

Theodore B. Cheney  
Rt. 1, Box 93  
Rogue River, Ore. 97537

2443

STATUS OF APPLICATION

Change in Point of Diversion  
Date filed September 4, 1970  
Date of hearing November 12, 1970  
Place of hearing Medford, Ore.  
Date of order 2-23-71 Vol. 20, page 426  
Date for application of water 10-1-71  
Proof mailed \_\_\_\_\_  
Proof received \_\_\_\_\_  
Certificate issued Mar. 29, 1971 Vol. 29, page 37482  
Summary 11/1/71 9-30-70. 35 43648

DESCRIPTION OF WATER RIGHT

Name of stream Evans Creek  
Trib. of — County of Jackson  
Use Irrigation  
Quantity of water 0.067 cfs No. of acres 4<sup>0</sup>  
Name of ditch Jesse Neathammer  
Date of priority May 1, 1899  
In name of Jesse Neathammer  
Rogue River Adjudication, Vol. 13, page 381  
App. No. \_\_\_\_\_ Per. No. \_\_\_\_\_ Cert. No. 32774  
Certificate cancelled \_\_\_\_\_  
Notation made on record by slu

FEEES PAID

Date	Amount	Receipt No.
9-4-70	25.00	20707
9-4-70	35.00 <u>PON</u>	20708
TOTAL . . .	<u>\$2.</u>	
10-15-70	<u>\$1</u> Cert. Fee	<u>From Pub 2 Not.</u>

FEEES REFUNDED

Date	Amount	Check No.

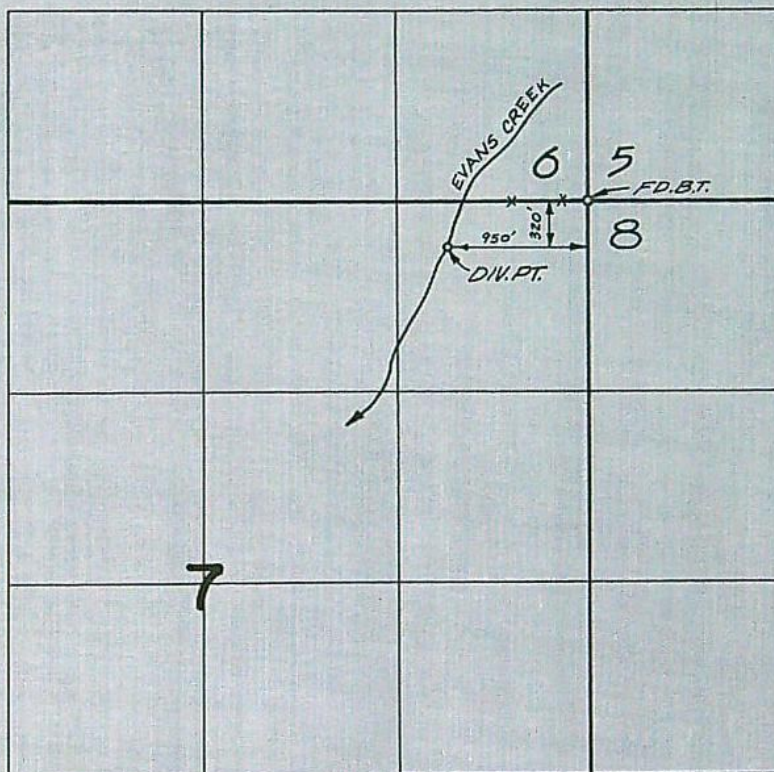
REMARKS

TO BE ENTERED WHERE CHECKED	INDEX CARDS:		Entered	Checked
<input checked="" type="checkbox"/>	Name		<u>slu</u>	
<input checked="" type="checkbox"/>	Stream		<u>slu</u>	
<input checked="" type="checkbox"/>	Pt. of Div.			
<input checked="" type="checkbox"/>	Calendar		<u>slu</u>	
CHECKED TO RECORDS:				
<input checked="" type="checkbox"/>	Twp. & Rge.		<u>slu</u>	
<input checked="" type="checkbox"/>	Decree-vault		<u>slu</u>	
<input checked="" type="checkbox"/>	Decree-sale		<u>slu</u>	
<input checked="" type="checkbox"/>	Cert. of W/R		<u>slu</u>	
<input type="checkbox"/>	Per. folder			
<input type="checkbox"/>	Chainindex			
<input type="checkbox"/>	Cross Ref.			
<input type="checkbox"/>	Power Claim			
<input type="checkbox"/>	Abstracts			

CCB



T. 35 S. R. 3 W. W.M.



**FINAL PROOF SURVEY**  
UNDER

TRANSFER NO. 2443  
Application No. .... Permit No. ....  
IN NAME OF

.....THEODORE B. CHENEY.....

