

Jackson County

IN THE MATTER OF THE APPLICATION)
 OF EUGENE L. MARS FOR THE APPROVAL)
 OF A CHANGE IN POINT OF DIVERSION)
 OF WATER FROM EVANS CREEK)

ORDER APPROVING
TRANSFER NO. M-184

On February 28, 1968, Eugene L. Mars filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Evans Creek, pursuant to the provisions of CRS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon entered January 10, 1940, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and Its Tributaries, a water right was established in the name of Paul S. Seeley for the use of the waters of Evans Creek for the irrigation of, among other lands, 7.2 acres in Lot 4, (NE $\frac{1}{4}$ SE $\frac{1}{4}$), Section 21, and 12.1 acres in Lot 4, (NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 22, Township 35 South, Range 4 West, W.M., with a date of priority of 1902. This right was confirmed by certificate recorded at page 32776, Volume 24, State Record of Water Right Certificates. This land is irrigated by means of the Froman Ditch, the point of diversion being located 1200 feet North and 100 feet West from the E $\frac{1}{4}$ corner of Section 11 being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 35 South, Range 4 West, W.M.

The applicant herein, contract purchaser of the lands described, proposes to irrigate these lands from a point of diversion to be located 2600 feet North and 550 feet West from the SE corner of Section 21 being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 35 South, Range 4 West, W.M.

Joseph Deckelman, owner of the property has submitted a written statement of permission for the proposed change.

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 point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on February 28, 1968, at 9:30 a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of December 28, 1967, January 4 and 11, 1968. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. David C. Hendrix, Watermaster of District No. 13, has filed a report to the effect that the proposed change in point of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed point of diversion of water may be established without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the change in point of diversion of water from Evans Creek, to-wit:

From a point located 1200 feet north and 100 feet west from the E $\frac{1}{4}$ corner of Section 11, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 35 South, Range 4 West, W.M.

To a point to be located 2600 feet north and 550 feet west from the SE corner of Section 21 being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Tomship 35 South, Range 4 West, W.M.

for the irrigation of 7.2 acres in Lot 4, (NE $\frac{1}{4}$ SE $\frac{1}{4}$), Section 21, and 12.1 acres in Lot 4, (NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 22, Township 35 South, Range 4 West, W.M., with a date of priority of 1902, 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, 1969.

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 0.32 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.

An order of the State Engineer entered April 17, 1967 approved a change in point of diversion, canceled the certificate recorded at page 32776, Volume 24, State Record of Water Right Certificates and provided that a new certificate be issued covering the lands not involved in that proceeding.

It is FURTHER ORDERED that the lands involved in this proceeding not be included in the certificate to be issued under the order dated April 17, 1967 and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to Eugene L. Mars confirming said change in point of diversion.

Dated at Salem, Oregon, this 13th day of May, 1968.


CHRIS L. WHEELER
State Engineer