

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION
OF TRU-MIX CONSTRUCTION COMPANY, BY
ROBERT B. STUART, SECRETARY-TREASURER,
FOR THE APPROVAL OF A CHANGE IN PLACE
OF USE AND POINT OF DIVERSION OF WATER
FROM BEAR CREEK

ORDER APPROVING
TRANSFER NO. 2840

On June 27, 1973, Tru-Mix Construction Company, by Robert B. Stuart, Secretary-Treasurer, 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 Bear Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to R. A. Pierce and recorded at page 1056, Volume 2, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.36 cubic foot per second of water from Bear Creek for the irrigation of, among other lands, 3.7 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, Township 36 South, Range 2 West, W.M., with a date of priority of September 6, 1911. These lands are irrigated from a point of diversion located 99 feet North and 1428 feet East from the Southwest corner of Section 21, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, Township 36 South, Range 2 West, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right therefrom, without loss of priority to 0.2 acre in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, and 5.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 36 South, Range 2 West, W.M., and to irrigate these lands from a point of diversion to be located 802 feet South and 2132 feet West from the Northeast corner of Section 28, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 36 South, Range 2 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 January 22, 1974, at 9:30 a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of November 28, December 5 and 12, 1973. 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 statement 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 3.7 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, Township 36 South, Range 2 West, W.M., with a date of priority of September 6, 1911, be severed therefrom and simultaneously and without loss of priority transferred to 0.2 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, and 5.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 36 South, Range 2 West, W.M.

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

From a point located 99 feet North and 1428 feet East from the Southwest corner of Section 21, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, Township 36 South, Range 2 West, W.M.

To a point to be located 802 feet South and 2132 feet West from the Northeast corner of Section 28, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Township 36 South, Range 2 West, W.M.

for the irrigation of 0.2 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21 and 5.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 36 South, Range 2 West, W.M., with a date of priority of September 6, 1911, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1975.

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, and shall not exceed 0.07 cubic foot per second.

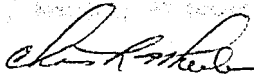
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

That the diversion works shall include 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 certificate of water right heretofore issued to R. A. Pierce and recorded at page 1056, Volume 2, State Record of Water Right Certificates, is canceled, and 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 and completion of the authorized change in point of diversion, a certificate of water right shall be issued to Tru-Mix Construction Company confirming the change in point of diversion and the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 22nd day of April, 1974.


CHRIS L. WHEELER
State Engineer