

BEFORE THE STATE ENGINEER OF OREGON

IN THE MATTER OF APPLICATION)
OF L. C. AND M. H. SMITTON)
FOR THE APPROVAL OF A CHANGE)
IN POINT OF DIVERSION OF WATER)
FROM MCKAY CREEK.)

O R D E R

APPROVING APPLICATION

On March 21, 1955 L. C. and M. H. Smitton of Pendleton, Oregon, filed an application for the approval of a change in point of diversion of water from McKay Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Charles Tullis, Jr., and recorded at page 5100, Volume 5, State Record of Water Right Certificates, confirms a right to the use of the water of McKay Creek under Permit No. 5996, for the irrigation of 24 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 2 North, Range 32 East, W. M., with a date of priority of August 16, 1923. These lands are irrigated through the Marion Jack Irrigation Co. ditch, the point of the diversion of said ditch being at McKay Dam in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 2 North, Range 32 East, W. M.

The applicants herein, owners of 1.38 acres of the land above described, propose to irrigate said land by means of a pumping plant, the point of diversion of said pumping plant to be located 13 feet north and 280 feet west from the east quarter corner of Section 28, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 28, Township 2 North, Range 32 East, W. M.

Notice by publication as provided by ORS 540.520 was given in the Pendleton Record, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks, being the issues of April 7, 14 and 21, 1955. The time for hearing, as fixed in the notice, namely: June 2, 1955, was not less than thirty days after the last publication of said notice.

Mr. M. J. Belton, Watermaster of District No. 5, has filed a report

to the effect that the proposed change in point of diversion of water from McKay Creek may be made without injury to existing rights.

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

From a point located at the McKay Dam in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 2 North, Range 32 East, W. M.,

To a point to be located 13 feet north and 280 feet west from the east quarter corner, Section 28, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 28, Township 2 North, Range 32 East, W. M.,

for the irrigation of 1.38 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Township 2 North, Range 32 East, W. M., with a date of priority of August 16, 1923, 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, 1955 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 before the beginning of construction work by the watermaster of Umatilla County, Oregon, and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon this 9th day of June 1955.

Lewis A. Stanley

LEWIS A. STANLEY
State Engineer

Noted on Cert. 5100