

WILLIAM J. WESLEY &
LINDA S. WESLEY

2878

STATUS OF APPLICATION

Change in Place of Use
Date filed August 8, 1973
Date of hearing _____
Place of hearing _____
Date of order Aug 10, 1973 Vol. 23, page 303
Date for application of water October 1, 1974
Proof mailed _____
Proof received _____

Remaining R+
Certificate issued NOV 21 1973 Vol. 31, page 39593
9-10-73 Wes Jan. 18, 1982 44 Survey 50493
again 11/77

REMARKS

DESCRIPTION OF WATER RIGHT

Name of stream Spring, tributaries to Geppert Cr.
Trib. of _____ County of Tackson
Use Irrigation
Quantity of water _____ No. of acres _____
Name of ditch _____
Date of priority December 6, 1917
In name of _____
Adjudication, Vol. _____, page _____
App. No. 5879 Per. No. _____ Cert. No. 4857
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>8-8-73</u>	<u>25.00</u>	<u>36001</u>
TOTAL . . .		
<u>8-9-73</u>	<u>3.00</u> Cert. Fee	<u>36027</u>

FEES REFUNDED

Date	Amount	Check No.

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

STATE OF OREGON, } ss
County of Marion, }

I certify that the within was received by me
on the 26th day of Nov, 19 79, at 8:00
o'clock A.m., and was recorded in Miscellaneous
Records, Vol. 6 Page 624

James E. Sexson,
Director

WR.13.
Assembled 2/1/85 by CLH

Entered _____ by _____

Verified _____ by _____

RECEIVED

NOV 26 1979

WATER RESOURCES DEPT
SALEM, OREGON

ASSIGNMENT OF
WATER RIGHT TRANSFER APPLICATION
NUMBER 2878

I, BLANCHE O. CAMPBELL, of 745 East Pine Street, Central Point, Oregon 97501, hereby assign all of my right, title and interest in Water Right Transfer Application Number 2878 to WILLIAM J. WESLEY and LINDA S. WESLEY, husband and wife, of P.O. Box 14, Butte Falls, Oregon 97522. Said application concerns the transfer of water rights appurtenant to 12 acres in the SW Quarter of the NW Quarter of Section 8, TOWNSHIP 35 South, Range 2 East, Willamette Meridian, to 12 acres in the NE Quarter of the SW Quarter of Section 8, TOWNSHIP 35 South, Range 2 East, Willamette Meridian, Jackson County, Oregon. This transfer is necessary since the Wesleys are the real parties in interest in this matter, because they are the owners of the property to which said water rights were transferred.

DATED this 21 day of Nov., 1979.

Blanche O. Campbell
BLANCHE O. CAMPBELL

STATE OF OREGON, } ss.
County of Marion.

I certify that the within was received by me on the 26th day of Nov., 1979, at 8:00 o'clock A.m., and was recorded in Miscellaneous Records, Vol. 6 Page 624.

James E. Sexson,
Director

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12463, Marion County	)	TEMPORARY CHANGE IN PLACE OF
	)	USE, AND ADDITIONAL POINT OF
	)	APPROPRIATION

Authority

Oregon Revised Statute (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

MARGARET AND THOMAS BARNETT
12814 ARNDT ROAD NE
AURORA, OR 97002

Findings of Fact

1. On August 25, 2016, MARGARET AND THOMAS BARNETT filed an application to temporarily change the place of use and add a point of appropriation to serve the proposed place of use under Certificate 36301 for a period of 1 year. The Department assigned the application number T-12463.
2. Notice of the application for transfer was published on September 6, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:
Certificate: 36301 in the name of GLEN YERGEN (perfected under Permit G-2669)
Use: IRRIGATION of 33.0 ACRES
Priority Date: JUNE 5, 1964
Rate: 0.27 CUBIC FOOT PER SECOND
Limit/Duty: 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

This is a final order in other than a 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 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: ONE WELL within the MILL CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	4	NE NE	100 FEET SOUTH AND 440 FEET WEST FROM THE NE CORNER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	3	NW NW	0.8
4 S	1 W	WM	4	NE NE	28.8
4 S	1 W	WM	4	NW NE	3.4
Total					33.0

4. Temporary Transfer Application T-12463 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	3	NW NE	6.2
4 S	1 W	WM	3	NE NW	26.8
Total					33.0

5. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12463 proposes to move the authorized point of appropriation approximately 0.5 mile east to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	3	NE NW	440 FEET SOUTH AND 1995 FEET EAST FROM THE NE CORNER OF SECTION 4

Temporary Transfer Review Criteria

- Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- The proposed changes would not result in enlargement of the right.
- The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

The temporary change in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12463 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12463 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2016 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2016 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 36301 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 36301.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. The use of the remaining water right described by Certificate 36301 shall continue to be in accordance with the terms and conditions of Certificate 36301.

