

BEFORE THE STATE ENGINEER OF OREGON

Marion County

IN THE MATTER OF THE APPLICATION)
OF EARL AND HAZEL WEATHERS FOR)
THE APPROVAL OF A CHANGE IN PLACE)
OF USE AND POINT OF DIVERSION OF)
WATER FROM HUBBARD LAKE)
- - - - -

ORDER APPROVING
TRANSFER NO. W-102

On February 4, 1964, Earl and Hazel Weathers of Salem, Oregon, 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 Hubbard Lake, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Mission Bottom Hop Company and recorded at page 28928, Volume 21, State Record of Water Right Certificates, confirms a right to the use of the waters of Hubbard Lake for the irrigation of, among other lands, 36.61 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 5 South, Range 3 West, W. M., with a date of priority of September 30, 1955. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located south 32 degrees 58 minutes east 19.3 chains from the W $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 36, Township 5 South, Range 3 West, W.M.

The applicants herein, owners of 27.05 acres of the land above described, propose to transfer the water right therefrom without loss of priority to 6.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 4.33 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 16.52 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 5 South, Range 3 West, W. M., and to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located south 47 degrees east 18 chains from the W $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 36, Township 5 South, Range 3 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in place of use of water only

or a change in point of diversion of water where the distance between the present and proposed points of diversion is less than one-fourth mile and there are no intervening diversions.

Mr. Myron V. Bish, Watermaster of District No. 1, 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 point of diversion and place of use 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 place of use of water is approved and the water right hereinbefore described as appurtenant to 27.05 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 5 South, Range 3 West, W.M., with a date of priority of September 30, 1955, be severed therefrom and simultaneously and without loss of priority transferred to 6.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 4.33 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 16.52 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 5 South, Range 3 West, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Hubbard Lake, to-wit:

From a point located south 32 degrees 58 minutes east 19.3 chains from the W $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 36, Township 5 South, Range 3 West, W.M.

To a point to be located south 47 degrees east 18 chains from the W $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 36, Township 5 South, Range 3 West, W.M.

for the irrigation of 6.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 4.33 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 16.52 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 5 South, Range 3 West, W.M., with a date of priority of September 30, 1955, is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1965, 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 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 Mission Bottom Hop Company and recorded at page 28928, Volume 21, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to Earl and Hazel Weathers to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 9th day of April, 1964.

Noted on records

*App.# 30326
Cert.# 28928*


CHRIS L. WHEELER
State Engineer *sim c.*