

BEFORE THE STATE ENGINEER OF OREGON

Wheeler County

IN THE MATTER OF THE APPLICATION)
OF CLARENCE WARREN FOR AN ADDITION-)
AL POINT OF DIVERSION OF WATER FROM)
JOHN DAY RIVER)
-----)

O R D E R

APPROVING APPLICATION

On March 25, 1963, Clarence Warren of Spray, Oregon, filed an application in the office of the State Engineer for the approval of an additional point of diversion of water from John Day River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Wheeler County, Oregon, entered November 16, 1956, In the Matter of the Determination of the Relative Rights to the Use of the Waters of John Day River and its Tributaries, a water right was established in the name of the Federal Land Bank of Spokane for the use of the waters of John Day River for stock use and irrigation of 28 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, and 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 27 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 12.9 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 21.8 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 0.7 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, all in Township 8 South, Range 25 East, W. M., with a date of priority of 1905. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located 858 feet North and 2,970 feet West from the southeast corner of Section 33, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33, Township 8 South, Range 25 East, W. M.

The applicant herein, owner of all the lands above described, except for 8.8 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, proposes to maintain his present pumping plant and also to irrigate these lands by three additional pumping plants, the points of diversion of said pumping plants to be located:

- (1) 660 feet North and 2464 feet West from the southeast corner of Section 33, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 33, Township 8 South, Range 25 East, W.M.
- (2) 1,089 feet North and 3,872 feet West from the southeast corner of Section 33, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33,

- (3) 957 feet North and 4,686 feet West from the southeast corner of Section 33, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed additional points of diversion of water, if any there were, namely: at the county courthouse at Fossil, Oregon, on June 4, 1963, at 9:30 o'clock a.m. The notice was published in the Fossil Journal, a newspaper printed and having general circulation in Wheeler County, Oregon, for a period of three weeks in the issues of April 4, 11 and 18, 1963. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. George M. Ward, Watermaster of District No. 4, has filed a report to the effect that the additional points of diversion may be used without injury to existing rights.

No objections having been filed and it appearing that the proposed additional points of diversion may be used without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed use of additional points of diversion of water from John Day River is approved and that the lands to which the heretofore described water right is appurtenant, to-wit: 28.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, and 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 27.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 12.9 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 13.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 0.7 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 5.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 25 East, W. M., with a date of priority of 1905, may be irrigated by means of the present pumping plant and three additional pumping plants, the points of diversion of said pumping plants to be located as follows:

Present Pumping Diversion: 858 feet North and 2,970 feet West from the southeast corner of Section 33, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33, Township 8 South, Range 25 East, W. M.

Additional Pumping Diversion No. 1: 660 feet North and 2464 feet West from the southeast corner of Section 33, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 33, Township 8 South, Range 25 East, W. M.

Additional Pumping Diversion No. 2: 1,089 feet North and 3,872 feet West from the southeast corner of Section 33, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33.

Additional Pumping Diversion No. 3: 957 feet North and 4,686 feet West from the southeast corner of Section 33, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 33.

It is FURTHER ORDERED that the construction work shall be completed on the additional points of diversion on or before October 1, 1964, 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 points 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 before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

Dated at Salem, Oregon, this 26th day of June, 1963.

*Noted on Decree
Vol. 10, p. 500
Cert. # 25162*


CHRIS L. WHEELER
State Engineer