

BEFORE THE STATE ENGINEER OF OREGON

Wasco County

IN THE MATTER OF THE APPLICATION)
OF LEE STEWART FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
AND PLACE OF USE OF WATER FROM)
NORTH FORK MILL CREEK)

ORDER APPROVING
TRANSFER NO. S-198

On February 5, 1968, Lee Stewart 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 North Fork Mill Creek pursuant to the provisions of ORS 540.510 to 540.530.

In the Mill Creek adjudication proceedings a water right was established in the name of John H. Stegman for the use of the waters of North Fork Mill Creek for the irrigation of 8.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M., with a date of priority of 1864. These lands are irrigated from a point of diversion located 50 feet North and 175 feet West from the SE corner of Section 21 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 1 North, Range 12 East, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom without loss of priority to 1.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, and 6.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M. and irrigate these lands from points of diversion located 370 feet North and 755 feet East, 365 feet North and 650 feet East, 310 feet North and 560 feet East, 280 feet North and 460 feet East, 230 feet North and 380 feet East, 160 feet North and 295 feet East, 90 feet North and 205 feet East, 340 feet North and 1060 feet East all from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, Township 1 North,

Range 12 East, and 80 feet North and 175 feet West from the SE corner of Section 21 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 1 North, Range 12 East, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in point of diversion of water of less than one-fourth mile where there are no intervening diversions, nor is publication of notice required for change in place of use.

Mr. Glenn E. Tracy, Watermaster of District No. 3, has filed a report to the effect 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 8.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M., with a date of priority of 1864, be severed therefrom and simultaneously and without loss of priority transferred to 1.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, and 6.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M.

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

From a point located 50 feet North and 175 feet West from the SE corner of Section 21 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 1 North, Range 12 East, W.M.

To a point to be located 370 feet North and 755 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 365 feet North and 650 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 310 feet North and 560 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 280 feet North and 460 feet East from the SW corner of Section 22, being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 230 feet North and 380 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 160 feet North and 295 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 90 feet North and 205 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

To a point to be located 80 feet North and 175 feet West from the SE corner of Section 21 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 1 North, Range 12 East, W.M.

To a point to be located 340 feet North and 1060 feet East from the SW corner of Section 22 being within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 1 North, Range 12 East, W.M.

for the irrigation of 1.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, and 6.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M., with a date of priority of 1864, 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, 1969.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion shall not exceed the quantity of water that is available at the old point of diversion and shall be limited to 1/60 of a cubic foot per second per acre during the irrigation season from April 1st to October 1st.

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.

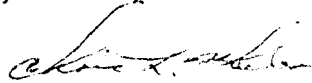
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

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.

An order of the State Engineer entered June 4, 1968 canceled the right to the use of not to exceed one-fortieth of a cubic foot per second for each one thousand head of stock and a reasonable amount for domestic purposes of the waters of a spring located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, Township 1 North, Range 12 East, W.M. This is the remainder of the right evidenced by certificate 5719 not involved in this proceeding.

It is FURTHER ORDERED that certificate of water right heretofore issued to John H. Stegman and recorded at page 5719, Volume 16, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion and place of use, a certificate of water right shall be issued to Lee Stewart confirming the extent to which the water has been applied beneficially at the change in point of diversion.

Dated at Salem, Oregon, this 17th day of June, 1968.


CHRIS L. WHEELER
State Engineer