

UMATILLA COUNTY

IN THE MATTER OF THE APPLICATION )  
OF CHESTER EARL FORTUNE, JR., FOR)  
APPROVAL OF A CHANGE IN POINT OF )  
DIVERSION OF WATER )  
- - - - -

ORDER APPROVING  
TRANSFER NO. 4248

On July 9, 1979, an application was filed in the office of the Water Resources Director by Chester Earl Fortune, Jr., for approval of a change in point of diversion, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 1719, Volume 3, State Record of Water Right Certificates, in the name of Melissa Messenger, describes a right for the use of not to exceed 0.23 cubic foot per second from Johnson Creek for irrigation of a certain 18.0 acres, domestic and stock use in NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, Township 6 North, Range 35 East, W.M., with a date of priority of 1892.

The certificate recorded at page 1721 of said volume, in the name of John and Ida Nelis, describes a right for the use of not to exceed 0.08 cubic foot per second from Johnson Creek for irrigation of a certain 6.0 acres, domestic and stock use in NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, Township 6 North, Range 35 East, W.M., with a date of priority of 1892.

Water for both rights is diverted from a point located 220 feet North and 220 feet East from the Southeast Corner of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 29, Township 6 North, Range 35 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 400 feet North and 50 feet East from the Southwest Corner of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, Township 6 North, Range 35 East, W.M.

Notice of the application, pursuant to ORS 540.520(2), was published in the Valley Herald, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of August 23, 30 and September 6, 1979.

Mr. Steven Applegate, 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 rights.

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:

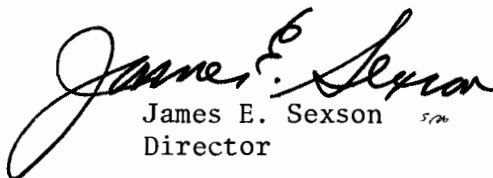
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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, 1981.

It is FURTHER ORDERED that the certificates recorded at pages 1719 and 1721, Volume 3, State Record of Water Right Certificates, are canceled; 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, confirming certificates of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 26th day of October, 1979.

  
James E. Sexson 5/26  
Director