

BEFORE THE STATE ENGINEER OF OREGON

Yamhill County

IN THE MATTER OF THE APPLICATION )  
OF CARL HOWARD FOR THE APPROVAL )  
OF A CHANGE IN PLACE OF USE OF )  
WATER FROM SOUTH YAMHILL RIVER )  
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ORDER APPROVING  
TRANSFER NO. 2810

On May 10, 1973, Carl Howard filed an application in the office of the State Engineer for the approval of a change in place of use of water from South Yamhill River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to M. Swartzentruber and recorded at page 28153, Volume 20, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.25 cubic feet per second of water from South Yamhill River for the irrigation of, among other lands, 4.4 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, and 0.2 acre in NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, Township 5 South, Range 4 West, W.M., with a date of priority of July 7, 1958. These lands are irrigated from a point of diversion located 320 feet South and 1400 feet West from the Easterly SE corner of Martin D.L.C. No. 37, being within the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 5, Township 5 South, Range 4 West, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right therefrom, without loss of priority to 0.3 acre in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and 4.3 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, Township 5 South, Range 4 West, 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 place of use of water.

Mr. Clayton Gardner, Watermaster of District No. 1, has filed

a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

Buernell Seibel, mortgage holder of the land involved, has submitted written approval of the changes in place of use of water.

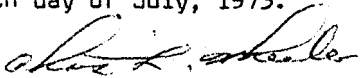
No objections having been filed and it appearing that the proposed change in place of use may be made without injury to existing rights, the application should be approved.

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 4.4 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, and 0.2 acre in NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 6, Township 5 South, Range 4 West, W.M., with a date of priority of July 7, 1958, be severed therefrom and simultaneously and without loss of priority transferred to 0.3 acre in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and 4.3 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, Township 5 South, Range 4 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1973.

It is FURTHER ORDERED that certificate of water right heretofore issued to M. Swartzentruber and recorded at page 28153, Volume 20, 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 application of water to beneficial use, a certificate of water right shall be issued to Carl Howard confirming the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 9th day of July, 1973.

  
CHRIS L. WHEELER  
State Engineer