

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF THEODORE B. CHENEY FOR THE AP-)
PROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM EVANS)
CREEK)

ORDER APPROVING
TRANSFER NO. 2443

On September 4, 1970, Theodore B. Cheney 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 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 Jesse Neathammer for the use of the waters of Evans Creek for the irrigation of, among other lands, 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 35 South, Range 3 West, W.M., with a date of priority of May 1, 1899. This right is evidenced by certificate recorded at page 32774, Volume 24, State Record of Water Right Certificates. These lands are irrigated by means of the Jesse Neathammer Ditch from a point of diversion located 450 feet north and 200 feet west from the center $\frac{1}{4}$ corner of Section 5 being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 35 South, Range 3 West, W.M.

The applicant herein, contract purchaser of the lands above described, proposes to irrigate these lands from a point of diversion to be located 450 feet south and 1130 feet west from the NE corner of Section 7 being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, Township 35 South, Range 3 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 November 12, 1970, at 9:30 a.m. The notice was published in The Times, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of September 18, 25, and October 2, 1970. 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.

Lon and Hazel M. Chamberlain, contract sellers of the land involved, has submitted written approval of the change in point of diversion.

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 change in point of diversion of water from Evans Creek, to-wit:

From a point located 450 feet north and 200 feet west from the center $\frac{1}{4}$ corner of Section 5 being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 35 South, Range 3 West, W.M.

To a point to be located 450 feet south and 1130 feet west from the NE corner of Section 7 being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, Township 35 South, Range 3 West, W.M.

for the irrigation of 4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 35 South, Range 3 West, W.M., with a date of priority of May 1, 1899, 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, 1971.

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 0.067 cubic foot per second.


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 Jesse Neathammer and recorded at page 32774, Volume 24, 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, a certificate of water right shall be issued to Theodore B. Cheney confirming said change in point of diversion.

Dated at Salem, Oregon, this 23rd day of February, 1971.


CHRIS L. WHEELER
State Engineer