

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Douglas County

IN THE MATTER OF THE APPLICATION)
OF CREIGHTON BAXTER, JR., FOR THE)
APPROVAL OF CHANGES IN POINTS OF)
DIVERSION AND PLACE OF USE OF)
WATER FROM CALAPOOYA CREEK)

ORDER APPROVING
TRANSFER NO. 3116

On August 19, 1974, Creighton Baxter, Jr., filed an application in the office of the Water Resources Director for the approval of changes in points of diversion and place of use of water from Calapooya Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to L. T. Howard, recorded at Page 24527, Volume 17, State Record of Water Right Certificates, confirms a right to the use of 0.74 cubic foot per second of water from Calapooya Creek for the irrigation of 19.6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 34.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 24 South, Range 5 West, W.M., with a priority date of September 22, 1950. These lands are irrigated from a point of diversion located 520 feet South and 740 feet West from the East quarter-corner of Section 34, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M. The applicant herein, owner of the acreage above described in Section 34, proposes to change the place of use to 2.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, and 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 24 South, Range 5 West, W.M., and to irrigate these lands from a point of diversion to be located 4430 feet North and 4080 feet East from the Southwest corner of Section 35, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 24 South, Range 5 West, W.M.

Certificate of water right issued to Mr. and Mrs. Creighton Baxter, recorded at Page 39218, Volume 31, State Record of Water Right Certificates, confirms a right to the use of 1.31 cubic feet per second of water from Calapooya Creek for the irrigation of, among other lands, 2.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, and 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 24 South, Range 5 West, W.M., with a priority date of August 12, 1953. These lands are irrigated from a point of diversion located 4430 feet North and 4080 feet East from the Southwest corner of Section 35, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 24 South, Range 5 West, W.M. The applicant herein, owner of the acreage above described in Sections 35 and 36, proposes to change the place of use to 19.6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 34.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M., and to irrigate these lands from a point of diversion to be located 520 feet South and 740 feet West from the East quarter-corner of Section 34, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 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 place of use and points of diversion of water, if any there were, namely: at the county courthouse in Roseburg, Oregon, on June 29, 1976, at 9:30 a.m. The notice was published in the Roseburg News-Review, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of May 6, 13 and 20, 1976. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

The Federal Land Bank Association of Roseburg, mortgagee of the lands from which Creighton Barter, Jr., proposes to transfer the water rights, has submitted written approval of the change in place of use.

Mr. M. John Youngquist, Watermaster of District No. 15, has filed a report to the effect that the proposed change in points of diversion and place of use of water may be made without injury to existing rights.

No objection having been filed and it appearing that the proposed changes in points of diversion and place of use may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the change in place of use of water is approved and the water right hereinbefore described as appurtenant to 19.6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, and 34.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M., with a date of priority of September 22, 1950, be severed therefrom and simultaneously and without loss of priority transferred to 2.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, and 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 24 South, Range 5 West, W.M., and the water right hereinbefore described as appurtenant to 2.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, and 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 24 South, Range 5 West, W.M., with a date of priority of August 12, 1953, be severed therefrom and simultaneously and without loss of priority transferred to 19.6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, and 34.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 24 South, Range 5 West, W.M.

It is FURTHER ORDERED that the change in point of diversion of water from Calapooya Creek, to wit:

From a point located 520 feet South and 740 feet West from the East quarter-corner of Section 34, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M.

To a point to be located 4430 feet North and 4080 feet East from the Southwest corner of Section 35, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 24 South, Range 5 West, W.M.

for the irrigation of 2.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, and 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 24 South, Range 5 West, W.M., with a date of priority of September 22, 1950, is approved.

It is FURTHER ORDERED that the change in point of diversion of water from Calapooya Creek, to wit:

From a point located 4430 feet North and 4080 feet East from the Southwest corner of Section 35, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 24 South, Range 5 West, W.M.

To a point to be located 520 feet South and 740 feet West from the East quarter-corner of Section 34, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M.

for the irrigation of 19.6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 34.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 24 South, Range 5 West, W.M., with a date of priority of August 12, 1953, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in place of use and points of diversion of water made on or before October 1, 1977.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 0.74 cubic foot per second under the priority date of September 22, 1950, and 0.74 cubic foot per second under the priority date of August 12, 1953.

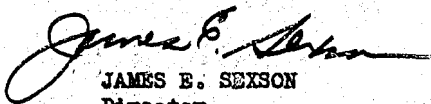
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

That the diversion works shall include 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 certificates of water right heretofore issued to L. T. Howard, recorded at Page 24527, Volume 17, and issued to Mr. and Mrs. Creighton Baxter, recorded at Page 39218, Volume 31, State Record of Water Right Certificates, are canceled, and in lieu of the certificate recorded at Page 39218, a new certificate be issued covering the balance of the right not involved in this proceedings, and upon receipt of proof satisfactory to the Water Resources Director of completion of the authorized change in points of diversion and place of use, two certificates of water right shall be issued to Creighton Baxter, Jr., confirming the change in points of diversion and the extent to which water has been applied beneficially.

Dated at Salem, Oregon, this 14th day of July, 1976.


JAMES E. SEXSON
Director