Dated at Salem, Oregon this 28 day of February 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: MAR 07 2017

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICA-)
TION OF MRS. BLANCHE O. CAMPBELL)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE OF WATER FROM SPRINGS,)
TRIBUTARY TO GEPPERT AND PERRY)
CREEKS)
-----)

ORDER APPROVING
TRANSFER NO. 2878

On August 8, 1973, Mrs. Blanche O. Campbell filed an application in the office of the State Engineer for the approval of a change in place of use of water from Springs, tributary to Geppert and Perry Creeks, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Joseph Geppert and recorded at page 4857, Volume 5, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.3 cubic feet per second of water from Springs, tributary to Geppert and Perry Creeks for the irrigation of, among other lands, 12.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 35 South, Range 2 East, W.M., with a date of priority of December 6, 1917. These lands are irrigated from points of diversion located (1) 1320 feet North and 2640 feet East, (2) 175 feet North and 1750 feet East and (3) 275 feet North and 2210 feet East from the West $\frac{1}{4}$ corner of Section 8, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 35 South, Range 2 East, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right therefrom, without loss of priority to 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, Township 35 South, Range 2 East, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in place of use of water.

Mr. David C. Hendrix, Watermaster of District No. 13, has filed a statement to the effect that the proposed change in place of use 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 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 12.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 35 South, Range 2 East, W.M., with a date of priority of December 6, 1917, be severed therefrom and simultaneously and without loss of priority transferred to 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, Township 35 South, Range 2 East, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1974.

It is FURTHER ORDERED that certificate of water right heretofore issued to Joseph Geppert and recorded at page 4857, Volume 5, 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 application of water to beneficial use, a certificate of water right shall be issued to Mrs. Blanche O. Campbell confirming the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 10th day of August, 1973.

/s/ CHRIS L. WHEELER
State Engineer

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Jackson County

IN THE MATTER OF WATER RIGHT)
TRANSFER APPLICATION NO. 2878)
IN THE NAMES OF WILLIAM J.)
AND LINDA S. WESLEY)

Statement
Findings of Fact
Conclusions of Law
and Order

STATEMENT

On October 29, 1979 the following letter was sent by certified mail, return receipt requested, to Mrs. Blanche O. Campbell, applicant under water right transfer application numbered 2878:

"Water right transfer application No. 2878, filed in the office of the State Engineer on August 8, 1973, in the name of Blanche O. Campbell, proposed a change in place of use of water from Perry Creek under a priority date of December 6, 1917, from irrigation of a certain 12.0 acres of land within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 35 South, Range 2 East, W.M., to irrigation of a certain other 12.0 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 8.

"The administrative order of the State Engineer dated August 10, 1973, approved the application and provided that the proposed change be carried out on or before October 1, 1974. The said order also provided that upon receipt of proof satisfactory to the State Engineer that the authorized change in place of use had been carried out under the provisions of the order by beneficial irrigation on the 12.0 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, a new certificate of water right would be issued to confirm the water right for the new place of use.

"To date, proof of completion of the authorized change in place of use by beneficial irrigation of the 12.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8 has not been received.

"If the subject lands were not beneficially irrigated under the provisions of the order, or if they were so irrigated but have undergone a period of five or more successive years of nonuse of water from Perry Creek for beneficial irrigation, the water right which was the subject of the transfer has been lost.

"Please be advised that we have received affidavits from two individuals stating that they have first hand knowledge that the subject lands within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 8 were not beneficially irrigated from Perry Creek for a period of more than five years of nonuse prior to the 1979 irrigation season.

