

## Jackson County

IN THE MATTER OF THE CANCELLATION  
 OF A WATER RIGHT APPURTENANT TO  
 CERTAIN LANDS AND THE ISSUANCE  
 OF A NEW CERTIFICATE OF WATER  
 RIGHT

ORDER

By Decree of the Circuit Court for Jackson County, Oregon, entered August 15, 1949 In the Matter of the Determination of the Relative Rights to the Use of the Waters of Little Butte Creek and its Tributaries, a Tributary of Rogue River, a right was established in the name of Fryer Ditch Association, Eagle Point, Oregon, for the appropriation of 2.43 cubic feet per second of the waters of Little Butte Creek, for the irrigation of 56.85 acres, said appropriation being appurtenant to designated tracts of land owned by the several members of said Fryer Ditch Association. Certificate of water right confirming this right was issued to the Fryer Ditch Association and recorded at page 17180, Volume 14, State Record of Water Right Certificates. Subsequently this certificate was cancelled and a new certificate was issued to the Fryer Ditch Association confirming certain changes in place of use of water, said new certificate being recorded at page 29168, Volume 21, State Record of Water Right Certificates.

One of said tracts of land, designated as Tract #38 then owned by O. M. Goss, containing 2.0 acres within the SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> and NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, Section 3, T. 36 S., R. 1 W., W.M. was awarded a right to the use of 0.05 cubic foot per second of water under a date of priority of January 31, 1870.

On March 17, 1961 there was filed in the office of the State Engineer, five separate affidavits by owners of five parcels of property of said Tract No. 38, each describing the parcel of property owned, and asserting that they have abandoned said water right insofar as appurtenant to their parcel of property, and requesting that said water right be cancelled.

The names of the record owners of the several parcels of property, and the description of their respective property is as follows:

Alma G. Meyer

The westerly one-half of Lots 5 and 6 in Block 2 of J. J. Fryer's Division to Eagle Point, Jackson County, Oregon containing approximately 0.25 acre, being within the SE<sup>1</sup>/<sub>4</sub> and NE<sup>1</sup>/<sub>4</sub>, Section 3, T. 36 S., R. 1 W., W.M.

Josephine Overdick

The northerly half of Lots 7 and 8, Block 2, Fryer's Addition to Eagle Point, Jackson County, Oregon. Also, beginning at the most easterly corner of Lot 1 in Block 2, of the J. J. Fryer's Division to the Town of Eagle Point, Jackson County, Oregon, thence northwesterly along the northeasterly line of said Lot, 90 feet to the true point of beginning; thence southwesterly, parallel with the southeasterly line of Lots 1 and 2 in said Block 2, 132 feet more or less, to the southwesterly line of said Lot 2; thence northwesterly along the southwesterly line of said Lot 2 and said Lot 2 extended 52 feet, more or less, to the center of the vacated alley in said Block 2; thence northeasterly along the center line of said vacated alley, 132 feet, more or less, to the northeasterly line of said Lot 1, extended; thence southeasterly along said extended line and along the northeasterly line of said Lot 1, 52 feet, more or less, to the true point of beginning, containing approximately 0.42 acre and being within the SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub> and NW<sup>1</sup>/<sub>4</sub>, Section 3, T. 36 S., R. 1 W., W.M.

Harry C. and Lucille R. Edgerton

The southerly half of Lots 7 and 8, Block 2, Fryer's Addition to Eagle Point, Jackson County, Oregon, containing approximately 0.26 acre and being within the SW<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>, Section 3, T. 36 S., R. 1 W., W.M.

Josephine R. Holmes

Lot 4, Block 2, Fryer's Addition to Eagle Point, Jackson County,

Oregon, also part of adjoining alley, containing approximately 0.29 acre and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 3, T. 36 S., R. 1 W., W.M.

Eugene and Agnes E. Lauener

The easterly one-half of Lots 5 and 6, Block 2 of J. J. Fryer's Division to the Town of Eagle Point, Jackson County, Oregon, also part of the adjoining alley; containing approximately 0.26 acre and being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$  and NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 3, T. 36 S., R. 1 W., W.M.

ORS 540.621 provides that whenever the owner of a perfected and developed water right certifies under oath to the State Engineer that the water right has been abandoned by him and that he desires cancellation thereof, the State Engineer shall enter an order cancelling the water right.

Mr. David C. Hendrix, Watermaster of District No. 13, (formerly District #15), has submitted a map showing the location of said Tract No. 38, now designated as Block 2 of Fryer's Addition to Eagle Point, and the parcels of property within said Block 2 for which said requests for cancellation of the appurtenant water right have been submitted, and also showing the location of the remaining property upon which the appurtenant water right is not to be cancelled. A print of said map is attached hereto and made a part of this order.

