

January 16, 1951

Mr. P. J. Gallagher  
Attorney at Law  
Ontario, Oregon

Dear Mr. Gallagher:

Careful consideration has been given to Mr. G. A. Masterson's application for approval to change water rights which were adjudicated as from the direct flow of Indian and North Fork Indian Creeks for the irrigation of land to that of storage for irrigation.

In order for the State Engineer to approve the application in so far as the waters of North Fork of Indian Creek are concerned, the State Engineer must find that the Lambertson right from Indian Creek will not be deprived of water and also that the storage will not deprive any other right to the use of water of Bully Creek.

The only basis upon which the State Engineer could find that the proposed change would not result in injury to existing rights is to find that there is sufficient water flowing in Indian Creek during the period that the waters of the North Fork of Indian Creek are to be stored to satisfy the Lambertson right and that there is sufficient water flowing in Bully Creek, exclusive of that from the North Fork of Indian Creek, to supply existing rights.

There exist no records of the flow of water in Indian Creek or North Fork of Indian Creek from which a finding can be based. It appears that the only way information as to this can be obtained which would be of value in this proceeding, would be from the observations of parties familiar with these streams.

It appears that the best procedure to obtain a record of the observations of those who are familiar with North Fork of Indian Creek, Indian Creek and Bully Creek, particularly as to the flow of water in the past is to have a hearing.

It is also noted that the application proposes to change certain direct flow irrigation rights from Indian Creek below the mouth of the North Fork. I am unable to determine as to how the State Engineer can approve this change which involves the waters of

Indian Creek below the mouth of the North Fork when the place of storage is some distance upstream from the mouth. While we do not have any records of the flow of water in the North Fork of Indian Creek at its mouth or Indian Creek above the mouth of the North Fork, it is logical to assume that a considerable portion of the water flowing in Indian Creek below the junction of the two aforesaid streams is contributed by Indian Creek and it is impossible to store Indian Creek waters in the reservoir on the North Fork.

I would appreciate your opinion as to the best procedure to obtain information and data upon which an order can be based.

Very truly yours,

CHAS. E. STRICKLIN  
State Engineer

CES:VO