

2656 Humboldt Land & Live-
Stock Co.
Ft. ...

2656

STATUS OF APPLICATION

Change in Point of Diversion + Place of Use
Date filed MAY 31, 1972
Date of hearing 11-4-76
Place of hearing Burns
Date of order 1-16-78 Vol. 30, page 264
Date for application of water 10-1-79
Proof mailed _____
Proof received _____
Certificate issued _____ Vol. _____, page _____

DESCRIPTION OF WATER RIGHT

Name of stream Trout Creek, South Branch
Trib. of _____ County of Harney
Use Irrigation
Quantity of water _____ No. of acres 50
Name of ditch _____
Date of priority 1884
In name of FL Whelpley
Trout Creek Adjudication, Vol. 3, page 97
App. No. _____ Per. No. _____ Cert. No. _____
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>5-31-72</u>	<u>30.00</u>	<u>28572</u>
TOTAL . . .		
	\$1 Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

CARD FOR DEC 26 1979

TO BE ENTERED WHERE CHECKED	INDEX CARDS:		Entered	Checked
<input checked="" type="checkbox"/>	Name		<u>lcj</u>	
<input checked="" type="checkbox"/>	Stream		<u>lcj</u>	
<input checked="" type="checkbox"/>	Pt. of Div.			
<input checked="" type="checkbox"/>	Calendar		<u>lcj</u>	
<input checked="" type="checkbox"/>	CHECKED TO RECORDS:			
<input checked="" type="checkbox"/>	Twp. & Rge.		<u>Iwc</u>	
<input checked="" type="checkbox"/>	Decree-vault		<u>mc</u>	<u>lcj</u>
<input checked="" type="checkbox"/>	Decree-safe		<u>lcj</u>	
<input checked="" type="checkbox"/>	Cert. of W/R			
<input checked="" type="checkbox"/>	Per. Folder			
<input checked="" type="checkbox"/>	Chaindex			
<input checked="" type="checkbox"/>	Cross Ref.			
<input checked="" type="checkbox"/>	Power Claim			
<input checked="" type="checkbox"/>	Abstracts		<u>lcj</u>	

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

HARNEY COUNTY

IN THE MATTER OF THE APPLICATION)
OF HUMBOLT LAND & LIVESTOCK CO.)
FOR APPROVAL OF CHANGES IN PLACE)
OF USE AND POINT OF DIVERSION OF)
WATER FROM TROUT CREEK)

ORDER APPROVING
TRANSFER NO. 2656

On May 31, 1972, an application was filed in the office of the Water Resources Director by Humbolt Land & Livestock Company for approval of changes in place of use and point of diversion from Trout Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Harney County, dated February 23, 1916, in the matter of Edwin B. Hill, et al. vs. the American Land & Livestock Company, et al., a right was adjudicated to F. L. Whelply (also tabulated in the names of C. E. Thomas and L. W. Walter) for use of water from South Branch Trout Creek under a date of priority of 1884, for the irrigation of 5.0 acres in S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 39 South, Range 35 East, W.M.

The authorized point of diversion is located 0 feet North and 0 feet West from the Southeast Corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 39 South, Range 36 East, W.M., being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 31.

The applicant herein, owner of the lands above described, proposes to change the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof a certain 5.0 acres in W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 39 South, Range 37 East, W.M. from a point of diversion located 20 feet North and 310 feet East from the Center Corner of Section 17, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, Township 39 South, Range 37 East, W.M.

Notice of the application, pursuant to ORS 540.510, was published in

the Burns Times-Herald, a newspaper printed and having general circulation in Harney County, Oregon, for a period of three weeks in the issues of September 9, 16 and 23, 1976.

Mr. Walter N. Perry, Water Resources Department, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes 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 requested changes in place of use and point of diversion of water from Trout Creek, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the diversion of water at the new point of diversion shall be limited to the water available at the old point of diversion on the South Branch of Trout Creek under the subject water right, pursuant to provisions of the said decree, with particular reference to paragraph 26 and to a subsequent paragraph which provides, in part, "A headgate shall always be maintained at the head of the South Branch... at such times as the water is not needed for beneficial use for the purpose herein determined by any lower water users ... such amount may be allowed to flow through such headgate as may be necessary for the use of all appropriators or users therefrom ...".

It is FURTHER ORDERED that the diversion of water at the new point of diversion shall be contingent upon maintaining an adequate system of drain ditches and controls to prevent the free-flooding of the lands from which the water right is hereby severed.

It is FURTHER ORDERED that the following provisions shall be carried

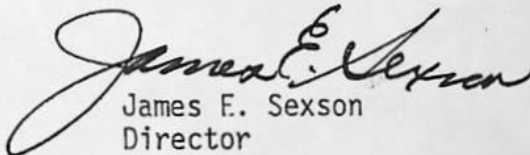
out prior to the diverting of water at the new point of diversion as herein confirmed:

That the diversion works shall include 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 and said water so transferred shall be applied to beneficial use on or before October 1, 1979.

Dated at Salem, Oregon, this 16th day of January, 1978.


James E. Sexson
Director