It appears from the affidavits submitted and from the map prepared by Mr. Hendrix, that of the total of 2.0 acres of water right appurtenant to said Tract #38 or Block 2 of Fryer's Addition to Eagle Point, 1.46 acres of water right have been abandoned and should be cancelled, and the remainder of 0.54 acre should remain appurtenant to the property for which requests for cancellation have not been submitted.

It further appears from the map submitted by Mr. Hendrix, that of the portion of Block 2, Fryer's Addition to Eagle Point, upon which the appurtenant water right is not to be cancelled, the south 90 feet of Lots 1 and 2 and adjacent portion of 9th street, containing approximately 0.32 acre, of which 0.14 is located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and 0.18 acre within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 3, T. 36 S., R. 1 W., W.M., is owned by Richard C. and Helen M. Walgamott; and Lot 3 and ad-

Adjacent portion of alley along northwesterly edge of said Lot 3, containing approximately 0.22 acre, of which 0.03 acre is located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$  and 0.19 acre within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , said Section 3, T. 36 S., R. 1 W., W.M. is owned by Lawrence D. and Rose Marie Davis.

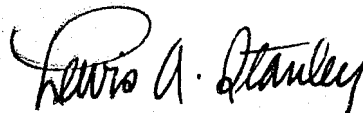
It further appears from the affidavits of the several property owners and from the map and other data submitted by Mr. Dave Hendrix, Watermaster, that the Water right appurtenant to the portions of said Tract 38, being Block 2 of Fryer's Addition to the Town of Eagle Point, Oregon, as hereinabove described under said five affidavits, is no longer being used and should be cancelled.

NOW THEREFORE, it hereby is ORDERED that the water right heretofore appurtenant to the five tracts of land in Block 2, Fryer's Addition to the Town of Eagle Point, as herein above described, be, and the same hereby is cancelled.

It is FURTHER ORDERED that said certificate heretofore issued to the Fryer Ditch Association, Eagle Point, Oregon, recorded at page 29168, Volume 21, State Record of Water Right Certificates, be, and the same hereby is cancelled, and that a new water right certificate shall be issued to the Fryer Ditch Association, Eagle Point, Oregon, describing the remainder of the lands served by their distribution system and properly describing the remaining 0.54 acre within said Tract 38, being Block 2 of Fryer's Addition to the Town of Eagle Point, Oregon, under the names of the present owners of the property to which said 0.54 acre of water right shall be appurtenant.

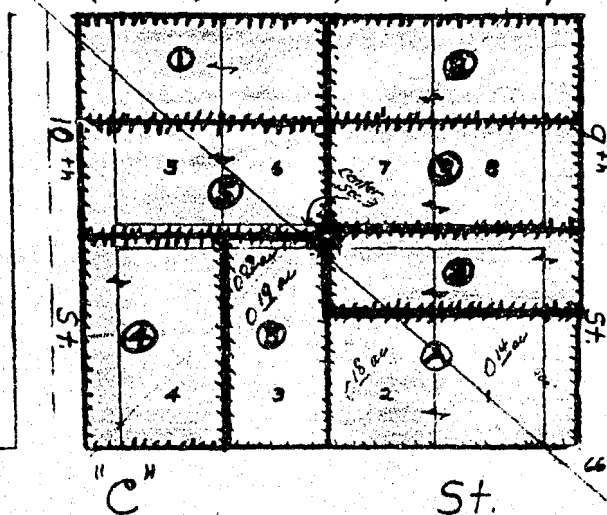
Dated at Salem, Oregon, this 23rd day of February, 1962.

*Noted on Deeds  
Vol. 14, p. 515  
Cert. # 29168*



LEWIS A. STANLEY  
State Engineer


Block 2 of  
Fryers Add. to Eagle Point  
(Sec. 3, T. 36 S., R. 1 W., W.M.)



Scale: 1" = 100'

Block 2 is same as Tract 38 - (O. M. Goss)  
described in Little Butte Decree page 23

To be cancelled

①	Alma G. Meyer	0.23 ac.	
②	Josephine Overdick	0.42 ac.	
③	Harry C. & Lucille H. Edgerton	0.26 ac.	
④	Josephine R. Holmes	0.29 ac.	
⑤	Eugene & Agnes E. Lauener	0.26 ac.	
	Total	1.46 ac.	

Not to be cancelled

⑥	Richard Carl & Helan Marie Wolgamott	0.32 ac.	
⑦	Lawrence D. & Rose Marie Davis	0.22 ac.	
	Total	0.54 ac.	