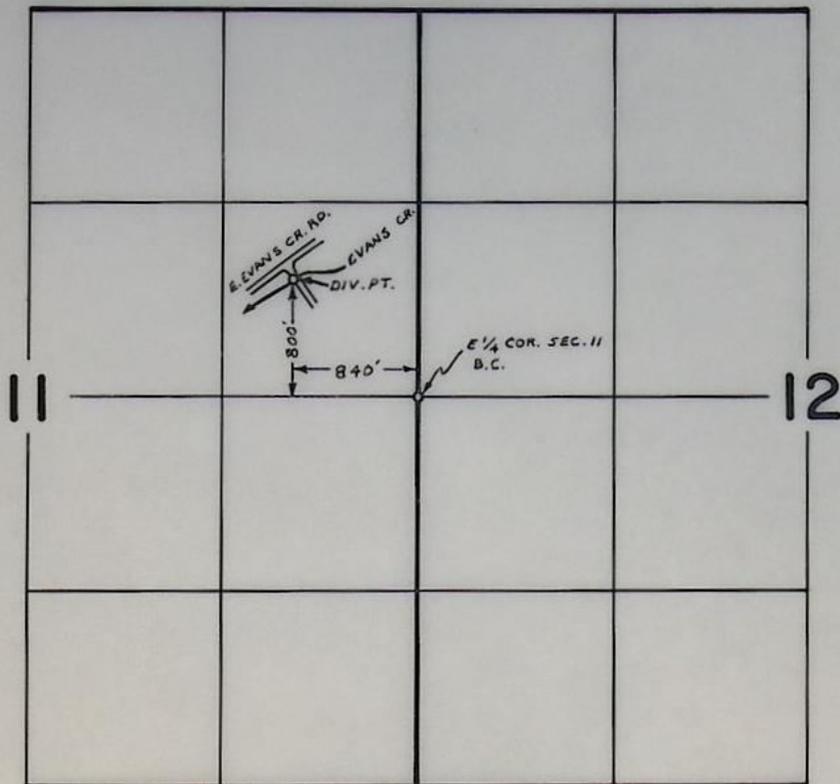


T. 35 S., R. 4 W., W.M.



FINAL PROOF SURVEY
UNDER

Transfer No. 3022

Application No. Permit No.

IN NAME OF

MILDRED I. RHOTEN & HARRY E. WARDLE

Surveyed MAY 16 1978, by B. SUND

Superseded by
Cert. No. 42921
Sp. Or. V. 35, 71
NOTE: REFUND
#1 of Cert. Record
I think

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That MILDRED I. RYOTEN AND HARRY E. WAROLE
~~GEORGE BEERS,~~

8916 EAST EVANS CREEK ROAD
of Rogue River, State of Oregon 97537,
to the use of the waters of Evans Creek has a right

a tributary of Rogue River for the purpose of
~~domestic, stock and irrigation of 26.5 acres~~ 23.5 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 February 20, 1896 for 0.28 c.f.s. and 16.5 acres; 1896 for
~~0.27 c.f.s. and 10.0 acres;~~ 0.12 c.f.s. and 7.0 acres;

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 0.45 cubic foot per
second, if available at the original point of diversion, Williams
and Whalen Ditch, SE 1/4 SE 1/4, Section 6, T. 35 S., R. 3 W., W.M.
475 ft N AND 860 ft W FROM SE CORNER SECTION 6

The point of diversion is located in the SE 1/4 ^{NE 1/4} Section ¹¹ ~~6~~, T. 35 S., R. ⁴ ~~3~~ W., W.M.
800 ft N AND 840 ft W FROM ^{NE 1/4} COR SECTION 11

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

16.5 acres in E 1/2 SW 1/4 NE 1/4
Section 11, 5

~~7.0 10.0 acres in that part of the SE 1/4 NE 1/4~~ 7.0
~~North of Evans Creek~~
Section 11,
T. 35 S., R. 4 W., W.M.

