

2424 Ever-May Farms
Rt. 2 Box 232
Forest Grove, Ore.
97116

2424

STATUS OF APPLICATION

Change in Point of Diversion
Date filed July 24, 1970
Date of hearing September 30, 1970
Place of hearing Hillsboro, Oregon
Date of order 1-21-71 Vol. 20, page 366
Date for application of water 10-1-71
Proof mailed _____
Proof received _____
Certificate issued MAY 21 1975 Vol. 34, page 42169
Survey 1-9-73

DESCRIPTION OF WATER RIGHT

Name of stream W. Fork Dairy Creek
Trib. of - County of Washington
Use Irrigation
Quantity of water 0.415 cfs No. of acres 33 3/4
Name of ditch -
Date of priority February 25, 1947
In name of Albert J. Evers
_____ Adjudication, Vol. _____, page _____
App. No. 22279 Per. No. 17570 Cert. No. 19857
Certificate cancelled _____
Notation made on record by slu

FEES PAID

Date	Amount	Receipt No.
7/24/70	25.00	20145
7/24/70	30.00 PGN	20150
TOTAL . . .		
8-24-70	\$1 Cert. Fee	From Pub. 7 Nat.
3-28-75	50	45906

FEES REFUNDED

Date	Amount	Check No.
8-24-70	+6.89 Pub. 7 Nat.	3826

REMARKS

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	
	Entered	Checked
_____	Name <u>slu</u>	_____
_____	Stream <u>slu</u>	_____
_____	Pt. of Div. _____	_____
_____	Calendar <u>slu</u>	_____
CHECKED TO RECORDS:		
_____	Twp. & Rge. _____	_____
_____	Decree-vault _____	_____
_____	Decree-safe _____	_____
_____	Cert. of W/R <u>slu</u>	_____
_____	Per. Folder <u>slu</u>	_____
_____	Chainindex _____	_____
_____	Cross Ref. _____	_____
_____	Power Claim _____	_____
_____	Abstracts _____	_____

CONCLUSIONS OF LAW

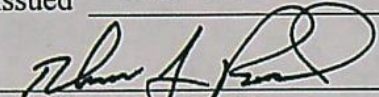
The Director of the Water Resources Department concludes that the portion of the right evidenced by Water Right Certificate 42169 as described in *Findings of Fact #3* has been diminished from primary irrigation to supplemental irrigation

ORDER

IT IS HEREBY ORDERED:

1. Certificate 42169 is canceled.
2. The water right for irrigation of 21.5 acres as described by Certificate 42169 is diminished from a right for primary irrigation to a right for supplemental irrigation. The Department shall issue Certificate 81277, a new and superseding certificate, to confirm the diminution of the right

Issued APR 13 2005


For Phillip C. Ward, Director

STATE OF OREGON
COUNTY OF WASHINGTON
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

EUGENE E. EVERS
39439 NW OSTERMAN ROAD
FOREST GROVE, OREGON 97116

confirms the right to use the waters of WEST FORK DAIRY CR, a tributary of DAIRY CR, for IRRIGATION OF 11.7 ACRES AND SUPPLEMENTAL IRRIGATION OF 21.5 ACRES.

This right was perfected under Permit S-17570. The date of priority is FEBRUARY 25, 1947. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.415 CUBIC FOOT PER SECOND (CFS), BEING 0.146 CFS FOR IRRIGATION AND 0.269 CFS FOR SUPPLEMENTAL IRRIGATION, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
1 N	3 W	WM	17	SE NW	43	1210 FEET NORTH AND 1840 FEET WEST FROM THE NE CORNER OF CONKLIN DLC 53.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 N	3 W	WM	17	SW SW	53	5.7
1 N	3 W	WM	17	SE SW	53	1.4
1 N	3 W	WM	20	NE NW	53	0.5
1 N	3 W	WM	20	NW NW	53	4.1

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 N	3 W	WM	17	SW SW	53	15.1
1 N	3 W	WM	20	NW NW	53	6.4

This certificate is issued to confirm the right modified by provisions of an order recorded at Special Order Volume 64, Page 110, diminishing the right evidenced by Certificate 42169. This certificate supersedes Certificate 42169.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director, affixed APR 13 2005.


Phillip C. Ward, Director



BEFORE THE STATE ENGINEER OF OREGON

Washington County

IN THE MATTER OF THE APPLICATION)
OF EVER-MAY FARMS FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM WEST FORK DAIRY CREEK)
- - - - -

ORDER APPROVING
TRANSFER NO. 2424

On July 24, 1970, Ever-May Farms filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from West Fork Dairy Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Albert J. Evers and recorded at page 19857, Volume 14, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.415 cubic foot per second of water from West Fork Dairy Creek for the irrigation of 20.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, 1.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, 0.5 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 10.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20, Township 1 North, Range 3 West, W.M., with a date of priority of February 25, 1947. These lands are irrigated from a point of diversion located 150 feet south and 390 feet west from the E $\frac{1}{4}$ corner of Section 18 being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 1 North, Range 3 West, W.M.

The applicant herein, owner of the lands above described, proposes to irrigate these lands from a point of diversion to be located south 56° east 290 feet from the NE corner of SE $\frac{1}{4}$ NW $\frac{1}{4}$ being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Township 1 North, Range 3 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 point of diversion of water, if any there were, namely: at the county courthouse in Hillsboro, Oregon, on September 30, 1970, at 9:30 a.m. The notice was published in the

Washington County News-Times, a newspaper printed and having general circulation in Washington County, Oregon, for a period of three weeks in the issues of August 6, 13, and 20, 1970. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a report to the effect that the proposed change in point of diversion may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the proposed change in point of diversion of water from West Fork Dairy Creek, to-wit:

From a point located 150 feet south and 390 feet west from the E $\frac{1}{4}$ corner of Section 18 being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 1 North, Range 3 West, W.M.

