

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

MALHEUR COUNTY

IN THE MATTER OF THE APPLICATION)
OF EMIL W. MAAG FOR APPROVAL OF A)
CHANGE IN POINT OF DIVERSION OF)
WATER)

ORDER APPROVING
TRANSFER NO. 3728

On July 11, 1977, an application was filed in the office of the Water Resources Director by Emil W. Maag for approval of a change in point of diversion of water from Willow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of Circuit Court for Malheur County, entered October 25, 1913, in the Matter of the Determination of the Relative Rights to the Use of the Waters of Willow Creek, tabulated at page 297, Volume 3, Order Record of the Water Resources Director, a water right was allowed in the name of Clarence H. and Frank C. Oxman, and is described by the certificate recorded at page 1607, Volume 2, State Record of Water Right Certificates, in the name of Clarence H. and Frank C. Oxman, for the use of water from Willow Creek for irrigation of among other lands, a certain 19.0 acres in NE 1/4 SE 1/4 and 31.0 acres in SE 1/4 SE 1/4, with a date of priority of 1871; 36.0 acres in NW 1/4 SE 1/4, 14.0 acres in SW 1/4 SE 1/4 and 9.0 acres in SE 1/4 SE 1/4, with a date of priority of 1873, all in Section 10, Township 16 South, Range 43 East, W.M.

Water for the said right is diverted through the Hammack and Maag Ditches, from a point located 1304 feet South and 139 feet West from the Northeast Corner of Section 9, being within the NE 1/4 NE 1/4 of Section 9, Township 16 South, Range 43 East, W.M.

The applicant herein proposes to change the point of diversion, without loss of priority, to a point located 77 feet South and 1170 feet West from the Northeast Corner of Section 9, being within the NE 1/4 NE 1/4 of Section 9, Township 16 South, Range 43 East, W.M. (Hammack Ditch).

Notice of the application, pursuant to ORS 540.520(2), was published in the Malheur Enterprise, a newspaper printed and having general circulation in Malheur County, Oregon, for a period of three weeks in the issues of April 19 and 26, and May 3, 1978.

Mr. Frank Elfering, 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 requested change in point of diversion, as described herein, without loss of priority, is 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 .

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed:

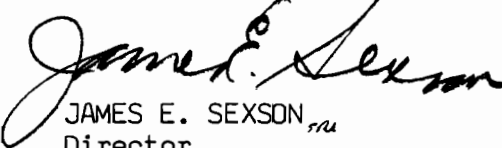
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 NO time need be fixed for completion as the change in point of diversion is completed.

It is FURTHER ORDERED that the certificate recorded at page 1607, Volume 2, 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 22nd day of August, 1980.


JAMES E. SEXSON SR
Director