

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON  
JACKSON COUNTY

IN THE MATTER OF THE APPLICATION OF )  
JERRY E. MERCER FOR APPROVAL OF A )  
CHANGE IN POINT OF DIVERSION OF WATER )  
-----

ORDER APPROVING  
TRANSFER 5337

On August 5, 1983, an application was filed in the office of the Water Resources Director by Jerry E. Mercer for approval of a change in point of diversion of water from Slagle Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and Its Tributaries, a water right was established in the name of Charles Burkhalter, tabulated in Volume 4, page 31, Order Record of the Water Resources Director, for use of the waters of Slagle Creek for irrigation of, among other lands, a certain 8.0 acres in NW 1/4 NE 1/4, Section 5, Township 38 South, Range 4 West, WM, with a date of priority of 1888, as evidenced by the certificate recorded at page 16422, Volume 13, State Record of Water Right Certificates.

Water for the said right is diverted, through the Burkhalter Ditch, from a point located within the NE 1/4 NE 1/4 of Section 5, Township 38 South, Range 4 West, WM.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom to a point located 550 feet South and 1930 feet West from the Northeast Corner of Section 5, being within the NW 1/4 NE 1/4 of Section 5, Township 38 South, Range 4 West, WM. The change in point of diversion is reported to be completed.

Robert B. Steimer, Watermaster, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in 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 change in point of diversion is 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 0.16 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:

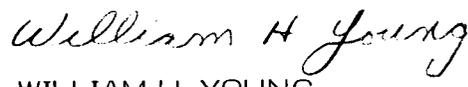
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 water used from the proposed point of diversion on or before October 1, 1985.

It is FURTHER ORDERED that the certificate recorded at page 16422, Volume 13, 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 3rd day of November, 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.

9101B