

IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR JACKSON COUNTY

CITY OF ASHLAND, a municipal
corporation,

plaintiff,

vs.

FRED C. HOMES and SUSANNE
HOMES CARTER,

Defendants.

SUIT IN QUITY FOR INJUNCTION

STIPULATION

As a basis for settlement of the above entitled matter, in the above entitled court and cause,

IT IS HEREBY STIPULATED AND AGREED by and between the City of Ashland, a municipal corporation, acting by and through its attorneys, Wm. M. Briggs and Frank J. Van Dyke, and Fred C. Homes and Susanne Homes Carter, acting by and through their attorney, Gus Newberry

1. That the defendants relinquish to the plaintiff all claim to four-fifths (4/5) of the aggregate flow of water from what is known as the Berkeley Spring, being the spring involved in this suit, said flow being estimated at approximately twenty (20) gallons per minute.

2. That the plaintiff relinquish all claim to one-fifth (1/5) of the aggregate flow of the waters of said spring.

3. That the plaintiff give and grant unto each of the defendants the rights to tap any pipe line now existing or which may be installed by plaintiff, with a three-quarter (3/4) inch tap, for the service of the dwelling of the defendant Fred C. Homes, and for the service of the dwelling of the defendant Susanne Homes Carter, or for any future dwelling of each, or their successors, which shall take the place of those now existing, said taps to supply water from said plaintiff's pipe line for household use such as bath and toilet fixtures and for watering of stock, but not for any irrigation, and said use on each service tap is not to exceed the aggregate amount of two hundred (200) gallons per day.

4. That the plaintiff install at its expense suitable equipment and measuring devices so as to furnish the defendants with one-fifth (1/5) of the flow of said spring at approximately the point where diversion is now made, said one-fifth (1/5) flow of said spring to be understood to be in addition to the service taps mentioned above.

5. That in the event the plaintiff should succeed in increasing the flow of said spring at some future date over the said present flow, estimated as being twenty (20) gallons per minute, that the said plaintiff is to have all of the benefit of said increased flow.

6. That the plaintiff, as compensation to the defendants, agrees, within ninety (90) day from date hereof, to give the defendants a certificate of water right from the State Water Board of the State of Oregon for five (5) acre feet of water impounded by the Talent Irrigation District, said water right to be on the same terms, stipulations and conditions as exist in that certain contract between the City of Ashland and the Talent Irrigation District, recorded in Volume 163 at Pages 101-105 of the Jackson County, Oregon, Deed Records.

7. That in the event the said plaintiff is unable to furnish the said certificate of water right within the period above mentioned, then and in that event the above stipulation shall be considered null and void, and the parties thereto shall be deemed to be in the same position as though said stipulation had never been entered into. That upon the compliance by the plaintiff of the terms of this stipulation, this cause shall be dismissed without costs to either party.

DATED this 27th day of February, 1934.

WM. M. BRIGGS

FRANK J. VAN DYKE
Attorneys for plaintiff

GUS NEWBURY
Attorney for defendants.

MUNICIPAL OR DOMESTIC SUPPLY—

10. (a) To supply the city of Ashland

Jackson County, having a present population of 5000

(Name of)

and an estimated population of in 193..... At present used for drinking purposes only in Lathia Park in Ashland, Oregon.

(b) If for domestic use state number of families to be supplied Entire population from central drinking fountains.

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of ~~proposed~~ works, \$ 35,000

12. Construction work will begin on or before complete

13. Construction work will be completed on or before completed in 1915

14. The water will be completely applied to the proposed use on or before

already applied

CITY OF ASHLAND

(Signature of applicant)

By J. Q. Adams, Recorder

Signed in the presence of us as witnesses:

(1) W. M. Briggs, Ashland, Oregon
(Name) (Address of witness)

(2) Frank J. VanDyke, Ashland, Oregon
(Name) (Address of witness)

Remarks: See stipulation attached. This stipulation is also recorded in Miscellaneous Records of the State Engineer's office as of March 28, 1934.

See Permit No. 2420-Certificate #2325.

STATE OF OREGON, }
County of Marion, } ss.

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before, 193.....

WITNESS my hand this day of, 193.....

STATE ENGINEER

Application No. 15342

Permit No. 11243

PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

Division No. District No.

This instrument was first received in the office of the State Engineer at Salem, Oregon, on the 25th day of April 1934, at 8:00 o'clock A.M.

Returned to applicant:

Corrected application received:

Approved:

May 26, 1934

Recorded in book No. 38 of Permits on page 11243

CHAS. E. STRICKLIN

STATE ENGINEER

Drainage Basin No. 15 Page 371

Fees Paid \$10.00

STATE OF OREGON, } ss. County of Marion.

PERMIT

This is to certify that I have examined the foregoing application and do hereby grant the same, subject to existing rights and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 0.035 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from

Sulphur Spring

The use to which this water is to be applied is municipal

If for irrigation, this appropriation shall be limited to of one cubic foot per second

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is April 25, 1934

Actual construction work shall begin on or before May 26, 1935 and shall thereafter be prosecuted with reasonable diligence and be completed on or before Oct. 1, 1936

Complete application of the water to the proposed use shall be made on or before Oct. 1, 1937

WITNESS my hand this 26th day of May, 1934

CHAS. E. STRICKLIN

STATE ENGINEER