

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION)
OF EDWARD WESLEY AND BETTY ANN)
BRAIN FOR APPROVAL OF A CHANGE)
IN POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER 5232

On April 7, 1983, an application was filed in the office of the Water Resources Director by Edward Wesley and Betty Ann Brain for approval of a change in point of diversion of water from Anderson Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and Its Tributaries, a water right was established in the name of Mrs. Marian M. Dole, tabulated in Volume 4, page 15, Order Record of the Water Resources Director, for use of the waters of Anderson Creek for irrigation of, among other lands, a certain 5.0 acres in SE 1/4 NW 1/4, Section 34, Township 38 South, Range 1 West, WM, with a date of priority of 1857, as evidenced by the certificate recorded at page 16081, Volume 13, State Record of Water Right Certificates.

Water for the said right is diverted, through the Baldwin Ditch, from a point located 440 feet South and 330 feet West from the East Quarter Corner of Section 33, being within the NE 1/4 SE 1/4 of Section 33, Township 38 South, Range 1 West, WM.

The applicants herein, owners of the lands above described, propose to change the point of diversion therefrom to a point located 1100 feet North and 800 feet West from the Center of Section 34, being within the SE 1/4 NW 1/4 of Section 34, Township 38 South, Range 1 West, WM.

Notice of the application, pursuant to ORS 540.520(2), was published in the Ashland Tidings, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of April 18, 25 and May 2, 1983.

Bruce R. Sund, Watermaster, has filed a statement to the effect that the proposed change in point of diversion 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 proposed change in point of diversion is approved, without loss of priority.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion under the subject right, and shall not exceed 0.06 cubic foot per second.

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 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 the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1985.

It is FURTHER ORDERED that the certificate recorded at page 16081, Volume 13, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicants herein.

Dated at Salem, Oregon this 20th day of July, 1983.



CHRIS L. WHEELER
Deputy Director

NOTE: The approval of a water right transfer application does not confirm the status of the right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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