

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF C. A. HUBBARD FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
AND PLACE OF USE OF WATER FROM)
UMATILLA RIVER.)

O R D E R

APPROVING APPLICATION

On June 29, 1955 C. A. Hubbard of Route 2, Echo, Oregon, filed an application for the approval of a change in point of diversion and place of use of water from Umatilla River pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Umatilla County, Oregon, entered September 9, 1916, in the matter of the determination of the relative rights of the various claimants to the use of the waters of Umatilla River and its tributaries, a water right was adjudicated in the name of M. Kononen for the irrigation of, among other lands, 15 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3 and 10 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., from Umatilla River with a date of priority of December 26, 1904. These lands are irrigated through the Horseshoe Irrigation Co. ditch, the point of diversion of said ditch being located north 85 degrees 30 minutes east 3144 feet from the southwest corner of Section 2, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 2, Township 2 North, Range 30 East, W. M.

The applicant herein, owner of the lands above described, proposes to transfer the water right appurtenant to 4.6 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3 and 1.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., without loss of priority to 3.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3 and 2.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., and to irrigate said lands, together with the remaining 10.4 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3 and 8.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., by means of a pumping plant, the point of diversion of said pumping

plant to be located north 70 degrees 20 minutes west 1180 feet from the southeast corner of Section 3, and being within the $SE\frac{1}{4} SE\frac{1}{4}$, said Section 3, Township 2 North, Range 30 East, W. M.

Notice by publication as provided by ORS 540.520 was given in the Pendleton Record, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks, being the issues of July 14, 21 and 28, 1955. The time for hearing as fixed in the notice, namely: September 8, 1955, was not less than thirty days after the last publication of the notice.

Mr. M. J. Belton, Watermaster of District No. 5, has filed a report to the effect that the proposed change in point of diversion and place of use of water from Umatilla River may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in point of diversion and place of use of water from Umatilla River may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water be and the same hereby is approved and that the water right hereinbefore described as appurtenant to 4.6 acres in the $SE\frac{1}{4} SE\frac{1}{4}$, Section 3 and 1.5 acres in the $NW\frac{1}{4} NE\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 3.5 acres in the $SW\frac{1}{4} SE\frac{1}{4}$, Section 3 and 2.6 acres in the $NE\frac{1}{4} NE\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M.,

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

From a point located north 85 degrees 30 minutes east 3144 feet from the southwest corner of Section 2, and being within the $SW\frac{1}{4} SE\frac{1}{4}$, said Section 2, Township 2 North, Range 30 East, W. M.,

To a point to be located north 70 degrees 20 minutes west 1180 feet from the southeast corner of Section 3, and being within the $SE\frac{1}{4} SE\frac{1}{4}$, said Section 3, Township 2 North, Range 30 East, W. M.,

for the irrigation of 3.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 10.4 acres in the SE $\frac{1}{2}$ SE $\frac{1}{4}$, Section 3 and 2.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 8.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 2 North, Range 30 East, W. M., with a date of priority of December 26, 1904 be and the same hereby is approved.

It is FURTHER ORDERED that the water shall be applied beneficially on the lands to which it is transferred hereby and the change in point of diversion of water made on or before October 1, 1956 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 headgates and measuring devices.

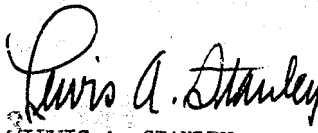
That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster of Umatilla County, Oregon, before 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 upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which it is transferred hereby, certificate of water right shall be issued to the Horseshoe Irrigation Company or its successor in interest, to the extent to which the water has been applied and certificate of water right heretofore issued to the said Horseshoe Irrigation Company and recorded at page 2552, Volume 3, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon this 13th day of September 1955.

Noted on Decree
Vol. 3, p. 206
Cert. 2552

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LEWIS A. STANLEY
State Engineer