

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION)
OF STACY G. AND MAXINE S. SMITH)
AND WILEY AND MAMIE O. ELLIS FOR)
THE APPROVAL OF A CHANGE IN USE,)
PLACE OF USE AND POINT OF DIVER-)
SION OF WATER FROM DESCHUTES RIVER)
- - - - -

ORDER APPROVING
TRANSFER NO. S-119

On April 9, 1959, Stacy G. and Maxine S. Smith and Wiley and Mamie O. Ellis filed an application in the office of the State Engineer for the approval of a change in use, place of use and point of diversion of water from Deschutes River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to P. W. and Ruby Chernenkoff and recorded at page 20241, Volume 14, State Record of Water Right Certificates, confirms a right to the use of .02 cubic foot per second of the waters of Deschutes River for the irrigation of 1.5 acres in Lots 1, 2 and 3, Block 8, and Lots 11, 12, 13 and 14, Block 9, River Terrace, Bend, said lots being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, Township 17 South, Range 12 East, W.M., with a date of priority of October 31, 1900. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located in the southeast corner of Lot 14, Block 9, River Terrace.

The applicants, Stacy G. Smith and Maxine S. Smith, owners of Lots 1, 2 and 3, Block 8, River Terrace, Bend, containing 0.4 acre, and the right to the use of .005 cubic foot per second of water for the irrigation of said land, propose to transfer the water therefrom without loss of priority to 0.4 acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Township 18 South, Range 11 East, W.M., owned by applicants Wiley and Mamie O. Ellis, for domestic use and irrigation during the irrigation season from April 1 to November 1 of each year, and to divert the water for said irrigation and domestic use at a point to be located 150 feet east and 660 feet south from the northwest corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 13, Township 18 South, Range 11 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 use, place of use and point of diversion of water, if any there were, namely: at the county courthouse at Bend, Oregon, on January 15, 1964, at 9:30 o'clock a.m. The notice was published in The Bend Bulletin, Inc., a newspaper printed and having general circulation in Deschutes County, Oregon, for a period of three weeks in the issues of November 22, 29 and December 6, 1963. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. James C. Fellows, Watermaster of District No. 11, has filed a report to the effect that the proposed change in use, place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in use, 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 proposed change in use and place of use of water is approved and the water right hereinbefore described as appurtenant to 0.4 acre in Lots 1, 2 and 3, Block 8, River Terrace, Bend, being within the NW $\frac{1}{2}$ NE $\frac{1}{2}$, Section 32, Township 17 South, Range 12 East, W.M., for irrigation purposes, with a date of priority of October 31, 1900, be severed therefrom and simultaneously and without loss of priority transferred to 0.4 acre in the NE $\frac{1}{2}$ SW $\frac{1}{2}$, Section 13, Township 18 South, Range 11 East, W.M. for domestic use and irrigation during the irrigation season from April 1 to November 1 of each year.

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

From a point located in the southeast corner of Lot 14, Block 9, River Terrace, being within the NW $\frac{1}{2}$ NE $\frac{1}{2}$, Section 32, Township 17 South, Range 12 East, W.M.

To a point to be located 150 feet east and 660 feet south from the northwest corner of the NE $\frac{1}{2}$ SW $\frac{1}{2}$, Section 13, and being within the NE $\frac{1}{2}$ SW $\frac{1}{2}$, said Section 13, Township 18 South, Range 11 East, W.M.

for domestic use and irrigation of 0.4 acre in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Township 18 South, Range 11 East, W. M., with a date of priority of October 31, 1900, is approved.

It is FURTHER ORDERED that the quantity of water diverted from Deschutes River for domestic and irrigation purposes shall not exceed .005 cubic foot per second and is limited to the irrigation season from April 1 to November 1 of each year.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1965, or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion.

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

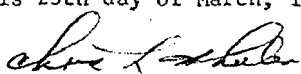
That the pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

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 P. W. and Ruby Chernenkoff and recorded at page 20241, Volume 14, State Record of Water Right Certificates, is canceled and that 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 application of water to beneficial use, a certificate of water right shall be issued to Wiley and Mamie O. Ellis to the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 25th day of March, 1964.

*Noted on Decree
Vol. 14, p. 186
Cert. # 20241*


CHRIS L. WHEELER
State Engineer