

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION)
OF DEMA NIPPER AND RALPH THOMAS)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE AND POINT OF DIVER-)
SION OF WATER FROM DESCHUTES RIVER.)

O R D E R

APPROVING APPLICATION

On May 15, 1958, Dema Nipper and Ralph Thomas of Bend, Oregon, filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Deschutes River pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Deschutes County, Oregon, entered July 18, 1958 in the matter of the determination of the relative rights to the use of waters of Deschutes River and its tributaries, a water right was established in the name of L. D. Wiest for the irrigation of, among other lands, 15 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., from Deschutes River, with a date of priority of October 31, 1900. These lands are irrigated through the Wiest ditch from the Central Oregon Irrigation District canal, the point of diversion of said canal being located 1570 feet west and 1540 feet south from the northeast corner of Section 13, Township 18 South, Range 11 East, W. M.

Dema Nipper, owner of Lots 12, 13 and 14, Block 26, and Ralph Thomas, owner of Lots 1, 2, 3 and 4, Block 25, Weistoria Subdivision within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., containing 2.0 acres, propose to transfer the water right therefrom, without loss of priority, to 2.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, Township 17 South, Range 12 East, W. M., and to irrigate said land from Deschutes River at a point to be located 810 feet north and 1100 feet west from the southeast corner of said Section 20.

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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in Bend, Oregon, on August 6, 1958. The notice was published in the Bend Bulletin, a newspaper printed and having general circulation in Deschutes County, Oregon, for a period of three weeks in the issues of June 9, 16 and 23, 1958. The date set for hearing was not less than thirty days after the last publication of the notice.

Mr. Aubrey E. Perry, Watermaster of District No. 12, has filed a statement to the effect that the proposed change in place of use and point of diversion of water may be made without injury to existing rights.

On July 18, 1958, Robert H. Foley, an attorney for the Arnold Irrigation District, filed a protest on behalf of the Arnold Irrigation District against the approval of the proposed change in place of use and point of diversion of water. On April 2, 1959 the Arnold Irrigation District, through the law firm of De Armond, Goodrich, Gray and Hickok, withdrew its objections to the approval of the application.

It appearing that the proposed change in place of use and 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 place of use of water be and the same is approved and that the water right hereinbefore described as appurtenant to Lots 1, 2, 3 and 4, Block 25, and Lots 12, 13 and 14, Block 26, Weistoria Subdivision within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M, containing 2.0 acres, with a date of priority of October 31, 1900, be severed therefrom and simultaneously and without loss of priority transferred to 2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, Township 17 South, Range 12 East, W. M.

It is FURTHER ORDERED that the proposed change in point of diversion from Deschutes River, to-wit:

From a point located 1570 feet west and 1540 feet south from the northeast corner of Section 13, Township 18 South, Range 11 East, W. M.,

To a point to be located 810 feet north and 1100 feet west from the southeast corner of Section 20, Township 17 South, Range 12 East, W. M.,

for the irrigation of 2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, Township 17 South, Range 12 East, W. M., with a date of priority of October 31, 1900, be and the same hereby is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1959 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.

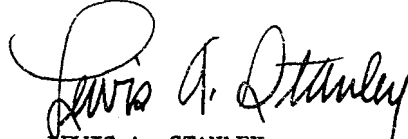
That the plans of the weir or other suitable device be approved by the watermaster of Deschutes County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water

right shall be issued to Dema Nipper and Ralph Thomas, or their successors in interest, to the extent to which the water has been applied beneficially, and the certificate of water right heretofore issued to L. D. Wiest and recorded at page 13666, Volume 12, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon this 13th day of April 1959.

*Noted on Decree
Vol. 16, p 186
Cert. #13666 Superseded
by Cert. #20241, 20242
this Order noted on
Cert. #20242*


LEWIS A. STANLEY
State Engineer

Tax # T-47