

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF)
THE CANCELATION)
OF A WATER RIGHT)

O R D E R

On May 27, 1965, Effie J. Carter submitted an affidavit that she is the owner of the following described tract of land, to wit:

Commencing at the southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M.; thence north along the east line of Section 2, 664.8 feet; thence west 1,272 feet, more or less, to the easterly Right of Way line of the Walla Walla Valley Traction Company and being the point of beginning; thence east 120 feet; thence north 120 feet; thence west 120 feet to the said easterly right of way line; thence south along said right of way line 120 feet to the point of beginning;

and the water right appurtenant thereto; that she has abandoned any and all interest in and to said water right and requests the same to be canceled.

On May 2, 1966, notice was given by certified mail in accordance with the provisions of ORS 540.631 to 540.650 to Walla Walla Valley Railway Company, 904 Smith Tower, Seattle 4, Washington, as owner of the remaining lands to which the water rights hereinafter described are appurtenant of the State Engineer's intention to cancel said water rights.

The water rights in question are:

(a) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 1.97 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 6 North, Range 35 East, W.M., with a date of priority of 1891, being within the following described tract:

Commencing at the southwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 6 North, Range 35 East, W.M., thence north 6 rods 6.5 feet; thence east 80 rods; thence south 6 rods 6.5 feet; thence west 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12577, Volume 11, State Record of Water Right Certificates;

(b) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 4.93 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1872, being within the following described tract:

Commencing at the northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $6\frac{31}{33}$ rods; thence east 80 rods; thence north $6\frac{31}{33}$ rods; thence west 80 rods to the place of beginning; ALSO, commencing $6\frac{31}{33}$ rods south of the northwest corner of NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $13\frac{1}{3}$ rods; thence east 80 rods; thence north $13\frac{1}{3}$ rods; thence west 80 rods to the point of beginning;

and is evidenced by certificate of water right recorded at page 12578, Volume 11, State Record of Water Right Certificates;

(c) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 1.19 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1905, being within the following described tract:

Commencing at the northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $6\frac{31}{33}$ rods; thence east 80 rods; thence north $6\frac{31}{33}$ rods; thence west 80 rods to the place of beginning; ALSO, commencing $6\frac{31}{33}$ rods south of the northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $13\frac{1}{3}$ rods; thence east 80 rods; thence north $13\frac{1}{3}$ rods; thence west 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12579, Volume 11, State Record of Water Right Certificates;

(d) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 1.96 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1905, being within the following described tract:

Commencing at the northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $6\frac{31}{33}$ rods; thence east 80 rods; thence north $6\frac{31}{33}$ rods; thence west 80 rods to the place of beginning; ALSO, commencing $6\frac{31}{33}$ rods south of the northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., thence south $13\frac{1}{3}$ rods; thence east 80 rods; thence north $13\frac{1}{3}$ rods; thence west 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12580, Volume 11, State Record of Water Right Certificates;

(e) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 3.25 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1872, being within the following described tract:

Commencing at a point 20 rods south of the northeast corner of Section 2, Township 5 North, Range 35 East, W.M., running thence south 20 rods; thence west 80 rods; thence north 20 rods; thence east 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12581, Volume 11, State Record of Water Right Certificates;

(f) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 0.55 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1891, being within the following described tract:

Commencing at a point 20 rods south of the northeast corner of Section 2, Township 5 North, Range 35 East, W.M., running thence south 20 rods; thence west 80 rods; thence north 20 rods; thence east 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12582, Volume 11, State Record of Water Right Certificates;

(g) for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and

Ford Branch of Walla Walla River, for the irrigation of 2.10 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1904, being within the following described tract:

Commencing at a point 20 rods south of the northeast corner of Section 2, Township 5 North, Range 35 East, W.M., running thence south 20 rods; thence west 80 rods; thence north 20 rods; thence east 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12583, Volume 11, State Record of Water Right Certificates;

(h) for the use of not to exceed 1 $\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 2.5 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1905, being within the following described tract:

Commencing at a point 20 rods south of the northeast corner of Section 2, Township 5 North, Range 35 East, W.M., running thence south 20 rods; thence west 80 rods; thence north 20 rods; thence east 80 rods to the place of beginning;

and is evidenced by certificate of water right recorded at page 12584, Volume 11, State Record of Water Right Certificates.

That part of the water right as described in paragraph (a) above, for the use of not to exceed 1 $\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 0.35 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 6 North, Range 35 East, W.M., with a date of priority of 1891; also that part of the water right as described in paragraph (b) above, for the use of not to exceed 1 $\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 0.46 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., with a date of priority of 1872, is not in question.

ORS 540.621 provides that: "Whenever the owner of a perfected and developed water right certifies under oath to the State Engineer that the water right has been abandoned by him and that he desires cancelation thereof, the State Engineer shall enter an order canceling the water right."

That part of the above described water rights in question which are not subject to cancelation under the provisions of ORS 540.621 may be canceled under ORS 540.641 which provides for cancelation of the water right if no protests are filed within the sixty day period immediately following the notice. As no protest was filed within this sixty day period, it appears the water rights should be canceled.

NOW, THEREFORE, it is hereby ORDERED that the right to the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 1.97 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 6 North, Range 35 East, W.M., with a date of priority of 1891, as evidenced by certificate recorded at page 12577, Volume 11, and described in paragraph (a) above; for the use of not to exceed $1\frac{1}{2}$ miner's inches per acre measured at the point of diversion of the waters of Crockett Branch and Ford Branch of Walla Walla River, for the irrigation of 4.93 acres with a date of priority of 1872, evidenced by certificate recorded at page 12578, Volume 11, as described in paragraph (b) above; for the irrigation of 1.19 acres with a date of priority of 1905, evidenced by certificate recorded at page 12579, Volume 11, as described in paragraph (c) above; for the irrigation of 1.96 acres with a date of priority of 1905, evidenced by certificate recorded at page 12580, Volume 11, as described in paragraph (d) above; for the irrigation of 3.25 acres with a date of priority of 1872, evidenced by certificate recorded at page 12581, Volume 11, as described in paragraph (e) above; for the irrigation of 0.55 acre with a date of priority of 1891, evidenced by certificate recorded

at page 12582, Volume 11, as described in paragraph (f) above; for the irrigation of 2.10 acres with a date of priority of 1904, evidenced by certificate recorded at page 12583, Volume 11, as described in paragraph (g) above; and for the irrigation of 2.50 acres with a date of priority of 1905, evidenced by certificate recorded at page 12584, Volume 11, as described in paragraph (h) above, tracts (b) through (h) being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 5 North, Range 35 East, W.M., are canceled.

It is FURTHER ORDERED that certificates of water right recorded at pages 12579, 12580, 12581, 12582, 12583 and 12584, Volume 11, State Record of Water Right Certificates, are canceled, and upon completion of transfers K-46, in the name of Jack Kelley, and F-59, in the names of Elmer and Sarah A. Fox, correction certificates be issued confirming the lands not in question in this proceeding.

Dated at Salem, Oregon this 20th day of July, 1966.



CHRIS L. WHEELER
State Engineer