"You are hereby notified that unless we hear otherwise from you within sixty days from the date of this letter, stating that you can show that the subject lands within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8 were irrigated by October 1, 1974, and have been continued to be beneficially irrigated down through the years to the present time without the occurrence of a period of five or more successive years of nonuse of water from Perry Creek for irrigation of the lands, an order will be entered to the effect that the subject water right has been lost and the file will be closed."

On November 26, 1979 an assignment of all of Mrs. Blanche O. Campbell's right, title and interest in water right transfer application numbered 2878 to William J. Wesley and Linda S. Wesley, husband and wife, was recorded in the office of the Water Resources Director. In agreement with the deed records of Jackson County, the said assignment document identified William J. and Linda S. Wesley as the owners of record of the real property to which the water right in question was transferred.

Acting through their attorney, Mr. Lee Mills of the law firm of Brophy, Wilson and Duhaime of Medford, Oregon, William J. and Linda S. Wesley requested that the matter be set for hearing.

On December 12, 1979 the Water Resources Director served notice of hearing on William J. Wesley and Linda S. Wesley, Mr. Lee Mills, and on Elizabeth A. Jones and Lowell Nicolaus, the aforesaid affiants, which notice provided, in part:

"You hereby are notified that pursuant to the provisions of ORS 540.530 (2) and ORS 540.610 to 540.650 concurrent hearings will be held before the Water Resources Director, commencing at 9:30 a.m. on Tuesday, March 18, 1980, in the Auditorium of the Jackson County Courthouse in Medford, Oregon, to determine two questions of fact in regard to a certain water right.

"(a) To what extent was performance made in the change in place of use of water under the provisions of the said order of the State Engineer dated August 10, 1973 approving water right transfer application No. 2878?

"(b) To the extent that such performance was made and a water right was established for irrigation of the said 12.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 35 South, Range 2 East, W.M., did there occur a failure to make beneficial use of the water on any portion of said lands for a period of five or more successive years of nonuse subsequent to such performance having been made?"