Ch. Pt. Div. for 25.5 ac.
Sp. Or. V. 35, 71 T. 35 S.

This certificate is issued to confirm a change in point of diversion approved
by an order of the WRD entered August 9, 1974 and together with certificate of water
right recorded on Page 42921, Volume 34, SRWRC supersedes certificate
of water right recorded on Page 32767, Volume 24, SRWRC.

The issuance of this superseding certificate does not confirm the status of
the water right in reference to ORS 540.610.

CHRIS L. WHEELER
State Engineer

Recorded in State Record of Water Right Certificates, Volume 24, page 32767

42921

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That GEORGE BEERS,

of Rogue River, State of Oregon, has a right to the use of the waters of Evans Creek

a tributary of Rogue River for the purpose of domestic, stock and irrigation of 26.5 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 February 20, 1896 for 0.23 c.f.s. and 16.5 acres; 1896 for 0.17 c.f.s. and 10.0 acres -> 1896

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 0.05 cubic foot per second.

The point of diversion is located in the SE 1/4 SE 1/4, Section 6, 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:

~~16.5 acres in E 1/2 SW 1/4, NE 1/4, Section 11,~~

3.0 ~~10.0~~ acres in that part of the SE 1/4 NE 1/4 North of Evans Creek Section 11, T. 35 S., R. 4 W., W.M.

An order of the State Engineer entered August 9 1974, approved a change in point of diversion for the irrigation of 23.5 acres. This certificate is issued to confirm the remaining right, and supersedes the certificate heretofore issued to George Beers and recorded at page 32767, State Record of Water Right Certificates.

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, 19 76

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 24, page 32767

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That GEORGE BEERS,

of Roguo River, State of Oregon, has a right
to the use of the waters of Evans Creek

a tributary of Roguo River for the purpose of
domestic, stock and irrigation of ^{3.0}~~26.5~~ 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 ~~February 20, 1896 for 0.28 c.f.s. and 16.5 acres; 1896 for~~
~~0.17 c.f.s. and 10.0 acres~~ → 1896

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 ~~0.28~~ cubic foot per
second. 0.05

The point of diversion is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, 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:

~~16.5 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$
Section 11,~~

3.0 ~~10.0~~ acres in that part of the SE $\frac{1}{4}$ NE $\frac{1}{4}$
North of Evans Creek
Section 11,
T. 35 S., R. 4 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~~, 19 ~~16~~

~~CHRIS I. WHEELER~~

State Engineer

Recorded in State Record of Water Right Certificates, Volume ~~21~~, page ~~32767~~

BEFORE THE STATE ENGINEER OF OREGON

Jackson County

IN THE MATTER OF THE APPLICATION }
OF MILDRED I. RHOTEN AND HARRY E. }
WARDLE FOR THE APPROVAL OF A }
CHANGE IN POINT OF DIVERSION OF }
WATER FROM EVANS CREEK }

ORDER APPROVING
TRANSFER NO. 3022

On April 24, 1974, Mildred I. Rhoten and Harry E. Wardle 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 May 19, 1964, 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 George Beers for the use of the waters of Evans Creek for the irrigation of, among other lands, 16.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, with a date of priority of February 20, 1896 and 7.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, with a date of priority of 1896, all in Township 35 South, Range 4 West, W.M., as evidenced by certificate of water right recorded at page 32767, Volume 24, State Record of Water Right Certificates. These lands are irrigated by means of the Williams and Whalen ditch from a point of diversion located 475 feet North and 860 feet West from the Southeast corner of Section 6, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 35 South, Range 3 West, W.M.

The applicants herein, owners of the lands above described, propose to irrigate these lands from a point of diversion to be located 1870 feet South and 820 feet West from the Northeast corner of Section 11, being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, Township 35 South, 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 point of diversion of water, if any there were, namely: at the county courthouse in Medford, Oregon on August 6, 1974, at 9:30 a.m. The notice was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, for a period of three weeks in the issues of June 11, 18 and 25, 1974. 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.

