

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION )  
OF C. F. AND LYDIA H. CONDRA FOR )  
THE APPROVAL OF A CHANGE IN POINT )  
OF DIVERSION OF WATER FROM BIRCH )  
CREEK )  
-----

ORDER APPROVING  
TRANSFER NO. 3495

On November 26, 1976, C. F. and Lydia H. Condra filed an application in the office of the Water Resources Director for the approval of an additional point of diversion of water from Birch Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at Page 2530, Volume 3, State Record of Water Right Certificates, in the name of H. H. Gilbert, describes an existing right of record which includes the use of not to exceed 0.76 cubic foot per second from Birch Creek for irrigation of 16.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 34.0 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 11.0 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, Township 1 South, Range 32 East, W.M., with dates of priority of 1870 for 12.0 acres and 1905 for 49.0 acres.

Water for the said right is diverted through the Gilbert and Hemphill ditches from points located (1) 1400 feet North and 420 feet East, (2) 650 feet North and 450 feet West from the Sout. quarter-corner of Section 4, being within the (1) NW $\frac{1}{4}$  SE $\frac{1}{4}$ , (2) SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 4, Township 1 South, Range 32 East, W.M.

The applicants herein, owners of the lands above described, propose to change, without loss of priority, the point of diversion and to establish a new, additional point of diversion located 50 feet South and 1350 feet East from the center corner of Section 4, being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, Township 1 South, Range 32 East, W.M.

Notice of the application, pursuant to ORS 540.510 was published in the East Oregonian, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of December 16, 23 and 30, 1976.

Mr. William I. Porfily, Watermaster of District No. 5, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the requested additional point of diversion from Birch Creek described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 0.76 cubic foot per second.

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

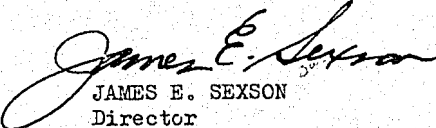
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1978.

It is FURTHER ORDERED that upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, the certificate of water right heretofore issued to H. H. Gilbert and recorded at Page 2530, Volume 3, State Record of Water Right Certificates, be canceled, and in lieu thereof a new confirming certificate of water right shall be issued to C. F. and Lydia H. Condra.

Dated at Salem, Oregon, this 18th day of February, 1977.

  
JAMES E. SEXSON  
Director