

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

WALLOWA COUNTY

IN THE MATTER OF THE APPLICATION)
OF JOHN L. MAGDEN FOR APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM LOSTINE RIVER)

ORDER APPROVING
TRANSFER NO. 3612

On April 4, 1977, an application was filed in the office of the Water Resources Director by John L. Magden for a change in point of diversion under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 2990, Volume 4, State Record of Water Right Certificates, in the name of A. W. Courtney, describes a right which includes the use of water from South Fork Wallowa (Lostine) River for stock water and irrigation of 8.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 40.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4; and 1.0 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 1 South, Range 43 East, W.M., with a date of priority of 1883.

The certificate recorded at page 3191, Volume 4, State Record of Water Right Certificates, in the name of Mrs. S. M. Wilson, describes a right which includes the use of water from South Fork Wallowa (Lostine) River for stock water and irrigation of 22.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 1.0 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 1 South, Range 43 East, W.M., with a date of priority of 1883.

Water for the said right is diverted, through the Biggs-Mill Ditch, from a point located 200 feet North and 1300 feet East from the Southwest corner of Section 10, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, Township 1 South, Range 43 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom and, without loss of priority, to divert

the water through the Lostine Ditch from a point located 750 feet South and 2700 feet East from the Northwest corner of Section 22, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, Township 1 South, Range 43 East, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Wallowa County Chieftain, a newspaper printed and having general circulation in Wallowa County, Oregon for a period of three weeks in the issues of June 23, 30 and July 7, 1977.

Mr. Robert W. DeBow, 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 requested change in point of diversion as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion under the subject right.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install head-gates 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

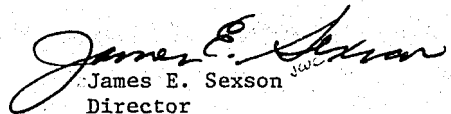
that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

Cancellation of the certificate heretofore issued to A. W. Courtney and recorded at page 2990, Volume 4, State Record of Water Right Certificates was provided for in the order of the Water Resources Director also entered this date in the matter of water right transfer application No. 3599.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Mrs. S. M. Wilson and recorded at page 3191, Volume 4, 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 new confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon, this 12th day of September, 1977.


James E. Sexson
Director