

BEFORE THE STATE ENGINEER OF OREGON

Union County

IN THE MATTER OF THE APPLICATION)
OF LAVON AND VERA CULVER FOR A)
CHANGE IN PLACE OF USE AND POINT)
OF DIVERSION OF WATER FROM CLARK)
CREEK)

O R D E R
APPROVING APPLICATION

On March 19, 1962, Lavon and Vera Culver of Elgin, Oregon, filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Clark Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to John Klinghammer and L. J. Furgason and recorded at page 722, Volume 1, State Record of Water Right Certificates, confirms a right under Permit No. 132 to the use of the waters of Clark Creek for the irrigation of, among other lands, 20 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 30 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 40 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W. M., with a date of priority of August 4, 1909. These lands are irrigated through the Ryder and Hug Ditch, the point of diversion of said ditch being located 1518 feet South and 1287 feet West from the northeast corner of Section 31, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31, Township 1 North, Range 40 East, W.M.

The applicants herein, owners of the land above described, propose to transfer the water right appurtenant to 4.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 22 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 15 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, without loss of priority, to 2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 36 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W.M., and to irrigate these lands, together with the remaining lands described in the second paragraph hereof, by means of two pumping plants, the points of diversion of said pumping plants to be located (1) North 26 degrees West 3400 feet from the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W.M., and (2) North

26 degrees 25 minutes East 1665 feet from the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 23.

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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in La Grande, Oregon, on June 13, 1962, at 9:30 o'clock a.m. The notice was published in the La Grande Observer, a newspaper printed and having general circulation in Union County, Oregon, for a period of three weeks in the issues of April 20, 27 and May 4, 1962. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Ward Miller, Watermaster of District No. 6, has filed a report to the effect that the proposed change in place of use and point of diversion may be made without injury to existing rights.

Lola Culver, mortgagor of the lands from which it is proposed to transfer water, has submitted written approval to the change in place of use of water.

No objections having been filed and it appearing that the proposed change 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 change in place of use of water be and the same is approved and that the water right hereinbefore described as appurtenant to 4.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 22 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 15 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W. M., with a date of priority of August 4, 1909, be severed therefrom and simultaneously and without loss of priority transferred to 2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 36 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 23.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Clark Creek, to-wit:

From a point located 1518 feet South and 1287 feet West from the northeast corner of Section 31, and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 31, Township 1 North, Range 40 East, W. M.

To a point to be located North 26 degrees West 3400 feet from the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W. M., and

To a point to be located North 26 degrees 25 minutes East 1665 feet from the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 23,

for the irrigation of 2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 5 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 15.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 28.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 36 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 18 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 25 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, Township 1 North, Range 39 East, W. M., with a date of priority of August 4, 1909, be and the same hereby is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1963, or within such extension of time as may be granted by the State Engineer for good cause shown.

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 pumping plant and related 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 of Union County, Oregon, 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 John Klinghammer and L. J. Furgason and recorded at page 722, Volume 1, State Record of Water Right Certificates, be and the same hereby 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 application of water to beneficial use, a certificate of water right shall be issued to Lavon and Vera Culver to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 27th day of June, 1962.

Noted on records
App. # 214
Cert. # 722

Chris L. Wheeler
CHRIS L. WHEELER
State Engineer