

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF DELBERT R. ELLENBERGER FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM DRY CREEK)
- - - - -

ORDER APPROVING
TRANSFER NO. E-44

On February 18, 1964, Delbert R. Ellenberger of Milton-Freewater, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Dry Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Umatilla County, Oregon, entered February 28, 1930, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Pine Creek and its Tributaries, a water right was established in the name of Samuel R. Barnes for the use of the waters of Dry Creek for the irrigation of, among other lands, 15 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Township 6 North, Range 34 East, W.M., with a date of priority of 1895. These lands are irrigated through the Saunders Ditch, the point of diversion of said ditch being located South 47 degrees 33 minutes east, 6,040.3 feet from the northwest corner of Section 31, and being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 31, Township 6 North, Range 35 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the Saunders ditch and also irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located North 88 degrees 18 minutes west, 2,382.6 feet from the southeast corner of Section 25, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 25, Township 6 North, Range 34 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 change in point of diversion of water, if any there were, namely: at the County Courthouse in Pendleton, Oregon, on May 6, 1964, at 9:30 o'clock a.m. The notice was published in the Valley Herald, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in

the issues of March 12, 19 and 26, 1964. 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 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 may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the applicant may maintain a pumping plant, in addition to the point of diversion of the Saunders Ditch, the point of diversion of said pumping plant to be located as follows:

North 88 degrees 15 minutes west, 2,382.6 feet from the southeast corner of Section 25, and being within the SW $\frac{1}{2}$ SE $\frac{1}{2}$, said Section 25, Township 6 North, Range 34 East, W.M.

for the irrigation of 15 acres in the SW $\frac{1}{2}$ SE $\frac{1}{2}$, Section 25, Township 6 North, Range 34 East, W. M., with a date of priority of 1895.

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, 1965, 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 diversion 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 before the beginning of construction work and that the weir or measuring device be installed under the general supervision of the watermaster.

Dated at Salem, Oregon, this 26th day of June, 1964.

*Noted on Record
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Cont. #5507*


CHRIS L. WHEELER
State Engineer