

2782 The Evers
Route 1 Box 178
Banks, Ore 97106

Phone: 324-7332

2782

STATUS OF APPLICATION

Change in Place of Use & Pt. of Div.
Date filed April 2, 1973
Date of hearing June 11, 1973
Place of hearing Hillsboro, Ore
Date of order June 25, 1973 Vol. 23, page 222
Date for application of water October 1, 1973
Proof mailed _____
Proof received _____
Certificate issued NOV 21 1973 Vol. 31, page 39603
MAR 9 1977 OK 44232

DESCRIPTION OF WATER RIGHT

Name of stream West Fork Dairy Creek
Trib. of _____ County of Washington
Use Irrigation
Quantity of water _____ No. of acres 27[±]
Name of ditch _____
Date of priority Aug 15, 1940 - Sept 13, 1940
In name of Albert J. Evers
_____ Adjudication, Vol. _____, page _____
App. No. 18945 Per. No. 14695 Cert. No. 17028
Certificate cancelled _____
Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>4-2-73</u>	<u>30.00</u>	<u>33126</u>
<u>4-2-73</u>	<u>45.00 P.O.N.</u>	<u>33127</u>
TOTAL . . .		
<u>5-7-73</u>	<u>3⁰⁰ Cert. Fee</u>	<u>from P.O.N.</u>

FEES REFUNDED

Date	Amount	Check No.
<u>5-7-73</u>	<u>*6.77 from P.O.N.</u>	<u>5276</u>

REMARKS

proof mailed 12-14-76

TO BE ENTERED WHERE CHECKED	INDEX CARDS:		
		Entered	Checked
	<input checked="" type="checkbox"/>	Name	<u>ST</u>
	<input checked="" type="checkbox"/>	Sub.	<u>ST</u>
	<input checked="" type="checkbox"/>	Pt. of Div.	
	<input checked="" type="checkbox"/>	Calendar	<u>ST</u>
	CHECKED TO RECORDS:		
	<input checked="" type="checkbox"/>	Two page.	<u>ST</u>
	<input checked="" type="checkbox"/>	Decree-vault	
	<input checked="" type="checkbox"/>	Decree-sale	
	<input checked="" type="checkbox"/>	Cert. of W/R	<u>ST</u>
	<input checked="" type="checkbox"/>	Per. order	<u>ST</u>
	<input checked="" type="checkbox"/>	Chain index	
	<input checked="" type="checkbox"/>	Cross Ref.	
	<input checked="" type="checkbox"/>	Power Claim	
	<input checked="" type="checkbox"/>	Abstracts	

6276

BEFORE THE STATE ENGINEER OF OREGON

Washington County

IN THE MATTER OF THE APPLICATION)
OF JOE EVERS FOR THE APPROVAL OF)
A CHANGE IN POINT OF DIVERSION AND)
PLACE OF USE OF WATER FROM WEST)
FORK DAIRY CREEK)

ORDER APPROVING
TRANSFER NO. 2782

On April 2, 1973, Joe Evers filed an application in the office of the State Engineer for the approval of a change in point of diversion and place of use 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 17028, Volume 14, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.64 cubic foot per second of the waters of West Fork of Dairy Creek for irrigation, of, among other lands, 2.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 9.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 12.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, Township 1 North, Range 3 West, W.M., with dates of priority of August 15, 1940 and September 13, 1940. The point of diversion is located 2046 feet North and 2244 feet West from the SE corner of Section 18, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, of Section 18, Township 1 North, Range 3 West, W.M.

The applicant herein, owner of the lands above described, propose to transfer the water right from 2.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 9.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, and 12.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, Township 1 North, Range 3 West, W.M., without loss of priority to 5.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.5 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 17.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 4.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 2 North, Range 4 West, W.M., and to irrigate these lands from a point of diversion to be located North 27° West 570' from the SE corner from

the corner of NW¼ NE¼, Section 25, being within the NW¼ NE¼ of Section 25, Township 2 North, Range 4 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 place of use and point of diversion of water, if any there were, namely: at the county courthouse in Hillsboro, Oregon, on June 11, 1973, 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 April 19, 26 and May 3, 1973. 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 place of use and point of diversion of water may be made without injury to existing rights.

