

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION )  
OF JAMES S. MILLER FOR THE APPROVAL )  
OF ESTABLISHING AN ADDITIONAL POINT )  
OF DIVERSION OF WATER FROM MCKAY )  
CREEK )  
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ORDER APPROVING  
TRANSFER NO. M-198

On October 29, 1968, James S. Miller filed an application in the office of the State Engineer for the approval of establishing an additional point of diversion of water from McKay Creek pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Umatilla County, Oregon, entered September 9, 1916, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Umatilla River and its Tributaries, a water right was established in the name of Levi Eldridge for the use of the waters of McKay Creek for the irrigation of, among other lands, 20.0 acres in NE¼ SE¼, 5.0 acres in NW¼ SE¼ and 30.0 acres in SE¼ SE¼, Section 35, Township 1 North, Range 32 East, W.M., with a date of priority of 1891. This right is evidenced by certificate recorded at page 2517, Volume 3, State Record of Water Right Certificates. These lands are irrigated by means of the Isabelle Ditch, the point of diversion being located S 23° 00' W 427 feet from the SE corner of Section 35 being within the NW¼ NW¼ of Section 1, Township 1 South, Range 32 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion and establish an additional point of diversion to be located N 42° 00' W 1500 feet from the SE corner of Section 35 being within the SE¼ SE¼ of Section 35, Township 1 North, Range 32 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 additional point of diversion of water, if any there were, namely: at the county courthouse in Pendleton, Oregon, on May 7, 1969, at 9:30 a.m. The notice was published in The Pendleton Record, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of March 13, 20, and 27, 1969. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Jerry F. Haines, Watermaster of District No. 5, has filed a report to the effect that the proposed additional point of diversion may be established without injury to existing rights.

No objections having been filed and it appearing that the proposed additional point of diversion may be established without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the applicant may maintain the following point of diversion from McKay Creek:

S 23° 00' W 427 feet from the SE corner of  
Section 35 being within the NW¼ NW¼ of Section  
1, Township 1 South, Range 32 East, W.M.

and may establish and maintain the additional point of diversion to be located as follows:

N 42° 00' W 1500 feet from the SE corner of  
Section 35 being within the SE¼ SE¼ of Section  
35, Township 1 North, Range 32 East, W.M.

for the irrigation of 20.0 acres in NE¼ SE¼, 5.0 acres in NW¼ SE¼ and 30.0 acres in SE¼ SE¼, Section 35, Township 1 North, Range 32 East, W.M., with a date of priority of 1891, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the establishment of an additional point of diversion of water made on or before October 1, 1970.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion together with the quantity diverted at the old point of diversion for the irrigation of these lands shall not exceed 0.69 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 headgates 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 certificate of water right heretofore issued to Levi Eldridge and recorded at page 2517, Volume 3, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized point of diversion, a certificate of water right shall be issued to James S. Miller confirming the additional point of diversion and including the lands not involved in this proceeding.

Dated at Salem, Oregon, this 14th day of July, 1969.

  
CHRIS L. WHEELER  
State Engineer