

BEFORE THE STATE ENGINEER OF OREGON

Tillamook County

IN THE MATTER OF THE APPLICATION)
OF LOREN D. HICKS, ERVIN W. POTTER,)
AND L. P. ERPELDING, A PARTNERSHIP,)
ALSO KNOWN AS RIVERGREEN PROPERTIES,)
FOR THE APPROVAL OF A CHANGE IN USE,)
AND POINT OF DIVERSION OF WATER FROM)
BIG NESTUCCA RIVER)

ORDER APPROVING
TRANSFER NO. 2784

On November 10, 1972, Loren D. Hicks, Ervin W. Potter and L. P. Erpelding, a partnership, also known as Rivergreen Properties, filed an application in the office of the State Engineer for the approval of a change in point of diversion and use of water from Big Nestucca River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Fred Hallinger and recorded at page 15756, Volume 13, State Record of Water Right Certificates, confirms a right to the use of .82 cubic foot per second of water from Nestucca River for the irrigation of, among other lands, 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 24.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 4.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 3 South, Range 9 West, W.M., with a date of priority of March 19, 1943. These lands are irrigated from a point of diversion located 1640 feet South and 100 feet West from the North $\frac{1}{4}$ corner of Section 31, being within the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 31, Township 3 South, Range 9 West, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water from the irrigation of 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 15.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 4.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ to domestic use in Nestucca Bend Subdivision within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$,

and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, Township 3 South, Range 9 West, W.M., and change the point of diversion so as to divert the water for this purpose, and for the irrigation of 8.4 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 35 South, Range 9 West, from a point to be located 1294.23 feet South and 33.26 feet West from the North $\frac{1}{4}$ corner of Section 31, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, Township 3 South, Range 9 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 point of diversion of water, if any there were, namely: at the county courthouse in Tillamook, Oregon, on June 5, 1973, at 9:30 a.m. The notice was published in the Tillamook Headlight Herald, a newspaper printed and having general circulation in Tillamook County, Oregon, for a period of three weeks in the issues of April 12, 19 and 26, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a report to the effect that the proposed change in point of diversion and use of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the change in use of 0.5 cubic foot per second of waters of Big Nestucca River from irrigation of 0.4 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 15.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 4.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 3 South, Range 9 West to domestic use within

the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, Township 3 South, Range 9 West, W.M., and the change in point of diversion for domestic use and for the irrigation of 8.4 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 3 South, Range 9 West, W.M., to a point to be located 1294.23 feet South and 33.6 feet West from the North $\frac{1}{4}$ corner of Section 31, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, Township 3 South, Range 9 West, W.M., 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, 1974.

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 0.5 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 Fred Hallinger and recorded at page 15756, 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 not within the

applicant's ownership and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in use of water and in point of diversion.

Dated at Salem, Oregon, this 14th day of June, 1973.


CHRIS L. WHEELER
State Engineer