

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CLACKAMAS COUNTY

IN THE MATTER OF THE APPLICATION )  
OF WALTER BERG FOR APPROVAL OF A )  
CHANGE IN POINT OF DIVERSION OF )  
WATER FROM BUTTE CREEK )  
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ORDER APPROVING  
TRANSFER NO. 3741

On July 28, 1977, an application was filed in the office of the Water Resources Director by Walter Berg for a change in point of diversion under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 16959, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for the use of not to exceed 0.125 cubic foot per second from Butte Creek for irrigation of 10.0 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, Township 6 South, Range 1 East, W.M., with a date of priority of July 17, 1946.

The certificate recorded at page 16981, Volume 14, State Record of Water Right Certificates, in the name of Walter Berg, describes a right for the use of not to exceed 0.38 cubic foot per second from Butte Creek for irrigation of 21.6 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 8.4 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, Township 6 South, Range 1 East, W.M., with a date of priority of June 6, 1947.

Water for the said rights is diverted from a point located 60 feet North and 950 feet West from the Southeast corner of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 5.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority to a point located 1311 feet South and 640 feet West from the Northeast corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 5.

Notice of the application, pursuant to ORS 540.510, was published in the Molalla Pioneer, a newspaper printed and having general circulation in Clackamas County, Oregon, for a period of three weeks in the issues of August 10, 17 and 24, 1977.

Mr. Keith M. Palmer, 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 rights.

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

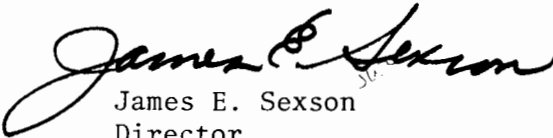
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

It is FURTHER ORDERED that the certificates of water right heretofore issued to Walter Berg and recorded pages 16959 and 16981, Volume 14, State Record of Water Right Certificates, are canceled, 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 3rd day of November, 1977.

  
James E. Sexson  
Director