

BEFORE THE STATE ENGINEER OF OREGON

Hood River County

IN THE MATTER OF THE APPLICATION)
OF TALLMAN ORCHARDS, INC. FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM NEAL CREEK)

ORDER APPROVING
TRANSFER NO. T-65

On November 12, 1964, Tallman Orchards, Inc. filed an application in the office of the State Engineer for a change in point of diversion of water from Neal Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Hood River County, Oregon, entered January 11, 1915, In the Matter of the Determination of the Relative Rights of Various Claimants to the Waters of Neal Creek and its Tributaries, a water right was established in the name of J. P. Thomsen for the use of the water of Neal Creek for stock and domestic purposes, and irrigation of 2.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 27.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Township 2 North, Range 10 East, W.M., with a date of priority of 1871. This right was confirmed by certificate recorded at page 3834, Volume 5, State Record of Water Right Certificates. The water is conveyed to these lands by means of a ditch, the point of diversion of said ditch being located 80 feet north and 880 feet east from the S $\frac{1}{4}$ corner of Section 25, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 25, Township 2 North, Range 10 East, W.M.

The applicant proposes to convey the water by means of a pumping plant, the point of diversion to be located 16 feet north and 163 feet west from the NW corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 2 North, Range 10 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 Hood River, Oregon, on July 22, 1965, at 9:30 a.m. The notice was published in the Hood River News, a newspaper printed and having general circulation in Hood River County, Oregon, for a period of three weeks in the issues of May 27 and June 3 and 10, 1965.

The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Larry W. Jebousek, Watermaster of District No. 3, 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 Neal Creek, to-wit:

From a point located 80 feet north and 880 feet east from the S $\frac{1}{4}$ corner of Section 25, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 25, Township 2 North, Range 10 East, W.M.

To a point to be located 16 feet north and 163 feet west from the NW corner of NE $\frac{1}{4}$ SE $\frac{1}{4}$, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 2 North, Range 10 East, W.M.

for the irrigation of 2.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, and 27 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Township 2 North, Range 10 East, W.M., with a priority date of 1871, 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, 1966.

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 be limited to 0.81 cubic foot per second.

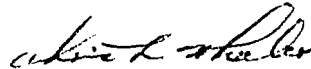
It is FURTHER ORDERED that the following provision shall be effective when in the judgment of the watermaster becomes necessary to install headgates and measuring devices.

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 J. P. Thomsen and recorded at page 3834, Volume 5, 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 Tallman Orchards, Inc. confirming said change in point of diversion.

Dated at Salem, Oregon, this 1st day of December, 1965.



CHRIS L. WISELER
State Engineer