

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

POLK COUNTY

IN THE MATTER OF THE APPLICATION )  
OF KENNETH GARDNER FOR APPROVAL )  
OF CHANGES IN PLACE OF USE AND )  
POINT OF DIVERSION OF WATER )  
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ORDER APPROVING  
TRANSFER NO. 3577

On March 10, 1977, an application was filed in the office of the Water Resources Director by Kenneth Gardner for approval of changes in place of use and point of diversion from Little Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 21278, Volume 15, State Record of Water Right Certificates, in the name of Eldon R. Frink, describes a right which includes the use of not to exceed 0.13 cubic foot per second, with a date of priority of May 2, 1949; 0.17 cubic foot per second, with a date of priority of July 12, 1949; and 0.03 cubic foot per second, with a date of priority of September 15, 1949, for the irrigation of a certain 7.5 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 11.0 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 3.8 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$ , and 3.7 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 26, Township 8 South, Range 6 West, W.M.

Water for the said right is diverted from a point located 1780 feet North and 3430 feet East from the Southwest Corner of Section 26, being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 26, Township 8 South, Range 6 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof a certain 8.6 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 0.3 acre in NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 1.3 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$ , and 15.8 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 36, Township 8 South, Range 6 West, W.M., from a point of diversion located 430 feet North and 2560 feet East from the Southwest Corner of Section 25, being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 25, Township 8 South, Range 6 West, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Polk County Itemizer-Observer, a newspaper printed and having general circulation in Polk County, Oregon, for a period of three weeks in the issues of May 25; June 1 and 8, 1977.

Mr. Benjamin E. Monroe, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made with-

out 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 requested changes in place of use and point of diversion, as described herein, without loss of priority, are approved.

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 0.33 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:

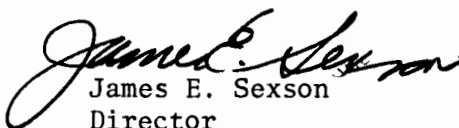
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 and said water so transferred shall be applied to beneficial use on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Eldon R. Frink and recorded at page 21278, Volume 15, 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 28th day of April, 1978.

  
James E. Sexson  
Director