

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION OF)
PATRICK J. CUNNINGHAM FOR APPROVAL)
OF CHANGES IN PLACE OF USE AND POINT)
OF DIVERSION OF WATER FROM APPLE-)
GATE RIVER)

ORDER APPROVING
TRANSFER NO. 3754

On August 16, 1977, an application was filed in the office of the Water Resources Director by Patrick J. Cunningham for changes in place of use and point of diversion under an existing water right of record, pursuant to ORS 540.510 to 540.530.

The certificate recorded at page 32889, Volume 24, State Record of Water Right Certificates, in the name of Estate of Nancy Pernoll, describes a right for the use of not to exceed 0.60 cubic foot per second from Applegate River for irrigation of 7.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16; 12.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 10.1 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Township 38 South, Range 4 West, W.M., with a date of priority of 1906.

Water for the said right is diverted, through the Cook Ditch, from a point located 1090 feet South and 220 feet West from the Northeast corner of Section 21, being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, Township 38 South, Range 4 West, W.M.

The applicant herein, owner of the lands above described, proposes, without loss of priority, to sever the right from a certain 7.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16 and 10.1 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17 and to irrigate, in lieu thereof, a certain 8.3 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 3.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 2.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 17. The applicant also proposes to change the point of diversion for all of said lands to a point located 1450 feet North and 1450 feet West from the southeast corner of Section 17, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 17.

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Notice of the application, pursuant to ORS 540.510, was published in the Medford Mail Tribune, a newspaper printed and having general circulation in Jackson County, Oregon, of a period of three weeks in the issues of August 25, September 1 and 8, 1977.

Mr. David C. Hendrix, Watermaster, has filed a statement to the effect that the proposed changes in place of use and point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes 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 requested changes in place of use and point of diversion from Applegate River, as described herein, without loss of priority, are approved.

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 under the subject right, and shall not exceed 0.60 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 head-gates 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 the construction work shall be completed and the change in point of diversion of water made and said water so transferred shall be applied to beneficial use on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Estate of Nancy Pernoll and recorded at page 32889, Volume 24, State Record of Water Right Certificates, is canceled, and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon, this 19th day of October, 1977.

/s/ James E. Sexson
Director

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STATE OF OREGON

COUNTY OF

JACKSON

CERTIFICATE OF WATER RIGHT

This Is to Certify, That Patrick J. Cunningham
~~NANCY PERNOLL, Estate of,~~
 P.O. Box 282

of ~~Jac. W. Pernoll~~, Applegate, State of Oregon ⁹⁷⁵³⁰, has a right
 to the use of the waters of Applegate River

a tributary of Rogue River for the purpose of
 irrigation of 30.0 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 1906;

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 0.60 cubic foot per
 second.

The point of diversion is located in the ^{NE 1/4 SE 1/4} ~~NE 1/4 NE 1/4~~, Section ¹⁷ ~~22~~, T. 38 S., R. 4 W., W.M.
 being 910 ft S and 1520 ft E from Center of Section 17
 A description of the place of use under the right, and to which such right is appurtenant, is as
 follows:

~~7.0 acres in NW 1/4 SW 1/4~~
~~Section 16,~~
~~16.1 12.9 acres in SW 1/4 NE 1/4~~
~~10.1 acres in NE 1/4 SE 1/4~~
~~Section 17,~~
~~T. 38 S., R. 4 W., W.M.~~

16.1 acres SW 1/4 NE 1/4
 4.6 acres SE 1/4 NE 1/4
 8.0 acres NE 1/4 SE 1/4
 1.3 acres NW 1/4 SE 1/4
 Section 17
 T. 38 S., R. 4 W., W.M.

This certificate is issued to confirm a change in place of use and point
 of diversion approved by an order of the WRD entered Oct 19, 1977 and supersedes
 certificate of water right recorded on page 32889, Volume 24, SRWRC.

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 32889

**NOTICE OF WATER RIGHT
TRANSFER APPLICATIONS
NO. 3753, 3754 & 3755**

Notice is given hereby that three applications have been filed in the office of the Water Resources Director by Patrick J. Cunningham for approval of changes in place of use and point of diversion from Applegate River.

