

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF LEVI AND EUDORA ELDRIDGE FOR)
THE APPROVAL OF A CHANGE IN POINT)
OF DIVERSION OF WATER FROM EAST)
BIRCH CREEK, SOMETIMES CALLED NORTH)
FORK OF EAST BIRCH CREEK.)
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O R D E R
APPROVING APPLICATION

On July 22, 1955 Levi and Eudora Eldridge of Box 167, Pilot Rock, Oregon, filed an application for the approval of a change in point of diversion of water from East Birch Creek, sometimes called North Fork of East Birch Creek pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the circuit court for Umatilla County, Oregon, entered September 9, 1916, in the matter of the determination of the relative rights of the various claimants to the waters of Umatilla River and its tributaries, a water right was adjudicated in the name of A. C. Henderson and Sons for the irrigation of, among other lands, 22 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 9 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 1 South, Range 32 East, W. M., from East Birch Creek with a date of priority of 1891. These lands are irrigated through a private ditch, the point of diversion of said ditch being located 2670 feet south and 55 feet west from the north quarter corner of Section 33, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33, Township 1 South, Range 32 East, W. M.

The applicants herein, owners of the lands above described, propose to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located 1345 feet south and 830 feet west from the North Quarter Corner of Section 33, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 33, Township 1 South, Range 32 East, W. M.

Notice by publication as provided by ORS 540.520 was given in the Pendleton Record, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks and being the issues of August 4, 11 and 18, 1955. The time for hearing as fixed in the notice, namely:

September 28, 1955, was not less than thirty days after the last publication of the notice.

Mr. M. J. Belton, Watermaster of District No. 5, 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 from East Birch Creek 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 East Birch Creek, to-wit:

From a point located 2670 feet south and 55 feet west from the north quarter corner of Section 33, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33, Township 1 South, Range 32 East, W. M.,

To a pumping plant to be located 1345 feet south and 830 feet west from the north quarter corner of Section 33, and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 33, Township 1 South, Range 32 East, W. M.,

for the irrigation of 22 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 9 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 1 South, Range 32 East, W. M., from East Birch Creek with a date of priority of 1891 be and the same hereby 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, 1956 or within such extension of time as may be granted by the State Engineer for good cause shown.

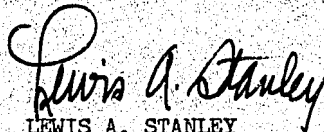
It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion.

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 Umatilla County, Oregon before beginning of construction work and the the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon this 28th day of March 1956.



LEWIS A. STANLEY
State Engineer

Noted on Decree
Vol. 3, p. 205
Cent. 2545