

BEFORE THE STATE ENGINEER OF OREGON

Baker County

IN THE MATTER OF THE APPLICATION)
OF CLAUS P. SASS FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
AND PLACE OF USE OF WATER FROM)
EAGLE CREEK.)

O R D E R

APPROVING APPLICATION

On November 20, 1957, Claus P. Sass of Richland, 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 Eagle Creek pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Baker County, Oregon, entered March 18, 1918, in the matter of the determination of the relative rights of the various claimants to the waters of Powder River and its tributaries, a water right was established in the name of Peter Sass for the irrigation of, among other lands, 40 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 37 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25 and 37 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M., from Eagle Creek with a date of priority of 1880. These lands are irrigated through the Kay Young ditch, the point of diversion of said ditch being located 300 feet south and 100 feet west from the northeast corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 9 South, Range 45 East, W. M.

The applicant herein, with the consent of John H. Sass, Hans H. Sass, Herman B. Sass, Catharina D. Sass nee McGillwray, Margaret E. Sass and Catharina Sass, heirs and widow of Peter Sass, proposes to transfer the water rights from 92 acres of the lands above described, to-wit: 30 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 37 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25 and 5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 20 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M., without loss of priority to 36 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 38 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26 and 18 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M., and to change the point of diversion for those

lands lying south and west of Eagle Creek, to-wit: 8.8 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26 and 6.4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M., to a point to be located 15 feet north and 15 feet west from the northeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, 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 point of diversion of water, if any there were, namely: at the county courthouse in Baker, Oregon, on March 12, 1958, beginning at 9:30 o'clock a.m. The notice was published in the Baker Democrat-Herald, a newspaper printed and having general circulation in Baker County, Oregon, for a period of three weeks in the issues of January 14, 21 and 28, 1958. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

The water rights now appurtenant to 34 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M., with a date of priority of 1885 and 30 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 26 and 18 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M., with a date of priority of 1900, being a part of the lands to which the water is being transferred herein, have been authorized to be canceled by the owners of the lands to which these rights are appurtenant. These water rights are evidenced by certificate of water right issued in the name of Paul Knoblauch and recorded at page 4289; certificate of water right issued in the name of Samuel Gover Estate, Mattie Gover, Carson Gover, Vina Gover, and Woody Gover and recorded at page 4658; and certificate of water right issued in the name of Paul Knoblauch and recorded at page 4693; all in Volume 5, State Record of Water Right Certificates.

Mr. J. W. Maxwell, Watermaster of District No. 2, has filed a statement to the effect that the proposed change in place of use and point of diversion of water from Eagle Creek may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in place of use and 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 place of use of water from Eagle Creek be and the same is approved and that the water rights hereinbefore described as appurtenant to 30 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 37 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25 and 5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 20 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M., with a date of priority of 1880 be severed therefrom and simultaneously and without loss of priority transferred to 36 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 38 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26 and 18 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M.

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

From a point located 300 feet south and 100 feet west from the northeast corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, Township 9 South, Range 45 East, W. M.,

To a point to be located 15 feet north and 15 feet west from the northeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M.,

for the irrigation of 8.8 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26 and 6.4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M., with a date of priority of 1880, which lands lie south and west of Eagle Creek, be and the same hereby 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, 1959 or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that certificates of water right issued to Paul Knoblauch and recorded at page 4289; Samuel Gover Estate, Mattie Gover, Carson Gover, Vina Gover and Woody Gover and recorded at page 4658; and Paul Knoblauch and recorded at page 4693; all in Volume 5, State Record of Water Right Certificates, covering among other lands, 34 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 9 South, Range 45 East, W. M., with a date of priority of 1885 and 30 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 26 and 18 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 9 South, Range 45 East, W. M., with a date of priority of 1900, which lands are a part of those to which the water is being transferred herein, be canceled and that new certificates of water right be issued to the respective parties describing the remaining lands not involved in this proceeding.

It is FURTHER ORDERED that certificate of water right heretofore issued to Peter Sass and recorded at page 4719, Volume 5, State Record of Water Right Certificates, which certificate describes the lands from which the water right is being transferred herein, be and the same is hereby canceled and that a new certificate of water right shall be issued to Peter Sass in lieu thereof describing the remaining lands not involved in the change in place of use of water, to-wit:

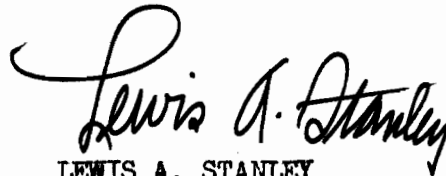
10 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 25
32 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$
20 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 26
Township 9 South, Range 45 East, W. M.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of complete application of the water upon the lands to which it is transferred herein, certificate of water right shall be issued to Claus P. Sass, John H. Sass, Hans H. Sass, Herman B. Sass, Catharina D. Sass

nee McGillwray, Margaret E. Sass and Catharina Sass, or their successors
in interest, to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon this 1st day of April 1958.

Notes on Decree
Vol. 6, p. 492
Certs. # 4289, 4658, 4693, 4719
Superseded by Certs # 24483,
24484, 24485, 24486 which
confirms this order



LEWIS A. STANLEY
State Engineer

Trsf. "S-113"