Surveyed JULY 26 1974, by D. NORBY.....



## STATE OF OREGON

COUNTY OF JACKSON

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That**

THEODORE B. CHENEY

of 265 Murphy Gulch Road, Rogue River, State of Oregon, 97537, has  
a right to the use of the waters of  
Evans Creek

a tributary of Rogue River for the purpose of  
irrigating 4.0 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Jackson County, and the said decree entered of record at Salem, in the Order Record of  
the WATER RESOURCES DIRECTOR, in Volume 16, at page 523; that the priority of the  
right thereby confirmed dates from May 1, 1899;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed 0.067 cubic foot per  
second.

The point of diversion is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 7, T. 35 S., R. 3 W., W.M.,  
320 feet South and 950 feet West from the NE Corner of Section 7.

A description of the place of use under the right, and to which such right is appurtenant, is as  
follows:

4.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 7  
T. 35 S., R. 3 W., W. M.

This certificate is issued to confirm a change in point of diversion approved by  
an order of the State Engineer entered February 23, 1971 and together with  
certificate 37482 supersedes certificate of water right heretofore issued to  
Jesse Neatham and recorded at Page 32774, Volume 24, State Record of Water Right  
Certificates.

And said right shall be subject to all other conditions and limitations contained in said decree.  
The right to the use of the water for the purposes aforesaid is restricted to the lands or place of  
use herein described, and is subject to the existing minimum flow policies  
established by the Water WITNESS the signature of the Water Resources Director, affirmed  
Policy Review Board.

this date September 30, 19 76.

James E. Saxson

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 35, page 43648



BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION )  
OF THEODORE B. CHENEY FOR THE AP- )  
PROVAL OF A CHANGE IN POINT OF )  
DIVERSION OF WATER FROM EVANS )  
CREEK )  
----- )

ORDER APPROVING  
TRANSFER NO. 2443

On September 4, 1970, Theodore B. Cheney filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from Evans Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered January 10, 1940, 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 Jesse Neathammer for the use of the waters of Evans Creek for the irrigation of, among other lands, 4.0 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 7, Township 35 South, Range 3 West, W.M., with a date of priority of May 1, 1899. This right is evidenced by certificate recorded at page 32774, Volume 24, State Record of Water Right Certificates. These lands are irrigated by means of the Jesse Neathammer Ditch from a point of diversion located 450 feet north and 200 feet west from the center  $\frac{1}{4}$  corner of Section 5 being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, Township 35 South, Range 3 West, W.M.

The applicant herein, contract purchaser of the lands above described, proposes to irrigate these lands from a point of diversion to be located 450 feet south and 1130 feet west from the NE corner of Section 7 being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, Township 35 South, 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 Medford, Oregon, on November 12, 1970, at 9:30 a.m. The notice was published in The Times, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of September 18, 25, and October 2, 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 point of diversion of water may be made without injury to existing rights.

Lon and Hazel M. Chamberlain, contract sellers of the land involved, has submitted written approval of the change in point of diversion.

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

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

From a point located 450 feet north and 200 feet west from the center  $\frac{1}{4}$  corner of Section 5 being within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, Township 35 South, Range 3 West, W.M.

To a point to be located 450 feet south and 1130 feet west from the NE corner of Section 7 being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, Township 35 South, Range 3 West, W.M.

for the irrigation of 4.0 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 7, Township 35 South, Range 3 West, W.M., with a date of priority of May 1, 1899, 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 0.067 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 Jesse Neathammer and recorded at page 32774, Volume 24, 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 point of diversion, a certificate of water right shall be issued to Theodore B. Cheney confirming said change in point of diversion.

