

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
MALHEUR COUNTY

IN THE MATTER OF THE APPLICATION)
OF MERLE TRACY FOR APPROVAL OF A)
CHANGE IN POINT OF DIVERSION OF)
WATER FROM MALHEUR RIVER)
- - - - -

ORDER APPROVING
TRANSFER NO. T-85

On January 19, 1970, an application was filed in the office of the Water Resources Director by Merle Tracy for approval of a change in point of diversion from Malheur River, pursuant to the provisions of ORS 540.510 to 540.530.

In the Malheur River Adjudication proceedings, a water right was established in the name of Frank Kime for the use of the waters of Malheur River for the irrigation of 7.75 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 14.45 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 5.45 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 22.78 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, Township 20 South, Range 41 East, W.M., with a date of priority of 1888, as described by the certificate recorded at page 6953, Volume 7, State Record of Water Right Certificates.

Certificate of water right issued to Margretha Kime and recorded at page 2930, Volume 4, State Record of Water Right Certificates, confirms a right to the use of 0.25 cubic foot per second of water from Malheur River for the irrigation of 7.70 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 12.45 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, Township 20 South, Range 41 East, W.M., with a date of priority of November 12, 1917.

These lands are irrigated by means of the Barclay Ditch from a point of diversion located South 28 degrees 30 minutes West, 1160 feet from the Northeast Corner of Section 33, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 20 South, Range 41 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion and establish additional points of diversion to be located North 16 degrees 25 minutes West, 1054 feet from the South Quarter Corner of Section 27, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 20 South, Range 41 East; North 1 degree 50 minutes East, 1745 feet from the South Quarter Corner of Section 27, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 20 South, Range 41 East; and North 85 degrees 05 minutes West, 2055 feet from the East Quarter Corner of Section 27, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, Township 20 South, Range 41 East, W.M.

Notice of the application, pursuant to ORS 540.510, was published in The Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of April 12, 19 and 26, 1972.

Mr. Frank W. Elfering, 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 additional points of diversion of water from Malheur River, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion under the subject rights.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new points of diversion as herein confirmed:

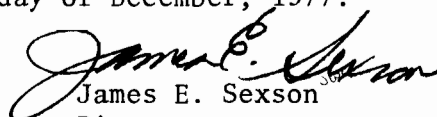
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 additional points of diversion are completed.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Frank Kime and recorded at page 6953, Volume 7, and the certificate issued to Margretha Kime and recorded at page 2930, Volume 4, State Record of Water Right Certificates, are canceled, 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, confirming certificates of water right shall be issued to the applicant herein.

Dated at Salem, Oregon, this 20th day of December, 1977.


James E. Sexson
Director