

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE)
CANCELATION OF A WATER)
RIGHT AND THE ISSUANCE)
OF CORRECTION CERTIFICATES)
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 water right was established in the name of the Little Butte Irrigation Company under priority of 1883, for the irrigation of, among other lands 561.7 acres in Tract No. 1 and under priority of 1908 for the irrigation of, among other lands, 181.6 acres in Tract No. 2, within Section 31, Township 35 South, Range 1 East, W.M.; Sections 34, 35, and 36, Township 35 South, Range 1 West, W.M.; Section 6, Township 36 South, Range 1 East, W.M.; Section 3, Township 36 South, Range 1 West, W.M. The original certificate of water right confirming the right was issued to Little Butte Irrigation Company and recorded at page 17196, Volume 14, State Record of Water Right Certificates which subsequently was superseded by certificates confirming changes in the right together with certificate 36604 confirming the remaining right for 743.3 acres.

On July 3, 1962, January 8, 1965, May 19, 1967, and May 31, 1967, property owners under said Little Butte Irrigation Company all being located within Central Addition to the town of Eagle Point, Oregon, submitted affidavits that they have abandoned any and all interest in and to the said water right and request the same to be canceled.

The owners and description of the respective parcels of property for which requests for cancelation of the appurtenant water right have been submitted are as follows:

Minnie Grance

Lots 8, 9, and 10 of Block 10, Central Addition to Eagle Point, Oregon, containing approximately 0.20 acre, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 36 South, Range 1 West, W.M.

Henry and Edith Hertager

Lot (4) Four and the East (20) twenty feet of Lot (5) Five in Block (14) Fourteen in Central Addition to the City of Eagle Point, Jackson County, Oregon, as shown on the recorded plat thereof, containing approximately 0.21 acre being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Lincoln H. and Vida B. Pence

Lots Nine (9), Ten (10) and Eleven (11) in Block Six (6) of Central Addition to the town of Eagle Point, Oregon, also, Lots Twelve (12) and Thirteen (13) in Block Six (6) of Central Addition to the town of Eagle Point, Oregon containing approximately 0.31 acre being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Foster and Marcia Greb

Lots 3, 4, and 5 and the North 57 $\frac{1}{2}$ feet of Lots 6, 7, and 8 of Block 4, Central Addition to the town of Eagle Point, Jackson County, Oregon, containing approximately 0.28 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Eagle Point Irrigation District

Lot 7, 8, 9, 10, Block 8, Central Addition to Eagle Point, Oregon, containing approximately 0.26 acre in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Anthony and Rosita Warchol

Lots 15, 16, 17 and 18, in Block 10, Central Addition to the City of Eagle Point, Oregon, containing approximately 0.29 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Frank R. and Opal M. DeSilva

Lots 31 and 32, Block 10, Central Addition to the city of Eagle Point, Oregon, Jackson County, Oregon, containing approximately 0.15 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Doreen L. Vaughn

Lots No. 22 through No. 25 inclusive in Block 10, all in Central Addition to the city of Eagle Point, according to the official plat thereof, now of record, containing approximately 0.29 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Monte R. and Claire A. Axtell

Lots 13 and 14, Block 10, of Central Addition to Eagle Point, Jackson County, Oregon, containing approximately 0.15 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M.

Orvil and Pearl L. Henderson

Lots 41, 42, 43, 44, and that portion of Lot 45 described as follows: Beginning at a point on the alley which runs through Block 10, Central Addition to the town of Eagle Point, Jackson County, Oregon, said point being the northwesterly corner of Lot 45 of said Block 10; thence southeasterly along the northerly line of Lot 45 of Block 10, 12.6 feet; thence southwesterly 61.6 feet, more or less, to a point on the westerly line of said Lot 45 and southerly 60 feet from the point of beginning; thence northerly 60 feet along the westerly line of said Lot to the point of beginning, being part of Lot 45, Block 10, Central Addition, containing approximately 0.27 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, 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 cancelation thereof, the State Engineer shall enter an order canceling the water right.

