

BEFORE THE STATE ENGINEER OF OREGON

Clackamas County

IN THE MATTER OF THE APPLICATION)
OF OMARK PROPERTIES, INCORPORATED)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE AND POINT OF DIVERSION)
OF WATER FROM MINTHORN SPRING CREEK)

ORDER APPROVING
TRANSFER NO. 0-54

On August 8, 1968, Omark Properties, Incorporated filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Minthorn Spring Creek pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Theodore N. and Hattie L. Hagenburger and recorded at page 8933, Volume 8, State Record of Water Right Certificates confirms a right for the use of 0.16 cubic foot per second from an unnamed creek for the irrigation of 1.0 acre in NE¼ SW¼, 11.5 acres in SE¼ SW¼ and 0.5 acre in SW¼ SE¼, Section 31, Township 1 South, Range 2 East, W.M., with a date of priority of September 27, 1929. This land is irrigated from a point of diversion located N 59° 50' W 3370 feet from the SE corner of J. D. Garrett DLC being within the SE¼ SW¼ of Section 31, Township 1 South, Range 2 East, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom without loss of priority, to 1.8 acres in NE¼ SW¼ and 11.2 acres in SE¼ SW¼, Section 31, Township 1 South, Range 2 East, W.M. and to irrigate this land from a point of diversion to be located N 5° 30' W 990 feet from the S¼ corner of Section 31 being within the SE¼ SW¼ of Section 31, Township 1 South, Range 2 East, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said

section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions, nor is publication of notice required for change in place of use.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a report to the effect that the proposed change in place of use and 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 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 change in place of use of water is approved and the water right hereinbefore described as appurtenant to 1.0 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 11.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 0.5 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, Township 1 South, Range 2 East, W.M., with a date of priority of September 27, 1929, be severed therefrom and simultaneously and without loss of priority transferred to 1.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 11.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 1 South, Range 2 East, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Minthorn Spring Creek, to-wit:

From a point located N 59° 50' W 3370 feet from the SE corner of J. D. Garrett DLC being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, Township 1 South, Range 2 East, W.M.

To a point to be located N 5° 30' W 990 feet from the S $\frac{1}{4}$ corner of Section 31 being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, Township 1 South, Range 2 East, W.M.

for the irrigation of 1.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 11.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 1 South, Range 2 East, W.M., with a date of priority of September 27, 1929, 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, 1969.

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 and shall be limited to 0.16 cubic foot per second.

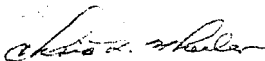
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 Theodore N. and Hattie L. Hagenburger and recorded at page 8933, Volume 8, 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 and place of use, a certificate of water right shall be issued to Omark Properties, Incorporated confirming the extent to which the water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 17th day of January, 1969.


CHRIS L. WHEELER
State Engineer