

BEFORE THE STATE ENGINEER OF OREGON

Douglas County

IN THE MATTER OF THE APPLICATION)
OF JAMES E. STEARNS, JR. FOR THE)
APPROVAL OF A CHANGE IN PLACE OF)
USE AND POINT OF DIVERSION OF WATER)
FROM CALAPOOYA CREEK)
-----)

ORDER APPROVING
TRANSFER NO. S-214

On March 3, 1969, James E. Stearns, Jr. filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Calapooya Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to A. F. Stearns and recorded at page 9901, Volume 9, State Record of Water Right Certificates, confirms a right for the use of 0.37 cubic foot per second of water from Calapooya Creek for the irrigation of, among other lands, 15.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 5, Township 25 South, Range 5 West, W.M., with a date of priority of April 20, 1923. These lands are irrigated from a point of diversion located N 54° 35 ' W 1610 feet from the SE corner of Section 5 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 25 South, Range 5 West, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right therefrom, without loss of priority, to 0.02 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.07 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 5, 4.63 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 6.28 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 25 South, Range 5 West, W.M. and to irrigate these lands from a point of diversion to be located N 71° 30' W 1560 feet from the SE corner of Section 5 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 25 South, Range 5 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason 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 required on an application for a change in place of use.

Mr. M. John Youngquist, Watermaster of District No. 15, has filed a report to the effect that the proposed change in place of use and point of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing 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 15.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 5, Township 25 South, Range 5 West, W.M., with a date of priority of April 20, 1923, be severed therefrom and simultaneously and without loss of priority transferred to 0.02 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.07 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 5, 4.63 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 6.28 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 25 South, Range 5 West, W.M.

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

From a point located N 54° 35' W 1610 feet from the SE corner of Section 5 being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 25 South, Range 5 West, W.M.

To a point to be located N 71° 30' W 1560 feet from the SE corner of Section 5 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 25 South, Range 5 West, W.M.

for the irrigation of 0.02 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.07 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 5, 4.63 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 6.28 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, Township 25 South, Range 5 West, W.M., with a date of priority of April 20, 1923, 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, 1970.

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 and shall be limited to 0.185 cubic foot per second.

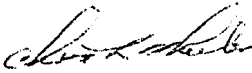
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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.

It is FURTHER ORDERED that certificate of water right heretofore issued to A. F. Stearns and recorded at page 9901, Volume 9, State Record of Water Right Certificates, is canceled and in lieu thereof a new certificate be issued covering the balance of the lands not involved in this proceeding, 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 James E. Stearns, Jr. confirming the change in point of diversion and the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 22nd day of April, 1969.


CHRIS L. WHEELER
State Engineer