

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION
OF MERLYN D. BOROUGH FOR THE APPROVAL
OF A CHANGE IN POINT OF DIVERSION
OF WATER FROM APPELEGATE RIVER

ORDER APPROVING
TRANSFER NO. 2793

On April 23, 1973, Merlyn D. Borough filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Applegate River, 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 Thomas Hart, Stuart Ruda, and Riley Furlong for the use of the waters of Applegate River for the irrigation of 10.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 36 South, Range 6 West, W.M., with a date of priority of October, 1900, as evidenced by certificate of water right recorded at page 37379, Volume 29, State Record of Water Right Certificates.

By Decree of the Circuit Court for Jackson County, Oregon, entered May 19, 1964, 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 Thomas Hart, Stuart Ruda and Riley Furlong for the use of the waters of Applegate River for the irrigation of 27.6 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 36 South, Range 6 West, W.M., with a date of priority of October, 1900, as evidenced by certificate of water right recorded at page 37380, Volume 29, State Record of Water Right Certificates.

These lands are irrigated by means of the Red Bluff Irrigation District ditch from a point of diversion located 1570 feet North and 5 feet East from the center of Section 31, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31, Township 36 South, Range 6 West, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located 1320 feet North and 1100 feet West from the Southeast corner of Section 30, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, Township 36 South, Range 6 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 Grants Pass, Oregon on October 12, 1973 at 9:30 a.m. The notice was published in the Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of August 17, 24 and 31, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Robert B. Steimer, Watermaster of District No. 14, 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 Applegate River, to wit:

From a point located 1570 feet North and 5 feet East from the center of Section 31, being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 36 South, Range 6 West, W.M.

To a point to be located 1320 feet North and 1100 feet West from the Southeast corner of Section 30, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 36 South, Range 6 West, W.M.

for the irrigation of 27.6 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, and 10.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 36 South, Range 6 West, W.M., with a date of priority of October, 1900, 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.

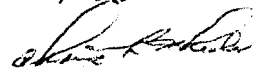
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificates of water right heretofore issued to Thomas Hart, Stuart Ruda and Riley Furlong recorded at pages 37379, and 37380, Volume 29, 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 Merlyn D. Borough confirming the change in point of diversion.

Dated at Salem, Oregon, this 21st day of December, 1973.


CHRIS L. WHEELER
State Engineer