

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION)
OF CLINTON F. AND SHIRLEY L. AYRES)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE AND POINT OF DIVERSION)
OF WATER FROM LITTLE BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. A-41

On November 2, 1967, Clinton F. and Shirley L. Ayres filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Little Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 17, 1928, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Little Butte Creek and its Tributaries, a water right was established in the name of Little Butte Irrigation Company which includes the use of 0.06 cubic foot per second of water from Little Butte Creek for the irrigation of 3.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of 1883. This right was confirmed by certificate recorded at page 33239, Volume 25, State Record of Water Right Certificates. This land is irrigated through the Little Butte Irrigation Company Ditch, the point of diversion being located 560 feet North and 2990 feet East from the SW corner of Section 31 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 35 South, Range 1 East, W.M.

The applicants herein, owners of the land above described, propose to transfer the water right therefrom without loss of priority to 3.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 35 South, Range 1 West, W.M., and to irrigate this land by means of a pump, the point of diversion to be located 200 feet North and 1100 feet East from the S $\frac{1}{4}$ corner of Section 36 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, Township 35 South, Range 1 West, 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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon, on March 11, 1968, at 9:30 a.m. The notice 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 18, 25, and February 1, 1968. 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 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 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 place of use of water is approved and the water right hereinbefore described as appurtenant to 3.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 36 South, Range 1 West, W.M., with a date of priority of 1883, be severed therefrom and simultaneously and without loss of priority transferred to 3.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 35 South, Range 1 West, W.M.

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

From a point located 560 feet North and 2990 feet East from the SW corner of Section 31 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 35 South, Range 1 East, W.M.

To a point to be located 200 feet North and 1100 feet East from the S $\frac{1}{4}$ corner of Section 36 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, Township 35 South, Range 1 West, W.M.

for the irrigation of 3.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 35 South, Range 1 West, W.M., with a date of priority of 1883, 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, 1968.

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 0.06 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.

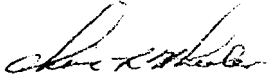
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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.

Special Orders of the State Engineer entered September 14, 1962, March 7, 1966 and June 9, 1967 approved changes involving lands included in the certificate heretofore issued to Little Butte Irrigation Company and recorded at page 33239, Volume 25, State Record of Water Right Certificates, canceled the certificate recorded at page 33239 and provided for the issuance of new certificates covering the lands not involved in those proceedings.

It is FURTHER ORDERED that the lands involved in this proceeding not be included in the certificate and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion and place of use, a certificate of water right shall be issued to Clinton F. and Shirley L. Ayres confirming the change in point of diversion and the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 18th day of March, 1968.


CHRIS L. WHEELER
State Engineer 4