

BEFORE THE STATE ENGINEER OF OREGON

Baker County

IN THE MATTER OF THE APPLICATION )  
OF LEE AND EDITH I. STEWART AND )  
ORAN E. AND D. ELOISE MCKITTRICK )  
FOR A CHANGE IN USE, PLACE OF USE )  
AND POINT OF DIVERSION OF WATER )  
FROM BEAVER CREEK )  
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O R D E R

APPROVING APPLICATION

On October 16, 1961, Lee and Edith I. Stewart and Oran E. and D. Eloise McKittrick of Baker, Oregon, filed an application in the office of the State Engineer for the approval of a change in use, place of use and point of diversion of water from Beaver Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court of Baker County, Oregon, entered March 18, 1918, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Powder River and its Tributaries, a water right was established in the name of R. Lee Stewart and J. M. Stewart for the irrigation of, among other lands, 22.7 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 17, Township 10 South, Range 40 East, W.M., with a date of priority of 1869. These lands are irrigated through the Shaw-Stewart No. 1 ditch from Beaver or Willow Creek.

The applicants herein, owners of 9.0 acres of the land above described, propose to transfer the water therefrom, without loss of priority, to the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23 and the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 26, Township 11 South, Range 40 East, W. M., for irrigation of small lawn, fire protection and domestic use, and to change the point of diversion upstream to a point on Beaver Creek to be located approximately 800 feet West and 480 feet North from the S $\frac{1}{4}$  corner of Section 15, and being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , said Section 15, Township 11 South, Range 40 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 use and point of diversion of water, if any there were, namely: at the county courthouse at Baker, Oregon, on January 17, 1962, beginning at 9:30 o'clock a.m. The notice was published in the Baker Democrat-Herald, a newspaper printed and having general circulation in Baker County, Oregon, for a period of three weeks in the issues of November 24, December 1 and 8, 1961. The date set for hearing in said notice was not less than thirty days after the last publication of said notice.

No objections having been filed and it appearing that the proposed change in use, 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 use and place of use of water be and the same is hereby approved, and that the water right hereinbefore described as appurtenant to 9.0 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 17, Township 10 South, Range 40 East, W. M., with a date of priority of 1869, for irrigation, be severed therefrom and simultaneously and without loss of priority transferred to the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23 and the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 26, Township 11 South, Range 40 East, W. M., for irrigation of small lawn, fire protection and domestic use.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Beaver Creek, to-wit:

From the Shaw-Stewart No. 1 ditch

To a point to be located approximately 800 feet West and 480 feet North from the S $\frac{1}{4}$  corner of Section 15, and being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , said Section 15, Township 11 South, Range 40 East, W. M.,

for irrigation of small lawn, fire protection and domestic use in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23 and the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 26, Township 11 South, Range 40 East, W.M., be and the same is hereby approved.

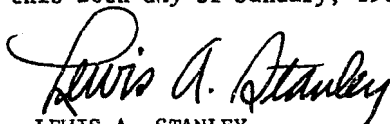
It is FURTHER ORDERED that the quantity of water shall be limited to a diversion of not to exceed 0.225 cubic foot per second during the irrigation season.

It is FURTHER ORDERED that the water so transferred shall be applied to beneficial use 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 certificate of water right heretofore issued to R. Lee Stewart and J. M. Stewart, and recorded at page 4483, Volume 5, State Record of Water Right Certificates, be and the same hereby is canceled and that in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to United States of America, U. S. Army Corps of Engineers to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon this 26th day of January, 1962.

*Noted on Decree  
Vol. 6 p. 446  
Cert. # 4483*

  
LEWIS A. STANLEY  
State Engineer