

BEFORE THE STATE ENGINEER OF OREGON

Douglas County

IN THE MATTER OF THE APPLICATION
OF VERN J. LIVELY FOR THE APPROVAL
OF A CHANGE IN POINT OF DIVERSION
OF WATER FROM SOUTH MYRTLE CREEK

ORDER APPROVING
TRANSFER NO. 2587

On November 18, 1971, Vern J. Lively filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from South Myrtle Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to William E. Williams and recorded at page 22704, Volume 16, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.25 cubic foot per second of water from South Myrtle Creek for the irrigation of 5.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 15.4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, and 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M., with a date of priority of February 11, 1952. These lands are irrigated from a point of diversion located 650 feet South and 2530 feet West from the Northeast corner of Section 29, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M.

The final proof survey was in error and a resurvey correctly located these lands as being 0.9 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 14.8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4.8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M.

The applicant herein, owner of 2.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M., proposes to irrigate these lands from a point of diversion to be located 1320 feet South and 1550 feet East from the Northwest corner of Section 29, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said Section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions.

Mr. M. John Youngquist, Watermaster of District No. 15, 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 change in point of diversion of water from South Myrtle Creek, to wit:

From a point located 650 feet South and 2530 feet West from the Northeast corner of Section 29, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 29 South, Range 4 West, W.M.

To a point to be located 1320 feet South and 1550 feet East from the Northwest corner of Section 29, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 29 South, Range 4 West, W.M.

for the irrigation of 2.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 29 South, Range 4 West, W.M., with a date of priority of February 11, 1952, is approved.

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, 1974.

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, and shall not exceed 0.03 cubic foot per second.

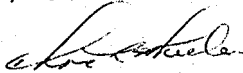
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificate of water right heretofore issued to William E. Williams and recorded at page 22704, Volume 16, State Record of Water Right Certificates, is canceled, and 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 completion of the authorized change in point of diversion, a certificate of water right shall be issued to Vern J. Lively confirming the change in point of diversion.

Dated at Salem, Oregon, this 9th day of January, 1974.


CHRIS L. WHEELER
State Engineer ✓