

BEFORE THE STATE ENGINEER OF OREGON

Klamath County

IN THE MATTER OF THE APPLICATION)
OF LLOYD V. HOWARD FOR THE APPROVAL)
OF A CHANGE IN PLACE OF USE AND POINT)
OF DIVERSION OF WATER FROM KLAMATH)
RIVER.)

O R D E R

APPROVING APPLICATION

On March 12, 1959, Lloyd V. Howard of Keno, Oregon, filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Klamath River pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to B. E. Kerns and recorded at page 1034, Volume 2, State Record of Water Right Certificates, confirms a right under Permit No. 445 to the use of water of Klamath River for the irrigation of, among other lands, 18 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 10 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 7 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W. M., with a date of priority of August 24, 1910. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located 297 feet west from the east quarter corner of Section 36, and being within Lot 7 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), said Section 36, Township 39 South, Range 7 East, W. M.

The applicant herein, owner of 27.5 acres of the lands above described, to-wit: 15.9 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6.1 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 5.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W.M., proposes to transfer the water the water right therefrom, without loss of priority, to 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25 and 8.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 39 South, Range 7 East, W. M., and 0.3 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30 and 9.9 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 0.2 acre in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W. M., and to

change the point of diversion of the pumping plant for the irrigation of said lands to a point to be located 600 feet south and 456 feet east from the west quarter corner of Section 31, and being within Lot 2 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), said Section 31, Township 39 South, Range 8 East, W. M.

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 or a change in point of diversion of water where the distance between the present and proposed points of diversion is less than one-fourth mile and there are no intervening diversions.

Mr. William L. Wales, Watermaster of District No. 19, has filed a statement to the effect that the change in place of use and point of diversion 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 and point of diversion 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 from Klamath River be and the same is approved, and that the water right hereinbefore described as appurtenant to 15.9 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6.1 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 5.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W. M., with a date of priority of August 24, 1910, be severed therefrom and simultaneously and without loss of priority transferred to 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25 and 8.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 39 South, Range 7 East, W. M., and 0.3 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, and 9.9 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 0.2 acre in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W. M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Klamath River, to-wit:

From a point located 297 feet west from the east quarter corner of Section 36, and being within Lot 7 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 36, Township 39 South, Range 7 East, W. M.,

To a point to be located 600 feet south and 456 feet east from the west quarter corner of Section 31, and being within Lot 2 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), said Section 31, Township 39 South, Range 8 East, W. M.,

for the irrigation of 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25 and 8.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 39 South, Range 7 East, W. M., and 0.3 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30 and 9.9 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 0.2 acre in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 7 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 39 South, Range 8 East, W. M., be and the same hereby is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water from Klamath River shall be completed on or before October 1, 1959 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 of Klamath County, Oregon, 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 upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Lloyd V. Howard or his successor in interest, to the extent to which the water has been applied beneficially and the certificate of water right heretofore issued to E. E. Kerns and recorded at page 1034, Volume 2, State Record of Water Right Certificates, shall be canceled and a new certificate of water right issued covering the lands not involved in these proceedings.

Dated at Salem, Oregon this 26th day of March 1959.

*Noted on Cert. # 1034
Apr 14 1959*

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer