

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF CHARLES E. KIMMEL FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM LITTLE)
BUTTE CREEK.)
- - - - -

O R D E R

APPROVING APPLICATION

On April 26, 1960, Charles E. Kimmel of Route 1, Box 226, Eagle Point, Oregon, filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Little Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949, in the matter of the determination of the relative rights to the use of the water of Little Butte Creek and its tributaries, a water right was established in the name of Fryer Ditch Association for the irrigation of, among other lands, 3.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 2 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M., from Little Butte Creek with a date of priority of 1908, tabulated under the name of A. C. Mittelstaedt. These lands are irrigated through the Fryer ditch, the point of diversion of said ditch being located 120 feet North and 1125 feet East from the southwest corner of Section 35, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.

The applicant herein, owner of the land above described, proposes to irrigate said land by means of a pumping plant, the point of diversion of said pumping plant to be located 220 feet North and 1615 feet West from the southeast corner of Donation Land Claim No. 46, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 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 June 28, 1960, beginning

at 9:00 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 2, 9 and 16, 1960. The date set for hearing in said notice was not less than thirty days after the last publication of said notice.

Mr. David C. Hendrix, Watermaster of District No. 15, 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 Little Butte Creek, to-wit:

From a point located 120 feet North and 1125 feet East from the southwest corner of Section 35, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 35, Township 35 South, Range 1 West, W. M.

To a point to be located 220 feet North and 1615 feet West from the southeast corner of Donation Land Claim No. 46, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M.

for the irrigation of 3.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 2 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W. M., with a date of priority of 1908, be and the same 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, 1961, or within such extension of time as may be granted by the State Engineer for good cause shown.

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.

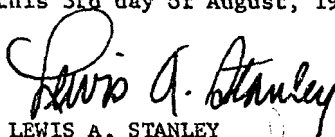
It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster, it becomes necessary to install headgates and measuring devices.

That the pumping plant and related 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 of Jackson County, Oregon, before the beginning of construction work, and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon, this 3rd day of August, 1960.

*Noted on Decree
Vol. 14, page 515
Cert. # 17180*


LEWIS A. STANLEY
State Engineer

Trsf. # K-28