

BEFORE THE STATE ENGINEER OF OREGON

Klamath County

IN THE MATTER OF THE APPLICATION
OF HEATON STEEL AND SUPPLY, INC. }
FOR THE APPROVAL OF A CHANGE IN }
POINT OF DIVERSION OF WATER FROM }
FIVE MILE CREEK }

ORDER APPROVING
TRANSFER 2957

On January 17, 1974, Heaton Steel and Supply, Inc. filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Five Mile Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Heaton Steel and Supply, Inc. and recorded at page 30971, Volume 23, State Record of Water Right Certificates, confirms a right to the use of not to exceed 2.03 cubic feet per second of water from Five Mile Creek for the irrigation of, among other lands, 14.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 36 South, Range 13 East, W.M., with a date of priority of January 16, 1961. These lands are irrigated by means of ditch "A" and ditch "B" from a point of diversion located North 28° 07 $\frac{1}{4}$ ' West, 2483.8 feet from the East quarter corner of Section 2, being within Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 2, Township 36 South, Range 13 East, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located 536 feet South and 473 feet West from the Northeast corner of SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 36 South, Range 13 East, 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 Klamath Falls, Oregon, on May 28, 1974, at 9:30 a.m.

The notice was published in the Herald and News, a newspaper printed and having general circulation in Klamath County, Oregon, for a period of three weeks in the issues of April 1, 8, and 15, 1974. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. V. Kent Searles, Watermaster of District No. 17, 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 Five Mile Creek, to wit:

From a point located North $28^{\circ} 07\frac{1}{4}'$ West, 2488.8 feet from the East quarter corner of Section 2, being within Lot 1 ($NE\frac{1}{4} NE\frac{1}{2}$), of Section 2, Township 36 South, Range 13 East, W.M.

To a point to be located 536 feet South and 473 feet West from the Northeast corner of $SE\frac{1}{2} NW\frac{1}{4}$, Section 1, being within the $SE\frac{1}{4} NW\frac{1}{4}$ of Section 1, Township 36 South, Range 13 East, W.M.

for the irrigation of 14.0 acres in $SE\frac{1}{2} NW\frac{1}{4}$, Section 1, Township 36 South, Range 13 East, W.M., with a date of priority of January 16, 1961, 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, 1974.

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 0.35 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 head-gates and measuring devices.

That the diversion works shall include an in line flow meter, a weir, or other suitable devices 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 Heaton Steel and Supply, Inc. and recorded at Page 30971, Volume 23, 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 Heaton Steel and Supply, Inc. confirming the change in point of diversion.

Dated at Salem, Oregon, this 29th day of May, 1974.


CHRIS L. WHEELER
State Engineer