

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF JOSEPH W. LUCAS FOR THE APPRO-)
VAL OF A CHANGE IN POINT OF DIVER-)
SION OF WATER FROM LITTLE BUTTE)
CREEK)
- - - - -)

ORDER
APPROVING APPLICATION

On May 18, 1961, Joseph W. Lucas of Eagle Point, Oregon, 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 and its Tributaries, a water right was established in the name of the Fryer Ditch Association for the irrigation of, among other lands, 23.0 acres in Tract No. 16, of which 10.0 acres are in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, with a date of priority of January 31, 1870, and 13.0 acres are in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, with a date of priority of 1908. All of these lands are in Township 36 South, Range 1 West, W. M., and are tabulated under the name of A. A. Newman. These lands are irrigated from Little Butte Creek by means of a pumping plant, the point of diversion of said pumping plant being located 720 feet North and 1220 feet West from the E $\frac{1}{4}$ corner of Section 3, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, Township 36 South, Range 1 West, W. M.

The applicant herein, owner of 21.9 acres of the lands above described, to-wit: 8.9 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 13.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M., proposes to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located 35 feet South and 1975 feet West from the southeast corner of DLC No. 46, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$,

Section 3, Township 36 South, Range 1 West, W. M.

Notice of the filing of the application was given by publication setting forth a time a 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 August 30, 1961, at 9:30 o'clock 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 June 15, 22, and 29, 1961. 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 report 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 proposed change in point of diversion of water from Little Butte Creek, to-wit:

From a point located 720 feet North and 1220 feet West from the E $\frac{1}{2}$ corner of Section 3, and being within the SE $\frac{1}{2}$ NE $\frac{1}{2}$, said Section 3, Township 36 South, Range 1 West, W.M.

To a point to be located 35 feet South and 1975 feet West from the southeast corner of DLC No. 46, and being within the SE $\frac{1}{2}$ SW $\frac{1}{2}$, Section 3, Township 36 South, Range 1 West, W.M.,

for the irrigation of 8.9 acres in the SE $\frac{1}{2}$ SW $\frac{1}{2}$ and NE $\frac{1}{2}$ SW $\frac{1}{2}$, Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of January 31, 1870, and 13.0 acres in the SW $\frac{1}{2}$ SW $\frac{1}{2}$ and SE $\frac{1}{2}$ SW $\frac{1}{2}$, said Section 3, with a date of priority of 1908, be and the same hereby is approved.

It is FURTHER ORDERED that the change in point of diversion of water shall be completed on or before October 1, 1962, 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.

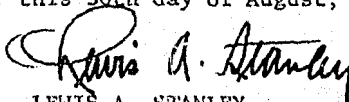
It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster, it becomes necessary to install headgates and measuring devices.

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 Jackson County, Oregon before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon, this 30th day of August, 1961.

*Noted on Decree
Vol. 14, p. 515
Cert. # 1718a*


LEWIS A. STANLEY
State Engineer