

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION)
OF THOMAS J. & GRACE M. SMITH FOR)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER)

ORDER APPROVING
TRANSFER NO. 4256

On July 18, 1979, an application was filed in the office of the Water Resources Director by Thomas J. and Grace M. Smith for approval of a change in point of diversion of water from Applegate River, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 43988, Volume 36, State Record of Water Right Certificates, in the name of Maud Kubli, describes a right which includes the use of not to exceed 0.09 cubic foot per second from Applegate River for irrigation of a certain 1.1 acres in SW¹/₄ SE¹/₄ of Section 23 and 2.6 acres in NW¹/₄ NE¹/₄ of Section 26, Township 38 South, Range 4 West, W.M., with a date of priority of 1866.

Water for the said right is diverted, through the Fowler & Keeler Ditch, from a point located 2510 feet South and 3370 feet West from the Northeast Corner of D.L.C. No. 39, being within the SE¹/₄ SW¹/₄ of Section 30, Township 38 South, Range 3 West, W.M.

The applicants herein, owners of the lands above described, propose to change the point of diversion therefrom, without loss of priority, to a point located 1440 feet South and 1800 feet West from the Northeast Corner of Section 26, being within the SW¹/₄ NE¹/₄ of Section 26, Township 38 South, Range 4 West, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of August 1, 8 and 15, 1979.

Mr. David C. Hendrix, 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 requested change in point of diversion, as described herein, without loss of priority, is approved.

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.

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:

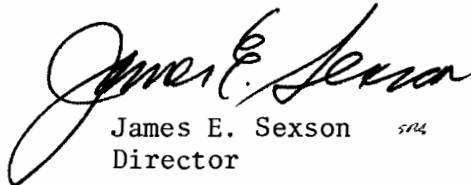
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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, 1980.

It is FURTHER ORDERED that the certificate recorded at page 43988, Volume 36, 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 27th day of September, 1979.


James E. Sexson
Director