

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF HERBERT J. AND ALOHA H. HAYS)
FOR THE APPROVAL OF A CHANGE IN)
USE, PLACE OF USE, AND POINT OF)
DIVERSION OF WATER FROM ASHLAND)
CREEK)

ORDER APPROVING
TRANSFER NO. 2701

On September 11, 1972, Herbert J. and Aloha H. Hays filed an application in the office of the State Engineer for the approval of a change in use, place of use, and point of diversion of water from Ashland Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 26, 1919, 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 George Irwin for the use of the waters of Ashland Creek for the irrigation of, among other lands, 0.8 acres in NW¼ SW¼, Section 4, Township 39 South, Range 1 East, W.M., with a date of priority of 1858. This right is evidenced by certificate of water right recorded at page 16018, Volume 13, State Record of Water Right Certificates. These lands are irrigated by means of the Halman Ditch from a point of diversion located 200 feet South and 025 feet East from the NW corner of Section 9, being within the NW¼ NW¼ of Section 9, Township 39 South, Range 1 East, W.M.

The applicants herein, owners of the lands above described, propose to change the use from the irrigation of the above described lands to municipal purposes in 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., and to change the point of diversion to a point to be located

100 feet north and 10 feet west from the SE corner of Section 20, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Township 39 South, Range 1 East, 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 use, place of use, and point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on February 1, 1973, at 9:30 a.m. The notice was published in the Ashland Daily Tidings, a newspaper published and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of December 8, 15, and 22, 1972. 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 use, place of use, and point of diversion of water may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the change in use and place of use is approved and the water right hereinbefore described as appurtenant to the irrigation of 0.8 acre in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, Township 39 South, Range 1 East, W.M., with a date of priority of 1858, be severed therefrom and simultaneously and without loss of priority transferred to municipal purposes in 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.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Ashland Creek, to-wit:

From a point located 200 feet South and 825 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.

To a point to be located 100 feet North and 10 feet West from the SE corner of Section 20, being within the South $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Township 39 South, Range 1 East, W.M.

for municipal purposes in 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., with a date of priority of 1858, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the change in point of diversion made on or before October 1, 1973.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion and shall be limited to 0.022 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.

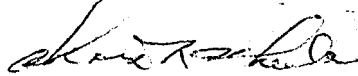
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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 George Irwin and recorded at page 16018, Volume 13, 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 use, place of use, and point of diversion, a certificate of water right shall be issued to the City of Ashland confirming the extent to which the water has been applied beneficially and the change in point of diversion.

Dated at Salem, Oregon, this 2nd day of April, 1973.



CHRIS L. WHEELER
State Engineer