

BEFORE THE STATE ENGINEER OF OREGON

MARION COUNTY

IN THE MATTER OF THE APPLICATION)
OF THE CITY OF SALEM, OREGON AND)
THE OREGON PULP AND PAPER COMPANY)
FOR THE APPROVAL OF A CHANGE IN)
USE, PLACE OF USE AND POINT OF)
DIVERSION OF WATER FROM THE NORTH)
SANTIAM RIVER. - - - - -)

ORDER
APPROVING APPLICATION

On June 13, 1951, the City of Salem, Oregon and the Oregon Pulp and Paper Company filed an application for the approval of a change in use, place of use and point of diversion of water from the North Santiam River pursuant to the provisions of Section 116-606, O. C. L. A. Subsequently, the City of Salem, Oregon filed a certified copy of an agreement between the City of Salem, Oregon, the Oregon Pulp and Paper Company and The Thomas Kay Woolen Mills, dated May 28, 1951 providing for the transfer to the City of Salem, Oregon of 60 cubic feet per second of the water of North Santiam River from power and manufacturing purposes to municipal use. The agreement also covers a number of pertinent matters, including the allocation between the parties of the balance of the 254 cubic feet per second of water between the "North Power" and the "South Power".

In the Matter of the Determination of the Relative Rights to the Use of the Water of North Santiam River and Its Tributaries, a water right was adjudicated in the name of the Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company and the City of Salem, Oregon for the use of 254 cubic feet per second of the waters of North Santiam River for power and manufacturing purposes within the corporate limits of the City of Salem, Oregon with a date of priority of 1856.

The water is diverted from the North Santiam River into the "Salem Canal" at a point located approximately 370 feet south and 565 feet east from the northwest corner of SW $\frac{1}{4}$ SE $\frac{1}{4}$ and being within the southeast quarter, Section 11, Township 9 South, Range 1 West, W. M., and carried through said canal for a distance of about 6 miles to its junction with Mill Creek. From this junction the water is carried through the channel of Mill Creek to Waller dam near 19th and State Streets, Salem, where 172 cubic feet per second, less transportation losses, owned jointly by Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company and the City of Salem, Oregon, is diverted into a canal commonly called the "South Power". The remaining 82 cubic feet per second, less transportation losses, owned by Oregon Pulp and Paper Company, flows on down Mill Creek, sometimes called the "North Power".

The City of Salem, Oregon and Oregon Pulp and Paper Company propose to change the use of 60 cubic feet per second of the water flowing in the "North Power" from manufacturing and power purposes to that of municipal purposes within the corporate limits of the City of Salem, Oregon and surrounding territory.

For the purpose of diverting such 60 cubic feet per second of water, the applicants herein propose to change the present point of diversion to two new points of diversion, namely: the first to be located 620 feet south and 120 feet west of the northeast corner of SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 9 South, Range 1 West, W. M., and the second to be located 830 feet south and 660 feet east of the northwest corner of NW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 13, same Township and Range.

Notice by publication as provided by Section 116-606, O. C. L. A. was given in the Capital Journal, a newspaper printed and having general circulation in Marion County for a period of three weeks,

being the issues of July 10, 17 and 24, 1951. The time for hearing upon such application, as fixed in the notice, namely, Tuesday, September 4, 1951 at 10:00 a.m., was not less than 30 days after the last publication of said notice.

No objections having been filed and it appearing that the proposed change in use, place of use and point of diversion of water from North Santiam River may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in use, and place of use of water of North Santiam River be and the same is hereby approved and that the right to the use of 60 cubic feet per second of the water of North Santiam River flowing through the "North Power" with a date of priority of 1856 hereinbefore described as appurtenant to the corporate limits of the City of Salem, Oregon for manufacturing purposes be severed therefrom and simultaneously and without loss of priority, changed to municipal purposes within the corporate limits of the City of Salem, Oregon and surrounding territory.

IT IS FURTHER ORDERED that the proposed change in point of diversion of water from North Santiam River to-wit:

From a point located approximately 370 feet south and 565 feet east from the northwest corner of SW $\frac{1}{4}$ SE $\frac{1}{4}$ and being within the southeast quarter, Section 11, Township 9 South, Range 1 West, W. M.,

To two new points of diversion, namely, the first to be located approximately 620 feet south and 120 feet west from the northeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 9 South, Range 1 West, W. M., and the second to be located 660 feet east from the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 9 South, Range 1 West, W. M.,

for municipal purposes within the corporate limits of the City of Salem, Oregon and surrounding territory with a date of priority of 1856, be and the same is hereby approved.

IT IS FURTHER ORDERED that construction work shall be done and the change in point of diversion of water made on or before October 1, 1962 or within such extension of time as may be granted by the State Engineer for good cause shown.

IT IS FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the completion of the construction work and the application of water to beneficial use for municipal purposes within the City of Salem, Oregon, and surrounding territory, a certificate of water right shall be issued to the City of Salem, Oregon to the extent to which the water has been used beneficially and certificates of water right shall be issued to the Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company and the City of Salem, Oregon, or their successors in interest, covering the remaining 194 cubic feet per second of water used for power and manufacturing purposes not involved herein, in accordance with agreement by and between said parties dated May 28, 1951, and certificate of water right heretofore issued to the Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company and the City of Salem, Oregon, and recorded at Page 14,901, Volume 12, State Record of Water Right Certificates, shall be cancelled.

Dated at Salem, Oregon this 10th day of September, 1951.

Noted on Decree

Vol. 14, p. 163

Devt. 14901

*Superceded and Confirmed by
Certs. 19800 and 19801*

CHAS. E. STRICKLIN
State Engineer

*This Order Amended
by Sp. Or. Vol. 8, p. 78*

Trsf. "5-87"