

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION OF )  
CUNNINGHAM SHEEP COMPANY FOR THE )  
APPROVAL OF A CHANGE IN POINT OF )  
DIVERSION OF WATER FROM UMATILLA )  
RIVER. )  
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ORDER  
APPROVING APPLICATION

On November 2, 1951, the Cunningham Sheep Company of Pendleton, Oregon, filed an application for the approval of a change in point of diversion of water from the Umatilla River, pursuant to the provisions of Section 116-606, O. C. L. A.

By decree of the Circuit Court of Umatilla County, Oregon, entered September 9, 1916, in the Matter of the Determination of the Relative Rights to the Use of the Waters of Umatilla River and its Tributaries, a vested water right was adjudicated in the name of William Slusher for the irrigation of 2 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 35 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 14 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 21 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 3 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , and 7 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 5 and 2 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 4 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 6, Township 2 North, Range 30 East, W. M., and an inchoate water right for the irrigation of 112 acres in Sections 5 and 6, Township 2 North, Range 30 East, W. M., all with a date of priority of 1902. These lands are irrigated through the Slusher Canal, the point of diversion of said canal being located 2,240 feet east and 850 feet south from the northwest corner, Section 9, and being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , said Section 9, Township 2 North, Range 30 East, W. M. A proceeding is now pending before the State Engineer to determine the extent to which water users have perfected their inchoate or conditional water rights as allowed by decree of the Circuit Court in the above entitled matter.

The applicant herein, owner of the lands above described, proposes to change the present point of diversion downstream to a point to be located south 74 degrees 12 minutes east, 4,150 feet from the west quarter corner of Section 5, and being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 5, Township 2 North, Range 30 East, W. M.

Notice by publication as provided by Section 116-606, O. C. L. A., was given in the East Oregonian, a newspaper printed and having general circulation in Umatilla County, for a period of three weeks, being the issues of December 21 and 28, 1951 and January 3, 1952. The date fixed for hearing in said notice was not less than 30 days after the last publication of the notice.

Mr. Marvin B. Bennett, Watermaster, District No. 5, has filed a report to the effect that the proposed change in point of diversion of water from Umatilla River may be made without injury to existing rights.

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 Umatilla River, to-wit:

From a point located 2,240 feet east and 850 feet south from the northwest corner of Section 9, and being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , said Section 9, Township 2 North, Range 30 East, W. M.,

To a point to be located south 74 degrees 12 minutes east, 4,150 feet from the west quarter corner, Section 5, and being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$ , said Section 5, Township 2 North, Range 30 East, W. M.,

for the irrigation of 2 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 35 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 14 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 21 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 3 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  and 7 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 5 and 2 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 4 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 6, Township 2 North, Range 30 East, W. M., and that part of the 112

acre inchoate water right in Sections 5 and 6, Township 2 North, Range 30 East, W. M., with a date of priority of 1902, as may be found to have been reclaimed and irrigated in the proceedings now pending before the State Engineer for the determination of the extent to which said inchoate water rights have been completed, be and the same hereby is approved, subject to the following conditions:


That the pumping plant be constructed at a sufficient distance from the stream to permit the construction of a headgate to regulate the flow of water from the stream to the pump sump, and to install a weir for measuring the water to which the applicant is entitled.

That the location of the pumping plant and channel to convey the water to the pump and the plans of the headgate and weir or measuring device be approved, before the beginning of construction work, by the watermaster of Umatilla County, Oregon, and that the headgate, weir or measuring device be constructed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be done and the change in point of diversion of water made on or before October 1, 1952 or such extension of time as may be granted by the State Engineer for good cause shown, and that upon the completion of such work, satisfactory proof shall be filed with the State Engineer.

Dated at Salem, Oregon this 22nd day of March 1952.

Noted on Decree  
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CHAS. E. STRICKLIN  
State Engineer