

BEFORE THE STATE ENGINEER OF OREGON

Clackamas County

IN THE MATTER OF THE APPLICATION)
OF OSCAR ALBER FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM MILK CREEK)

ORDER APPROVING

APPLICATION NO. A-33

On December 16, 1963, Oscar Alber of Canby, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Milk Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Russell W. Schultze, and recorded at page 15474, Volume 13, State Record of Water Right Certificates, confirms a right to the use of the waters of Milk Creek for the irrigation of 0.3 acre in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, and 1.0 acre in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, and 12.7 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, all in Township 4 South, Range 2 East, W. M., with a date of priority of September 23, 1941. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located South 79°30' East 2800 feet from the northwest corner, Section 18, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 18, Township 4 South, Range 2 East, W. M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located South 69°35' East 2637 feet from the northwest corner, Section 18, and being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 18, Township 4 South, Range 2 East, W. M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

Mr. Myron V. Bish, Watermaster of District No. 1 has filed a report 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 proposed change in point of diversion of water from Milk Creek, to-wit:

From a point located South $79^{\circ}30'$ East 2800 feet from the northwest corner of Section 18, and being within the $NW\frac{1}{4}$ $NE\frac{1}{4}$, said Section 18, Township 4 South, Range 2 East, W. M.

To a point to be located South $69^{\circ}35'$ East 2637 feet from the northwest corner of Section 18, and being within the $NE\frac{1}{4}$ $NW\frac{1}{4}$, said Section 18, Township 4 South, Range 2 East, W. M.

for the irrigation of 0.3 acre in the $SE\frac{1}{4}$ $SW\frac{1}{4}$, Section 7, and 1.0 acre in the $NW\frac{1}{4}$ $NE\frac{1}{4}$, and 12.7 acres in the $NE\frac{1}{4}$ $NW\frac{1}{4}$, Section 18, all in Township 4 South, Range 2 East, W. M., with a date of priority of September 23, 1941, 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, 1964, 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.

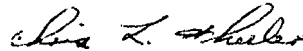
It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster, it becomes necessary to install headgates and measuring devices.

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 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 certificate of water right heretofore issued to Russell W. Schultze, and recorded at page 15474, Volume 13, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of point of diversion, a certificate of water right shall be issued to Oscar Alber confirming such change in point of diversion.

Dated at Salem, Oregon, this 16th day of January, 1964.



CHRIS L. WHEELER
State Engineer

Noted as received

*App. # 19557
Book # 15474*