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 change in point of diversion of water from Evans Creek, to wit:

From a point located 475 feet North and 860 feet West from the Southeast corner of Section 6, being within the $SE\frac{1}{4}$ $SE\frac{1}{4}$ of Section 6, Township 35 South, Range 3 West, W.M.

To a point to be located 1870 feet South and 820 feet West from the Northeast corner of Section 11, being within the $SE\frac{1}{4}$ $NE\frac{1}{4}$ of Section 11, Township 35 South, Range 4 West, W.M.

for the irrigation of 16.5 acres in $SW\frac{1}{4}$ $NE\frac{1}{4}$, Section 11, with a date of priority of February 20, 1896 and 7.0 acres in $SE\frac{1}{4}$ $NE\frac{1}{4}$, Section 11, with a date of priority of 1896, all in Township 35 South, Range 4 West, W.M., 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, 1975.

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 0.28 cubic foot per second under a priority of February 20, 1896, and 0.12 cubic foot per second under a priority of 1896.

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 George Beers and recorded at page 32767, 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 Mildred I. Rhoten and Harry E. Wardle confirming the change in point of diversion.

Dated at Salem, Oregon, this 9th day of August, 1974.

/s/ CHRIS L. WHEELER
State Engineer

RECEIVED

JUN 27 1974

STATE ENGINEER
SALEM, OREGON

Affidavit of Publication

State of Oregon, }
County of Jackson } ss.

I, Evalynne D. Smith, being first duly

sworn, depose and say that I am the _____
OWNER, EDITOR, PUBLISHER, MANAGER.

Principal Clerk

ADVERTISING MANAGER, PRINCIPAL CLERK, PRINTER OR PRINTER'S FOREMAN

of Medford Mail Tribune, a newspaper of general circulation, as defined by ORS 193,010 and 193,020; printed and published at Medford in the aforesaid county and state:

that the Notice of Filing Appl. for a Change in Pt. Of Div. of Water - Wardle, 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 June 11, 18, 25, 1974
(HERE SET FORTH DATES OF ISSUES IN WHICH THE SAME WAS PUBLISHED)

Evalynne D. Smith

Subscribed and sworn to before me this 25th day of June, 19 74

Alta Lindsey
NOTARY PUBLIC FOR OREGON

My Commission expires 16th day of Oct., 19 77

NOTICE OF FILING APPLICATION FOR A CHANGE IN POINT OF DIVERSION OF WATER

Notice is given hereby that Harry Wardle and Mildred I. Rhoten have filed an application for the approval of a change in point of diversion of water from Evans Creek.

In the Rogue River Adjudication proceedings a water right was established in the name of George Boers for the use of the Waters of Evans Creek for domestic, stock and irrigation of, among other lands, 16.5 acres in SW 1/4 NE 1/4 and 7.0 acres in SE 1/4 NE 1/4, Sec. 11, T. 35 S., R. 4 W., W.M., with a date of priority of Feb. 20, 1896 and 1896.

These lands are irrigated from a point of diversion located 475 ft. N. and 860 ft. W. from the SE corner of Sec. 6, being within the SE 1/4 SE 1/4, Sec. 6, T. 35 S., R. 3 W., W.M.

The applicants herein, owners of the lands above described, propose to irrigate these lands from a point of diversion to be located 1870 ft. S. and 820 ft. W. from the NE corner of Sec. 11, being within the SE 1/4 NE 1/4, Sec. 11, T. 35 S., R. 4 W., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Medford, Oregon, on August 6, 1974 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 Harry Wardle and Mildred I. Rhoten, 8916 E. Evans Creek Road, Rogue River, Oregon 97537, 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.

Dated at Salem, Oregon, this 4th day of June, 1974.

CHRIS L. WHEELER
State Engineer