

BEFORE THE STATE ENGINEER OF OREGON

Baker County

IN THE MATTER OF THE APPLICATION)
OF H. F. AND MADGE EVANS FOR THE)
APPROVAL OF A CHANGE IN PLACE OF)
USE OF WATER FROM ROCK CREEK.)

O R D E R

APPROVING APPLICATION

On October 17, 1958, H. F. and Madge Evans of Route 1, Haines, Oregon, filed an application for the approval of a change in place of use of water from Rock Creek pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Baker County, Oregon, entered March 18, 1918, in the matter of the determination of the relative rights of the various claimants to the waters of Powder River and its tributaries, a water right was established in the name of W. S. Daugherty for the irrigation of, among other lands, 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 8 South, Range 38 East, W. M., from Rock Creek with a date of priority of 1890, and in the name of F. G. Hunstock for the irrigation of, among other lands, 34 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, Township 8 South, Range 39 East, W. M., from Rock Creek with a date of priority of 1868. These lands are irrigated through the Hunstock and Meyers ditch, the point of diversion of said ditch being located at the southwest corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, Township 7 South, Range 38 East, W. M.

The applicants herein, owners of the land above described, propose to transfer the water right for the irrigation of 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 8 South, Range 38 East, W. M., with a date of priority of 1890, to 40 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, Township 8 South, Range 39 East, W. M., and to transfer the water right for the irrigation of 34 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, Township 8 South, Range 39 East, W. M., with a date of priority of 1868, to 34 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 8 South, Range 38 East, W. M.

Notice by publication as provided by CRS 540.520 was not given in connection with this application for the reason said section provides notice is not required on an application for a change in place of use of water only.

Mr. J. W. Maxwell, Watermaster of District No. 2, has filed a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in place of use 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 place of use of water from Rock Creek be and the same is approved, and that the water right hereinbefore described as appurtenant to 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 8 South, Range 38 East, W. M., with a date of priority of 1890 be severed therefrom and simultaneously and without loss of priority transferred to 40 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, Township 8 South, Range 39 East, W. M., and the water right hereinbefore described as appurtenant to 34 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, Township 8 South, Range 39 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 34 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 8 South, Range 38 East, W. M.

It is FURTHER ORDERED that the water shall be applied to the lands to which it is transferred hereby on or before October 1, 1959 or within such extension of time as may be granted by the State Engineer for good cause shown.

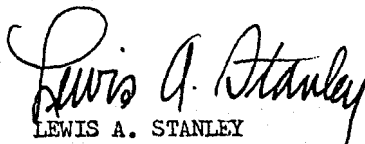
It is FURTHER ORDERED that certificate of water right heretofore issued to W. S. Daugherty and recorded at page 4104 and certificate of water right heretofore issued to F. G. Hunstock and recorded at page 4243, Volume 5, State Record of Water Right Certificates, which certificates cover, among other lands, the lands from which the water is being transferred, be and

the same hereby are canceled and that in lieu thereof, new certificates be issued covering the balance of the lands not involved in this proceeding and that upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use on the lands to which it is transferred, a certificate of water right shall be issued to H. F. and Madge Evans or their successors in interest to the extent to which the water has been applied beneficially on the lands involved in this proceeding.

Dated at Salem, Oregon this 17th day of November 1958.

Noted on Decree
Vol. 6, p. 377, 401
Cert. # 4104, 4243

Trsf: "E-31"


LEWIS A. STANLEY
State Engineer