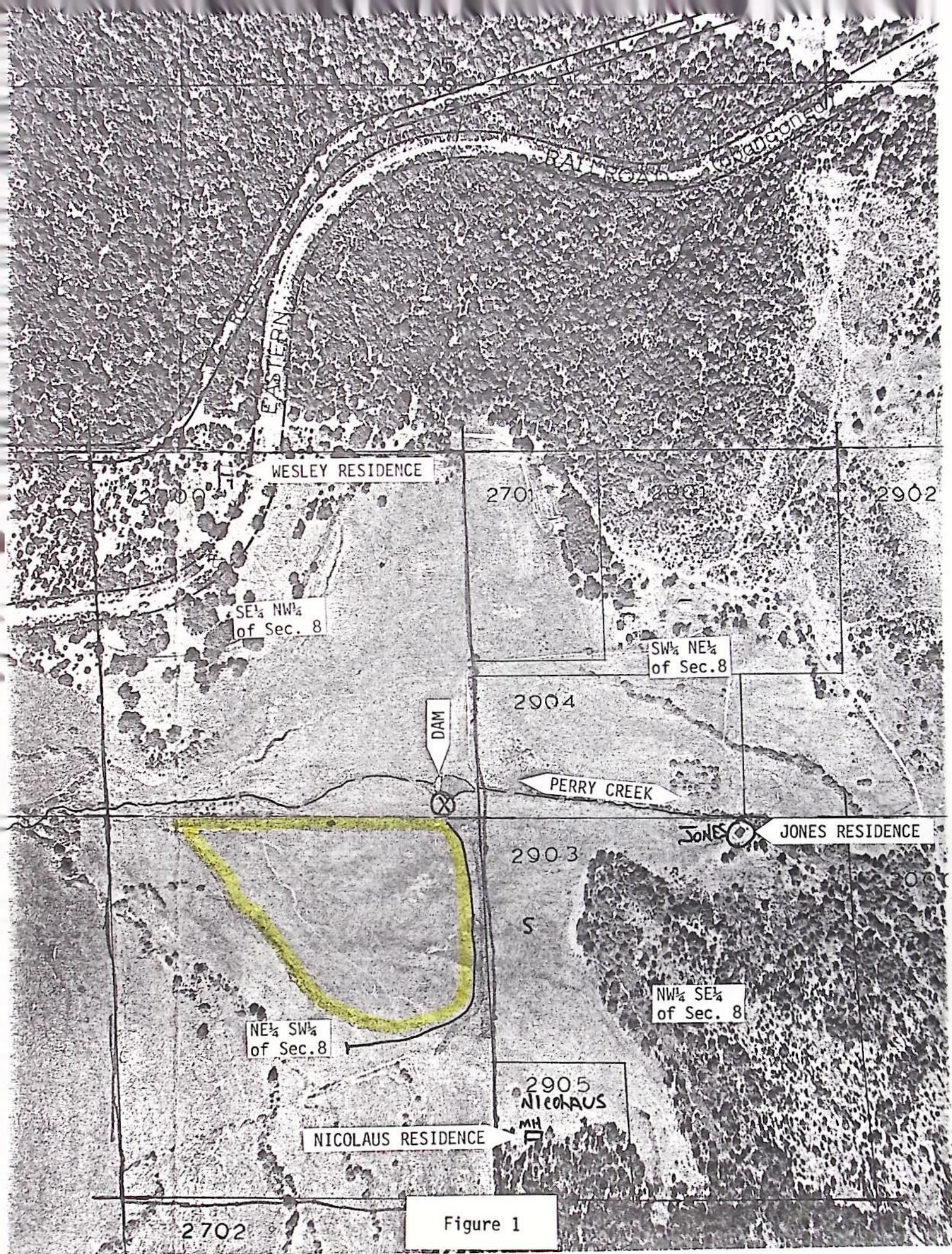


Figure 1

Pursuant to the provisions of the notice of hearing, the hearing was convened before James W. Carver, Jr., an employee of the Water Resources Department, authorized to preside in behalf of the Water Resources Director. William J. Wesley and Linda S. Wesley were present and were represented by Mr. Lee Mills, Attorney at Law. Elizabeth A. Jones and Lowell Nicolaus were also present at the hearing, but were not represented by counsel.

The relative locations of the lands to be irrigated under the provisions of the subject water right transfer, the channel of Perry Creek in the vicinity of said lands, the dam constructed in the channel of Perry Creek to provide a pool from which to pump, the Wesley residence, the Jones residence and the Nicolaus residence are shown on Figure 1 herein. Figure 1 is a photocopy of a portion of exhibit WRD #1, an aerial photomap from the office of the Jackson County Assessor, to which photomap certain identifying labels have been added.

FINDINGS OF FACT

William J. Wesley testified that he began occupancy of the property on September 30, 1973; that during the spring and summer of 1974 he used the subject 12.0 acre field which he outlined with yellow on exhibit WRD #1, for pasturing 27 head of cattle, utilizing grasses that had been established prior to his having acquired the property; and that during the period beginning with June 21, 1974 and ending about August 10, 1974, he irrigated the subject 12.0 acre field for the purpose of increasing the growth of the pasture grass.

Mr. Wesley testified that to accomplish the said pasture irrigation he used an eight horsepower, gasoline engine driven pump and approximately 1400 feet of plastic pipes he acquired with the property to pump water from the channel of Perry Creek at a point near the dam, and to convey the water to the high side of the field, to there let the water flow out onto the land to irrigate the field by flooding over the land surface.

In response to the question: "How did you direct the water over the field?", Mr. Wesley stated; "Well, the land is relatively flat except for some high spots which I have since done some leveling on, but I still have a few high spots. The land basically slopes from east to west, except in the western edge where it slopes from south to north, and so I would take a section of pipe and I would pump, put the end of the pipe on a high spot and pump, watch how the water was flowing, take a shovel if I needed to and channel it, and then move the pipe to another high spot and do the same thing."

Testimony was in agreement that the subject 12.0 acre field was not irrigated in either the year 1975 or the year 1976.

Testimony established that over a period of approximately two weeks, occurring in late May and early June of 1975, forms were constructed and concrete was hand-mixed and poured into the forms to provide an overflow spillway lip and apron on the dam located in the channel of Perry Creek near the northeast corner of the 12.0 acre field. The form boards were pre-cut to size by means of an electric saw operated at the Wesley residence. The boards were then transported to the dam where they were assembled with hammer and form nails to receive the concrete. The concrete mix materials were hand-mixed at the site and poured into the forms. Approximately one week after the concrete was mixed and poured the forms were stripped from the spillway, and the nails were removed from the boards and the boards were stacked for later removal from the site.

