

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF ALBERT D. JOHNSTON FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM NINE MILE)
CREEK)

ORDER
APPROVING APPLICATION

On August 6, 1962, Albert D. Johnston of Applegate, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Nine Mile Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and its Tributaries, a water right was established in the name of M. F. Bingham for the irrigation of, among other lands, 10 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19, and domestic and stock purposes and the irrigation of 13 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, Township 39 South, Range 4 West, W. M., with a date of priority of 1895. The water is conveyed to these lands by means of the Nine Mile Ditch, the point of diversion of said ditch being located 1450 feet North and 720 feet West from the S $\frac{1}{4}$ corner of Section 19, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 19, Township 39 South, Range 4 West, W. M.

The applicant herein, owner of 27 acres of the above described lands, to-wit: 10 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19 and 10 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, proposes to convey the water to these lands for irrigation, stock and domestic use by means of the James Rock Ditch, the point of diversion of said ditch being located 26 feet North and 92 feet West from the S $\frac{1}{4}$ corner of Section 19, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 19, Township 39 South, Range 4 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 courthouse in Medford, Oregon, on November 28, 1962, at 9:30 o'clock a.m. The notice was published in the Rogue River Times, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of September 28, October 5 and 12, 1962. 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. 13, 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 Nine Mile Creek, to-wit:

From a point located 1450 feet North and 720 feet West from the S $\frac{1}{2}$ corner of Section 19, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 19, Township 39 South, Range 4 West, W. M.

To a point to be located 26 feet North and 92 feet West from the S $\frac{1}{2}$ corner of Section 19, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 19, Township 39 South, Range 4 West, W. M.

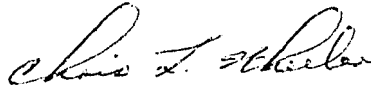
for domestic and stock purposes and the irrigation of 10 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, and 10 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19, Township 39 South, Range 4 West, W. M., with a date of priority of 1895, be and the same is hereby 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.

Dated at Salem, Oregon, this 19th day of December, 1962.

*Noted on Dec 20
Vol. 4 p. 34, col. 2
Court # 16474*



CHRIS L. WHEELER
State Engineer