

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF A. R. MCBROOM FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM EAST BIRCH CREEK)

ORDER APPROVING
TRANSFER NO. M-151

On March 10, 1964, A. R. McBroom 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 the Umatilla River and its Tributaries, a water right was allowed in the name of Grace A. Gilliam for the use of the waters of East Birch Creek, with a date of priority of 1875, for the irrigation of, among other lands, 10.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 10.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 6.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 2 South, Range 32 East, W.M., said right being confirmed by certificate recorded at page 2531, Volume 3, State Record of Water Right Certificates. These lands are irrigated through the Gilliam and Knotts Ditches, the points of diversion of said ditches being located: Gilliam Ditch - 4400 feet south and 150 feet east from the northeast corner of Section 4, and being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 2 South, Range 32 East, W.M.; Knotts Ditch - 3700 feet south and 500 feet west from the northeast corner of Section 4, and being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 4, Township 2 South, Range 32 East, W.M.

In the same proceedings, a water right was allowed in the name of Isaac Knotts Estate for the use of the waters of East Birch Creek, with a date of priority of 1892, for the irrigation of, among other lands, 5.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 2 South, Range 32 East, W.M. These lands are irrigated through Knotts Ditch, the point of diversion being described in paragraph two hereof.

The applicant herein, owner of the lands above described, proposes to maintain the present points of diversion and also irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located 1155 feet south and 1452 feet west from the northeast corner of Section 4, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 4, Township 2 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 October 20, 1964, at 9:30 a.m. The notice was published in the East Oregonian, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of August 25, September 1 and 8, 1964. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Jerry Haines, Watermaster of District No. 5, has filed a report to the effect that the proposed change in point of diversion of water 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 applicant may maintain a pumping plant, in addition to the Gilliam and Knotts Ditches, the point of diversion of said pumping plant to be located as follows:

1155 feet south and 1452 feet west from the northeast corner of Section 4, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 4, Township 2 South, Range 32 East, W.M.

for the irrigation of 10.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 10.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, and 6.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 2 South, Range 32 East, W.M., with a date of priority of 1875, and 5.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 4, with a date of priority of 1892.

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 points 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:

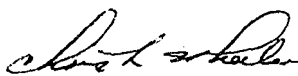
That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

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 certificates of water right heretofore issued to Grace A. Gilliam and the Isaac Knotts Estate and recorded at pages 2531 and 2575, Volume 3, State Record of Water Right Certificates, respectively, are canceled and in lieu thereof, new certificates 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 A. R. McBroom confirming said change in point of diversion.

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

*Noted on Dec 10
Vol. 3 p. 204 & 210
Cert. # 2531 & 2575*


CHRIS L. WHEELER
State Engineer