

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION )  
OF CHARLES A. PETERSON FOR THE )  
APPROVAL OF A CHANGE IN POINT )  
OF DIVERSION AND PLACE OF USE OF )  
WATER FROM BIRCH CREEK. )  
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ORDER  
APPROVING APPLICATION

On September 5, 1952, Charles A. Peterson of Box 416, Pendleton, Oregon, filed an application for the approval of a change in point of diversion and place of use of water from Birch Creek, pursuant to the provisions of Section 116-606, O. C. L. A.

Certificate of water right issued to the Birch Creek Ditch Company and recorded at page 1032, Volume 2, State Record of Water Right Certificates, confirms a right under Permit No. 396 for the use of water of Birch Creek for the irrigation of, among other lands, 20 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 33, Township 2 North, Range 32 East, W. M., with a date of priority of July 28, 1910. These lands are irrigated through the Birch Creek Ditch Company ditch, the point of diversion of said ditch being located North 6 degrees 50 minutes East 276 feet from the quarter corner common to Sections 9 and 10, and being within the SW $\frac{1}{2}$  NW $\frac{1}{4}$ , said Section 10, Township 1 North, Range 32 East, W. M.

The applicant herein, owner of 17.5 acres of the above described lands, proposes to transfer the water right appurtenant to 1.6 acres thereof, without loss of priority, to the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 33, Township 2 North, Range 32 East, W. M., and to irrigate the said 1.6 acres being transferred, together with the remaining 15.9 acres, by means of a pumping plant, the point of diversion of said pumping plant to be located

South 73 degrees 28 minutes East 1177.3 feet from the West quarter corner of Section 33, and being within the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , said Section 33, Township 2 North, Range 32 East, W. M.

Notice by publication as provided by Section 116-606, O. C. L. A., was given in the Umatilla County Record, a newspaper printed and having general circulation in Umatilla County, for a period of three weeks, being the issues of October 2, 9 and 16, 1952. The date fixed for hearing in said notice, namely: December 3, 1952, was not less than thirty days after the last publication of the notice.

Mr. Marvin B. Bennett, Watermaster, District No. 5, has filed a report to the effect that the proposed change in point of diversion of water from Birch Creek 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 Birch Creek, to-wit:

From a point located North 6 degrees 50 minutes East 276 feet from the quarter corner common to Sections 9 and 10, and being within the SW $\frac{1}{2}$  NW $\frac{1}{4}$ , said Section 10, Township 1 North, Range 32 East, W. M.

To a point to be located South 73 degrees 28 minutes East 1177.3 feet from the West quarter corner of Section 33, and being within the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , said Section 33, Township 2 North, Range 32 East, W. M.,

for the irrigation of 1.6 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  and 15.9 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 33, Township 2 North, Range 32 East, W. M., with a date of priority of July 28, 1910, be and the same hereby is approved.

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 be constructed at a sufficient distance from the stream to permit the construction of a headgate to regulate the flow of water from the stream to the pump sump and to install a weir or measuring device for measuring the water to which the applicant is entitled.

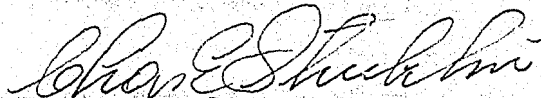
That the location of the pumping plant and channel to convey the water to the pump and the plans of the headgate and weir or measuring device be approved before the beginning of construction work by the watermaster of Umatilla County, Oregon, and that the headgate, weir or measuring device be constructed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be done and the change in point of diversion and place of use of water made on or before October 1, 1953, or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the completion of construction work and complete application of water to beneficial use as provided herein, a certificate of water right shall be issued to Charles A. Peterson or his successor in interest and certificate of water right heretofore issued to Birch Creek Ditch Company and recorded at page 1032, Volume 2, State Record of Water Right Certificates, shall be cancelled.

Dated at Salem, Oregon this 12th day of February, 1953.

*Noted on Cert. 1032*



CHAS. E. STRICKLIN  
State Engineer

*Trst. "P. 41"*