

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

UMATILLA COUNTY

IN THE MATTER OF APPLICATION G-9441 )  
IN THE NAMES OF CLIFFORD AND VIRGINIA )  
TROUT FOR A PERMIT TO APPROPRIATE )  
GROUND WATER )  
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STATEMENT, FINDINGS,  
CONCLUSIONS  
AND ORDER

STATEMENT

On October 18, 1979, an application in the names of Clifford and Virginia Trout for a permit to appropriate 0.125 cubic foot per second of water from an existing well located 240 feet south and 1,950 feet west from the Center of Section 28, Township 6 North, Range 35 East, WM, being within the NW 1/4 SW 1/4 of said Section 28, for irrigation of a certain 10.0 acres of land within the said NW 1/4 SW 1/4 of Section 28, was filed in the office of the Water Resources Director and designated Application G-9441.

On May 19, 1980, a protest by Harold G. Bishop and Walter White against approval of the aforesaid application was filed through their attorney Donald R. Duncan, Attorney at Law, Athena, Oregon. In the protest it is alleged that the proposed appropriation of ground water would conflict with the existing water rights of the protestants.

Pursuant to the Director's notice of hearing dated September 9, 1980, the matter of Application G-9441 and the protest against approval of the said application was brought to hearing at Pendleton, Oregon on October 21, 1980 before James W. Carver, Jr., an employee of the Water Resources Department, authorized to preside in behalf of the Water Resources Director.

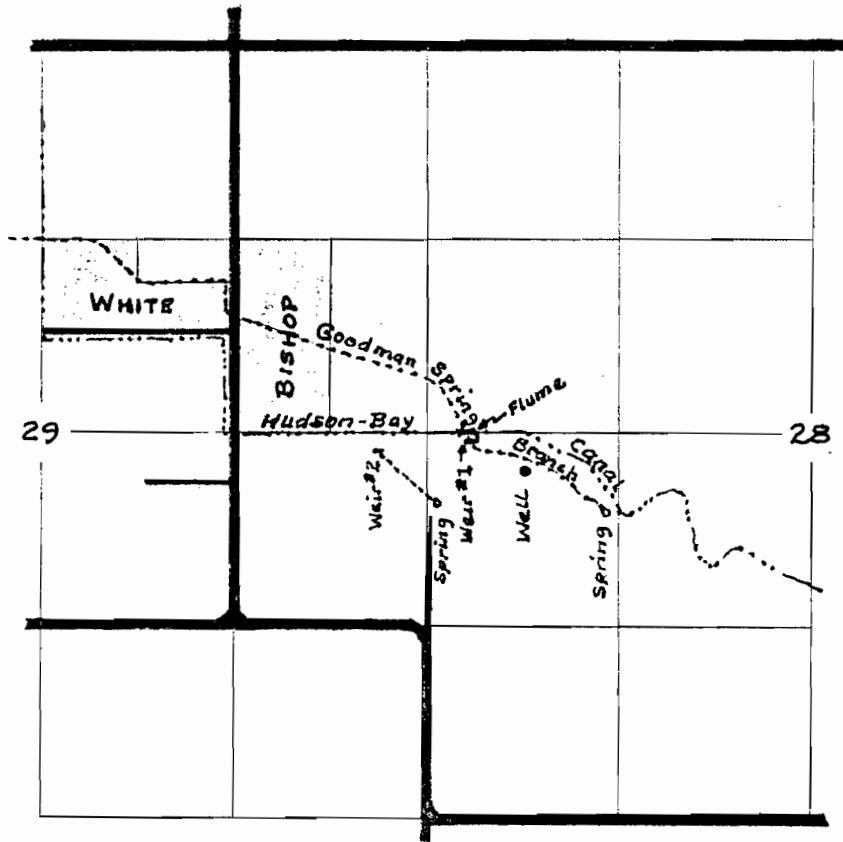
The protestants were represented in the hearing by Donald R. Duncan, Attorney at Law, Athena, Oregon. The applicants were represented by Robert T. Mautz of the firm Mautz and Hallman, Attorneys at Law, Pendleton, Oregon.

The relative locations of the applicants' well, Hudson Bay Canal, Goodman Spring Branch, certain springs, the Bishop property, the White property, and certain other features are shown on Figure 1, herein.

The area is underlaid by a gravel "fan" which extends westerly from the present channel of the Walla Walla River. The gravels are covered over by a layer of silty clay soils which vary in thickness from a few feet to depths in excess of thirty feet, and which tend to confine water moving within the gravels.

Upslope from the area shown in Figure 1 are several hundreds of acres of orchards which are served with irrigation water by a system of surface canals and ditches from the Walla Walla River.

T 6 N, R 35 E, W.M.



1 IN = 1320 FT

Figure 1

During the irrigation season, a portion of the water applied to the orchard lands for the purpose of irrigation seeps down to the gravel "fan" and moves downslope, in the gravels, toward the area in question. A number of spring orifices in the area, including Goodman Springs, allow water moving in the gravels to escape to the surface and flow in surface channels, such as Goodman Spring Branch.

