

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF RAY E. AND HELEN E. BARROW)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE AND POINT OF DIVER-))
SION OF WATER FROM LITTLE BUTTE)
CREEK.)
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O R D E R

APPROVING APPLICATION

On March 8, 1961, Ray E. and Helen E. Barrow of Eagle Point, Oregon, filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Little Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

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 the Fryer Ditch Association for the irrigation of, among other lands, 1.3 acres in Tract Number 31 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of January 31, 1870, tabulated under the name of Gladius F. Pearce, and for the irrigation of 2.0 acres in Tract Number 43 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of 1908, tabulated under the name of the Catholic Church. These lands are irrigated through the Fryer ditch, the point of diversion of said ditch being located 120 feet North and 1125 feet East from the southwest corner of Section 35, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.

The applicants herein, owners of 2.5 acres of the lands above described, to-wit: 0.9 acre in Tract Number 31 and 1.6 acres in Tract Number 43, propose to transfer the water rights therefrom, without loss of priority, to 0.7 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 0.2 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of January 31, 1870, and to 0.4 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and

1.2 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of 1908, all being in Section 3, Township 36 South, Range 1 West, W. M., and to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located 249 feet North and 1692 feet West from the E $\frac{1}{2}$ corner of Section 3, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, 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 change in place of use and point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on May 10, 1961, at 9:30 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 March 14, 21 and 28, 1961. 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. 15, has filed a statement to the effect that the proposed change in place of use and 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 place of use and 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 proposed change in place of use of water be and the same is approved and the water right hereinbefore described as appurtenant to 0.9 acre in Tract No. 31 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of January 31, 1870, and 1.6 acres in Tract No. 43 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), said Section 3, with a date of priority of 1908, be severed therefrom and simultaneously and without loss of priority transferred to 0.7 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 0.2 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of January 31, 1870, and to

0.4 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 1.2 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of 1908, all being in Section 3, 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 120 feet North and 1125 feet East from the SW corner of Section 35, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.

To a point to be located 249 feet North and 1692 feet West from the E $\frac{1}{4}$ corner of Section 3, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, Township 36 South, Range 1 West, W. M.,

for the irrigation of 0.7 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 0.2 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of January 31, 1870, and 0.4 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 1.2 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of 1908, all being in Section 3, Township 36 South, Range 1 West, W. M., be and the same hereby is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1961, 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 Fryer Ditch Association to the extent to which the water has been applied beneficially, and certificate of water right heretofore issued to Fryer Ditch Association and recorded at page 17180, Volume 14, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon, this 17th day of May, 1961.

Noted on Decece
Vol. 14, p. 516
Cert. #17180

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer

Tvsf. "B-123"