To a point to be located south 56° east 290 feet from the NE corner of SE $\frac{1}{4}$ NW $\frac{1}{4}$ being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Township 1 North, Range 3 West, W.M.

for the irrigation of 20.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, 1.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, 0.5 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 10.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20, Township 1 North, Range 3 West, W.M., with a date of priority of February 25, 1947, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water 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 available at the old point of diversion and shall not exceed 0.415 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be

carried out prior to the diverting of water at the new point of diversion as herein confirmed.

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 Albert J. Evers and recorded at page 19857, Volume 14, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to Ever-May Farms confirming the change in point of diversion.

Dated at Salem, Oregon, this 21st day of January, 1971.

/s/ CHRIS L. WHEELER
State Engineer

AFFIDAVIT OF PUBLICATION

STATE OF OREGON, }
COUNTY OF WASHINGTON, } ss.

RECEIVED
AUG 24 1970
STATE ENGINEER
SALEM OREGON

I, Paul McGilvra

being first duly sworn, depose and say that I am the publisher

of The News Times, a newspaper of general circulation, as defined
by ORS 193.010 and 193.020, published at Forest Grove, in the aforesaid county and
state; that the legal notice, a printed copy of which is hereto annexed, was
published in the entire issue of said newspaper for 3 successive and
consecutive weeks in the following issues Aug. 6, B, 20 1970

Paul McGilvra
(Signature)

Subscribed and sworn to before me this 20th day of

August 19 70

Myrtle Thomas
Notary Public of Oregon

My commission expires May 14 1973

NOTICE OF FILING
APPLICATION FOR A
CHANGE IN POINT OF
DIVERSION OF WATER
Notice is given hereby that
Ever-May Farms has filed an
application for the approval of
a change in point of diversion
of water from West Fork
Dairy Creek.
Certificate of water right
issued to Albert J. Evers and
recorded at page 19857, Vol-
ume 14, State Record of Water
Right Certificates, confirms a
right to the use of 0.415 cubic
foot per second of water from
West Fork Dairy Creek for the
irrigation of 20.8 acres in SW $\frac{1}{4}$,
SW $\frac{1}{4}$, 1.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 17, 0.5 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$
and 10.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 26, T1N., R3W, W.M.,
with a date of priority of Feb-
ruary 25, 1947. These lands
are irrigated from a point of
diversion located 150 ft. S and
390 ft. W from the E $\frac{1}{4}$ corner
of Sec. 18 being within the NE $\frac{1}{4}$
SE $\frac{1}{4}$ of Sec. 18, T1N, R3W,
W.M.
The applicant herein, owner
of the lands above described,
proposes to irrigate these
lands from a point of diversion
to be located S56° E290 ft.
from the NE corner of SE $\frac{1}{4}$
NW $\frac{1}{4}$ being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$
of Sec. 17, T1N, R3W, W.M.
All persons interested are
notified hereby that a hearing
will be held at the county
courthouse at Hillsboro, Ore-
gon, on September 30, 1970, at
9:30 a.m. All objections to the
proposed change, if any there
are, will be heard at said time
and place. Any and all objec-
tions shall be prepared in
writing, one copy to be served
on Ever-May Farms, Rt. 2,
Box 232, Forest Grove, Ore-
gon, and one copy filed with
the State Engineer, Salem,
Oregon, together with a \$5 fil-
ing fee at least 10 days prior
to the date set for hearing. If
no objections are filed, the ap-
plication may be approved by
the State Engineer without a
hearing.
Dated at Salem, Oregon, this
30th day of July, 1970.
CHRIS L. WHEELER
State Engineer
(#983 - Publish Aug. 6, 13, 20,
1970)

STATE OF OREGON
COUNTY OF WASHINGTON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ALBERT J. EVERS

of Route 2, Forest Grove, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of West Dairy Creek a tributary of Dairy Creek for the purpose of irrigation under Permit No. 17570 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from February 25, 1947

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.415 c.f.s.

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, as projected in Chas. Conklin D.L.C. #53, Section 18, T. 1 N., R. 3 W., W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall

conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows: 20.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, as projected in Chas. Conklin DLC #53
1.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, as projected in Chas. Conklin DLC #53
Section 17
0.5 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$, as projected in Chas. Conklin DLC #53
3² 10.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, as projected in Chas. Conklin DLC #53
Section 20, T. 1 N., R. 3 W., W. M.

Land on which water is to be used is a part of that more explicitly described as follows: Commencing at a post on the south boundary line of the Charles Conklin and wife Donation Land Claim in Section 17, 18, 19 and 20 in T1N., R3W, in the County of Washington, State of Oregon 9.21 chains east of the division corner between said Charles Conklin and his wife. Thence north in the County road twenty four chains and 56 $\frac{1}{2}$ links; thence east sixteen chains and 28 $\frac{1}{2}$ links; thence south twenty four chains and 56 $\frac{1}{2}$ links to a post on said south boundary line; thence west on said south line 16.28 $\frac{1}{2}$ chains to the place of beginning, containing 40 acres, excepting therefrom that tract of land heretofore sold to O.J. Seghers, Arch Bishop for Cemetery Site, the deed for which is recorded in Book Q page 448 of the records of Washington County, Oregon, also 20 feet for road way leading from said Cemetery to the public highway.