

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BAKER COUNTY

IN THE MATTER OF THE APPLICATION )  
OF DONALD STEPHENS FOR APPROVAL )  
OF CHANGES IN PLACE OF USE AND )  
POINT OF DIVERSION OF WATER )  
- - - - -

ORDER APPROVING  
TRANSFER NO. 3925

On April 6, 1978, an application was filed in the office of the Water Resources Director by Donald Stephens for approval of a change in place of use and for two additional points of diversion of water from Rock Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 33386, Volume 25, State Record of Water Right Certificates, in the name of Estate of D. Favorite, describes a right which includes the use of water from Rock Creek for irrigation of 19.5 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 4.0 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 8.5 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 40.0 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 5, Township 8 South, Range 39 East, W.M., with a date of priority of August 28, 1880.

Water for this right is diverted, through the Favorite Ditch, from a point located 371 feet North and 536 feet West from the East Quarter Corner of Section 34, being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 7 South, Range 38 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use therefrom and, without loss of priority, to irrigate in lieu thereof a certain 36.0 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 36.0 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 7 South, Range 38 East, W.M. The applicant herein also proposes to establish two additional points of diversion for the irrigation of these lands located: (1) 454 feet North and 330 feet West from the East Quarter Corner of Section 34, being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 7 South, Range 38 East, W.M. (Toney Blize Ditch); and (2) 578 feet North and 1114 feet East from the West Quarter Corner of Section 35, being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 7 South, Range 38 East, W.M. (Toney Ditch).

Notice of the application, pursuant to ORS 540.520(2), was published in the Baker Democrat-Herald, a newspaper printed and having general circulation in Baker County, Oregon, for a period of three weeks in the issues of September 11, 18 and 25, 1978.

Mr. V. Kent Searles, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without

injury to existing rights.

No objections having been filed and it appearing that the proposed changes in place of use and point of diversion may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in place of use and two additional points of diversion, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion under the subject right.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed:

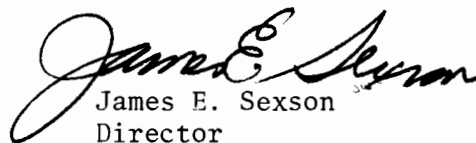
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the construction work shall be completed and the two additional points of diversion of water established and that said water so transferred shall be applied to beneficial use on or before October 1, 1980.

It is FURTHER ORDERED that the certificate of water right recorded at page 33386, Volume 25, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 18th day of December, 1978.

  
James E. Sexson  
Director