

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF LOREN D. AND LAURA L. RUSH AND)
H. ROBERT GILKEY FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM SOUTH FORK LITTLE)
BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. 2915

On November 6, 1973, Loren D. and Laura L. Rush and H. Robert Gilkey filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from South Fork Little Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Little Butte Creek and its Tributaries, a water right was established in the name of C. R. Moore for the use of the waters of South Fork of Little Butte Creek for the irrigation of 10.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 8.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 37 South, Range 3 East, W.M., with a date of priority of February, 1894, as evidenced by certificate of water right recorded at Page 35085, Volume 27, State Record of Water Right Certificates. These lands are irrigated by means of the Clagg ditch from a point of diversion located South 77° 16' West, 908 feet from the North $\frac{1}{4}$ corner of Section 17, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, Township 37 South, Range 3 East, W.M.

The applicants herein, owners of the lands above described, propose to irrigate these lands from a point of diversion to be located 820 feet South and 450 feet West from the Northeast corner of Section 18, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 37 South, Range 3 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 point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on March 12, 1974, 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 January 18, 25, and February 1, 1974. 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 change in 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 point of diversion of water from South Fork Little Butte Creek, to wit:

From a point located South $77^{\circ} 16'$ West, 908 feet from the North $\frac{1}{4}$ corner of Section 17, being within the $NE\frac{1}{4}$ $NW\frac{1}{4}$ of Section 17, Township 37 South, Range 3 East, W.M.

To a point to be located 820 feet South and 450 feet West from the Northeast corner of Section 18, being within the $NE\frac{1}{4}$ $NE\frac{1}{4}$ of Section 18, Township 37 South, Range 3 East, W.M.

for the irrigation of 10.0 acres in $NE\frac{1}{4}$ $NE\frac{1}{4}$, and 8.0 acres in $NW\frac{1}{4}$ $NE\frac{1}{4}$, Section 18, Township 37 South, Range 3 East, W.M., with a date of priority of February, 1894, 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, 1975.

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 0.37 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.

By order of the State Engineer entered March 18, 1974, the right to the use of waters of South Fork of Little Butte Creek for the development of power in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 37 South, Range 3 East, W.M., evidenced by the certificate of water right recorded at Page 35085, State Record of Water Right Certificates, was canceled.

It is FURTHER ORDERED that certificate of water right heretofore issued to C. R. Moore and recorded at Page 35085, Volume 27, State Record of Water Right Certificates, is canceled, 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 Loren D. and Laura L. Rush and H. Robert Gilkey confirming the change in point of diversion.

Dated at Salem, Oregon, this 18th day of March, 1974.



CHRIS L. WHEELER
State Engineer