

March 3, 1961

Mr. Robert B. Steimer
Watermaster, District No. 16
Courthouse Annex
Grants Pass, Oregon

Dear Mr. Steimer:

Re: Transfers No. R-27
R-55
S-90

Thank you for your letter of February 28, relative to the Fred Richards and Earl Smith transfers.

1951 Transfer

The April 26, 1951, order approving the application of Fred Richards was entered after a hearing on protests against the approval of this application. The proposed point of diversion for the irrigation of the 19.5 acres was to be located 250 feet S. and 200 ft. W. from the N $\frac{1}{2}$ corner of Sec. 26, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 38 S., R. 5 W., W.M. The map also indicated the point of diversion to be so located as well as the testimony taken at the hearing.

If he is now using a pumping plant, and it is located at a different point of diversion than the point of diversion of the Richards ditch, he has no authority to take water at the pump. The second paragraph of page 1 and the next to the last paragraph of the last page of the order should show the date of priority as 1858. If your copy indicates a priority of 1878, it should be changed accordingly.

1952 Transfer

The application of Earl Smith for a change from the

Baltimore ditch to a pumping plant to be located 1250 ft. N. and 400 ft. W. from the S $\frac{1}{4}$ corner of Sec. 23, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 38 S., R. 5 W., W. M., conforms to both the applicant's application and the map prepared by Tom Pearce showing the location of the proposed point of diversion.

On October 24, 1952, Mr. Richards signed a notice on behalf of Mr. Smith that the change was made in accordance with the order. If the water is being diverted from any other point than the above, it is being done illegally. Since the distance between the proposed point of diversion and the point from which it is actually being pumped today is more than $\frac{1}{4}$ mile, it appears that notice must be given if and when he files an application.

1958 Transfer

The order approving Mr. Richards' application, entered April 7, 1958, describes the pumping plant to be located 750 ft. S. and 250 ft. W. from the N $\frac{1}{4}$ corner of Sec. 26, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 26, T. 38 S., R. 5 W., W. M. The map prepared by Tom Pearce and the application conform to the description of the proposed point of diversion as given in the order.

Since he is diverting water at a different point than the foregoing described point of diversion, it is being done illegally. Actually, I can see no value in this supplemental right. Normally, a supplemental right is from a different stream and is used to supplement a primary right when the water from that source is insufficient. Since both the primary and supplemental rights are now direct from Williams Creek, he cannot secure any additional water under the supplemental right.

The Rogue River decree provides that the quantity of water diverted from both primary and supplemental sources of supply shall not exceed the maximum quantity to which said lands are entitled from either source of supply. That is to say, where the lands irrigated are determined to have a right to a certain quantity of water from one stream or source of supply and are irrigated also from another stream or source, the total and entire quantity of water to which said lands are entitled from all sources shall not exceed the maximum quantity to which said lands are entitled from any such source of supply.

Robert B. Steimer

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It appears to me that before you can deliver any water to Mr. Richards or the other people who have purchased a part of these lands, they must straighten up the record as to the location of their points of diversion. To save Mr. Richards some money in filing fees, We can treat all these changes as one application. However, a separate form should be used for each water right involved.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By

Max F. Rogers, Deputy

MFR:ks