The resulting concrete spillway lip was about 20 inches in height and 6½ feet in width. The apron to convey the water back to the natural channel was constructed to a width of approximately 6½ feet and was about 12 to 15 feet in length.

Mr. Wesley further testified that, in the early part of 1977, he purchased and brought to the subject property some used irrigation equipment which included 1760 feet of 3-inch and 4-inch diameter aluminum pipe; that beginning near the 1st of May of 1977 and ending on June 15th of that year, he used the aforesaid gasoline engine powered pump and the recently acquired aluminum pipes to pump water from Perry Creek and flood irrigate the subject 12.0 acre field which he had planted to oats and peas hay during the fall of 1976. He stated that he ceased irrigation on June 15th because the flow of Perry Creek had diminished to where there was not sufficient flow to continue pumping for irrigation. When asked how many days in 1977 he had worked on the irrigation of the subject 12.0 acre field, Mr. Wesley stated he had irrigated each day that he was home during that period; that he was usually gone from home, on his job as an airline pilot, about 10 or 12 days each month.

The testimony of Linda S. Wesley, wife of William J. Wesley, confirmed the testimony of her husband in regard to irrigation of the subject 12.0 acre field in 1974 and 1977 and in regard to construction of the concrete spillway and apron on the dam in Perry Creek in 1975.

The testimony of Mark Edward Monroe, a part-time employee of Mr. Wesley during the period of years of 1975, 1976 and 1977, confirmed the testimony of Mr. Wesley in regard to construction of the concrete spillway and apron on the dam in Perry Creek in 1975.

Mrs. Elizabeth Ann Jones, affiant, testified that she could not say whether the subject 12.0 acre field was irrigated in 1974; she was away in Alaska part of that year, returning to her property in July or August. Mrs. Jones further testified that she was also away in Alaska from sometime in January of 1977 to about the 1st of June 1977; that she recalls the land being used for hay in 1977, but does not recall seeing evidence of the land being irrigated that year.

Mrs. Jones also testified that she was away from her property most of the summer of 1975 and therefore did not see the work being done on construction of the concrete spillway and apron on the dam in Perry Creek. Mrs. Jones stated that she and Mr. Nicolaus were never away from their respective properties for days at a time at the same time; that they have had an arrangement whereby each cares for the other's property whenever the other one is away.

Mr. Lowell Keith Nicolaus, affiant, testified that he does not recall seeing any irrigation of the subject 12.0 acre field in 1974. He further testified that he does not recall what the subject field was being used for in 1975; and that although he was later aware that the concrete spillway and apron had been constructed on the dam in Perry Creek he was not aware of the construction work while it was being done.

With regard to the year of 1977, Mr. Nicolaus testified that he recalls not seeing irrigation going on in the subject 12.0 acre field, nor any evidence of irrigation there.

The evidence adduced established that performance was made under the provisions of the said order approving water right transfer application No. 2878 to the full extent of beneficial irrigation on the aforesaid certain 12.0 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 35 South, Range 2 East, W.M., by beneficial irrigation of pasture grasses growing thereon during the growing season of 1974, which grasses were harvested by grazing.

The evidence adduced clearly established that the subject 12.0 acre field was not beneficially irrigated with waters of Perry Creek within the years of 1975, 1976, 1978 or 1979.

Testimony was not in agreement in regard to the occurrence of beneficial irrigation on the subject 12.0 acre field within the growing season of 1977.

Mr. Nicolaus contended that if Mr. Wesley had operated the gasoline engine driven pump at the dam, as would have been necessary to accomplish the claimed irrigation, he would have heard it operating. However, it appears that the sounds generated at the dam site in the construction and later removal of the forms for concrete did not carry to the Nicolaus residence.

A careful weighing of the evidence adduced compels a finding that beneficial irrigation was made on the subject 12.0 acre field with waters of Perry Creek within the growing season of 1977 by the irrigation of a hay crop growing thereon.

ULTIMATE FINDINGS OF FACT

Performance was made under the provisions of the aforesaid order approving water right transfer application No. 2878 by beneficial irrigation on the subject 12.0 acre field in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 35 South, Range 2 East, W.M., during the growing season of 1974.