The certificate recorded at page 16245, Volume 13, State Record of Water Right Certificates, in the name of Nancy Pernoll, describes a right which includes the use of not to exceed 1.25 cubic feet per second from Applegate River for irrigation of 10.0 acres in SW 1/4 NE 1/4, 10.0 acres in SE 1/4 NE 1/4 and 20.0 acres in NE 1/4 SE 1/4 of Section 17; 10.0 acres in NW 1/4 SW 1/4 of Section 16, Township 38 South, Range 4 West, WM, with a date of priority of 1886.

Water for the said right is diverted, through the Cook Ditch, from a point located 1090 ft. S and 220 ft. W from the NE corner of Sec 21, being within the NE 1/4 NE 1/4 of Sec 21, T 38 S, R 4 W, WM.

The applicant herein, owner of the lands above described by application No. 3753, proposes, without loss of priority, to sever the right from a certain 10.0 acres in SW 1/4 NE 1/4, 9.3 acres SE 1/4 NE 1/4 and 4.0 acres in NE 1/4 SE 1/4 of Sec 17 and to irrigate, in lieu thereof, a certain 7.0 acres in NW 1/4 SW 1/4 of Section 16; 10.1 acres in NE 1/4 SE 1/4 and 6.2 acres in SE 1/4 SE 1/4 of Sec 17, T 38 S, R 4 W, WM. The applicant also proposes to change the point of diversion for all said lands to a point located 1450 ft N and 1450 ft W from the SE corner of Sec 17, being within the NW 1/4 SE 1/4 of said Sec 17.

The certificate recorded at page 32889, Volume 24, State Record of Water Right Certificates, in the name of Estate of Nancy Pernoll, describes a right for the use of not to exceed 0.60 cubic foot per second from Applegate River for irrigation of 7.0 acres in NW 1/4 SW 1/4 of Sec 16; 12.9 acres in SW 1/4 NE 1/4 and 10.1 acres in NE 1/4 SE 1/4 of Sec 17, T 38 S, R 4 W, WM, with a date of priority of 1906.

Water for the said right is diverted, through Cook Ditch, as described above.

The applicant herein, owner of the lands above described, by application No. 3754, proposes, without loss of priority, to sever the right from a certain 7.0 acres in NW 1/4 SW 1/4 of Sec 16 and 10.1 acres in NE 1/4 SE 1/4 of Sec 17 and to irrigate, in lieu thereof, a certain 8.3 acres in SW 1/4 NE 1/4, 3.1 acres in SE 1/4 NE 1/4, 3.7 acres in NE 1/4 SE 1/4 and 2.0 acres in NW 1/4 SE 1/4 of said Sec 17. The applicant also proposes to change the point of diversion for all of said lands to a point located 1450 ft N and 1450 ft W from the SE corner of Sec 17, being within the NW 1/4 SE 1/4 of said Sec 17.

The certificate recorded at page 5312, Volume 6, State Record of Water Right Certificates, in the name of Lester Layton, describes a right which includes the use of not to exceed 0.11 cubic foot per second from Applegate River for irrigation of a certain 8.63 acres in NE 1/4 NE 1/4 of Sec 20, T 38 S, R 4 W, WM, with a date of priority of July 21, 1916.

Water for the said right is diverted, through Cook Ditch, as described above.

The applicant herein, owner of the lands above described, by application No. 3755, proposes to change the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof, a certain 8.63 acres in NW 1/4 NW 1/4 of Sec 21, T 38 S, R 4 W, WM, from a point of diversion located 1300 ft S and 1850 ft W from the NE corner of Sec 21, being within the NW 1/4 NE 1/4 of said Sec 21.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Medford, Oregon, on October 19, 1977, at 9:30 a.m. All objections to the proposed changes, 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 Patrick J. Cunningham, P.O. Box 282, Applegate, OR 97530, and one copy filed with the Water Resources Department, Salem, OR 97310, together with a \$10 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 WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 18th day of August, 1977.
James E. Sexson
Director

Affidavit of Publication

SEP 12 1977

WATER RESOURCES DEPT
SALEM, OREGON

State of Oregon, }
County of Jackson } ss.

I, Sharon J. Morris, 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 water right transfer application

3743, 3754, 3755

, 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. 25, Sept. 1, 8, 1977
(HERE SET FORTH DATES OF ISSUES IN WHICH THE SAME WAS PUBLISHED)

Sharon J. Morris

Subscribed and sworn to before me this 8th day of Sept., 1977

James J. Sexson
NOTARY PUBLIC FOR OREGON

My Commission expires 21st day of May, 1981