

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION)
OF HARRY O. SMITH FOR THE APPRO-)
VAL OF A CHANGE IN POINT OF DIVER-)
SION OF WATER FROM TYCER CREEK)

O R D E R

APPROVING APPLICATION

On August 24, 1961, Harry O. Smith of Cave Junction, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Tycer Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Josephine County, Oregon, entered September 26, 1939, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Illinois River and its Tributaries, a water right was established in the name of the Estate of Ora Smith for the irrigation of 6.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 39 South, Range 8 West, W. M., with a date of priority of 1897. These lands are irrigated through the Smith ditch from Tycer Creek, the point of diversion of said ditch being located 1350 feet South and 300 feet West from the northeast corner of Section 25, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 39 South, Range 8 West, W. M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion for the Smith ditch to a point to be located 467 feet North and 43 feet East from the center corner of Section 25, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 39 South, Range 8 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 point of diversion of water, if any there were, namely: at the County Courthouse at Grants Pass, Oregon, on October 24, 1961, at 9:30 o'clock a.m. The notice was published in the Grants Pass Bulletin, a

newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of August 31, September 7 and 14, 1961. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Robert B. Steimer, Watermaster of District No. 14, has filed a report to the effect that the proposed change in point of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing that the 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 Tycer Creek, to-wit:

From a point located 1350 feet South and 300 feet West from the northeast corner of Section 25, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 39 South, Range 8 West, W. M.

To a point to be located 467 feet North and 43 feet East from the center corner of Section 25, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 39 South, Range 8 West, W. M.

for the irrigation of 6.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 39 South, Range 8 West, W. M., with a date of priority of 1897, be and the same hereby is approved.

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, 1963, or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion.

Dated at Salem, Oregon, this 9th day of November, 1961.

*Noted on Decree
Vol. 13, p. 120
Cert. # 13721*

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer

Trsf. "S-141"