

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION )  
OF COMMONWEALTH PROPERTIES, INC., )  
LaDARR CONSTRUCTION COMPANY, AND )  
CITY OF ASHLAND FOR THE APPROVAL )  
OF A CHANGE IN USE, PLACE OF USE, )  
AND POINT OF DIVERSION OF WATER )  
FROM ASHLAND CREEK )  
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ORDER APPROVING  
TRANSFER NO. 2338

On January 26, 1970, Commonwealth Properties, Inc., LaDarr Construction Company, and City of Ashland 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 names of H. B. and L. B. Sander for the use of the waters of Ashland Creek for the irrigation of, among other lands, 0.6 acre in NE¼ NW¼, Section 4, and 3.3 acres in NE¼ NE¼, Section 5, Township 39 South, Range 1 East, W.M., with a date of priority of 1864. This right is evidenced by certificate of water right recorded at page 16031, Volume 13, State Record of Water Right Certificates. These lands are irrigated by means of the Smith-Meyer-Roper Ditch from a point of diversion located 850 feet north and 300 feet west from the SW corner of DLC 41 being within the NE¼ SW¼ of Section 4, 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, 15, 16, and 17, 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~~X~~ SE~~X~~ SE~~X~~ 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 April 8, 1970, 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 February 11, 18, and 25, 1970. 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 0.6 acre in NW~~X~~ NW~~X~~, Section 4, and 3.3 acres in NE~~X~~ NE~~X~~, Section 5, Township 39 South, Range 1 East, W.M., with a date of priority of 1864, 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, 15, 16, and 17, 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 850 feet north and 300 feet west from the SW corner of DLC 41 being within the NE~~X~~ SW~~X~~ of Section 4, 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 SE~~X~~ SE~~X~~ SE~~X~~ 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, 15, 16, and 17, Township 39 South, Range 1 East, W.M., with a date of priority of 1864, 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, 1971.

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 0.042 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.

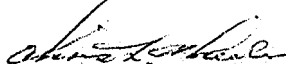
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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 M. B. and L. B. Sander and recorded at page 16031, 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 30th day of September, 1970.



CHRIS L. WHEELER  
State Engineer