

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DOUGLAS COUNTY

IN THE MATTER OF THE APPLICATION OF)
WILLIAM E. and MILDRED TUCKER FOR)
APPROVAL OF CHANGES IN PLACE OF USE)
AND POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER 5395

On October 13, 1983, an application was filed in the office of the Water Resources Director by William E. and Mildred Tucker for approval of changes in place of use and point of diversion of water from Quines Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Douglas County, Oregon, entered August 14, 1930, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Cow Creek and Its Tributaries, a water right was established in the name of C. L. Burnett, tabulated in Volume 10, page 352, Order Record of the Water Resources Director, for use of not to exceed 0.04 cubic foot per second from Quines Creek for irrigation of, among other lands, a certain 0.7 acre in NW 1/4 SW 1/4 and 2.3 acres in SW 1/4 SW 1/4, Section 26, Township 32 South, Range 5 West, WM, with a date of priority of July 25, 1894, as evidenced by the certificate recorded at page 9611, Volume 9, State Record of Water Right Certificates.

Water for the said right is diverted, through the Tulett Ditch, from a point located 685 feet South and 710 feet East from the Southwest Corner of Section 26, being within the NW 1/4 NW 1/4 of Section 35, Township 32 South, Range 5 West, WM.

The applicants herein, owners of the lands above described, propose to change the place of use therefrom to 3.0 acres in SW 1/4 SW 1/4 of said Section 26 and to change the point of diversion therefrom to a point located 1000 feet North and 680 feet East from the Southwest Corner of Section 26, being within the SW 1/4 SW 1/4 of Section 26, Township 32 South, Range 5 West, WM.

Notice of the application, pursuant to ORS 540.520(2), was published in The News-Review, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of November 2, 9, and 16, 1983.

Gary L. Ball, 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 proposed changes in place of use and point of diversion are approved, without loss of priority.

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 under the subject right, and shall not exceed 0.04 cubic foot per second.

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 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;

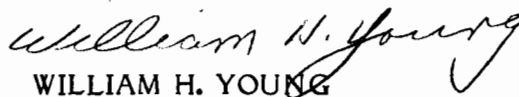
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1985.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1985.

It is FURTHER ORDERED that the certificate recorded at page 9611, Volume 10, State Record of Water Right Certificates, is cancelled; 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 applicants herein.

Dated at Salem, Oregon this 15th day of December, 1983.


WILLIAM H. YOUNG
Director

NOTE: The approval of a water right transfer application does not confirm the status of the right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

9730B