

BEFORE THE STATE ENGINEER OF OREGON

Washington County

IN THE MATTER OF THE APPLICATION)
OF KISTNER FARMS, INC. FOR THE)
APPROVAL OF A CHANGE IN PLACE OF)
USE AND POINT OF DIVERSION OF)
WATER FROM PARK CREEK AND CEDAR)
CANYON CREEK)

ORDER APPROVING
TRANSFER NO. K-51

On April 3, 1967, Kistner Farms, Inc. filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Park Creek and Cedar Canyon Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Mrs. Harriet B. Killin and recorded at page 810, Volume 1, State Record of Water Right Certificates, confirms a right to the use of the waters of Park Creek and Cedar Canyon Creek for the irrigation of, among other lands, 21.0 acres in NW¹/₄ NE¹/₄, 29.0 acres in SW¹/₄ NE¹/₄, 6.0 acres in SE¹/₄ NE¹/₄, and 15.3 acres in NW¹/₄ SE¹/₄, Section 34, Township 2 North, Range 4 West, W.M., with a date of priority of June 2, 1913.

These lands are irrigated from points of diversion located a) south 52° 34' west, 2079.8 feet from the NE corner of Section 34, being within the NW¹/₄ NE¹/₄, Section 34, and b) south 32° 37' west, 3574.5 feet from the NE corner of Section 34, being within the NW¹/₄ SE¹/₄, Section 34, both points being located in Township 2 North, Range 4 West, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right, without loss of priority, from 8.2 acres in NW¹/₄ NE¹/₄, 2.8 acres in SW¹/₄ NE¹/₄, and 3.1 acres in NW¹/₄ SE¹/₄, Section 34, Township 2 North, Range 4 West, W.M., to 4.8 acres in SE¹/₄ NE¹/₄, 5.5 acres in NE¹/₄ SE¹/₄, Section 34, 0.1 acre in SW¹/₄ NW¹/₄, and 3.7 acres in NW¹/₄ SW¹/₄, Section 35, Township 2 North, Range 4 West, W.M., and to irrigate these lands and the remaining 12.8 acres

in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 26.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 6.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, and 12.2 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 2 North, Range 4 West, W.M., from a point of diversion to be located south 32° 52' west, 3059.5 feet from the NE corner of Section 34, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, Township 2 North, Range 4 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 Hillsboro, Oregon, on June 1, 1967, at 9:30 a.m. The notice was published in the Hillsboro Argus, a newspaper printed and having general circulation in Washington County, Oregon, for a period of three weeks in the issues of April 10, 17, and 24, 1967. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

The Oregon Bank, Portland Branch, mortgagee of the lands described, has submitted written approval to the change in place of use and point of diversion of water.

Mr. Clayton J. Gardner, Watermaster of District No. 1, 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 change in place of use of water is approved and the water right hereinbefore described as appurtenant to 8.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 2.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, and 3.1 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, Township 2 North, Range 4 West, W.M., with a date of priority of June 2, 1913, be severed therefrom and simultaneously and without loss of priority transferred

to 4.8 acres in SE 1/4 NW 1/4, 5.5 acres in NE 1/4 SE 1/4, Section 34, 0.1 acre in SW 1/4 NW 1/4, and 3.7 acres in NW 1/4 SW 1/4, Section 35, Township 2 North, Range 4 West, W.M.

It is FURTHER ORDERED that the proposed change in points of diversion of water from Park Creek and Cedar Canyon Creek, to-wit:

From a point located south 52° 34' west, 2079.8 feet from the NE corner of Section 34, being within the NW 1/4 NE 1/4 of Section 34, Township 2 North, Range 4 West, W.M., and

From a point located south 32° 37' west, 3574.5 feet from the NE corner of Section 34, being within the NW 1/4 SE 1/4 of Section 34, Township 2 North, Range 4 West, W.M.

To a point to be located south 32° 52' west, 3059.5 feet from the NE corner of Section 34, being within the SW 1/4 NE 1/4 of Section 34, Township 2 North, Range 4 West, W.M.

for the irrigation of 12.8 acres in NW 1/4 NE 1/4, 26.2 acres in SW 1/4 NE 1/4, 10.8 acres in SE 1/4 NE 1/4, 12.2 acres in NW 1/4 SE 1/4, 5.5 acres in NE 1/4 SE 1/4, Section 34, and 0.1 acre in SW 1/4 NW 1/4, and 3.7 acres in NW 1/4 SW 1/4, Section 35, Township 2 North, Range 4 West, W.M., with a date of priority of June 2, 1913, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the change in point of diversion made on or before October 1, 1968.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old points of diversion and shall not exceed 0.89 cubic foot per second or its equivalent in case of rotation.

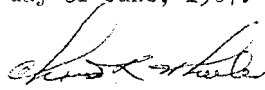
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable 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 certificate of water right heretofore issued to Mrs. Harriet B. Hillin and recorded at page 810, Volume 1, 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 State Engineer of completion of the authorized change in point of diversion and place of use, a certificate of water right shall be issued to Kistner Farms, Inc. confirming the change in point of diversion and the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 2nd day of June, 1967.


CHRIS L. MIESLER
State Engineer