

Jackson County

IN THE MATTER OF THE APPLICATION)
OF BOB G. AND JANET KIMMEL, THOMAS)
J. AND TERESSA SHORT, MICHAEL J.)
AND INITA R. KAISER, JOHN O. AND)
FLORENCE B. CARNES AND LARRY D.)
AND GLENDA GAIL ROOT FOR THE AP-)
PROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM LITTLE)
BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. K-44

On August 18, 1965, Bob G. and Janet Kimmel, Thomas J. and Teresa Short, Michael J. and Inita R. Kaiser, John O. and Florence B. Carnes and Larry D. and Glenda Gail Root filed applications 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.

Certificate of water right issued to Fryer Ditch Association and recorded at page 29579, Volume 21, State Record of Water Right Certificates, confirms a right to the use of the waters of Little Butte Creek for the irrigation of, among other lands, 0.80 acre in Tract 18 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), 0.50 acre in Tract 48 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and 1.5 acres in Tract 40 (NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$), Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of 1908, and 0.27 acre in Tract 15 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), 0.35 acre in Tract 16 (SE $\frac{1}{4}$ SW $\frac{1}{4}$), and 3.59 acres in Tract 7 (NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$), all in said Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of January 31, 1870.

These lands are irrigated by means of the Fryer Ditch pumping plant, the point of diversion of said ditch being located 720 feet north and 1220 feet west from the E $\frac{1}{2}$ corner of Section 3, and being within the SE $\frac{1}{4}$ N $\frac{1}{4}$ of said Section 3, Township 36 South, Range 1 West, W.M.

Bob G. and Janet Kimmel, owners of 0.25 acre in Tract 18 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of 1908, propose to irrigate by means of a pumping plant to be located 350 feet north and 1410 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Thomas J. and Teresa Short, owners of 0.40 acre in Tract 16 (NE 1/4 SW 1/4), with a priority date of 1908, propose to irrigate by means of a pumping plant to be located 395 feet north and 1355 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE 1/4 SW 1/4, Section 3, Township 36 South, Range 1 West, W.M.

Michael J. and Inita R. Kaiser, owners of 0.35 acre in Tract 16 (SE 1/4 SW 1/4), with a priority date of January 31, 1870, propose to irrigate by means of a pumping plant to be located 370 feet north and 1380 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE 1/4 SW 1/4, Section 3, Township 36 South, Range 1 West, W.M.

John O. and Florence B. Carnes, owners of 3.59 acres in Tract 7 (NW 1/4 SW 1/4, NE 1/4 SW 1/4, SE 1/4 SW 1/4 and SW 1/4 SW 1/4), 0.27 acre in Tract 15 (NE 1/4 SW 1/4), with a priority date of January 31, 1870, 0.15 acre in Tract 18 (SE 1/4 SW 1/4) and 0.5 acre in Tract 48 (NE 1/4 SW 1/4), with a priority date of 1908, propose to irrigate by means of a pumping plant to be located 715 feet north and 910 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE 1/4 SW 1/4, Section 3, Township 36 South, Range 1 West, W.M.

Larry D. and Glenda Gail Root, owners of 1.5 acres in Tract 40 (NE 1/4 SW 1/4 and SE 1/4 SW 1/4), with a priority date of 1908, propose to irrigate by means of a pumping plant to be located 525 feet north and 1125 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE 1/4 SW 1/4, Section 3, Township 36 South, Range 1 West, W.M.

Notice of the filing of the applications was given by publication setting forth a time and place certain for hearing objections to the proposed changes in point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on January 26, 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 3, 10 and 17, 1965. 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 change in point of diversion of water from Little Butte Creek, to-wit:

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

To a point to be located 350 feet north and 1410 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 0.25 acre in Tract 18 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of 1908,

To a point to be located 395 feet north and 1335 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 0.40 acre in Tract 18 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of 1908,

To a point to be located 370 feet north and 1380 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 0.35 acre in Tract 16 (SE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of January 31, 1870,

To a point to be located 715 feet north and 910 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 3.59 acres in Tract 7 (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 $\frac{1}{4}$), 0.27 acre in Tract 15 (NE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of January 31,

1870, 0.15 acre in Tract 18 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and 0.5 acre in Tract 48 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) with a priority date of 1908.

To a point to be located 525 feet north and 1125 feet west from the SE corner of James Fryer Donation Land Claim No. 46, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

for the irrigation of 1.5 acres in Tract 40 (NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$), with a priority date of 1908, 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.

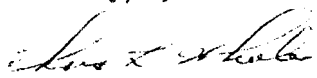
It is FURTHER ORDERED that the following provision shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificate of water right heretofore issued to Fryer Ditch Association and recorded at page 29579, Volume 21, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding and which shall also include prior changes, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to Fryer Ditch Association confirming the change in point of diversion and the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 25rd day of February, 1966.


CHRIS L. GIESLER, State Engineer