

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION )  
OF ASHBY FULK FOR THE APPROVAL )  
OF A CHANGE IN POINT OF DIVERSION )  
OF WATER FROM SUCKER CREEK. )

O R D E R

APPROVING APPLICATION

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On March 22, 1957, Ashby Fulk of Cave Junction, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Sucker Creek pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Josephine County, Oregon, entered May 27, 1913, in the matter of the determination of the relative rights to the waters of Sucker Creek and its tributaries, a water right was established in the name of A. J. Fulk for the irrigation of, among other lands, 5 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 26 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 30 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 35, Township 39 South, Range 8 West, W. M., and domestic and stock use, through the Briggs-Tannery ditch from Sucker Creek with a date of priority of 1857. The point of diversion of the Briggs-Tannery ditch is located 2500 feet north and 300 feet east from the south quarter corner of Section 31, and being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 31, Township 39 South, Range 7 West, W. M.

The applicant herein, owner of 51 acres of the land above described, to-wit: 5 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 26 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 20 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 35, Township 39 South, Range 8 West, W. M., proposes to change the point of diversion for the irrigation thereof, together with the water for domestic and stock use, to the Fulk ditch, the point of diversion of said ditch to be located 800 feet south and 1600 feet west from the east quarter corner of Section 35, and being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 35, Township 39 South, Range 8 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 change in point of diversion of water, if any there were, namely: at the county court house in Grants Pass, Oregon, on May 29, 1957, beginning at 10:00 o'clock a.m. The notice was published in the Illinois Valley News, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of April 4, 11 and 18, 1957. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. George Thrasher, Watermaster of District No. 16, has filed a statement 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 from Sucker Creek may be made without injury to existing rights, the application should be approved.

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

From a point located 2500 feet north and 300 feet east from the south quarter corner of Section 31, and being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 31, Township 39 South, Range 7 West, W. M.,

To a point to be located 800 feet south and 1600 feet west from the east quarter corner of Section 35, and being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 35, Township 39 South, Range 8 West, W. M.,

for the irrigation of 5 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 26 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 20 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 35, Township 39 South, Range 8 West, W. M., be and the same is approved.

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, 1957 or within such extension of time as may be granted by the State Engineer for good

cause shown and that upon the completion of such work, satisfactory proof shall be filed with the State Engineer.

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.

Dated at Salem, Oregon this 12th day of June 1957.

*Noted on Findings*  
*Vol. 5, p 396*  
*Cert. 7129*

*Lewis A. Stanley*  
LEWIS A. STANLEY  
State Engineer