

BEFORE THE STATE ENGINEER OF OREGON

Lake County

IN THE MATTER OF APPLICATION )  
NO. 33832 IN THE NAME OF )  
R. T. RENNER - - - - - )

FINDINGS, CONCLUSIONS AND  
ORDER  
DENYING APPLICATION

FINDINGS

- 1 -

The application of R. T. Renner, designated as application No. 33832, was filed in the office of the State Engineer on March 11, 1960. It describes an appropriation of 1.0 cubic foot per second of water from an "unnamed drainage ditch collecting waste waters from Sections 6 and 7" at a point of diversion located within the NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> of Section 18, Township 39 South, Range 20 East, W.M., for irrigation of a total of 35 acres of land within the northwest quarter of said Section 18.

- 2 -

A protest against the approval of application No. 33832 was filed by the Lakeview Water Users, Inc. In the protest it is alleged that approval of the application would result in conflict with existing rights of the protestant.

- 3 -

A hearing on the protest was held before the State Engineer in the Memorial Hall at Lakeview, Oregon, on November 2, 1960. The protestant was represented by its attorney, Mr. Theodore R. Conn, of Lakeview, Oregon, and the applicant was represented by attorneys at law, Mr. Forrest E. Cooper and Mr. Robert F. Nichols, also of Lakeview, Oregon.

- 4 -

In the testimony it was established that the "unnamed drainage ditch" identified in the application as the source of the proposed

appropriation is an old, natural slough channel of Thomas Creek situated in the west half of Sections 6 and 7 of Township 39 South, Range 20 East, W.M., a portion of which channel has been improved and relocated by a man-made ditch which leaves the old channel near the center of Section 7 and flows toward the southwest corner of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of the section where it crosses the county road and enters the applicant's lands at the proposed point of diversion.

- 5 -

The slough channel, including the man-made improvement, is employed as a portion of the distribution system, identified in the records of the State Engineer as the Leehman and Bishop Ditch, which is used to convey water from the improved and relocated main channel of Thomas Creek near the center of Section 6, Township 39 South, Range 18 East, W.M. to the lands of the applicant and others.

- 6 -

During the irrigation season the old slough channel carries waters diverted into it from Thomas Creek under the provisions of valid water rights, and also seepage and waste waters which have escaped from irrigated upland areas. The applicant seeks to appropriate that portion of the flow derived from the seepage and waste waters.

#### CONCLUSIONS

- 1 -

The old slough channel is a natural watercourse that has in part been improved and relocated by the works of man.

- 2 -

Except for the water diverted into it from Thomas Creek under the provisions of valid water rights, any water that enters and flows in the said natural watercourse has lost its identity and is subject to appropriation as natural flow therein.

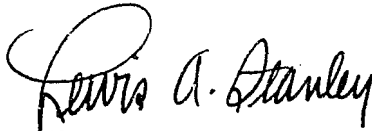
The waters the applicant seeks to appropriate at the proposed point of diversion are natural flow within an improved natural watercourse. Therefore, the application No. 33832 is not a proper application for the proposed appropriation and cannot be approved.

Application No. 33832 should be rejected without prejudice for the filing by the applicant of the proper application.

ORDER

NOW, THEREFORE, it is ORDERED that application No. 33832 in the name of R. T. Renner be and the same hereby is rejected without prejudice.

Dated at Salem, Oregon, this 3rd day of April 1961.



LEWIS A. STANLEY  
State Engineer