

Jackson County

IN THE MATTER OF THE APPLICATION )  
 OF DAVID B. AND CORA E. BRABBIN )  
 FOR THE APPROVAL OF A CHANGE IN )  
 POINT OF DIVERSION OF WATER FROM )  
 WAGNER CREEK )  
 -----

ORDER APPROVING  
TRANSFER NO. 8-197

On April 25, 1969, David B. and Cora E. Brabbin filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Wagner Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, 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 J. C. Ward for the use of the waters of Wagner Creek for the irrigation of, among other lands, 0.2 acre in SW $\frac{1}{4}$  SE $\frac{1}{4}$ , 0.1 acre in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 2, 2.4 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 0.4 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 11, Township 39 South, Range 1 West, W.M., with a date of priority of 1861. This right is evidenced by certificate recorded at page 16061, Volume 13, State Record of Water Right Certificates. These lands are irrigated by means of the Torrey or Allen Ditch from a point of diversion located 1400 feet south and 110 feet west from the NE corner of Section 11 being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, Township 39 South, Range 1 West, W.M.

The applicants herein, owners of the lands above described, propose to irrigate these lands by means of the Brabbin Pump from a point of diversion to be located 230 feet south and 1200 feet west from the NE corner of Section 11 being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, Township 39 South, Range 1 West, W.M.

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 July 23, 1969, 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 May 26, June 2, and 9, 1969. 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 of water 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 Wagner Creek, to-wit:

From a point located 1400 feet south and 110 feet west from the NE corner of Section 11 being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, Township 39 South, Range 1 West, W.M.

To a point to be located 230 feet south and 1200 feet west from the NE corner of Section 11 being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, Township 39 South, Range 1 West, W.M.

for the irrigation of 0.2 acre in SW $\frac{1}{4}$  SE $\frac{1}{4}$ , 0.1 acre in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 2, 2.4 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$  and 0.4 acre in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 11, Township 39 South, Range 1 West, W.M., with a date of priority of 1861, 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, 1970.

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 and shall not exceed 0.07 cubic foot per second.

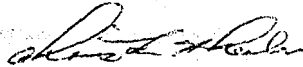
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificate of water right heretofore issued to J. C. Ward and recorded at page 16061, Volume 13, 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 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 David B. and Cora E. Brabbin confirming said change in point of diversion.

Dated at Salem, Oregon, this 22nd day of August, 1969.

  
CHRIS L. WHEELER  
State Engineer