

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF JERRY W. AND CATHERINE A. EVITTS)
FOR THE APPROVAL OF A CHANGE IN)
POINT OF DIVERSION OF WATER FROM)
NEIL CREEK)

ORDER APPROVING
TRANSFER NO. 3272

On June 26, 1975, Jerry W. and Catherine A. Evitts filed an application in the office of the Water Resources Director 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.

Certificate of water right issued to J. W. McDonough and recorded at Page 36141, Volume 28, State Record of Water Right Certificates, confirmed a right to the use of not to exceed 0.235 cubic foot per second of water from Neil Creek for the irrigation of, among other lands, 4.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M., with a date of priority of 1854. On March 2, 1971, an order was entered by the State Engineer approving a change in point of diversion to a point located 870 feet North and 730 feet West from the Southeast corner of D.L.C. No. 41, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M., for the irrigation of, among other lands, the above described 4.5 acres. Satisfactory proof has been submitted to the Water Resources Director that water has been applied beneficially to these lands from the approved point of diversion.

Certificate of water right issued to Orville R. and Mignon L. Caughran and Ama Taylor, and recorded at Page 41608, Volume 33, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.015 cubic foot per second of water from Neil Creek, for the irrigation of, among other lands, 0.4 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South,

Range 2 East, W.M., with a date of priority of 1854. These lands are irrigated from a point of diversion located 660 feet North and 390 feet West from the Southwest corner of D.L.C. No. 43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.

The applicant herein, owner of the 4.9 acres above described, proposes to irrigate these lands from a point of diversion to be located 330 feet South and 65 feet West from the Southwest corner of D.L.C. No. 43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 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 June 29, 1976, 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 May 6, 13 and 20, 1976. 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 objection 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 changes in points of diversion of water from Neil Creek, to wit:

From a point located 660 feet North and 390 feet West from the Southwest corner of D.L.C. No. 43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.,

And from a point located 870 feet North and 730 feet West from the Southeast corner of D.L.C. No. 41, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 19, Township 39 South, Range 2 East, W.M.

To a point to be located 330 feet South and 65 feet West from the Southwest corner of D.L.C. No. 43, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 39 South, Range 2 East, W.M.

for the irrigation of 4.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.4 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 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, 1977.

It is FURTHER ORDERED that the quantity of water available at the new point of diversion shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 0.06 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 head-gates 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.

The order entered March 2, 1971, canceled the certificate recorded at Page 36141, Volume 28, State Record of Water Right Certificates, and provided for issuance of a certificate to Orville Caughran and Arthur Shooter confirming their approved change in point of diversion when completed.

It is FURTHER ORDERED that the part of the right involved herein not be included in the certificate as provided by the order entered March 2, 1971.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Orville R. and Mignon L. Caughran and Ama Taylor, recorded at Page 41608, Volume 33, State Record of Water Right Certificates, is canceled and in lieu thereof a new certificate be issued covering the balance of the right not involved in this proceeding.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the Water Resources Director of completion of the changes in points of diversion authorized herein, a certificate of water right shall be issued to Jerry W. and Catherine A. Evitts confirming the extent to which water has been applied beneficially from the point of diversion approved herein.

Dated at Salem, Oregon, this 16th day of July, 1976.


JAMES E. SEXSON
Director