

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF LUIE E. LATHROM, MRS. WAYNE B.)
STONE, AND MRS. MARJORIE E.)
BURGESS FOR THE APPROVAL OF A)
CHANGE IN POINT OF DIVERSION OF)
WATER FROM NEIL CREEK)

ORDER APPROVING
TRANSFER NO. L-82

On May 26, 1966, Luie E. Lathrom, Mrs. Wayne B. Stone, and Mrs. Marjorie E. Burgess filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Neil 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 Mary J. McCallister for the appropriation of 0.067 cubic foot per second of water from Neil Creek for the irrigation of, among other lands, 3.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, and 1.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M., with a date of priority of 1854. This right was confirmed by certificate recorded at page 15975, Volume 13, State Record of Water Right Certificates. These lands are irrigated through the Taylor Ditch, the point of diversion being located 280 feet south and 50 feet west from the SW corner of DLC #43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.

Luie E. Lathrom, owner of 1.4 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 0.5 acre in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M., proposes to irrigate said lands by means of a pumping plant, the point of diversion to be located 1100 feet south and 665 feet east from the NW corner of DLC # 59, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M.

Mrs. Wayne B. Stone, owner of 1.3 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.1 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M., proposes to irrigate said lands by means of a pumping plant, the point of diversion to be located 1345 feet south and 850 feet east from the NW corner of DLC #59, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M.

Mrs. Marjorie E. Burgess, owner of 1.1 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M., proposes to irrigate said lands by means of a pumping plant, the point of diversion to be located 870 feet south and 340 feet east from the NW corner of DLC #59, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 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 August 31, 1966, 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 July 8, 15, and 22, 1966. 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 changes 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 of water may be made without injury to existing rights the application should be approved.

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

From a point located 280 feet south and 50 feet west from the SW corner of DLC #43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.

To a point to be located 1100 feet south and 665 feet east from the NW corner of DLC #59, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M.,

for the irrigation of 1.4 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 0.5 acre in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.,

To a point to be located 1345 feet south and 850 feet east from the NW corner of DLC #59, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M.,

for the irrigation of 1.3 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.1 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M., and

To a point to be located 870 feet south and 340 feet east from the NW corner of DLC #59, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.,

for the irrigation of 1.1 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M., with a date of priority of 1854, 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, 1967.

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 not exceed 0.068 cubic foot per second of water during the irrigation season.

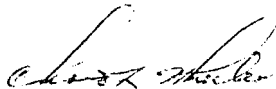
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 Mary J. McCallister, and recorded at page 15975, 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, certificates of water right shall be issued to Luie E. Lathrom, Mrs. Wayne B. Stone, and Mrs. Marjorie E. Burgess confirming said change in point of diversion.

Dated at Salem, Oregon, this 12th day of September, 1966.



CHRIS L. WHEELER
State Engineer