The evidence does not establish the occurrence of any period of five successive years of failure to use water appropriated from Perry Creek for beneficial irrigation on the said 12.0 acres subsequent to the year of 1974.

CONCLUSIONS OF LAW

With regard to the first question of fact: "To what extent was performance made in the change in place of use of water under the provisions of the said order of the State Engineer dated August 10, 1973 approving water right transfer application No. 2878?"; the Wesleys have the initial burden to show to what extent performance was made. That burden was met by the evidence adduced. Therefore, in accordance with the provisions of ORS 540.530 (2) a certificate of water right should be issued to William J. and Linda S. Wesley to confirm the aforesaid change in place of use of the water right in question.

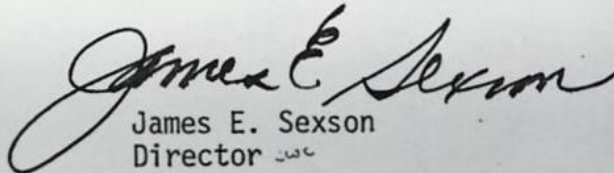
With regard to the second question of fact: "To the extent that such performance was made and a water right was established for irrigation of the said 12.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 35 South, Range 2 East, W.M., did there occur a failure to make beneficial use of the water on any portion of said lands for a period of five or more successive years of nonuse subsequent to such performance having been made?"; the proponents have the initial burden to show that there did occur such a period of nonuse of water under the provisions of the water right in question. That burden was not met by the evidence adduced. Therefore, this proceeding, as it relates to the provisions of ORS 540.610 to 540.650, should be dismissed.

ORDER

NOW, THEREFORE, it is ORDERED that a certificate of water right be issued to William J. and Linda S. Wesley to confirm the change in place of use of the right for irrigation of 12.0 acres of land, made under the provisions of the order dated August 10, 1973, approving water right transfer application numbered 2878.

It is FURTHER ORDERED that this proceeding, as it relates to the proposed cancellation of the water right in question due to forfeiture by the occurrence of five successive years of failure to make beneficial use of the waters appropriated under the provisions of the subject right, pursuant to the provisions of ORS 540.610 to 540.650, be and the same hereby is dismissed.

Dated at Salem, Oregon this 15th day of September 1980.


James E. Sexson
Director

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review is pursuant to the provisions of ORS Chapter 183.

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This is to Certify, That Joseph Geppert

of Butte Falls, 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 Springs, tributary Geppert & Perry Creeks, tributary of McNeil Creek a tributary of Big Butte Creek for the purpose of irrigation of 12.0 acres under Permit No. 3625 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 December 6, 1917;

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 ~~0.3~~ cubic foot per second.

0.15

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

The amount of water used for irrigation, together with the ^{useful} 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 in case of rotation.

A description of the lands irrigated under the right hereby confirmed, and to which such right is appurtenant (or, if for other purposes, the place where the water is put to beneficial use), is as follows: Twelve (12) acres in the Southwest Quarter of the Northwest Quarter (SW¹/₄NW¹/₄); Twelve (12) acres in the Southeast Quarter of the Northwest Quarter (SE¹/₄NW¹/₄); of Section Eight (8), Township Thirty-five (35) South, Range Two (2) East of the Willamette Meridian in Jackson County, Oregon.

Div. PTS located: - SE¹/₄ NW¹/₄ Section 8 T35S R2E WM.

Geppert Cr. - 1320 ft N & 2640 ft E, Perry Creek, 115 ft N & 1750 ft E, 275 ft N & 2270 ft E, all from the NW¹/₄ Cor Section 8

12.0 acres SE¹/₄ NW¹/₄
Section 8

T 35 S R 2 E WM

Certificate of water right issued to Joseph Geppert and recorded at page 4857, Volume 5, State Record of Water Right Certificates, confirms the right to the use of water for irrigation of 24.0 acres. A change in the place of use of water for the irrigation of 12.0 acres was approved by order of the State Engineer entered Aug. 10, 1973. This certificate is issued to confirm the remaining right to the use of water for irrigation and supersedes the certificate heretofore issued to Joseph Geppert.

the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

WITNESS the signature of the State Engineer,

affixed this 1st day

of February, 1924.

Rhea Luper,

State Engineer.

Recorded in State Record of Water Right Certificates, Volume 5, page 4857.