

Josephine County

IN THE MATTER OF THE APPLICATION)
OF EDWIN LIPPERT FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM POWELL CREEK.)

ORDER
APPROVING APPLICATION

On November 21, 1961, Edwin Lippert of Williams, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Powell Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Josephine County, Oregon, entered April 26, 1919, in the matter of the determination of the relative rights of the various claimants to the use of the waters of Rogue River and its tributaries, a water right was established in the name of T. J. Wilkinson for the use of 0.44 cubic foot per second of the waters of Powell Creek for the irrigation of 3 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 27 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, and 5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W.M., with a date of priority of 1881. A water right was also established in the Supplemental Findings of Fact and Order of Determination of the State Engineer, entered January 10, 1940, in the Matter of the Determination of the Relative Rights of the Various Claimants to the Use of the Waters of Rogue River and its Tributaries, which determined the extent to which the inchoate water rights were completed in the Rogue River adjudication proceedings. In said findings, the State Engineer found that T. J. Wilkinson had reclaimed and irrigated 6.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W.M., from Powell Creek with a date of priority of December 1908. These lands are irrigated through the Joseph Bricker Ditch, the point of diversion of said ditch being located North 77 degrees 42 minutes East 1533.3 feet from the West $\frac{1}{4}$ corner of Section 15, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W.M.

The applicant herein, owner of the lands aforementioned, proposes to irrigate said lands by means of the Lippert ditch, the point of diversion of said ditch being located North 65 degrees, 14 minutes 43 seconds East 1037 feet from the W $\frac{1}{2}$ corner of Section 15, and being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 15, Township 38 South, Range 5 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

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 proposed 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 Powell Creek, to-wit:

From a point located North 77 degrees 42 minutes East 1933.3 feet from the W $\frac{1}{2}$ corner of Section 15, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W.M.

To a point to be located North 65 degrees 14 minutes 43 seconds East 1037 feet from the W $\frac{1}{2}$ corner of Section 15, and being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W.M.,

for the irrigation of 3 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 27 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, Township 38 South, Range 5 West, W. M., with a date of priority of 1881, and 6.2 acres in said NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, with a date of priority of December 1908, be and the same 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 12th day of January, 1962.

Noted on Decree

Vol. 4, p. 28, col. 1

Cert. # 16339

Supplemental Findings

Vol. 13, p. 424



LEWIS A. STANLEY
State Engineer