

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

UMATILLA COUNTY

IN THE MATTER OF THE APPLICATION )  
OF BEN A. WEINKE FOR APPROVAL OF )  
CHANGE IN POINTS OF DIVERSION OF )  
WATER )  
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ORDER APPROVING  
TRANSFER NO. 3160

On January 27, 1975, an application was filed in the office of the Water Resources Director by Ben A. Weinke for approval of a change in point of diversion and two additional points of diversion of water from Birch Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 2579, Volume 3, State Record of Water Right Certificates, in the name of Louis Male, describes a right which includes the use of not to exceed 0.125 cubic foot per second from Birch Creek for irrigation of a certain 5.0 acres in NE 1/4 SW 1/4 and 5.0 acres in SW 1/4 SE 1/4, Section 27, Township 1 North, Range 32 East, W.M., with a date of priority of 1908.

The certificate recorded at page 2931, Volume 4 of said record, in the name of August Weinke, describes a right for the use of not to exceed 0.31 cubic foot per second from Birch Creek for irrigation of a certain 11.5 acres in NE 1/4 SW 1/4 and 13.5 acres in SE 1/4 SW 1/4 of said Section 27, with a date of priority of 1895.

The certificate recorded at page 3478 of said Volume 4, in the name of August Weinke, describes a right for the use of not to exceed 0.13 cubic foot per second from Birch Creek for irrigation of a certain 10.0 acres in SE 1/4 SW 1/4 of said Section 27, with a date of priority of March 21, 1921.

Water for the said rights is diverted, through the Weinke Ditch, from a point located 520 feet South and 120 feet East from the North Quarter Corner of Section 34, being within the NW 1/4 NE 1/4, Section 34, Township 1 North, Range 32 East, W.M.

The applicant herein, owner of the lands above described, proposes, without loss of priority, to change to three points of diversion located 1) 1150 feet North and 110 feet West from the Center of Section 34, being within the SE 1/4 NW 1/4, Section 34; 2) 450 feet North and 2350 feet West from Southeast Corner of Section 27, being within the SW 1/4 SE 1/4, Section 27; and 3) 750 feet South and 2720 feet West from the East Quarter Corner of Section 27, being within the NE 1/4 SW 1/4, Section 27, all Township 1 North, Range 32 East, W.M.

Notice of the application, pursuant to ORS 540.520(2), 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 July 9, 16 and 23, 1980.

Mr. Steven P. Applegate, Watermaster, has filed a statement to the effect that the proposed changes in point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes 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 changes in 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 points 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 effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:

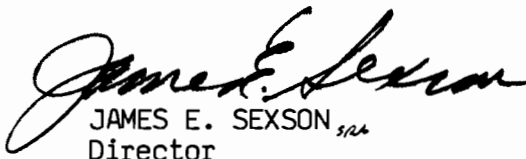
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 NO time need be fixed for completion as the changes in point of diversion are completed.

It is FURTHER ORDERED that the certificates recorded at page 2579, Volume 3, and pages 2931 and 3478, Volume 4, State Record of Water Right Certificates, are canceled; and in lieu thereof a new certificate be issued covering the balance of the right under certificate 2579 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, confirming certificates of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 8th day of September, 1980.

  
JAMES E. SEXSON, SR  
Director