

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF EAGLE POINT SCHOOL DISTRICT NO.)
9 FOR THE APPROVAL OF A CHANGE IN)
POINT OF DIVERSION AND PLACE OF USE)
OF WATER FROM ELK CREEK)

ORDER APPROVING
TRANSFER NO. E-53

On July 8, 1969, Eagle Point School District No. 9 filed an application in the office of the State Engineer for the approval of a change in point of diversion and place of use of water from Elk Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, 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 Norman T. McDonald for the use of the waters of Elk Creek for the irrigation of, among other lands, 2.1 acres in NE¼ SW¼, 2.2 acres in SE¼ SW¼ and 3.6 acres in NW¼ SE¼, Section 30, Township 33 South, Range 1 East, W.M., with a date of priority of 1894. This right is evidenced by certificate recorded at page 15847, Volume 13, State Record of Water Right Certificates. These lands are irrigated by means of the Johnson Bros. Ditch from a point of diversion located 1075 feet north and 935 feet east from the SW corner of Section 20 being within the SW¼ SW¼ of Section 20, Township 33 South, Range 1 East, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right appurtenant to 3.1 acres in NW¼ SE¼ therefrom, without loss of priority, to 3.1 acres in SW¼ NE¼, Section 30, Township 33 South, Range 1 East, W.M. and irrigate these lands from a point of diversion to be located 30 feet north and 770 feet east from the center ¼ corner of Section 30 being within the SW¼ NE¼ of

Section 30, Township 33 South, Range 1 East, W.M. and to irrigate 2.1 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 2.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.5 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, Township 33 South, Range 1 East, W.M. from a point of diversion to be located 1285 feet south and 630 feet east from the center $\frac{1}{4}$ corner of Section 30 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 33 South, Range 1 East, 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 Medford, Oregon, on October 30, 1969, 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 September 5, 12, and 19, 1969. 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 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 3.1 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, Township 33 South, Range 1 East, W.M., with a date of priority of 1894, be severed therefrom and simultaneously and without loss of priority transferred to 3.1 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, Township 33 South, Range 1 East, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Elk Creek, to-wit:

From a point located 1075 feet north and 935 feet east from the SW corner of Section 20 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 33 South, Range 1 East, W.M.

To a point to be located 30 feet north and 770 feet east from the center $\frac{1}{4}$ corner of Section 30 being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 33 South, Range 1 East, W.M.

for the irrigation of 3.1 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, Township 33 South, Range 1 East, W.M., and

To a point to be located 1285 feet south and 630 feet east from the center $\frac{1}{4}$ corner of Section 30 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 33 South, Range 1 East, W.M.

for the irrigation of 2.1 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 2.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.5 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, Township 33 South, Range 1 East, W.M., with a date of priority of 1894, 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, 1970.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion shall not exceed the quantity of water that is available at the old point of diversion and shall be limited to 0.20 cubic foot per second.

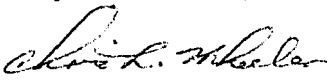
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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.

It is FURTHER ORDERED that certificate of water right heretofore issued to Norman T. McDonald and recorded at page 15847, Volume 13, 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 Eagle Point School District No. 9 confirming the extent to which the water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 5th day of November, 1969.


CHRIS L. WHEELER
State Engineer