

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION
OF RICHARD O. RHOTEN FOR THE
APPROVAL OF A CHANGE IN POINT OF
DIVERSION OF WATER FROM EVANS CREEK

ORDER APPROVING
TRANSFER NO. 3086

On July 9, 1974, Richard O. Rhoten filed an application in the office of the State Engineer for the approval of a change in 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, water rights were established in the names of William Waggoner and Ed E. Dimmick for the use of the waters of Evans Creek for stock and irrigation of, among other lands, 10.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 20.0 acres in the W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, Township 35 South, Range 4 West, W.M., with a date of priority of 1896, as evidenced by certificates of water right recorded at Page 16118, Volume 13, and Page 32768, Volume 24, State Record of Water Right Certificates. These lands are irrigated by means of the Williams and Whalen ditch from a point of diversion located 475 feet North and 860 feet West from the Southeast corner of Section 6, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 35 South, Range 3 West, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located 410 feet South and 650 feet East from the center corner of Section 11, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, Township 35 South, Range 4 West, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed change in point of diversion of water, if any there were, namely: at the

county courthouse in Medford, Oregon, on June 5, 1975, at 9:30 a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of April 7, 14 and 21, 1975. 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 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 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 point of diversion of water from Evans Creek, to wit:

From a point located 475 feet North and 860 feet West from the Southeast corner of Section 6, being within the $SE\frac{1}{4}$ $SE\frac{1}{4}$ of Section 6, Township 35 South, Range 3 West, W.M.

To a point to be located 410 feet South and 650 feet East from the center corner of Section 11, being within the $NW\frac{1}{4}$ $SE\frac{1}{4}$ of Section 11, Township 35 South, Range 4 West, W.M.

for stock use and irrigation of 10.0 acres in $SE\frac{1}{4}$ $NW\frac{1}{4}$ and 20.0 acres in $SW\frac{1}{4}$ $NE\frac{1}{4}$, Section 11, Township 35 South, Range 4 West, W.M., with a date of priority of 1896, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1976.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 0.195 cubic foot per second under certificate No. 16118 and 0.33 cubic foot per second under certificate No. 32768, State Record of Water Right Certificates.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install head-gates 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 certificates of water right heretofore issued to William Waggoner and recorded at page 16118, Volume 13, and Ed E. Dimmick, recorded at page 32768, Volume 24, State Record of Water Right Certificates, are canceled, and in lieu thereof new certificates be issued covering the balance of the lands not involved in this proceeding and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to Richard O. Rhoten confirming the change in point of diversion.

Dated at Salem, Oregon, this 6th day of June, 1975.


CHRIS L. WHEELER
State Engineer