The contract sellers of the land involved, have submitted written approval of the change in place of use and point of diversion.

No objections having been filed and it appearing that the proposed change in 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 place of use of water is approved and the water right hereinbefore described as appurtenant to 2.0 acres in NE¼ SW¼, 4.0 acres in NW¼ SW¼, 9.4 acres in SW¼ SW¼ and 12.0 acres in SE¼ SW¼, in Section 18, Township 1 North, Range 3 West, W.M., with dates of priority of August 15, 1940 and September 13, 1940, be severed therefrom and simultaneously and without loss of priority transferred to 5.0 acres

in NW¼ NE¼, 0.5 acre in SW¼ NE¼, 17.6 acres in NE¼ NW¼ and 4.3 acres in SE¼ NW¼, Section 25, Township 2 North, Range 4 West, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from West Fork Dairy Creek, to-wit:

From a point located 2046 feet North and 2244 feet West from the SE corner of Section 18, being within the NW¼ SE¼ of Section 18, Township 1 North, Range 3 West, W.M.

To a point to be located North 27° West 570' from SE corner from the corner of NW¼ NE¼, Section 25, being within the NW¼ NE¼ of Section 25, Township 2 North, Range 4 West, W.M.

for the irrigation of 5.0 acres in NW¼ NE¼, 0.5 acre in SW¼ NE¼, 17.6 acres in NE¼ NW¼, and 4.3 acres in SE¼ NW¼, Section 25, Township 2 North, Range 4 West, W.M., with dates of priority of August 15, 1940 for the appropriation of 0.31 cubic foot per second and September 13, 1940 for the appropriation of 0.03 cubic foot per second, 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, 1973.

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 0.34 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 17028, Volume 14, 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 and completion of the authorized change in point of diversion, a certificate of water right shall be issued to Joe Evers confirming the change in point of diversion and place of use.

Dated at Salem, Oregon, this 25th day of June, 1973.

/s/ CHRIS L. WHEELER
State Engineer

Gibraltar Onion Skin

MILLERS FALLS

ALL COTTON

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 Fork of Dairy Creek 23.7 for the purpose of
irrigation Tualatin River of 51.1 acres
under Permit No. 14595 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

August 15, 1940 for 0.25 cubic foot per second, and September 13, 1940 for 0.05 cubic foot per second, and 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

0.64 cubic foot per second,

0.30

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the NW 1/4 SE 1/4, as projected on Chas. Conklin D.L.C. No. 53, Section 18, Township 1 North, Range 3 West, W. M., 2046 ft N. of 2244 ft. W. from the SE Cor. of Sec. 18

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 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:

2.3 acres in the NW 1/4 SE 1/4, as projected on Chas. Conklin D.L.C. No. 53
12.2 acres in the SW 1/4 SE 1/4, as projected on Chas. Conklin D.L.C. No. 53
6.2 18.2 acres in the SE 1/4 SW 1/4, as projected on Chas. Conklin D.L.C. No. 53
3.0 5.0 acres in the NE 1/4 SW 1/4, as projected on Chas. Conklin D.L.C. No. 53
9.1 acres in the SW 1/4 SW 1/4, as projected on Chas. Conklin D.L.C. No. 53
4.0 acres in the NW 1/4 SW 1/4, as projected on Chas. Conklin D.L.C. No. 53

Section 18

T. 1 N., R. 3 W., W. M.

Certificate of water right issued to Albert J. Evers and recorded at page 17028,

Volume 14, State Record of Water Right Certificates, confirms the right to the use of

water for irrigation of 51.1 acres. A change in Place of use and the point of diversion for the

irrigation of 27.4 acres was approved by order of the State Engineer entered June 25,

1973. This certificate is issued to confirm the remaining right to the use of water for

irrigation and supersedes the certificate heretofore issued to Albert J. Evers.

and not on this or said D. L. C. No. 53, or on the place of beginning, and containing 50 acres, more or less, except therefrom, however, right of way heretofore conveyed by C. G. Seth and wife to Drainage District No. 7 of Wash. Co. Oregon.

