

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION OF )  
JESSIE PHELPS, CLINTON R. PHELPS AND )  
JERRY OTHIC FOR APPROVAL OF CHANGES )  
IN POINT OF DIVERSION, PLACE OF USE )  
AND USE HERETOFORE MADE OF WATER )  
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ORDER APPROVING  
TRANSFER NO. 3856

On December 29, 1977, an application was filed in the office of the Water Resources Director by Jessie Phelps, Clinton R. Phelps and Jerry Othic for approval of changes in point of diversion, place of use and use heretofore made of water from Ashland Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 36818, Volume 28, State Record of Water Right Certificates, in the name of Million Ditch Users, describes a right which includes the use of not to exceed 0.04 cubic foot per second from Ashland Creek for irrigation of a certain 1.9 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$  and 1.0 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, Township 39 South, Range 1 East, W.M., with a date of priority of 1856.

Water for the said right is diverted, through the Million Ditch, from a point located 225 feet South and 925 feet East from the Northwest Corner of Section 9, being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 9, Township 39 South, Range 1 East, W.M.

The applicants herein, owners of the lands above described, proposed to change the point of diversion, place of use and use heretofore made therefrom and, without loss of priority, to hereafter use the water for municipal purposes within the City of Ashland, within Sections 4, 5, 8, 9, 10, 11, 14, 15, 16, 17 and 23, Township 39 South, Range 1 East, W.M., from a point of diversion located 100 feet North and 10 feet West from the Southeast Corner of Section 20, being within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 20, Township 39 South, Range 1 East, W.M.

Notice of the application, pursuant to ORS 540.510, 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 January 10, 17 and 24, 1978.

Mr. David C. Hendrix, Watermaster, has filed a statement to the effect that the proposed changes in point of diversion, place of use and use heretofore made may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the requested changes in point of diversion, place of use and use heretofore made, as described herein, are approved.

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 under the subject right, and shall not exceed 0.04 cubic foot per second, being limited to the irrigation season of each year.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment 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 the construction work shall be completed and the change in point of diversion of water made and 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 Million Ditch Users and recorded at page 36818, Volume 28, 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 City of Ashland.

Dated at Salem, Oregon, this 7th day of March, 1978.

  
James E. Sexson  
Director