

IN THE MATTER OF PROTEST TO)
 THE ISSUANCE OF PERMIT UNDER)
 APPLICATION NO. 14480 IN THE)
NAME OF E. RENFER.)

O R D E R

On February 2, 1932, T. Morishita filed in the office of the State Engineer an application to appropriate 0.12 cubic foot per second of water from Johnson Creek to be used for the irrigation of 10 acres of land located within Tract No. 3, Section 30, Tp. 1 S., Rge. 2 East, W. M. On the 14th day of April, 1932, this application was assigned to E. Renfer.

Numerous riparian owners on Johnson Creek protested the issuance of permit under said application on the grounds that the diversion of the water would diminish the flow of the creek to the extent that plant life bordering the channel would be deprived of water and that the stream would become stagnant, thus resulting in an injury to the natural vegetation along said stream and causing a disagreeable odor to emit therefrom.

After due notice, the above entitled matter was set for hearing on May 14, 1932, at the Wichita school house, at which time evidence was submitted for and against the approval of said application. The objections raised by those in attendance at the hearing were mainly those recited in the written protest. A legal question was presented in challenging the right of an alien to make a valid application to secure a permit to use the water of this state.

In addition to the evidence received during the hearing an investigation by the State Engineer's office was made of the stream during the summer months of 1932. The results of such investigation indicated that below the point where the applicant proposed to divert the water, the flow of the creek increased considerably within a distance of a quarter of a mile and that the method employed by the applicant in using the water was most economical and without waste.

It does not appear that the Oregon statutes governing the appropriation of water have any restrictions therein respecting citizenship, and

from the evidence introduced at the hearing and from the investigations and observations made of the stream, the State Engineer is of the opinion that the approval of the application herein involved and the use of the water by the applicant as intended would not result in an injury to the protestants to the extent that said State Engineer would be authorized by law to deny said application.

IT IS THEREFORE ORDERED that said application No. 14480 be approved and permit be issued.

Dated this 23rd day of May, 1933.


CHAS. E. STRICKLIN,
State Engineer.

B.