Also: Beginning at a point distant east 9.72 chains from the Northwest corner of said Donation Claim, and running thence East on the North boundary

of said Donation Claim 23.43 chains to a post; thence South 25.46 chains to a post; thence West 12.04 chains to a post in the center of public road leading from Forest Grove to Greenville; thence North 35 deg. West 11.82 chains to a post in center of road; thence North 29 deg. West 10.00 chains to a post in the center of road; thence North 7.10 chains to place of beginning, containing fifty acres of land, (except Drainage District No. 7 Tract deed Book 105, page 440 which is reserved.

Also: Beginning at a point distant East 33.15 chains from the Northwest corner of the Donation Land Claim of Charles Conklin and wife in Section 18, Township One, North Range three west Willamette Meridian, said point of beginning being the Northeast corner of that certain fifty acre tract of land conveyed by Henry Buxton and wife to Martin VanDerZanden deed for which is recorded on page 275 book M records of deeds of Washington County, Oregon, and running thence South on the East line of said fifty acre tract of land 25.32 chains; thence East on the South line of land formerly owner by Arnold Van Dervelden 16.92 chains; thence North 14.00 chains to the center of Dairy Creek; thence up said Dairy Creek with all its meanderings to the North line of the said Conklin Claim; thence West on said North line 1.11 chains to the place of beginning, containing 26.86 acres of land.

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 28th day of February, 1950

CHAS. E. STRICKLIN

State Engineer

35-23

AFFIDAVIT OF PUBLICATION

STATE OF OREGON,
COUNTY OF WASHINGTON,

ss.

RECEIVED
MAY 4 1973

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 Apr 19-26 May 3 73

Paul McGilvra
(Signature)

Subscribed and sworn to before me this 3rd day of

May 19 73

Myrtle Thurnah
Notary Public of Oregon

My commission expires May 14 1973

PUBLIC NOTICE

NOTICE OF FILING APPLICATION FOR A CHANGE IN POINT OF DIVERSION AND PLACE OF USE OF WATER

Notice is given hereby that Joe Evers has filed an application for the approval of a change in point of diversion and place of use of water from West Fork Dairy Creek.

Certificate of water right issued to Albert J. Evers and recorded at page 17028, Volume 14, State Record of Water Right Certificates, confirms a right to the use of 0.64 cubic foot per second of water from West Fork Dairy Creek for the irrigation of, among other lands, 2.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 9.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 12.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18 Township 1 North, Range 3 West, W.M., with dates of priority of August 15, 1940 and September 13, 1940. Water for this use is diverted from a point located 2046 feet North and 2244 feet West from the SE corner of Section 18 being within the NW $\frac{1}{4}$ 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 change the place of use to the irrigation of 5.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 17.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 4.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, Township 2 North, Range 4 West, W.M., and irrigate these lands from a point of diversion to be located North 27° West 570 feet from the SE corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25 being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 2 North, Range 4 West, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Hillsboro, Oregon, on June 11, 1973, 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

PUBLIC NOTICE

Joe Evers, Route 1, Banks, Oregon, and one copy filed with the State Engineer, Salem, Oregon, together with a \$5 filing fee, at least 10 days prior to the date set for hearing. If no objections are filed, the application may be approved by the State Engineer without a hearing. Administrative rules pertaining to the filing of a protest will be furnished by the State Engineer upon request.

Dated at Salem Oregon, this 9th day of April, 1973.

CHRIS L. WHEELER
State Engineer

#2122 — publish April 19, 1973