

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
 OF CLARENCE P. HENDERSON, HAROLD D.)
 OTTOSEN, B. L. DODENHOFF, MRS. EVAN)
 MOORE, ARTHUR C. KENT, JACK GAZA,)
 ERNEST GREGG, ELMER R. HARNISH,)
 EULA G. HAVENER, LELAND G. MEYER,)
 MRS. BENNIE HEFLEY, JOHN O. CARNES,)
 CHARLES E. KIMMEL, TERESSA SHORT,)
 MRS. HARRY A. LEWIS, JOSEPH LUCAS,)
 DAVID L. HARBISON, HAROLD W. CLAUS,)
 AND ETHEL E. COY FOR THE APPROVAL)
 OF A CHANGE IN POINT OF DIVERSION)
 OF WATER FROM LITTLE BUTTE CREEK.)

ORDER
APPROVING APPLICATION

On April 17, 1958, Clarence P. Henderson, Harold D. Ottosen, B. L. Dodenhoff, Mrs. Evan Moore, Arthur C. Kent, Jack Gaza, Ernest Gregg, Elmer R. Harnish, Eula G. Havener, Leland G. Meyer, Mrs. Bennie Hefley, John C. Carnes, Charles E. Kimmel, Teresa Short, Mrs. Harry A. Lewis, Joseph Lucas, David L. Harbison, Harold W. Claus, and Ethel E. Coy, all of Eagle Point, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Little Butte Creek pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949, in the matter of the determination of the relative rights to the use of the waters of Little Butte Creek and its tributaries, a water right was established in the name of Fryer Ditch Association for the irrigation of, among other lands, 55.21 acres, as follows:

<u>Tract No.</u>	<u>Name</u>	<u>Priority</u>	<u>Description of Land</u>
3	Gladius F. Pearce	Jan. 31, 1870	1.45 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$
7	Mrs. Arglee Green	Jan. 31, 1870	3.59 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$

<u>Tract No.</u>	<u>Name</u>	<u>Priority</u>	<u>Description of Land</u>
15	Mrs. Arglee Green	Jan. 31, 1870	0.27 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$
16	A. A. Newman	Jan. 31, 1870	10.00 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$
		1908	13.00 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$
18	A. C. Mittelstaedt	1908	0.80 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$
28	Fred Thompson	Jan. 31, 1870	1.00 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$
29	A. H. Thompson	Jan. 31, 1870	2.00 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$
30	George Lewis	Jan. 31, 1870	9.00 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$
		1908	2.00 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$
40	Wm. Lewis	1908	1.50 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$
41	Geo. Phillips	1908	0.90 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$
42	Ada Matthews	1908	2.00 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$
47	Jackson County	1908	0.70 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$
48	Mrs. Arglee Green	1908	0.50 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$
49	Faye J. Hall	1908	6.50 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$

All in Section 3, Township 36 South, Range 1 West, W. M.

These lands are irrigated from Little Butte Creek through the Fryer Ditch, the point of diversion of said ditch being located 120 feet north and 1125 feet east from the southwest corner of Section 35, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.

The applicants herein, owners of the lands above described, propose to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located 720 feet north and 1220 feet west from the east quarter corner of Section 3, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, Township 36 South, Range 1 West, 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 Medford, Oregon on July 2, 1958, beginning at 9:30 o'clock a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of May 9, 16 and 23, 1958.. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. David C. Hendrix, Watermaster of District No. 15, has filed a statement 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 Little Butte Creek, to-wit:

From a point located 120 feet north and 1125 feet east from the southwest corner of Section 35, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.,

To a point to be located 720 feet north and 1220 feet west from the east quarter corner of Section 3, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 3, Township 36 South, Range 1 West, W. M.,

for the irrigation of the 55.21 acres described in paragraph two hereof, 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, 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 head-gates 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.

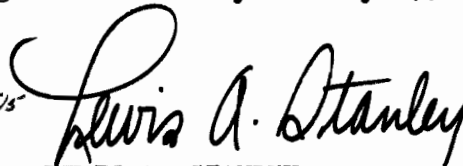
That the plans of the weir or other suitable device be approved by the watermaster of Jackson County, Oregon before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon this 7th day of July 1958.

Noted on Decree Vol. 14, p 515

Also on Cert. #17180

Trsf. # F-40



LEWIS A. STANLEY
State Engineer