

BEFORE THE STATE ENGINEER OF OREGON, Section

Jackson County

IN THE MATTER OF THE APPLICATIONS)
OF JOHN S. AND MARY P. DAY FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION AND CHARACTER OF USE OF)
WATER FROM ROGUE RIVER)

ORDER APPROVING
TRANSFERS NO. D-140
AND NO. D-141

On October 10, 1969, John S. and Mary P. Day filed an application in the office of the State Engineer for approval of a change in point of diversion and an application for approval of a change in use of water pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to General Development Company and recorded at page 27274, Volume 19, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.38 cubic foot per second of water from Rogue River for the irrigation of, among other lands, 25.7 acres in Lot 4 (SW¼ SE¼) and 12.2 acres in SE¼ SE¼, Section 12 and 16.1 acres in NE¼ NE¼ and 6.2 acres in NW¼ NE¼, Section 13, Township 6 South, Range 3 West, W.M., with a date of priority of October 28, 1948.

These lands are irrigated by means of a pump located 1550 feet south and 2310 feet west from the NE corner of Section 13 being within the SW¼ NE¼, Section 13, Township 36 South, Range 3 West, W.M.

The applicants herein, owners of the lands above described, propose to irrigate 2.2 acres in Lot 4 (SW¼ SE¼), 8.4 acres in SE¼ SE¼, Section 12, 16.1 acres in NE¼ NE¼ and 6.2 acres in NW¼ NE¼, Section 13, Township 36 South, Range 3 West, W.M. from a point of diversion to be located 2350 feet south and 1840 feet west from the NE corner of Section 18 being within the SW¼ NE¼ of Section 18, Township 36 South, Range 2 West, W.M. and change the use of water from the irrigation

of 23.5 acres in Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and 3.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, Township 36 South, Range 3 West, W.M. to maintenance of a reservoir for recreational use.

Notice of the filing of the applications was given by publication setting forth a time and place certain for hearing objections to the proposed change in character of use and point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on March 11, 1970, at 9:30 a.m. The notice was published in the Ashland Daily Tidings, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of January 12, 19, and 26, 1970. 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 character of use and point of diversion may be made without injury to existing rights.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in point of diversion of water from Rogue River, to-wit:

From a point located 1550 feet south and 2310 feet west from the NE corner of Section 13 being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 13, Township 36 South, Range 3 West, W.M.

To a point to be located 2350 feet south and 1840 feet west from the NE corner of Section 18 being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, Township 36 South, Range 2 West, W.M.

for the irrigation of 2.2 acres in Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$), 8.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, 16.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 6.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 36 South, Range 3 West, W.M., with a date of priority of October 28, 1948, and the proposed change in use of 0.17 cubic foot per second of water from the irrigation of 25.3 acres in Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and 3.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, Township 36

South, Range 3 West, W.M. to the use of recreation in a reservoir to be constructed under permit No. R-5491 in Lot 4 (SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$), Section 12, and NW $\frac{1}{4}$ NE $\frac{1}{4}$ and Lot 7 (SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 13, Township 36 South, Range 3 West, W.M., with a date of priority of October 28, 1948, 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, 1971.

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 0.21 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.

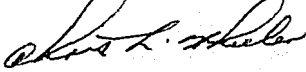
That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

The right to the use of 0.01 cubic foot per second of water for the irrigation of 2.0 acres in Lot 4 (SW $\frac{1}{4}$ SE $\frac{1}{4}$), Section 12, Township 36 South, Range 3 West, W.M. as evidenced by the certificate recorded at page 27274, Volume 19, State Record of Water Right Certificates, was canceled by order of the State Engineer entered August 23, 1967.

It is FURTHER ORDERED that certificate of water right heretofore issued to General Development Company is canceled and in lieu thereof a new certificate be issued describing the lands not involved

in this proceeding and excluding the right canceled by the order entered August 23, 1967, and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in character of use and point of diversion, a certificate of water right shall be issued to John S. and Mary P. Day confirming the change in point of diversion and use of water.

Dated at Salem, Oregon, this 27th day of April, 1970.



CHRIS L. WHEELER
State Engineer