

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION )  
OF LURLINE MCDANIEL AND DELVIN )  
MCDANIEL FOR THE APPROVAL OF A )  
CHANGE IN POINT OF DIVERSION OF )  
WATER FROM BIRCH CREEK. )

O R D E R  
APPROVING APPLICATION

-----  
On May 6, 1958, Lurline McDaniel and Delvin McDaniel of Route 2, Box 216E, Pendleton, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Birch Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Birch Creek Ditch Company and recorded at page 1032, Volume 2, State Record of Water Right Certificates, confirms a right under Permit No. 396 to the use of the waters of Birch Creek for the irrigation of, among other land, 10.7 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.1 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 11.1 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  and 2.4 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 4, Township 1 North, Range 32 East, W. M., with a date of priority of July 28, 1910. These lands are irrigated through the Birch Creek ditch, the point of diversion of said ditch being located north 6 degrees 50 minutes east 276 feet from the west quarter corner of Section 10, and being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , said Section 10, Township 1 North, Range 32 East, W. M.

The applicants herein, owners of the lands above described, propose to irrigate said lands by means of a portable pump to be used at each of the following locations:

South 62 degrees 41 minutes 3 seconds east 822.25 feet from the northwest corner of the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4, Township 1 North, Range 32 East, W. M., and

South 27 degrees 16 minutes 21 seconds east 2115.31 feet from said northwest corner of the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4, and

South 31 degrees 49 minutes 59 seconds east 2540.18 feet from said northwest corner of the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4.

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 July 10, 1958, beginning at 9:30 o'clock a.m. The notice was published in the East Oregonian, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of May 15, 22 and 29, 1958. The date set for hearing in the notice was not less than thirty days after the last publication of said notice.

Mr. M. J. Felton, Watermaster of District No. 5, 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 Birch Creek, to-wit:

From a point located north 6 degrees 50 minutes east 276 feet from the west quarter corner of Section 10, and being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , said Section 10, Township 1 North, Range 32 East, W. M.,

To a point to be located south 62 degrees 41 minutes 3 seconds east 822.25 feet from the northwest corner of SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 4, Township 1 North, Range 32 East, W. M., and

To a point to be located south 27 degrees 16 minutes 21 seconds east 2115.31 feet from said northwest corner of SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and

To a point to be located south 31 degrees 49 minutes 59 seconds east 2540.18 feet from said northwest corner of SW $\frac{1}{4}$  NE $\frac{1}{4}$ ,

for the irrigation of 10.7 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.1 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 11.1 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  and 2.4 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 4, Township 1 North, Range 32 East, W. M., with a date of priority of July 28, 1910, 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 points 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:

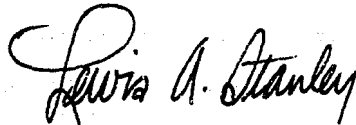
That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Umatilla 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 15th day of July 1958.

*Noted on Cert. # 1032*

*Trsf. # M-118*



LEWIS A. STANLEY  
State Engineer