

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF JOAN NEIL BOYDEN FOR THE APPRO-)
VAL OF A CHANGE IN PLACE OF USE)
AND POINT OF DIVERSION OF WATER)
FROM SWINNING SPRING (CREEK))
-----)

O R D E R
APPROVING APPLICATION

On March 22, 1963, Joan Neil Boyden of Medford, Oregon, 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 Swinning Spring (Creek), pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Jesse L. Neil and recorded at page 5429, Volume 6, State Record of Water Right Certificates, confirms a right under Permit No. 6696 to the use of the waters of Swinning Spring (Creek) for the irrigation of, among other lands, 18.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 9.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 38 South, Range 3 East, W. M., with a date of priority of March 13, 1925. These lands are irrigated through the Swinning Ditch, the point of diversion of said ditch being located South 5 degrees 45' East 990 feet from the N $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, Township 38 South, Range 3 East, W. M.

The applicant herein proposes to transfer the water right appurtenant to 9.12 acres of the lands above described, to-wit: 0.12 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 9.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, without loss of priority to 9.12 acres in that part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, described as follows:

Beginning at the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence south 0 degrees 15' 20" East along the west line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 1329.10 feet to the southwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence North 89 degrees 50' East along

the south line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 279.74 feet;
thence north 21 degrees 39' West a distance of 18.61 feet;
thence north 8 degrees 37' East a distance of 180.60 feet;
thence north 52 degrees 00' West a distance of 177.12 feet;
thence north 13 degrees 17' East a distance of 248.69 feet;
thence north 24 degrees 04' East a distance of 122.42 feet;
thence north 22 degrees 14' East a distance of 172.73 feet;
thence north 4 degrees 56' East a distance of 249.81 feet;
thence north 22 degrees 20' East a distance of 121.45 feet;
thence north 16 degrees 52' East a distance of 155.35 feet
to a point on the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence West
along the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 452.8
feet to the point of beginning,

and to irrigate said lands by means of a pumping plant, the point of diversion of said pumping plant to be located 1030 feet South and 5 feet East from the NE $\frac{1}{4}$ corner of Section 36, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, Township 38 South, Range 3 East, W. M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in place of use or point of diversion of water of less than one-fourth mile where there are no intervening diversions.

The Bureau of Reclamation, owner of the lands from which it is proposed to transfer the water has submitted in writing its approval to the proposed change in place of use of water.

Mr. David C. Hendrix, Watermaster of District No. 13, has filed a report to the effect that the proposed change 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 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 proposed change in place of use of water be and the same is approved and that the water right hereinbefore described as appurtenant to 0.12 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 9.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 38 South, Range 3 East, W. M.,

with a date of priority of March 13, 1925, be severed therefrom and simultaneously and without loss of priority transferred to 9.12 acres in that part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, described as follows:

Beginning at the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence south 0 degrees 15' 20" East along the west line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 1329.10 feet to the southwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence North 89 degrees 50' East along the south line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 279.74 feet; thence North 21 degrees 39' West a distance of 18.61 feet; thence North 8 degrees 37' East a distance of 180.60 feet; thence North 52 degrees 00' West a distance of 177.12 feet; thence North 13 degrees 17' East a distance of 248.69 feet; thence North 24 degrees 04' East a distance of 122.42 feet; thence North 22 degrees 14' East a distance of 172.73 feet; thence North 4 degrees 56' East a distance of 249.81 feet; thence North 22 degrees 20' East a distance of 121.45 feet; thence North 16 degrees 52' East a distance of 155.35 feet to a point on the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence West along the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 452.8 feet to the point of beginning.

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

From a point located South 5 degrees 45' East 990 feet from the N $\frac{1}{2}$ corner of Section 36, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, Township 38 South, Range 3 East, W. M.

To a point to be located 1030 feet South and 5 feet East from the N $\frac{1}{2}$ corner of Section 36, and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 36, Township 38 South, Range 3 East, W. M.

for the irrigation of 9.12 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 38 South, Range 3 East, W. M., being more particularly described above, with a date of priority of March 13, 1925, be and the same is hereby approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1964, or within such extension of time as may be granted by the State Engineer for good cause shown.

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.

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 pumping plant and related 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 of Jackson County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

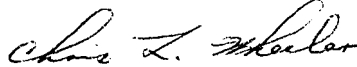
It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Joan Neil Boyden, or her successor in interest, to the extent to which the water has been applied beneficially and the certificate of water right heretofore issued to Jesse L. Neil and recorded at page 5429, Volume 6, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon, this 29th day of March, 1963.

