

BEFORE THE STATE ENGINEER OF OREGON

Malheur County

IN THE MATTER OF THE APPLICATION)
OF LOCEY AND SON FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM WILLOW CREEK)

ORDER APPROVING
TRANSFER NO. L-76

On January 13, 1965, Locey and Son filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Willow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court of Malheur County, Oregon, entered June 6, 1916, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Willow Creek and its Tributaries, a water right was established in the name of C. T. Locey, and confirmed by certificate recorded at page 1589, Volume 2, State Record of Water Right Certificates, for domestic use, stock use, and irrigation of, among other lands, 8.5 acres in the SW¹/₄ NE¹/₄, 10.8 acres in the SW¹/₄ NW¹/₄, 40.0 acres in the NE¹/₄ SE¹/₄, 5.4 acres in the SW¹/₄ SE¹/₄, and 31.1 acres in the SE¹/₄ S¹/₄, with a date of priority of 1879; 0.6 acres in the SW¹/₄ SW¹/₄, 7.0 acres in the SE¹/₄ SW¹/₄, 40.0 acres in the NW¹/₄ SE¹/₄, and 20.6 acres in the SW¹/₄ SE¹/₄, with a date of priority of 1877; and 39.2 acres in the NE¹/₄ SW¹/₄, and 36.5 acres in the NW¹/₄ SW¹/₄, with a date of priority of 1874, these lands being within Section 14, Township 14 South, Range 39 East, W.M.

In the same proceedings, a water right was established in the name of G. E. Rutherford, confirmed by certificate recorded at page 1613, Volume 2, State Record of Water Right Certificates, for domestic use, stock use, and irrigation of, among other lands, 5.0 acres in the SW¹/₄ NW¹/₄, 40.0 acres in the NW¹/₄ SW¹/₄, and 21.5 acres in the SW¹/₄ SW¹/₄, Section 13, Township 14 South, Range 39 East, W.M., with a date of priority of 1885.

These lands are irrigated through the Divens Ditch, the point of diversion being located 970 feet north and 1885 feet west from the SE corner of Section 15,

being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 14 South, Range 39 East, W.M.

The applicant herein, contract purchasers of the land above described, propose to irrigate said lands from a point of diversion to be located 1207 feet north and 703 feet west from the SE corner of Section 15, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 14 South, Range 39 East, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

Locey Bros., owners of record of the affected premises, has filed a statement that they have no objections to the proposed change in point of diversion of water.

Mr. Frank W. Elfering, Watermaster of District No. 9, 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 proposed change in point of diversion of water from Willow Creek, to-wit:

From a point located 970 feet north and 1885 feet west from the SE corner of Section 15, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 14 South, Range 39 East, W.M.

To a point to be located 1207 feet north and 703 feet west from the SE corner of Section 15, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 14 South, Range 39 East, W.M.

for domestic use, stock use, and the irrigation of 8.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 10.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 40.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 31.1 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of 1879; 0.6 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$, 7.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$,

40.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 20.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, with a date of priority of 1877; 39.2 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 36.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, with a date of priority of 1874, all within Section 14, Township 14 South, Range 39 East, W.M.; 5.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 40.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, and 21.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Township 14 South, Range 39 East, W.M., with a date of priority of 1885, 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, 1967.

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, and shall not exceed a rate of flow of 7.65 cubic feet per second from April 1st to May 1st and 3.83 cubic feet per second from May 1st to September 1st of each year, or the equivalent in case of rotation; the total quantity diverted during each irrigation season not to exceed 918.6 acre feet.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed.

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

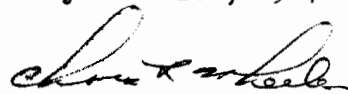
That the plans of the weir or other suitable device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificate of water right heretofore issued to G. E. Rutherford and recorded at page 1613, Volume 2, State Record of Water Right Certificates, is canceled, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion of water, a certificate of water right shall be issued to Locey and

Son confirming the change in point of diversion and covering the balance of the lands not involved in this proceeding.

It is FURTHER ORDERED that certificate of water right heretofore issued to C. T. Locey and recorded at page 1589, Volume 2, State Record of Water Right Certificates, is canceled, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion of water, certificate of water right shall be issued to Locey and Son confirming the change in point of diversion and covering the balance of the lands not involved in this proceeding.

Dated at Salem, Oregon, this 9th day of March, 1967.



CHRIS L. WHEELER
State Engineer