

GRANT COUNTY

IN THE MATTER OF THE APPLICATION OF )  
THEODORE DURST, JAMES W. DAMON AND )  
LOWELL FRANKS FOR APPROVAL OF A )  
CHANGE IN POINT OF DIVERSION OF )  
WATER FROM JOHN DAY RIVER )  
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ORDER APPROVING  
TRANSFER NO. 4167

On March 5, 1979, an application was filed in the office of the Water Resources Director by Theodore Durst, James W. Damon and Lowell Franks 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.

The certificate recorded at page 25873, Volume 17, State Record of Water Right Certificates, in the name of McCallen Stockdale, describes a right which includes the use of water from John Day River for irrigation of a certain 4.6 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 28, Township 13 South, Range 30 East, W.M., with a date of priority of 1862.

The authorized point of diversion of record for said right is located 1200 feet South and 1175 feet East from the North Quarter Corner of Section 26, being within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 26, Township 13 South, Range 30 East, W.M. (Fry Ingle-Wallace Lemons Ditch).

The applicants herein, owners of the lands above described, propose to change the point of diversion therefrom, without loss of priority, to an existing point of diversion located 520 feet South and 2080 feet East from the Northwest Corner of Section 25, being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, Township 13 South, Range 30 East, W.M. (Panama Ditch).

Notice of the application, pursuant to ORS 540.520(2), 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 March 15, 22 and 29, 1979.

Mr. Jerry Rodgers, Watermaster, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the requested change in point of diversion, as described herein, without loss of priority, is approved.

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 under the subject right.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:

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

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

It is FURTHER ORDERED that NO time need be fixed for completion as the change in point of diversion is completed.

It is FURTHER ORDERED that the certificate of water right recorded at page 25873, Volume 17, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicants herein.

Dated at Salem, Oregon this 25th day of May, 1979.

  
James E. Sexson  
Director