

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION OF)
TONY MARTHALLER AND DAN FRY (FRY)
FARMS) FOR APPROVAL OF A CHANGE IN)
USE HERETOFORE MADE OF WATER FROM)
APPLEGATE RIVER)

ORDER APPROVING
TRANSFER NO. 3711

On June 16, 1977, an application was filed in the office of the Water Resources Director by Tony Marthaller and Dan Fry (Fry Farms) for a change in use heretofore made of water under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 34043, Volume 26, State Record of Water Right Certificates, in the name of Fry Farms, Inc., describes a right which includes the use of not to exceed 0.42 cubic foot per second from Applegate River for irrigation of 0.1 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 21.6 acres in Lot 2 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) and 6.3 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19; 7.5 acres in Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) and 0.5 acre in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 36 South, Range 6 West, W.M., with a date of priority of May 11, 1961.

Water for the said right is diverted from a point located 1370 feet North and 4930 feet East from the Southwest corner of Section 19, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, Township 36 South, Range 6 West, W.M.

The applicants herein, owners of the lands above described, propose to change the use heretofore made and, without loss of priority, to hereafter use the water appropriated for the purpose of gravel washing within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Township 36 South, Range 6 West, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Grants Pass Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of August 1, 8 and 15, 1977.

Mr. Robert B. Steimer, Watermaster, has filed a statement to the effect that the proposed change in use heretofore made of water may be made without injury to existing rights.

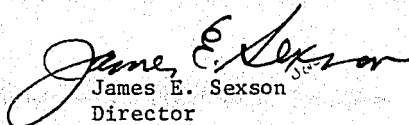
No objections having been filed and it appearing that the proposed change in use heretofore made of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in use heretofore made of water as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Fry Farms, Inc. and recorded at page 34043, Volume 26, 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 applicant herein.

Dated at Salem, Oregon, this 30th day of September, 1977.


James E. Sexson
Director