

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION)
OF JOHN M. BIENCOURT FOR THE APPRO-)
VAL OF A CHANGE IN POINT OF DIVER-)
SION OF WATER FROM GRAVE CREEK.)

ORDER

APPROVING APPLICATION

On April 5, 1956 John M. Biencourt of Sunny Valley, Oregon, filed an application for the approval of a change in point of diversion of water from Grave Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The decree of the circuit court for Jackson County, Oregon, entered April 26, 1919, in the matter of the determination of the relative rights to the waters of Rogue River and its tributaries, adjudicated a water right in the name of T. J. Mackin, J. R. Mackin and Margaret McCaslin for the irrigation of 17 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 12 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, and 5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, Township 34 South, Range 6 West, W. M., from Grave Creek with a date of priority of June 1873. Certificate of Water Right issued to Charles G. Guth, Jr., and C. W. Johnston and recorded at page 15608, Volume 13, State Record of Water Right Certificates, confirms a right under Permit 15550 for the irrigation of 6 acres in Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 3 and 12 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, Township 34 South, Range 6 West, W. M., from Grave Creek with a date of priority of July 21, 1943. These lands are irrigated through the Mackin ditch, the point of diversion of said ditch being located 650 feet north and 1850 feet east from the southwest corner of Section 3, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 3, Township 34 South, Range 6 West, W. M.

The applicant herein, owner of the land above described, proposes to irrigate said land by means of a portable pump along Grave Creek on his land between a point 5 feet south and 650 feet west and a point 5 feet south

and 1970 feet west, both from the southeast corner of Section 4, and being within the $S\frac{1}{2} SE\frac{1}{4}$, said Section 4, Township 34 South, Range 6 West, W. M.

Notice by publication as provided by ORS 540.520 was given in the Bulletin, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks and being the issues of June 26 and July 2 and 9, 1956. The time for hearing as set forth in the notice, namely: August 21, 1956, was not less than thirty days after the last publication of the notice.

Mr. Tom R. Pearce, Watermaster of District No. 16, has filed a statement to the effect that the proposed change in point of diversion of water from Grave Creek may be made without injury to existing rights.

No objections having been filed and it appearing the proposed change in point of diversion of water from Grave Creek 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 Grave Creek, to-wit:

From a point located 650 feet north and 1850 feet east from the southwest corner of Section 3, and being within the $SE\frac{1}{4} SW\frac{1}{4}$, said Section 3, Township 34 South, Range 6 West, W. M.,

To a portable pump to be located on applicant's lands along Grave Creek between a point 5 feet south and 650 feet west from the southeast corner of Section 4, and a point 5 feet south and 1970 feet west from the said southeast corner of Section 4, both within the $S\frac{1}{2} SE\frac{1}{4}$, Section 4, Township 34 South, Range 6 West, W. M.,

for the irrigation of 6 acres in Lot 4 ($SW\frac{1}{4} SE\frac{1}{4}$), Section 3, and 12 acres in the $SE\frac{1}{4} SE\frac{1}{4}$, Section 4, with a date of priority of July 21, 1943, and 17 acres in the $SW\frac{1}{4} SE\frac{1}{4}$ and 12 acres in the $SE\frac{1}{4} SE\frac{1}{4}$, Section 4, and 5 acres in the $NW\frac{1}{4} NE\frac{1}{4}$, Section 9, Township 34 South, Range 6 West, W. M., with a date of priority of June 1873, 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, 1957 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.

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

That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Josephine County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon this 11th day of September 1956.


LEWIS A. STANLEY
State Engineer

Noted in Devere

Vol. 4, p. 37-41-2

Page 16533

App. No. 15628

Inf. File # 8-97