

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE )  
APPLICATION OF PHILLIP )  
LANE HOON FOR APPROVAL )  
OF A CHANGE IN PLACE OF )  
USE AND POINT OF DIVERSION )  
OF WATER FROM SWARTZ )  
SPRING BRANCH \_ \_ \_ \_ \_ )

FINDINGS, CONCLUSIONS  
AND ORDER  
APPROVING  
TRANSFER NO. H-128

On April 4, 1962 Phillip Lane Hoon filed an application in the office of the State Engineer for approval of a change in place of use and point of diversion of water from Swarts Spring Branch, pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Umatilla County, Oregon, entered March 17, 1924, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Pine Creek and its Tributaries, a water right was established in the name of Lane Hoon for the irrigation of, among other lands, 20 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 40 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M., from Swartz Spring Branch, with a date of priority of 1880. These lands were irrigated through the Hoon-Goodman Ditch, the point of diversion of said ditch being located 1040 feet south and 1090 feet east from the north quarter corner of Section 22 and being within the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M.

The applicant herein, owner of 35 acres of the lands above described, to wit: 15 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 20 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , proposes to transfer the water right therefrom without loss of priority to

2.25 acres S $\frac{1}{2}$  S $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$   
12.75 acres SW $\frac{1}{4}$  SW $\frac{1}{4}$   
20.0 acres SE $\frac{1}{4}$  SW $\frac{1}{4}$   
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and to irrigate these lands by means of a pumping plant, the point of diversion of said pumping plant to be located 1140 feet north and 1200 feet east from the southwest corner of the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , and being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M.

Notice of the filing of the application was given by publication in The Valley Herald, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of April 9, 16 and 23, 1964.

On May 21, 1964 Raymond Bevans filed in the office of the State Engineer a protest against the approval of said application alleging that: there is a serious problem of distribution involved with the use of the pump from the small stream and a concern that the watermaster would have difficulty in making timely and proper distribution of water in times of shortage.

In accordance with the notice given, a hearing was held before Chris L. Wheeler, State Engineer, in the matter of the application for change in point of diversion and place of use of water and the protest thereto in the Umatilla County Courthouse at Pendleton, Oregon, commencing at 9:30 a.m. on June 3, 1964. At the hearing, Mr. Phillip Hoon, applicant, and Mr. Raymond Bevans, protestant, appeared.

Mr. Hoon's controverted testimony described the pump and sprinkler system which had been in use for several years on the new land and which was more suitable for alfalfa seed crops. He stated that the ditch suggested by Mr. Bevans in his protest would have a loss of water, but that there was some spring inflow between the record point of diversion and his pumping point.

#### Conclusions

The spring inflow will require some additional measurement of water and regulation by the watermaster, but this is a part of his duties and the necessary measuring devices can be installed by the applicant. It appears from the evidence presented that the proposed change in place of use and point of diversion can be made without injury to existing rights; therefore, the application should be approved.

Order

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 15 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  and 20 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M., with a date of priority of 1880, be severed therefrom and simultaneously and without loss of priority transferred to

2.25 acres S $\frac{1}{4}$  S $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$   
12.75 acres SW $\frac{1}{4}$  SW $\frac{1}{4}$   
20.0 acres SE $\frac{1}{4}$  SW $\frac{1}{4}$

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It is FURTHER ORDERED that the proposed change in point of diversion of water from Swartz Spring Branch, to wit:

From a point located 1040 feet south and 1090 feet east from the north quarter corner of Section 22 and being within the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M.

To a point to be located 1140 feet north and 1200 feet east from the southwest corner of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and being within the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, Township 6 North, Range 34 East, W.M.

for irrigation of the above described lands be and the same is approved.

It is FURTHER ORDERED that the change in place of use and point of diversion of water shall be completed on or before October 1, 1973.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water that is available at the old point of diversion.

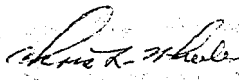
It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install control works and measuring devices.

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

That the type and plans for 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 certificate of water right heretofore issued to Lane Hoon and recorded on page 5520, Volume 6, 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 place of use and point of diversion, a certificate of water right shall be issued to Phillip Lane Hoon confirming said changes and the remaining water rights not involved in this transfer.

Dated at Salem, Oregon this 1st day of June 1973.

  
C. L. WHEELER  
State Engineer