

Polk County

IN THE MATTER OF THE APPLICATION)
 OF HARRY E. BROWN FOR THE)
 APPROVAL OF A CHANGE IN POINT OF)
 DIVERSION OF WATER FROM AN)
 UNNAMED STREAM, TRIBUTARY OF)
 SALT CREEK.)
 -----)

O R D E R
APPROVING APPLICATION

On September 9, 1959, Harry E. Brown of Route 1, Box 21C, Dallas, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from an unnamed stream, tributary of Salt Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Jessie I. Bennett and recorded at page 14315, Volume 12, State Record of Water Right Certificates, confirms a right under Permit No. 14553 to the use of 0.05 cubic foot per second of the waters of an unnamed stream, tributary of Salt Creek, for stock and domestic purposes within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, and NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2 within Austin Lenard Donation Land Claim No. 37, and NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2 within Harlow Barney Donation Land Claim No. 52, and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2 within Jesse Orchard Donation Land Claim No. 39, all within Township 7 South, Range 6 West, W. M., with a date of priority of August 19, 1940, of which 0.04 cubic foot per second is for domestic use and 0.01 cubic foot per second is for stock purposes. The present point of diversion is located 690 feet south and 1720 feet east from the south quarter corner of Section 2, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, Township 7 South, Range 6 West, W. M.

The applicant herein proposes to change the point of diversion upstream to a point to be located 2805 feet south and 1555 feet east from the north quarter corner of Section 11, and being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 11, Township 7 South, Range 6 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 Dallas, Oregon, on November 24, 1959, beginning at 9:00 o'clock a.m. The notice was published in the Polk County Itemizer-Observer, a newspaper printed and having general circulation in Polk County, Oregon, for a period of three weeks in the issues of October 1, 8, and 15, 1959. The date set for hearing in said notice was not less than thirty days after the last publication of said notice.

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 proposed change in point of diversion of water from an unnamed stream, tributary of Salt Creek, to-wit:

From a point located 690 feet south and 1720 feet east from the south quarter corner of Section 2, and being within the NE $\frac{1}{4}$ NE $\frac{1}{2}$, Section 11, Township 7 South, Range 6 West, W. M.,

To a point to be located 2805 feet south and 1555 feet east from the north quarter corner of Section 11, and being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 11, Township 7 South, Range 6 West, W. M.,

for stock and domestic purposes within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, and NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2 within Austin Lenard Donation Land Claim No. 37, and NW $\frac{1}{4}$ NE $\frac{1}{2}$, Section 2 within Harlow Barney Donation Land Claim No. 52, and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2 within Jesse Orchard Donation Land Claim No. 39, all within Township 7 South, Range 6 West, W. M., with a date of priority of August 19, 1940, of which 0.04 cubic foot per second is for domestic use and 0.01 cubic foot per second is for stock purposes, be and the same 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, 1960 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.

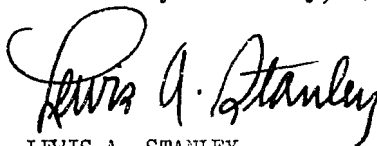
That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Polk County, Oregon 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 Jessie I. Bennett and recorded at page 14315, Volume 12, State Record of Water Right Certificates, is hereby canceled and that upon receipt of proof satisfactory to the State Engineer of completion of the proposed change in point of diversion of water, a new certificate of water right shall be issued to Harry E. Brown, or his successors in interest, confirming the change in point of diversion of water.

Dated at Salem, Oregon, this 11th day of January, 1960.

*Noted on Cert.#14315
and App.#15951*



LEWIS A. STANLEY
State Engineer