### FINDINGS

The yield of Goodman Springs and other similar springs in the area varies on a generally annual cycle. The flow increases after the beginning of irrigation of the upslope orchard lands, holds up through the irrigation season for the orchards, and declines after irrigation of the orchards has ended for that year.

Testimony was in agreement that the general ground water levels in the area have declined over a period of years and the yield of the several springs has been reduced due to a change in the method of irrigation of the orchard lands. Many of the orchardists have changed their method of irrigation from surface flooding of their orchard lands to application of the water through sprinkler irrigation systems. The improved control of the quantity of water applied to the orchard lands has resulted in less water seeping down to the gravel fan.

Protestant Harold G. Bishop obtains water for irrigation of his land by diversion from Goodman Spring Branch under the water right described by the certificate issued to W. S. Edwards and recorded at page 3827, Volume 5, State Record of Water Right Certificates. The point of diversion is located 580 feet North and 670 feet West from the East Quarter Corner of Section 28, pursuant to an order of the State Engineer entered on March 8, 1967 in approval of Transfer Application B-170.

Protestant Walter White has obtained water for irrigation of his land by diversion from a spring located near the west line of the NW 1/4 SW 1/4 of Section 28, as shown on Figure 1. The water is conveyed from the spring, through a 6-inch diameter PVC pipeline, to a concrete box located just south of the Hudson Bay Canal within the NE 1/4 SE 1/4 of Section 29. A search of the water right records reveals no right of record for appropriation from this source for the White property.

The well described in the pending Application G-9441 as the proposed source of ground water is a sump type well which was constructed to a total depth of approximately eighteen feet during the initial construction in 1949. In the fall of 1977, the well was reconstructed without increased depth and a 60- or 70-foot long horizontal collector lateral was installed at the approximate depth of eight feet below land surface.

At the beginning of the irrigation season of 1980, a weir was placed in the channel of Goodman Spring Branch immediately above the point where the said channel passes under a flume carrying Hudson Bay Canal, to monitor variations in the flow passing down to Mr. Bishop. The said weir is identified as "Weir #1" on Figure 1.

Also, at the beginning of the irrigation season of 1980, a weir was placed in the inlet to the aforesaid concrete box in the NE 1/4 SE 1/4 of Section 29 to monitor variation in the flow from the spring being used by protestant Walter White. The said weir is identified as "Weir #2" on Figure 1.

Beginning on May 15, both weirs were read and the measurements were recorded together with notations regarding use of water from the applicant's well.

The height of water flowing over each weir was read and recorded from time to time up to August 5. Sometime between August 5 and 7, Weir 2 was removed by Mr. White's son due to misunderstood instructions from Mr. White. The reading and recording of water height at Weir 1 continued until September 8, 1980.

The recorded measurements at Weir 1 and Weir 2, together with notations made at the time in regard to operation of the applicants' well, are presented in graph form on Figure 2, herein.

The testimony and evidenced adduced at the hearing does not show a measureable interference at Weir 1 from pumping of water from the applicants' well at the rate proposed by their pending Application G-9441.

The evidence is not conclusive in regard to possible interference with the yield of the spring measured by Weir 2. However, there is no water right of record for the use of water made from the subject spring by Mr. White. The water right cited in the protest, for irrigation of Mr. White's land is a portion of the right described by the certificate issued to W. S. Edwards, Mrs. Emma Kralman and L. E. Nolan and recorded at page 5568, Volume 6, State Record of Water Right Certificates, to confirm the right established by performance under the provisions of Permit 5309, issued in approval of Application 8214.

The remarks section of the said Permit 5309 states: "There are several small springs which raise out of the bottom of the Hudson Bay Canal when it is dry in the summer months and this filing is on this water. Formerly this water drained into the swamp at the head of Goodman Spring Branch but since the ditch has been constructed the water comes out into the ditch. This water is run from the Hudson Bay Ditch into the head of Goodman Spring Branch and the water used as a supplemental right to the lands already irrigated from Goodman Spring Branch."

The map received in support of said Application 8214 states, with reference to an arrow pointing to the flume crossing of Hudson Bay Canal over the channel of Goodman Spring Branch, "Flume over spring branch. All water to be carried in Hudson Bay Canal and to be dumped into Spring Branch here." The indicated location of the several small springs which raise out of the bottom of the Hudson Bay Canal is upslope from the applicants' well, at distances greater than one-eighth of a mile, and would not be expected to be affected by pumping of the applicant's well.

CONCLUSIONS OF LAW

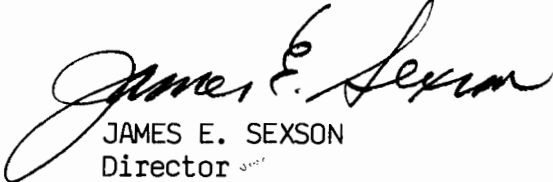
The protestants have the initial burden to show how the appropriation of water proposed by the pending application would result in conflict with their existing water rights. That burden was not met.

The testimony and evidence adduced does not show a measureable conflict or interference with the water rights of the protestants as a result of pumping the applicants' well at the rate proposed by the pending application. Therefore, the said pending Ground Water Application G-9441 in the names of Clifford and Virginia Trout may be considered for approval, subject to existing water rights, pursuant to ORS 537.620 to 537.625.

