

BEFORE THE STATE ENGINEER OF OREGON

Malheur County

IN THE MATTER OF THE APPLICA-)
TION OF LOCEY BROS. FOR THE)
APPROVAL OF CHANGES IN POINTS)
OF DIVERSIONS OF WATER FROM)
WILLOW CREEK.)

O R D E R
APPROVING APPLICATION

On December 18, 1950 Locey Bros. of Ironside, Oregon, filed an application for the approval of changes in points of diversions of water from Willow Creek, pursuant to the provisions of Section 116-606, O. C. L. A.

By decree of the Circuit Court for Malheur County, Oregon, entered June 6, 1916, in the Matter of the Determination of the Relative Rights of the Various Claimants to the Waters of Willow Creek, a Tributary of Malheur River, a water right was adjudicated in the name of C. T. Locey for the irrigation of 308 acres from Willow Creek, Boulder Creek and Little Boulder Creek, with a date of priority of 1874 for 180 acres, 1877 for 75 acres and 1879 for 153 acres, being described as follows:

- 8.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$.
- 17.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$.
- 40.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$.
- 40.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$.
- 19.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- 28.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$.
- 40.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$.
- 40.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$.
- 35.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$.
- 40.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$.

Section 14,
Township 14 South, Range 39 East, W. M.

All of the foregoing described lands are irrigated through the

Sargent ditch, Diven ditch and Locey-Smith ditch from Willow Creek, with the exception of 6.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, which 6.2 acres are irrigated from Little Boulder Creek. The points of diversions of the Sargent,

Diven and Locey-Smith ditches are described as follows:

1. The point of diversion of the Sargent ditch is located 300 feet south and 600 feet east from the north-west corner of Section 22, and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 22, Township 14 South, Range 39 East, W. M.
2. The point of diversion of the Diven ditch is located 970 feet north and 1885 feet west from the southeast corner of Section 15, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15, Township 14 South, Range 39 East, W. M.
3. The point of diversion of the Locey-Smith ditch is located 300 feet north and 300 feet west from the south quarter corner of Section 15, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 15, Township 14 South, Range 39 East, W. M.

In the same proceeding a water right was adjudicated in the name of G. E. Rutherford for the irrigation of 69 acres from Willow Creek with a date of priority of 1885, said 69 acres being described as follows:

5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$
40 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
24 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 13,
Township 14 South, Range 39 East, W. M.

These lands are irrigated through the Rutherford ditch, the point of diversion of said ditch being located 875 feet north and 115 feet west from the south quarter corner of Section 14, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 14, Township 14 South, Range 39 East, W. M.

Locey Bros., owners of the lands to which the above described water rights are appurtenant, propose to irrigate all lands heretofore irrigated by means of the Sargent ditch, Diven ditch, Locey-Smith ditch and Rutherford ditch through only the Diven ditch and the Locey-Smith ditch

with the exception of 7.3 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 14, which 7.3 acres will lie above the Locey-Smith ditch and cannot be irrigated therefrom. The point of diversion of the Diven ditch will remain the same as above described, but the point of diversion of the Locey-Smith ditch is to be moved downstream to a point on Willow Creek to be located as follows:

1200 feet north and 277 feet east from the southwest corner of Section 14, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 14, Township 14 South, Range 39 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 changes in points of diversions of water, if any there were, namely: in the county court house at Vale, Oregon, on April 12, 1951 at 10:00 o'clock a.m. The notice was published in the Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, for a period of at least three weeks, and not less than one publication each week, being in the issues of February 15, 22 and March 1, 1951. The date set for hearing in said notice was not less than 30 days after the last publication of said notice.

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

NOW, THEREFORE, it hereby is ORDERED that the proposed changes in points of diversions of water from Willow Creek by and the same hereby are approved and that the 363.5 acres heretofore described as irrigated from the Sargent ditch, Diven ditch, Locey-Smith ditch and Rutherford ditch

shall hereafter be irrigated from only the Diven ditch and Locey-Smith ditch, the point of diversion of the Diven ditch being located 970 feet north and 1885 feet west from the southeast corner of Section 15, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15, Township 14 South, Range 39 East, W. M., and the point of diversion of the Locey-Smith ditch to be located 1200 feet north and 277 feet east from the southwest corner of Section 14, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 14, Township 14 South, Range 39 East, W. M., in accordance with the following tabulation:

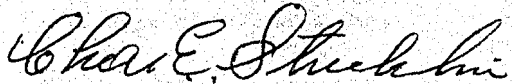
Date of Priority	Number of Acres Irrigated	Sub-division	Number of acres to be irrigated		
			thru Diven Ditch	Thru Locey-Smith	From other source or Abandoned
1874 for 80 acres	8.5	SW $\frac{1}{4}$ NE $\frac{1}{4}$	8.5		
	17.0	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.8		6.2 from Little Boulder Creek
1877 for 75 acres	40.0	NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.2	0.8	
	40.0	NW $\frac{1}{4}$ SW $\frac{1}{4}$	36.5	3.5	
	19.0	SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.6	11.1	7.3 to be abandoned
1879 for 153 acres	28.0	SE $\frac{1}{4}$ SW $\frac{1}{4}$	7.0	21.0	
	40.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0		
	40.0	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0		
	35.5	SW $\frac{1}{4}$ SE $\frac{1}{4}$	26.6	8.9	
	40.0	SE $\frac{1}{4}$ SE $\frac{1}{4}$	31.1	8.9	
Section 14,					
1885 for 69 acres	5.0	SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.0		
	40.0	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.0		
	24.0	SW $\frac{1}{4}$ SW $\frac{1}{4}$	21.5	2.5	
Section 13, Township 14 South, Range 39 East, W. M.					
Totals	377.0		306.8	56.7	13.5

It is FURTHER ORDERED that the construction work shall be completed and the changes in points of diversions of water made on or before October 1, 1952, or 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 water right appurtenant to the 7.3 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, Township 14 South, Range 39 East, W. M., which 7.3 acres will lie above the Locey-Smith ditch, as to be reconstructed, be and the same hereby is canceled.

Dated at Salem, Oregon, this 14th day of May, 1951.


CHAS. E. STRICKLIN
State Engineer

*Noted on Decree
Vol. 3, p 293, 299
Certs. 1589 and 1613*