

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF JOHN N. WINTON FOR THE APPRO-)
VAL OF A CHANGE IN PLACE OF USE)
OF WATER FROM LITTLE BUTTE CREEK.)
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O R D E R

APPROVING APPLICATION

On January 16, 1961, John N. Winton of Eagle Point, Oregon, filed an application in the office of the State Engineer for the approval of a change in place of use 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 Emil and Amelia Britt for the irrigation of, among other lands, 10 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, and 15 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 36 South, Range 1 West, W. M., from Little Butte Creek, with a date of priority of April 1899, and 2.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 10.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 7, with a date of priority of 1908. Subsequently, on February 14, 1942, the State Engineer entered an order approving an application of Emil and Amelia Britt for a change in place of use of water wherein the water right above described as appurtenant to 3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 36 South, Range 1 West, W. M., with a date of priority of April 1899, was transferred to 3 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, said township and range.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom to 9 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 10.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 7.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 36 South, Range 1 West, W. M., with a date of priority of April 1899, and 3 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 4 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 5, with a date of priority of 1908.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in place of use of water only.

Mr. David C. Hendrix, Watermaster of District No. 15, has filed a statement to the effect that the proposed change in place of use 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 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 that the water right hereinbefore described as appurtenant to 10 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, and 18 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 36 South, Range 1 West, W. M., with a date of priority of April 1899, and 2.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 10.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 7, with a date of priority of 1908, be severed therefrom and simultaneously and without loss of priority transferred to 9 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 10.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 7.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township 36 South, Range 1 West, W. M., with a date of priority of April 1899, and 3 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 4 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 5, with a date of priority of 1908.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use 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 certificate of water right heretofore issued to Emil and Amelia Britt and recorded at page 17167, Volume 14, State Record of Water Right Certificates, be and the same hereby is canceled, and that in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding, and upon receipt of proof satisfactory

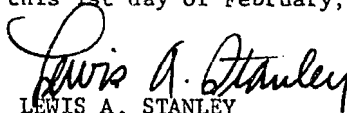
to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to John N. Winton to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 1st day of February, 1961.

Noted on Decree
Vol. 14, p 513
Cert. # 17167

Trsf. "W-82"

Cert 31232
29804


LEWIS A. STANLEY
State Engineer