

BEFORE THE STATE ENGINEER OF OREGON

Wallowa County

IN THE MATTER OF THE APPLICATION )  
OF K. G. BENTSON FOR THE APPROVAL )  
OF A CHANGE IN POINT OF DIVERSION )  
OF WATER FROM IMNAHA RIVER )  
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ORDER APPROVING  
TRANSFER NO. 8-191

On November 1, 1968, K. G. Bentson filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Imnaha River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Wallowa County, Oregon, entered November 3, 1930, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Imnaha River and its Tributaries, a water right was established in the name of Fred W. Falconer for the use of the waters of Imnaha River for the irrigation of 5.1 acres in SE¼ NE¼, 1.4 acres in NE¼ SE¼, Section 8, 2.2 acres in SW¼ NW¼ and 0.1 acre in NW¼ SW¼, Section 9, Township 1 North, Range 48 East, W.M., with a date of priority of 1890. This right is evidenced by certificate recorded at page 9333, Volume 9, State Record of Water Right Certificates. In the same proceeding, a water right was established in the name of M. G. Harsin for the use of the waters of Imnaha River for the irrigation of, among other lands, 3.2 acres in NW¼ SW¼ and 1.8 acres in SW¼ SW¼, Section 9, Township 1 North, Range 48 East, W.M., with a date of priority of 1890. This right is evidenced by certificate recorded at page 9345, Volume 9, State Record of Water Right Certificates. In the same proceeding, a water right was established in the name of James E. Rice for the use of the waters of Imnaha River for the irrigation of, among other lands, 2.0 acres in SW¼ SW¼, Section 9, 13.0 acres in NW¼ NW¼ and

6.4 acres in SW¼ NW¼, Section 16, Township 1 North, Range 48 East, W.M., with dates of priority of 1890 and 1906. This right is evidenced by certificate recorded at page 9384, Volume 9, State Record of Water Right Certificates.

These lands are irrigated by means of the Booth Weaver Ditch located N 22° 31' E 2580 feet and Simmons Ditch located 800 feet north and 850 feet east, both located from the SW corner of Section 16 being within the NW¼ SW¼ and SW¼ SW¼ of Section 16, Township 1 North, Range 48 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 N 13° 17' E 220 feet from the SW corner of Section 9 being within the SW¼ SW¼ of Section 9, Township 1 North, Range 48 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 Enterprise, Oregon, on July 16, 1969, at 9:30 a.m. The notice was published in the Wallowa County Chieftain, a newspaper printed and having general circulation in Wallowa County, Oregon, for a period of three weeks in the issues of May 22, 29, and June 5, 1969. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Walter L. Astwood, Watermaster of District No. 7, 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 Imnaha River, to-wit:

From a point located 800 feet north and 850 feet east from the SW corner of Section 16, Township 1 North, Range 48 East, W.M. being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 16, Township 1 North, Range 48 East, W.M.

From a point located N 22° 31' E 2580 feet from the SW corner of Section 16, Township 1 North, Range 48 East, W.M. being within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 16, Township 1 North, Range 48 East, W.M.

To a point to be located N 13° 17' E 220 feet from the SW corner of Section 9 being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 9, Township 1 North, Range 48 East, W.M.

for the irrigation of 5.1 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 1.4 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 8, 2.2 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 3.3 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 1.8 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 9, with a date of priority of 1890, 2.0 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 9, 13.0 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$  and 6.4 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 16, with dates of priority of 1890 and 1906, all lands being within Township 1 North, Range 48 East, W.M., 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 three-eighths of one cubic foot per second per acre of land irrigated, and not to exceed one and one-half acre feet per acre during any period of 30 days during the irrigation season.

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.

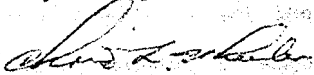
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

An order of the State Engineer entered May 9, 1969, canceled the right to the use of the waters of the Imnaha River for the irrigation of 1.2 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 9, Township 1 North, Range 48 East, W.M., with a date of priority of 1890, as evidenced by certificate of water right recorded at page 9345, Volume 9, State Record of Water Right Certificates.

It is FURTHER ORDERED that certificate of water right heretofore issued to James E. Rice and recorded at page 9384, Volume 9, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate of water right 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 K. G. Bentson confirming said change in point of diversion.

It is FURTHER ORDERED that certificates of water right heretofore issued to Fred W. Falconer and M. G. Harsin and recorded at pages 9333 and 9345, Volume 9, State Record of Water Right Certificates, are canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion certificates of water right shall be issued to K. G. Bentson confirming said change in point of diversion.

Dated at Salem, Oregon, this 27<sup>th</sup> day of August, 1969.

  
CHRIS L. WHEELER  
State Engineer