

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF W. C. AND BERTHA M. BAKER FOR)
THE APPROVAL OF A CHANGE IN POINT)
OF DIVERSION OF WATER FROM EAST)
BIRCH CREEK)

ORDER APPROVING
TRANSFER NO. B-142

On February 25, 1964, W. C. and Bertha Baker of Pilot Rock, Oregon filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from 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 to the Use of the Waters of Umatilla River and its Tributaries, a water right was established in the name of M. T. Baker for the use of the waters of East Birch Creek for the irrigation of, among other lands, 10.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 1 South, Range 32 East, W.M., with a date of priority of 1870, said right being confirmed by certificate recorded at page 2486, Volume 3, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 1190 feet south and 1320 feet west from the northeast corner of Section 4, and being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 4, Township 2 South, Range 32 East, W.M.

The applicants herein, owners of the land above described, propose to irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located 420 feet north and 1815 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 1 South, Range 32 East, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed change in point of diversion of water, if any there were, namely: at the County Courthouse in Pendleton, Oregon, on September 30, 1964, at 9:30 a.m.

The notice was published in The Pendleton Record, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of August 6, 13 and 20, 1964. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Jerry F. Haines, Watermaster of District No. 5, has filed a report 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 of water from East Birch Creek, to-wit:

From a point located 1190 feet south and 1320 feet west from the northeast corner of Section 4, and being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 4, Township 2 South, Range 32 East, W.M.

To a point to be located 420 feet north and 1815 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 1 South, Range 32 East, W.M.

for the irrigation of 10.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 1 South, Range 32 East, W.M., with a date of priority of 1870, 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, 1965.

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.

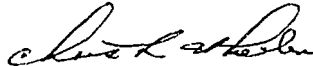
It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:

That the diversion 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.

It is FURTHER ORDERED that certificate of water right heretofore issued to M. T. Baker and recorded at page 2486, Volume 3, State Record of Water Right Certificates, is canceled and that in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to W. C. and Bertha M. Baker confirming said change in point of diversion.

Dated at Salem, Oregon, this 20th day of November, 1964.



CHRIS L. WHEELER
State Engineer

*Noted on Bureau
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Cont. # 2486*