

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION  
OF H. M., W. A., AND R. J. ESTES  
FOR THE APPROVAL OF A CHANGE IN  
PLACE OF USE AND POINT OF DIVERSION  
OF WATER FROM ALTHOUSE CREEK

ORDER APPROVING  
TRANSFER NO. 2890

On September 12, 1973, H. M., W. A. and R. J. Estes filed an applica-  
tion in the office of the State Engineer for the approval of a change in place  
of use and point of diversion of water from Althouse Creek, pursuant to the  
provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Josephine County, Oregon, entered  
May 11, 1914, In the Matter of the Determination of the Relative Rights to the  
Use of the Waters of Althouse Creek and its Tributaries, a water right was  
established in the name of F. W. Huggerth for the use of the waters of Althouse  
Creek, for the irrigation of, among other lands, 10.0 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section  
13, Township 40 South, Range 8 West, W.M., with a date of priority of 1898.  
These lands are irrigated by means of the Morey Ditch, the point of diversion  
being located 670 feet South and 1880 feet East from the Northwest corner of  
Section 18, being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 18, Township 40 South, Range 7  
West, W.M.

The applicants herein, owners of the lands above described, propose  
to transfer the water right, without loss of priority, to 6.5 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ ,  
3.0 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.1 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and 0.4 acre in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13,  
Township 40 South, Range 8 West, W.M., and irrigate these lands from a point of  
diversion to be located 860 feet South and 2090 feet East from the NW corner of  
Section 18, being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 18, Township 40 South, Range 7  
West, 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  $\frac{1}{4}$  mile where there are no intervening diversions.

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 10.0 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 40 South, Range 8 West, W.M., with a date of priority of 1898, be severed therefrom and simultaneously and without loss of priority transferred to 6.5 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.0 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.1 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and 0.4 acre in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 40 South, Range 8 West, W.M.

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

From a point located 670 feet South and 1880 feet East from the Northwest corner of Section 18, being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 18, Township 40 South, Range 7 West, W.M.

To a point to be located 860 feet South and 2090 feet East from the NW corner of Section 18, being within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 18, Township 40 South, Range 7 West, W.M.

for the irrigation of 6.5 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.0 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 0.1 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and 0.4 acre in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 13, Township 40 South, Range 8 West, W.M., with a date of priority of 1898, 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, 1974.

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 0.2 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be

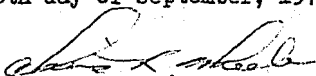
carried out prior to the diverting of the water at the new point of diversion as herein confirmed.

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 F. W. Huggenth and recorded at page 2935, Volume 4, 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 application of water to beneficial use and completion of the authorized change in point of diversion, a certificate of water right shall be issued to H. M., W. A., and R. J. Estes, confirming the changes.

Dated at Salem, Oregon, this 18th day of September, 1973.

  
CHRIS L. WHEELER  
State Engineer