

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION )  
OF IKE A. THORPE, KARL E. HERRIOTT, )  
J. MASON ANDERSON, DALE DRYDEN, )  
HARRY M. KIMBALL, THORNTON S. GAPEN, )  
JOHN E. MYERS, EDITH KUBLI SCOTT AND )  
CLARENCE H. ROLOFF FOR THE APPROVAL )  
OF A CHANGE IN POINT OF DIVERSION OF )  
WATER FROM APPELEGATE RIVER )  
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ORDER APPROVING  
TRANSFER NO. H-160

On May 17, 1965, Ike A. Thorpe, Karl E. Herriott, J. Mason Anderson, Dale Dryden, Harry M. Kimball, Thornton S. Gapen, John E. Myers, Edith Kubli Scott and Clarence H. Roloff filed applications in the office of the State Engineer for the approval of a change in point of diversion of water from Applegate River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Anna Mansfield and recorded at page 5557, Volume 6, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 7.0 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 16.0 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 2.0 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and the supplemental right for 9.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, Township 38 South, Range 4 West, W.M., with a date of priority of March 25, 1918. The diversion point of record for the 9.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  is within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 28, Township 38 South, Range 3 West, W.M.

Certificate of water right issued to George Herriott and recorded at page 5558, Volume 6, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 6.0 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 9.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 22, Township 38 South, Range 4 West, W.M., with a date of priority of March 25, 1918.

Certificate of water right issued to Karl E. Herriott and recorded at page 28857, Volume 21, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 3.6 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 11.5 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 22, and 9.8 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 15, Township 38 South, Range 4 West, W.M., with a date of priority of December 14, 1954.

Certificate of water right issued to Curtis O. Gerhardt and recorded at page 15517, Volume 13, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 7.0 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, Township 38 South, Range 4 West, W.M., with a date of priority of December 18, 1946.

Certificate of water right issued to Dale Dryden and recorded at page 28566, Volume 20, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 1.8 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 25, Township 38 South, Range 4 West, W.M., with a date of priority of April 26, 1960.

Certificate of water right issued to Arion D. Christensen and recorded at page 20207, Volume 14, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 9.75 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of October 28, 1949.

Certificate of water right issued to Arion D. Christensen and recorded at page 20883, Volume 15, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 5.7 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 6.3 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 2.4 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of March 18, 1954.

Certificate of water right issued to John Herriott and recorded at page 5559, Volume 6, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 10.0 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 10.0 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of March 25, 1918.

Certificate of water right issued to Tom Herriott and recorded at page 5560, Volume 6, State Record of Water Right Certificates confirms a right to the use of the waters of Applegate River for the irrigation of 14.0 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 2.0 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 22, and 2.0 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 12.0 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of March 25, 1918.

By Decree of the Circuit Court for Jackson County, Oregon, entered January 10, 1940, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and its Tributaries, a water right was established in the name of Maude Kubli for the irrigation of 3.1 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3.6 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of 1908, and 4.0 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , 13.0 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 16.0 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, and 26.0 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 24.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10.0 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 26, Township 38 South, Range 4 West, W.M., with a date of priority of 1866. This right was confirmed by certificate recorded at page 32839, Volume 24, State Record of Water Right Certificates.

Certificate of water right issued to E. W. Kubli and recorded at page 21512, Volume 15, State Record of Water Right Certificates confirms a right to the use of waters of Applegate River for the irrigation of 2.9 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 3.5 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  and 15.6 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, Township 38 South, Range 4 West, W.M., with a date of priority of June 30, 1954.

The water is conveyed to these lands by means of Kubli Ditch, the point of diversion being located 1950 feet south and 1800 feet west from the NE corner of Section 29, being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, Township 38 South, Range 3 West, W.M.

The applicants herein propose to irrigate these lands by means of a ditch, the point of diversion to be located 2504.7 feet south and 3456.7 feet west from the NE corner of Donation Land Claim No. 39, being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 30, Township 38 South, Range 3 West, W.M.

Leon and Lola Offenbacher, owners of the land on which the new point of diversion is to be located, have filed a statement to the effect that they have no objection to the proposed change in point of diversion.

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 February 14, 1966, at 9:30 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 December 23 and 30, 1965 and January 6, 1966. 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. 13, has filed a report 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 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 Applegate River, to-wit:

From a point located 1950 feet south and 1800 feet west from the NE corner of Section 29, being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, Township 38 South, Range 3 West, W.M.

To a point to be located 2504.7 feet south and 3456.7 feet west from the NE corner of Donation Land Claim No. 39, being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 30, Township 38 South, Range 3 West, W.M.

For the irrigation of 6.0 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 9.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 14.0 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 2.0 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 22, 12.0 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 22.0 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23, 7.0 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 16.0 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 2.0 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, and supplemental irrigation of 9.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, with a date of priority of March 25, 1918; 3.6 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 11.5 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, and 9.8 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 15, with a date of priority of December 14, 1954; 7.0 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 25, with a date of priority of December 18, 1946; 1.8 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 25, with a date of

priority of April 26, 1960; 9.75 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 23, with a date of priority of October 28, 1949; 5.7 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 6.3 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 2.4 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23, with a date of priority of March 18, 1954; 3.1 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3.6 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, with a date of priority of 1908; 4.0 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , 13.0 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 16.0 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, and 26.0 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 24.0 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10.0 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 26, with a date of priority of 1866; and 2.9 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 3.5 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  and 15.6 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 23, with a date of priority of June 30, 1954, all within Township 38 South, Range 4 West, W.M., 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, 1966.

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 provision shall be effective when in the judgment of the watermaster it becomes necessary to install head-gates and measuring devices.

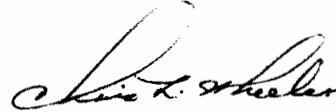
That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster 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 certificates of water right heretofore issued and recorded at pages 5557, 5558, 5559 and 5560, Volume 6; page 15517, Volume 13; page 20207, Volume 14; pages 20883 and 21512, Volume 15; page 28566, Volume 20; page 28857, Volume 21; and page 32839, Volume 24, State Record of Water Right

Certificates are canceled, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized changes in points of diversion, certificates of water right shall be issued confirming said changes in points of diversion.

Dated at Salem, Oregon, this 15th day of February, 1966.



CHRIS L. WHEELER  
State Engineer