

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF WALTER D. NUNLEY, AND FAYDREX,)
INC., FOR THE APPROVAL OF A CHANGE)
IN POINT OF DIVERSION OF WATER FROM)
ROGUE RIVER.)
-----)

ORDER APPROVING
TRANSFER NO. N-37

On July 17, 1967, Walter D. Nunley and Faydrex, Inc., filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Rogue River, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court of Jackson County, Oregon, entered January 10, 1940, 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 established in the name of Clarence & Vida Rankin for the irrigation of, among other lands, 2.1 acres in NW¼ NW¼, Section 5, 37.3 acres in NE¼ NE¼, 27.2 acres in SE¼ NE¼, Section 6, Township 36 South, Range 1 West, W.M., with a date of priority of 1898. This right was confirmed by certificate recorded at page 33673, Volume 25, State Record of Water Right Certificates. These lands are irrigated from a point of diversion, located erroneously on the certificate, located 1310 feet north and 20 feet west from the S¼ corner of Section 20, being within the SE¼ SW¼ of Section 20, Township 35 South, Range 1 West, W.M.

In the same proceedings, a water right was established in the name of J. C. Engelhardt for the irrigation of 23.2 acres in Lot 2 (SW¼ NW¼), and 16.8 acres in NW¼ SW¼, Section 32, Township 35 South, Range 1 West, W.M., with a date of priority of 1898. This right was confirmed by certificate recorded at page 32725, Volume 24, State Record of Water Right Certificates. These lands are irrigated from a

point of diversion located 1310 feet north and 20 feet west from the S $\frac{1}{4}$ corner of Section 20, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 35 South, Range 1 West, W.M.

The applicants herein propose to irrigate said lands by means of a pumping plant, the point of diversion to be located 620 feet south and 1410 feet east from the NW corner of Section 32, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 35 South, Range 1 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 at Medford, Oregon, on November 30, 1967, 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 October 3, 10, and 17, 1967. 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 of water may be made without injury to existing rights, the application should be approved.

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 1310 feet north and 20 feet west from the S $\frac{1}{4}$ corner of Section 20, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 35 South, Range 1 West, W.M.

To a point to be located 620 feet south and 1410 feet east from the NW corner of Section 32, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 35 South, Range 1 West, W.M.

for the irrigation of 2.1 acres in NW¼ NW¼, Section 5, 37.3 acres in NE¼ NE¼, and 27.2 acres in SE¼ NE¼, Section 6, Township 36 South, Range 1 West, W.M., with a date of priority of 1896, as described in certificate recorded at page 33673, Volume 25, State Record of Water Right Certificates; and for the irrigation of 23.2 acres in Lot 2 (SW¼ NW¼) and 16.6 acres in NW¼ SW¼, Section 32, Township 35 South, Range 1 West, W.M., with a date of priority of 1896, as described in certificate recorded at page 32725, Volume 24, State Record of Water Right Certificates, 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, 1968.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed 1.66 cubic feet per second for the irrigation of 2.1 acres in NW¼ NW¼, Section 5, 37.3 acres in NE¼ NE¼ and 27.2 acres in SE¼ NE¼, Section 6, Township 36 South, Range 1 West, W.M., with a date of priority of 1896, as described in certificate 33673; and shall not exceed 1.0 cubic foot per second for the irrigation of 23.2 acres in SW¼ NW¼ and 16.6 acres in NW¼ SW¼, Section 32, Township 35 South, Range 1 West, W.M., with a date of priority of 1896, as described in certificate 32725.

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.

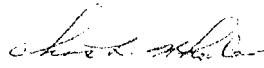
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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.

It is FURTHER ORDERED that certificate of water right heretofore issued to Clarence & Vida Rankin and recorded at page 23673, Volume 21, State Record of Water Right Certificates, is canceled and in lieu thereof a new certificate 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 of water, certificate of water right shall be issued to Walter D. Nunley confirming said change in point of diversion.

It is FURTHER ORDERED that certificate of water right heretofore issued to J. C. Engelhardt and recorded at page 32725, Volume 24, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion of water, certificate of water right shall be issued to Faydrex, Inc., confirming the change in point of diversion.

Dated at Salem, Oregon, this 28th day of December, 1967.



CHRIS L. WHEELER
State Engineer