

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION OF)
MANFRED AND THERESIA M.F. BIALAS FOR)
APPROVAL OF CHANGES IN PLACE OF USE)
AND POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER NO. 4573

On July 23, 1980, an application was filed in the office of the Water Resources Director by Manfred and Theresia M.F. Bialas for approval of changes in place of use and point of diversion of water from Evans Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered May 19, 1964, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and Its Tributaries, a water right was allowed in the name of Edward S. Hillis for use of the waters of Evans Creek for irrigation of, among other lands, a certain 14.3 acres in SE 1/4 NE 1/4, Section 11, 5.3 acres in NE 1/4 NW 1/4, 2.0 acres in NW 1/4 NW 1/4, 19.3 acres in SW 1/4 NW 1/4 and 0.3 acre in SE 1/4 NW 1/4, Section 12, Township 35 South, Range 4 West, W.M., with a date of priority of 1881, being tabulated in the name of Edward S. Hillis at Volume 13, page 380, as evidenced by the certificate recorded at page 32770, Volume 24, State Record of Water Right Certificates.

Water for the said right is diverted, through the Fielder or Hillis Ditch, from a point located 475 feet South and 120 feet East from the Northwest Corner of Section 7, being within the NW 1/4 NW 1/4 of Section 7, Township 35 South, Range 3 West, W.M.

The applicants herein, owners of the lands above described, propose to change, without loss of priority, the place of use of 14.3 acres in SE 1/4 NW 1/4, Section 11 and 3.3 acres in SW 1/4 NW 1/4, Section 12, to 4.3 acres in NE 1/4 NW 1/4, 5.0 acres in SW 1/4 NW 1/4 and 8.3 acres in SE 1/4 NW 1/4, Section 12, Township 35 South, Range 4 West, W.M., and to irrigate said lands together with aforesaid lands NOT involved in the change in place of use from a point located 1150 feet North and 20 feet West from the East Quarter Corner of Section 11, being within the SE 1/4 NE 1/4, Section 11, Township 35 South, Range 4 West, W.M.

*V modified by
51 P 1376*

Notice of the application, pursuant to ORS 540.520(2), was published in the Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of August 14, 21 and 28, 1980.

Mr. David C. Hendrix, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes 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 requested changes in place of use and point of diversion, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water available at the old point of diversion under the subject right.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment 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 the construction work shall be completed and the change in point of diversion made on or before October 1, 1982.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1982.

It is FURTHER ORDERED that the certificate recorded at page 32770, Volume 24, 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; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicants herein.

Dated at Salem, Oregon this 28th day of October, 1980.

JAMES E. SEXSON
Director



by Chris L. Wheeler ^{sr}
Deputy Director