

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Polk County

IN THE MATTER OF THE APPLICATION }
OF J. W. AUER FOR THE APPROVAL OF }
A CHANGE IN PLACE OF USE AND POINT }
OF DIVERSION OF WATER FROM }
LUCKIAMUTE RIVER }

ORDER APPROVING
TRANSFER NO. 3081

On July 1, 1974, J. W. Auer filed an application in the office of the Water Resources Director for the approval of a change in point of diversion and place of use of water from Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to J. W. Auer and recorded at Page 40693, Volume 32, State Record of Water Right Certificates, confirms a right to the use of not to exceed 1.90 cubic feet per second of water from Luckiamute River for the irrigation of, among other lands, 1.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 16.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970. These lands are irrigated from a point of diversion located 560 feet North and 1090 feet West from the Southeast corner of Section 17, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Township 9 South, Range 5 West, W.M.

The applicant herein, owner of the lands above described, proposes to change the place of use to the irrigation of 1.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15, 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, and 0.6 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 9 South, Range 5 West, W.M., and to irrigate these lands from a point of diversion to be located 600 feet North and 500 feet West from the Southeast corner of Section 16, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, Township 9 South, Range 5 West, 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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in Dallas, Oregon, on March 9, 1976, at 9:30 a.m. The notice was published in the Polk Sun, a newspaper printed and having general circulation in Polk County, Oregon, for a period of three weeks in the issues of January 14, 21 and 28, 1976. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Benjamin Monroe, Watermaster of District No. 18, has filed a report to the effect that the proposed change in place of use and 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 place of use and point of diversion may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 1.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 16.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970, be severed therefrom and simultaneously and without loss of priority transferred to 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, 1.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, and 0.6 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, Township 9 South, Range 5 West, W.M.

It is FURTHER ORDERED that the change in point of diversion of water from Luckiamute River, to wit:

From a point located 560 feet North and 1090 feet West from the Southeast corner of Section 17, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Township 9 South, Range 5 West, W.M.

To a point to be located 600 feet North and 500 feet West from the Southeast corner of Section 16, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, Township 9 South, Range 5 West, W.M.

for the irrigation of 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15, 1.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 12.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, and 0.6 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 9 South, Range 5 West, W.M., with a date of priority of April 30, 1970, 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, 1977.

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 0.37 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.

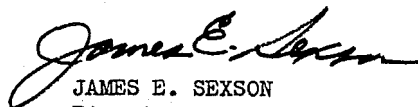
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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 the certificate of water right heretofore issued to J. W. Auer and recorded at Page 40693, Volume 32, 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 Water Resources Director of completion of the authorized change in point of diversion, a certificate of water right shall be issued to J. W. Auer confirming the extent to which water

has been applied beneficially and confirming the change in point of diversion.

Dated at Salem, Oregon, this 14th day of April, 1976.



JAMES E. SEXSON
Director