

BEFORE THE STATE ENGINEER OF OREGON

Malheur County

IN THE MATTER OF THE APPLICATION)
OF ROY BREWER FOR THE APPROVAL OF)
A CHANGE IN POINT OF DIVERSION OF)
WATER FROM MALHEUR DRAIN)

ORDER APPROVING
TRANSFER NO. 8-171

On February 17, 1967, Roy Brewer filed an application in the office of the State Engineer for a change in point of diversion of water from Malheur Drain, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Oregon and Western Colonization Company and recorded at page 10774, Volume 10, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.65 cubic foot per second of water from Malheur Drain for the irrigation of, among other lands, 35.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 17.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 17 South, Range 47 East, W.M., with a date of priority of December 9, 1933. These lands are irrigated from a point of diversion located 320 feet South and 160 feet East from the NW corner of SE $\frac{1}{4}$ NW $\frac{1}{4}$ being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 18 South, Range 47 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 Vale, Oregon, on February 21, 1968 at 9:30 a.m. The notice was published in the Ontario Arqus-Observer, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of December 28, 1967 and January 4 and 11, 1968. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Frank W. Elfering, Watermaster of District No. 9, has filed a report to the effect that the proposed change in point of diversion 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 proposed change in point of diversion of water from Malheur Drain, to-wit:

From a point located 320 feet South and 160 feet East from the NW corner of SE $\frac{1}{4}$ NW $\frac{1}{4}$ being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 18 South, Range 47 East, W.M.

To a point to be located 341 feet South and 34 feet East from the NE corner of Section 5 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, Township 18 South, Range 47 East, W.M.

for the irrigation of 35.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 17.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 17 South, Range 47 East, W.M., with a date of priority of December 9, 1933, 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, 1968.

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 0.65 cubic foot per second.

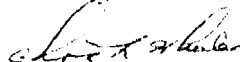
It is FURTHER ORDERED that the following provision shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificate of water right heretofore issued to Oregon and Western Colonization Company and recorded at page 10774, Volume 10, 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 Roy Brewer confirming the change in point of diversion.

Dated at Salem, Oregon, this 28th day of February, 1968.



CHRIS L. WHEELER
State Engineer