ORDER

It is ORDERED that Water Right Application G-9441 be approved by issuance of a permit to appropriate not to exceed 0.125 cubic foot per second of water from the existing well described by the said application, for irrigation of a certain 10.0 acres in NW 1/4 SW 1/4 of Section 28, Township 6 North, Range 35 East, WM.

Dated at Salem, Oregon this 19th day of February, 1981.

  
JAMES E. SEXSON  
Director

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482.

Depth of water over weir

0.1  
0.2  
0.3  
0.4  
0.5  
0.6

TROUT PUMPING 14 heads

NOT PUMPING

"

"

"

"

"

"

PUMPING 14 heads

"

PUMPING 32 heads

"

PUMPING 14 heads

PUMPING 32 heads

PUMPING 32 heads

WEIR #2

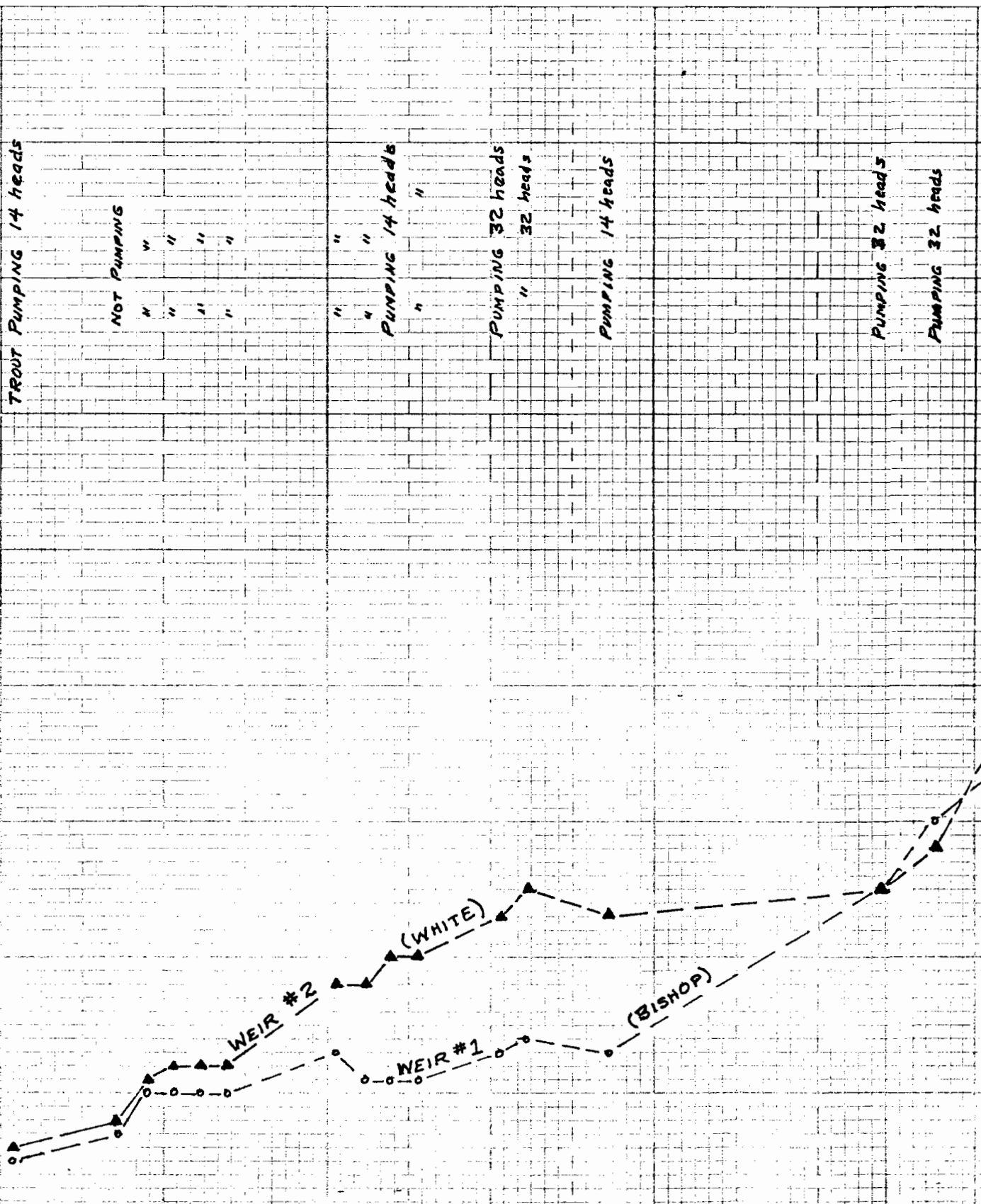
WEIR #1

(WHITE)

(BISHOP)

1" of rain

1" rain



PUMPING 32 heads

PUMPING 32 heads

PUMPING 32 heads

(Hudson Bay Canal very low)

(No flow in Hudson Bay Canal)

(Some seepage in Hudson Bay Canal)

20' 25' 30' 5' 10' 15' 20' 25' 30' 31  
JULY



