

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION }
OF MARY H. CLARK FOR THE APPROVAL }
OF A CHANGE IN PLACE OF USE AND }
POINT OF DIVERSION OF WATER FROM }
ANDERSON CREEK }

ORDER APPROVING
TRANSFER NO. C-173

On July 19, 1966, Mary H. Clark 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 Anderson 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 Henry P. Flury, which includes the use of 0.125 cubic foot per second of water from Anderson Creek for the irrigation of 5.0 acres and domestic and stock use in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 38 South, Range 1 West, W.M., with a date of priority of 1901. This right was confirmed by certificate recorded at page 16086, Volume 13, State Record of Water Right Certificates. This land is irrigated through the Jack Walker Ditch, the point of diversion being located 220 feet north and 875 feet west from the SE corner of Section 32, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, Township 38 South, Range 1 West, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right appurtenant to 0.1 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, without loss of priority to 0.1 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 38 South, Range 1 West, W.M., and to irrigate 4.9 acres and stock use in the

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, and 0.1 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 38 South, Range 1 West, W.M., by means of pumping plants, the points of diversion to be located: (1) 205 feet north and 230 feet west from the SE corner of Section 32, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32 and (2) 360 feet north and 60 feet east from the SE corner of Section 32, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 38 South, Range 1 West, 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 or for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

Mr. David C. Hendrix, Watermaster of District No. 13, has filed a report to the effect that the proposed 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 may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the change in place of use of water is approved and the water right hereinbefore described as appurtenant to 0.1 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 38 South, Range 1 West, W.M., with a date of priority of 1901, be severed therefrom and simultaneously and without loss of priority transferred to 0.1 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 38 South, Range 1 West, W.M.

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

From a point located 220 feet north and 875 feet west from the SE corner of Section 32, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, Township 38 South, Range 1 West, W.M.

To a point located 205 feet north and 230 feet west from the SE corner of Section 32, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, Township 38 South, Range 1 West, W.M., and

To a point located 360 feet north and 60 feet east from the SE corner of Section 32, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 38 South, Range 1 West, W.M.

for the irrigation of 4.9 acres and stock use in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, and 0.1 acre in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 38 South, Range 1 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the change in point of diversion shall be made on or before October 1, 1967.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion shall not exceed the quantity of water that is available at the old point of diversion and shall be limited to 0.125 cubic foot per second.

It is FURTHER ORDERED that the following provision shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

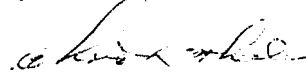
That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster 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 certificate of water right heretofore issued to Henry P. Flury and recorded at page 16086, Volume 13, State Record of Water Right Certificates, is canceled, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point

of diversion and place of use, a certificate of water right shall be issued to Mary H. Clark confirming the change in point of diversion and the extent to which the water has been applied beneficially, and covering the balance of the right not involved in this proceeding.

Dated at Salem, Oregon, this 16th day of September, 1966.


CHRIS L. WHEELER
State Engineer