Dated at Salem, Oregon, this 23rd day of February, 1971.

/s/ CHRIS L. WHEELER  
State Engineer



## AFFIDAVIT OF PUBLICATION

STATE OF OREGON     )  
                              ) ss.  
COUNTY OF JACKSON )

I, Leland Morgan, being first duly sworn,  
depose and say that I am editor of The Times, a  
newspaper printed and published at Rogue River in  
Jackson County, State of Oregon; that the

Notice of Filing Application For A  
Change in Point of Water Diversion:  
Theodore B. Cheney

was published once a week in said newspaper for 3  
consecutive weeks, and that publication dates were  
Sept. 18, 1970; Sept. 25, 1970; and  
Oct. 2, 1970.

Leland Morgan

Subscribed and sworn to before me this 13  
day of October, 1970.

Lorothy J. McQuat  
Notary Public of Oregon

My commission expires 5-18 1972

**RECEIVED**  
OCT 14 1970  
STATE ENGINEER  
SALEM, OREGON

### Notice of Filing Application For a Change in Point of Diversion of Water

Notice is given hereby that  
Theodore B. Cheney has fil-  
ed an application for the ap-  
proval of a change in point  
of diversion of water from  
Evans Creek.

In the Rogue River Adjud-  
ication proceedings, a water  
right was established in the  
name of Jesse Neathammer  
for the use of the waters of  
Evans Creek for the irriga-  
tion of, among other lands,  
4.0 acres in NE1/4 NE1/4,  
Sec. 7, T. 35 S., R. 3 W.,  
W.M., with a date of prior-  
ity of May 1, 1899. These  
lands are irrigated by means  
of the Jess Neathammer  
Ditch from a point of diver-  
sion located 450 ft. N. and  
200 ft. W from the center  
1/4 corner of Sec. 5 being  
within the SE1/4 NW1/4 of  
Sec. 5, T. 35 S., R. 3 W.,  
W.M.

The applicant herein, con-  
tract purchaser of the lands  
above described, proposes to  
irrigate these lands from a  
point of diversion to be locat-  
ed 450 ft. S and 1130 ft. W  
from the NE corner of Sec. 7  
being within the NE1/4 NE1/4  
of Sec. 7, T. 35 S., R. 3 W.,  
W.M.

All persons interested are  
notified hereby that a hearing  
will be held at the county  
courthouse at Medford, Ore-  
gon, on November 12, 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 objections shall be  
prepared in writing, one copy  
to be served on Theodore B.  
Cheney, Rt. 1, Box 93,  
Rogue River, Oregon, and one  
copy filed with the State En-  
gineer, Salem, Oregon, to-  
gether with a \$5 filing fee at  
least 10 days prior to the date  
set for hearing. If no objec-  
tions are filed, the applica-  
tion may be approved by the  
State Engineer without a  
hearing.

Dated at Salem, Oregon,  
this 8th day of September,  
1970.

CHRIS L. WHEELER  
State Engineer



## STATE OF OREGON

COUNTY OF

JACKSON

## CERTIFICATE OF WATER RIGHT

This Is to Certify, That JESSE NEATHAMER,

of Rogue River  
to the use of the waters of Evans Creek

, State of Oregon , has a right

a tributary of Rogue River for the purpose of  
irrigation of 39.0 acres  
and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Jackson County, and the said decree entered of record at Salem, in the Order Record of  
the STATE ENGINEER, in Volume 16 , at page 523 ; that the priority of the right thereby  
confirmed dates from May 1, 1899;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed 0.65 cubic foot per  
second.

The point of diversion is located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 5, T. 35 S., R. 3 W., W.M.

A description of the place of use under the right, and to which such right is appurtenant, is as  
follows:

10.0 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$   
5.2 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 5,

1.6 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$   
18.2 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 6,

— 4.0 acres in NE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 7,  
T. 35 S., R. 3 W., W.M.

And said right shall be subject to all other conditions and limitations contained in said decree.  
The right to the use of the water for the purposes aforesaid is restricted to the lands or place  
of use herein described.

WITNESS the signature of the State Engineer, affixed

this date January 5 , 1966 .

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 24 , page 32774