

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION )  
OF JAMES L. AND MARIE D. MITCHELL )  
FOR THE APPROVAL OF A CHANGE IN )  
POINT OF DIVERSION OF WATER FROM )  
LITTLE BUTTE CREEK )  
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ORDER APPROVING  
TRANSFER NO. M-166

On May 20, 1966, James L. and Marie D. Mitchell filed an application in the office of the State Engineer for the approval of a change in point of diversion 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, a water right was established in the name of the Fryer Ditch Association for the use of the waters of Little Butte Creek for the irrigation of, among other lands, 0.4 acre in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 3, Township 36 South, Range 1 West, W.M., tabulated in the name of Tom Cingcade, with a date of priority of January 31, 1870. This right was confirmed by certificate recorded at page 29579, Volume 21, State Record of Water Right Certificates.

The water is conveyed to these lands by means of the J. J. Fryer Ditch, the point of diversion being located 120 feet north and 1125 feet east from the southwest corner of Section 35, being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 35, Township 35 South, Range 1 West, W.M.

The applicant herein, owner of the land above described, proposes to irrigate said lands by means of a pumping plant, the point of diversion to be located 320 feet north and 1850 feet east from the southwest corner of DLC #46, being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 3, Township 36 South, Range 1 West, W.M., without loss of priority.

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 September 7, 1966, 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 July 11, 18, and 25, 1966. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Joseph L. Diddock, Assistant Watermaster of District No. 13, has filed a report to the effect that the proposed change in 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 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 change in point of diversion of water from Little Butte Creek, to-wit:

From a point located 120 feet north and 1125 feet east from the southwest corner of Section 35, being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 35, Township 35 South, Range 1 West, W.M.

To a point to be located 320 feet north and 1850 feet east from the southwest corner of DLC #46, being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 0.4 acre in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of January 31, 1870, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1967.

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 0.01 cubic foot per second.

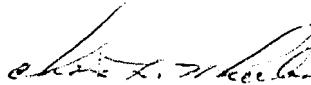
It is FURTHER ORDERED that the following provision shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 constructed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificate of water right heretofore issued to Fryer Ditch Association and recorded at page 29579, Volume 21, 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 including prior changes, and upon receipt of proof satisfactory to the State engineer of completion of the authorized change in point of diversion of water, a certificate of water right shall be issued to Fryer Ditch Association confirming the change in point of diversion of water.

Dated at Salem, Oregon, this 6th day of October, 1966.



CHRIS L. WHEELER  
State Engineer