The Little Butte Creek Decree, entered August 15, 1949 and State Engineer's Special Order dated July 31, 1961, provided that the lands owned by Wm. J. and Ella C. Phillips and served by the Little Butte Irrigation Company, shall be covered by a separate certificate of water right, as provided by paragraph 19 of said Decree, but that said certificate of water right recorded at page 17196 and subsequently superseded by certificates confirming changes in the right together with certificate recorded at page 36604, included the lands owned by said Wm. J. and Ella C. Phillips and that a separate certificate was not issued to Phillips covering their lands, as described under said paragraph 19 of the Decree dated August 15, 1949 and the State Engineer's Special Order dated July 31, 1961, being:

4.0 acres in SW $\frac{1}{2}$ SW $\frac{1}{2}$
Section 31
Township 35 South, Range 1 East, W.M.,

3.0 acres in SE $\frac{1}{2}$ SE $\frac{1}{2}$
Section 36
Township 35 South, Range 1 West, W.M.,

under priority date of 1883, and

5.3 acres in NW $\frac{1}{2}$ SW $\frac{1}{2}$
30.9 acres in SW $\frac{1}{2}$ SW $\frac{1}{2}$
0.9 acre in SE $\frac{1}{2}$ SW $\frac{1}{2}$
Section 31
Township 35 South, Range 1 East, W.M.,

4.03 acres in NW $\frac{1}{2}$ NW $\frac{1}{2}$
Section 6
Township 36 South, Range 1 East, W.M.,

21.6 acres in SE $\frac{1}{2}$ SE $\frac{1}{2}$
Section 36
Township 35 South, Range 1 West, W.M.,

under priority date of 1908; that in the new certificate of water right to be issued to the Little Butte Irrigation Company, the above described lands originally owned by Phillips and now owned by Robert L. and Betty Jane Foster of 2975 Brownsboro Highway, Eagle Point, Oregon 97524 for those above described lands lying north of the highway and Arnold C. Bjork, Dolores E. Bjork, Ronald C. Bjork, Nella Rae Johnson, and Dorvan R. Johnson of 1431 Olive Street, Redding,

California for those above described lands lying south of the highway should be omitted from the description of lands, and that a separate certificate should be issued to Robert L. and Betty Jane Foster for the following described land lying north of the highway:

4.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 31
Township 35 South, Range 1 East, W.M.,

3.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 36
Township 35 South, Range 1 West, W.M.,

under priority date of 1883, and

5.3 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$
18.1 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$
0.2 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 31
Township 35 South, Range 1 East, W.M.,

3.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 36
Township 35 South, Range 1 West, W.M.,

under priority date of 1908; and that a separate certificate should be issued to Arnold C. Bjork, Dolores E. Bjork, Ronald C. Bjork, Nella Rae Johnson, and Dorvan R. Johnson for the following described land lying south of the highway:

12.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$
0.7 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 31
Township 35 South, Range 1 East, W.M.,

17.7 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 36
Township 35 South, Range 1 West, W.M.,

4.03 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 6
Township 36 South, Range 1 East, W.M.,

under priority date of 1908.

NOW, THEREFORE, it is hereby ORDERED that the water right heretofore appurtenant to said 0.28 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.57 acre in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.78 acre in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M., under

a priority date of 1883 and 0.78 acre in the SW $\frac{1}{2}$ NE $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M. under a priority date of 1908 as hereinabove described, for which requests for cancelation, subscribed to under oath, have been submitted to the State Engineer, be and the same is hereby canceled.

It is hereby FURTHER ORDERED that certificate of water right heretofore issued to the Little Butte Irrigation Company recorded at page 36604, Volume 28, State Record of Water Right Certificates, be, and the same is hereby canceled, and that a new certificate of water right shall be issued to the Little Butte Irrigation Company, omitting from the tabulation of lands the acreage hereinabove described as the Phillips right owned by the Fosters, Bjorks, and the Johnsons for which separate certificates of water right shall be issued.

It is hereby FURTHER ORDERED that certificates of water right shall be issued in the name of Robert L. and Betty Jane Foster and Arnold C. Bjork, Dolores E. Bjork, Ronald C. Bjork, Nella Rae Johnson, and Dorvan R. Johnson covering those lands in the Little Butte Creek Decree described in the name of Wm. J. and Ella C. Phillips, as provided by paragraph 19 of the Little Butte Creek Decree dated August 15, 1949, and as hereinabove described.

Dated at Salem, Oregon this 23rd day of June , 1975.



CHRIS L. WHEELER
State Engineer