

HARNEY COUNTY

IN THE MATTER OF THE APPLICATION OF)
 WILLIAM R. ROBERTSON FOR APPROVAL)
 OF A CHANGE IN POINT OF DIVERSION)
 OF WATER)

ORDER APPROVING
 TRANSFER 5436

On February 7, 1984, an application was filed in the office of the Water Resources Director by William R. Robertson for approval of a change in point of diversion of water from Middle Fork Malheur River, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 21426, Volume 15, State Record of Water Right Certificates, in the name of Nelson Wilbur, describes a right which includes the use of not to exceed 0.85 cubic foot per second from Middle Fork Malheur River, for irrigation of 6.8 acres in NE 1/4 SE 1/4 and 10.2 acres in NW 1/4 SE 1/4, Section 31, Township 20 South, Range 36 East, WM with a date of priority of November 8, 1940.

Water for the said right is diverted from a point located 1440 feet North and 780 feet West from the Southeast Corner of Section 25, being within the NE 1/4 SE 1/4 of Section 25, Township 20 South, Range 35 East, WM.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom to a point located 2040 feet North and 1070 feet West from the Southeast Corner of Section 31, being within the NE 1/4 SE 1/4 of Section 31, Township 20 South, Range 36 East, WM.

Notice of the application, pursuant to ORS 540.520(2), was published in the Times-Herald, a newspaper printed and having general circulation in Harney County, Oregon, for a period of three weeks in the issues of February 22, 29 and March 7, 1984.

William H. Beal, 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 proposed change in point of diversion is approved, without loss of priority.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion under the subject right, and shall not exceed 0.85 cubic foot per second.

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:

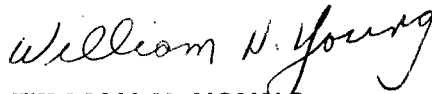
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the construction work shall be completed and water used from the proposed point of diversion on or before October 1, 1985.

It is FURTHER ORDERED that the certificate recorded at page 21426, Volume 15, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; 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, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 19th day of April, 1984.


WILLIAM H. YOUNG
Director

NOTE: The approval of a water right transfer application does not confirm the status of the right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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