

Tillamook County

IN THE MATTER OF THE APPLICATION }
 OF L. G. ROSS FOR THE APPROVAL OF }
 A CHANGE IN THE USE AND PLACE OF }
USE OF WATER FROM FOLAND CREEK } - -

O R D E R

On June 13, 1927, the State Engineer entered an order approving an application of L. G. Ross for a change in use and place of use of water from Foland Creek of the following rights:

A water right evidenced by the certificate recorded on page 740, State Record of Water Right Certificates, for the use of not to exceed 0.22 cubic foot per second of water from Foland Creek for irrigation of the following lands:

0.5 acre SW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 28
 3.0 acres SW $\frac{1}{4}$ SE $\frac{3}{4}$
 8.0 acres SE $\frac{1}{4}$ SE $\frac{3}{4}$
 Section 29
 6.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
 Section 33

Township 3 South, Range 9 West, W.M.,

with a priority date of April 12, 1910;

A water right evidenced by the certificate recorded on page 1787, State Record of Water Right Certificates, for the use of not to exceed 3.0 cubic feet per second of water from Foland Creek for domestic and power purposes in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 3 South, Range 9 West, W.M., with a priority date of May 19, 1913.

Said order authorized the use of not to exceed 0.22 cubic foot per second of water from Foland Creek, with a priority date of April 12, 1910, and 0.41 cubic foot per second of water from Foland Creek, with a priority date of May 19, 1913, for irrigation of the following lands:

2.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 28
 6.0 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
 30.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 29
 2.5 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
 9.5 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
 Section 33

Township 3 South, Range 9 West, W.M.

The right for use of 2.59 cubic feet per second of water from Foland Creek for development of power has expired under the provisions of ORS 537.290.

The order dated June 13, 1927 does not provide for cancelation of the old certificates or fix a time limit for completion of the appropriation or for issuance of new certificates.

Notice of requirements of completion and proof of completion was mailed to the present owner, L. V. Cole, on November 3, 1958. Subsequently, a field survey of the development preparatory to proof of completion was made on August 1, 1962, at which time the following lands were found to have been irrigated:

1.4 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
19.6 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 29
0.8 acre SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 28
3.4 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 32
7.4 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 33

Township 3 South, Range 9 West, W.M.

To date, Mr. Cole has failed or refused to complete, sign and return the proof of completion of the transfer, although forms were mailed on April 2, 1963 and called to his attention in a subsequent letter of May 10, 1963.

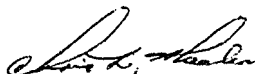
Over 37 years have elapsed since entry of the order changing the character of use and the place of use of water under these rights. It appears that this is more than sufficient time for a reasonable and prudent operator to place 50 acres under irrigation.

NOW, THEREFORE, it hereby is ORDERED that the time in which to complete construction work and to apply water to beneficial use, as authorized by special order of the State Engineer dated June 13, 1927, has expired.

It is FURTHER ORDERED that the certificates recorded on pages 740

and 1787, State Record of Water Right Certificates, are canceled and, in lieu thereof, a certificate be issued to the extent that water has been put to beneficial use as authorized by order dated June 13, 1927.

Dated at Salem, Oregon this 22nd day of June 1965.



CHRIS L. WHEELER
State Engineer