

BEFORE THE STATE ENGINEER OF OREGON

Wasco County

IN THE MATTER OF THE APPLICATION OF)
THE TYGH VALLEY LUMBER COMPANY FOR THE)
APPROVAL OF A CHANGE IN CHARACTER OF)
USE OF WATER FROM THREE MILE CREEK AND)
WHITE RIVER.)

O R D E R
APPROVING APPLICATION

On February 16, 1948, the Tygh Valley Lumber Company, an Oregon corporation, of 1002 S. E. Ninth Avenue, Portland, 14, Oregon, filed an application for the approval of a change in character of use of water from Three Mile Creek and White River.

By decree of the Circuit Court for Wasco County, dated November 30, 1923, in the matter of the determination of the relative rights to the use of the waters of White River and its tributaries, a water right was adjudicated in the name of W. N. Nickerson from Three Mile Creek and White River for the irrigation of 4.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 3.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, Township 4 South, Range 13 East, W.M., with a date of priority of 1902, and 16 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 10, with a date of priority of 1916.

The applicant herein, owner of the above-described land and water right appurtenant thereto, proposes to change the use theretofore made of the water for irrigation to that of industrial purposes, including water for mill pond, domestic use, and fire protection.

Notice of the filing of the application was given by publication, setting forth a time and place certain for hearing objections to the proposed change in use of water, if any there were, namely, at the County Court House at The Dalles, Oregon on April 22, 1948 at 10 o'clock a.m. The notice was published in The Dalles Chronicle, a newspaper printed and having general

circulation in Wasco County for a period of at least three weeks and not less than one publication each week, being the issues of February 27, March 5 and 12, 1948. The date fixed for the hearing in the notice was not less than 30 days after the last publication of said notice. No objections having been filed, the hearing was not held.

It appears that the proposed change in character of use of water from irrigation purposes to that of industrial purposes, including water for mill pond, domestic use, and fire protection, may be made without injury to existing rights and the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in character of use of water be and the same hereby is approved and that the water right hereinabove described as appurtenant to 4.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 3.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, and 8 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, Township 4 South, Range 13 East, W.M., having a date of priority of 1902, and 16 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 10, having a date of priority of 1916, for irrigation purposes, be severed therefrom and simultaneously and without loss of priority changed to industrial purposes, including water for mill pond, domestic use, and fire protection.

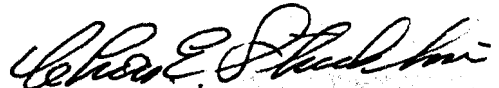
IT IS FURTHER ORDERED that the quantity of water used for industrial purposes, including water for mill pond, domestic use, and fire protection, heretofore used for irrigation of said 32 acres, shall be limited to a diversion of not to exceed 32 acre feet during any 30 day period up to July 1st of each year and not to exceed 96 acre feet during any irrigation season; provided, that the rate of flow shall not exceed four-fifths of one cubic foot per second up to July 1st of each year and thereafter not to exceed two-fifths of one cubic foot per second, except in case of rotation.

IT IS FURTHER ORDERED that complete application of water to beneficial use shall be made on or before October 1, 1948 or 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 complete application of water to beneficial use, a Certificate of Water Right shall be issued to the Tygh Valley Lumber Company or their successors-in-interest, and that the Certificate of Water Right heretofore issued to W. N. Nickerson and recorded at Page 5758, Volume 6, State Record of Water Right Certificates shall be cancelled.

Dated at Salem, Oregon, this 30th day of April, 1948.


CHAS. E. STRICKLIN
State Engineer

*Noted on Decree.
Vol. 7, p. 221
Cert. 5758*