11/24/63

App. # 10036

Vol. # 5429

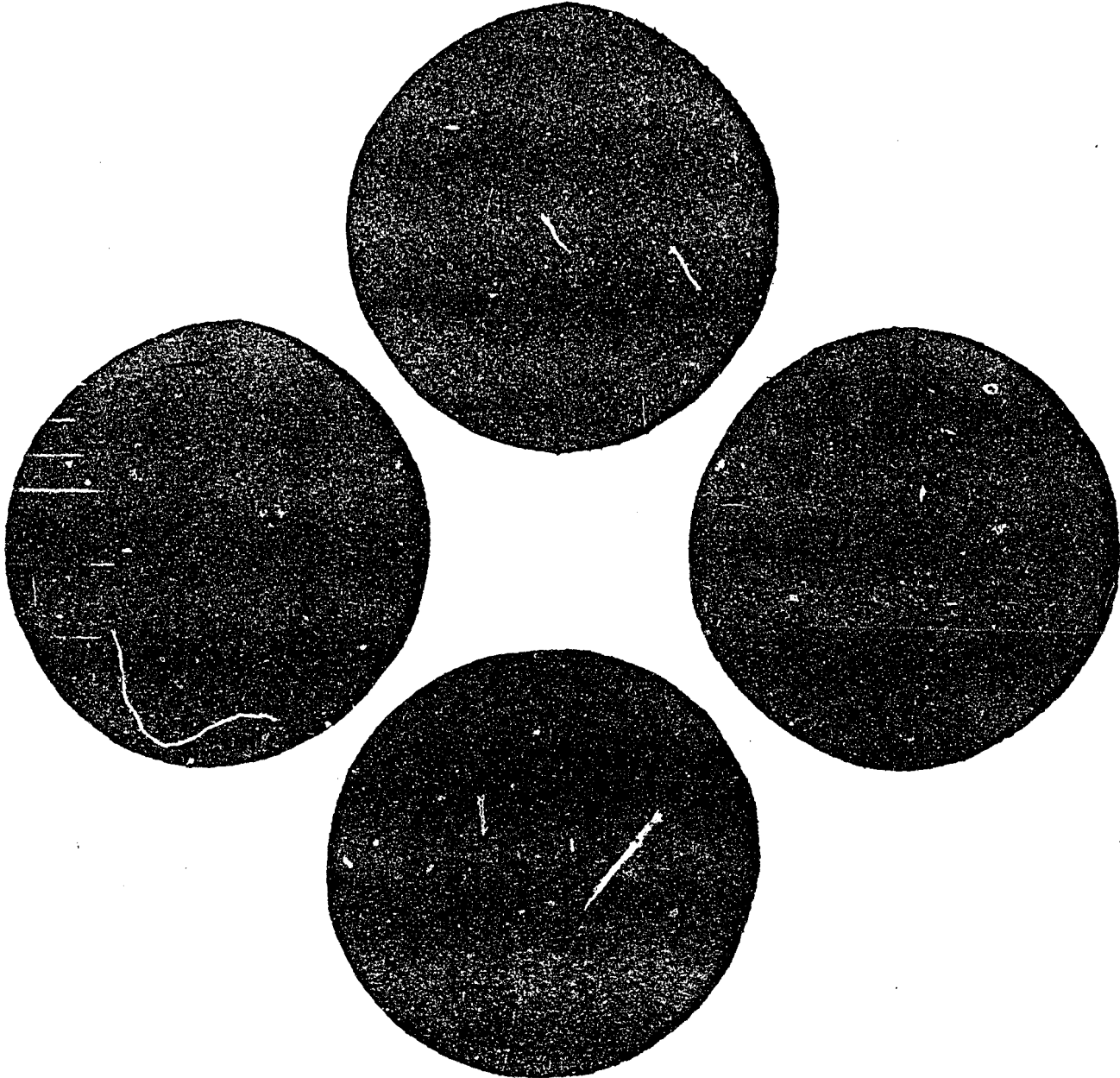


CHRIS L. WHEELER
State Engineer

THE FOLLOWING DOCUMENT(S)

IS (ARE)

CORRECTION(S)



REFILMED TO ASSURE LEGIBILITY

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 pumping plant and related works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

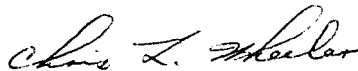
That the plans of the weir or other suitable device be approved by the watermaster of Jackson County, Oregon, before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Joan Neil Boyden, or her successor in interest, to the extent to which the water has been applied beneficially and the certificate of water right heretofore issued to Jesse L. Neil and recorded at page 5429, Volume 6, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon, this 29th day of March, 1963.

11-22-63 State Engineer

*App. 510036
Cert. # 5429*



CHRIS L. WHEELER
State Engineer