1 acre has a date of priority of 1883 and 2.5 acres have a date of priority of 1908, be and the same hereby is approved. All of these lands are within Township 36 South, Range 1 West, W. M.

It is FURTHER ORDERED that the changes in places of use and point of diversion of water shall be completed on or before October 1, 1963, or within such extension of time as may be granted by the State Engineer for good cause shown.

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.

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.

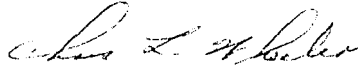
That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

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

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Little Butte Irrigation Company, or their successor in interest, to the extent to which the water has been applied beneficially and the certificate of water right heretofore issued to Little Butte Irrigation Company and recorded at page 29368, Volume 21, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon, this 14th day of September, 1962.

Noted on Decree
Vol. 14 p 520, 521
Cert. # 29368


CHRIS L. WHEELER
State Engineer