

Grant County

IN THE MATTER OF THE APPLICATION)
 OF WALTER BADLEY FOR THE APPROVAL)
 OF A CHANGE IN POINT OF DIVERSION)
 OF WATER FROM JOHN DAY RIVER)

ORDER APPROVING
TRANSFER NO. B-189

On July 17, 1968, Walter Badley filed an application in the office of the State Engineer on behalf of Hillary Stout, Raymond H. Lang, Ashley Westmoreland, Bandy Sintay, Ben E. Kendall, Frank Chester, John D. Jarvis, James Whale by John D. Jarvis, Walter Badley and Allen M. Adkins, Jr. for the approval of a change in point of diversion of water from John Day River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Grant County, Oregon, entered November 16, 1956, In the Matter of the Determination of the Relative Rights to the Use of the Waters of John Day River and Its Tributaries, a water right was established in the name of Bradford C. Trowbridge for the use of the water of John Day River for the irrigation of, among other lands, 3.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 13 South, Range 31 East, W.M., with a date of priority of 1875. This right is evidenced by certificate of water right recorded at page 25925, Volume 18, State Record of Water Right Certificates. This land is irrigated by means of the John Day Mill ditch or Forlorn Hope ditch, the point of diversion being located 2300 feet south and 1080 feet east from the W $\frac{1}{2}$ corner of Section 20 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 13 South, Range 32 East, W.M.

The applicants herein, owners of the lands above described, propose to irrigate these lands by means of the Old Mill Ditch from a point of diversion to be located 625 feet south and 1000 feet east

from the NW $\frac{1}{4}$ corner of Section 25 being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 13 South, Range 31 East, W.M.

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 point of diversion of water, if any there were, namely: at the county courthouse in Canyon City, Oregon, on February 20, 1969, at 9:30 a.m. The notice was published in the Blue Mountain Eagle, a newspaper printed and having general circulation in Grant County, Oregon, for a period of three weeks in the issues of December 26, 1968 and January 2 and 9, 1969. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Wayne J. Overcash, Watermaster of District No. 4, 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 point of diversion of water may be established 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 John Day River, to-wit:

From a point located 2300 feet south and 1080 feet east from the W $\frac{1}{4}$ corner of Section 20 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 13 South, Range 32 East, W.M.

To a point to be located 625 feet south and 1000 feet east from the NW $\frac{1}{4}$ corner of Section 25 being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 13 South, Range 31 East, W.M.

for the irrigation of 3.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 13 South, Range 31 East, W.M., with a date of priority of 1875, 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, 1969.

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 1/40 cubic foot per second per acre irrigated from April 1 to September 30; further limited to one acre foot per acre per calendar month to July 1 and 3/4 acre foot per acre thereafter; total 5 acre feet per acre for season, measured at point of diversion.

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.

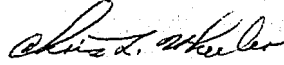
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

An order of the State Engineer entered August 21, 1968 approved the change in point of diversion for the irrigation of part of the lands described in the certificate recorded at page 25925, canceled the certificate and provided for the issuance of a new certificate covering the lands not involved in that proceeding.

It is FURTHER ORDERED that the lands involved in this proceeding not be included in the certificate provided for in the order entered August 21, 1968 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 Hillary Stout, Raymond

H. Lang, Ashley Westmoreland, Bandy Sintay, Ben E. Kendall, Frank Chester,
John D. Jarvis, James Whale by John D. Jarvis, Walter Badley and Allen
M. Adkins, Jr. confirming said change in point of diversion.

Dated at Salem, Oregon, this 28th day of February, 1969.



CHRIS L. WHEELER
State Engineer ✓