

BEFORE THE STATE ENGINEER OF OREGON

Wasco County

IN THE MATTER OF THE APPLICATION)
OF THE CITY OF DUFUR FOR THE AP-)
PROVAL OF A CHANGE IN USE, PLACE)
OF USE AND POINT OF DIVERSION OF)
WATER FROM FIFTEENMILE CREEK)
- - - - -

ORDER APPROVING
TRANSFER NO. D-105

On September 24, 1964, the City of Dufur, Oregon, filed an application in the office of the State Engineer for the approval of a change in use, place of use and points of diversion of water from Fifteenmile Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court of Wasco County, Oregon, entered March 19, 1924, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Fifteenmile Creek and its Tributaries, a water right was allowed in the name of Ethelbert T. Cotton, with a date of priority of 1905, for the use of 0.04 cubic foot per second of the waters of Fifteenmile Creek for the irrigation of 1.6 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15, Township 2 South, Range 12 East, W.M. In the same proceedings, a water right was allowed in the name of Adaline L. Kessler, with a date of priority of 1906, for the use of 0.103 cubic foot per second of the waters of Fifteenmile Creek for the irrigation of 0.5 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 3.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15. These rights were confirmed by certificates recorded at pages 5616 and 5651, Volume 6, State Record of Water Right Certificates, respectively. These lands are irrigated through the Cotton (or Kessler) Ditch, the point of diversion of said ditch being located 280 feet north and 940 feet west from the S $\frac{1}{4}$ corner of Section 15, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 15, Township 2 South, Range 12 East, W.M.

Certificate of water right issued to C. C. Cooper and recorded at page 3960, Volume 5, State Record of Water Right Certificates, confirms a right to the use of 0.025 cubic foot per second for the irrigation of 2.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 1 South, Range 13 East, W.M., with a date of priority of August 26, 1921. These lands are irrigated by means of a pumping plant, the point of diversion of said pumping plant being located 1300 feet south and 850 feet west from the center of Section 25, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 25, Township 1 South, Range

13 East, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom without loss of priority to municipal use by the City of Dufur within the S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$, Section 25 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26, Township 1 South, Range 13 East, W.M., and to convey the water to these lands by means of a pipeline, the point of diversion of said pipeline being located 80 feet south and 630 feet west from the E $\frac{1}{2}$ corner of Section 15, and being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15, Township 2 South, Range 12 East, W.M.

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, place of use and points of diversion of water, if any there were, namely: at the county courthouse at The Dalles, Oregon, on December 17, 1964, at 9:30 a.m. The notice was published in The Dalles Chronicle, a newspaper printed and having general circulation in Wasco County, Oregon, for a period of three weeks in the issues of October 19, 26 and November 2, 1964. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Larry W. Jebousek, Watermaster of District No. 3, has filed a report to the effect that the proposed change in use, place of use and points of diversion of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in use, place of use and points of diversion 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 from Fifteenmile Creek is approved and the water right hereinbefore described as appurtenant to 1.6 acres in the S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 15, Township 2 South, Range 12 East, W.M., with a date of priority of 1905, and 0.5 acre in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 3.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15, with a date of priority of 1906 and 2.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 1 South, Range 13 East, W.M., with a date of priority of August 26, 1921, for irrigation purposes, be severed therefrom and simultaneously and without loss of priority transferred to municipal use by the

City of Dufur within the S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$, Section 25 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26, Township 1 South, Range 13 East, W.M.

It is FURTHER ORDERED that the proposed changes in points of diversion of water from Fifteenmile Creek, to-wit:

From a point located 280 feet north and 940 feet west from the S $\frac{1}{4}$ corner of Section 15, and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 15, Township 2 South, Range 12 East, W.M., and

From a point located 1300 feet south and 850 feet west from the center of Section 25, and being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 25, Township 1 South, Range 13 East, W.M.

To a point to be located 80 feet south and 630 feet west from the E $\frac{1}{4}$ corner of Section 15, and being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 15, Township 2 South, Range 12 East, W.M.

for municipal use by the City of Dufur within the S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$, Section 25, and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26, Township 1 South, Range 13 East, W.M., with dates of priority of 1905, 1906 and August 26, 1921, are approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use and the change in point of diversion of water completed on or before October 1, 1966.

It is FURTHER ORDERED that the quantity of water diverted from Fifteenmile Creek for municipal use hereunder by the City of Dufur shall not exceed: 4.8 acre feet each year, with a date of priority of 1905, being 1.6 acre feet per 30 day period prior to July 1 and 1.2 acre feet per 30 day period thereafter, at a rate of not to exceed 0.04 cubic foot per second; 12.3 acre feet each year, with a date of priority of 1906, being 4.1 acre feet per 30 day period prior to July 1 and 3.08 acre feet per 30 day period thereafter, at a rate of not to exceed 0.103 cubic foot per second; and a diversion of 0.025 cubic foot per second with a date of priority of August 26, 1921, said diversions being limited to the irrigation season only.

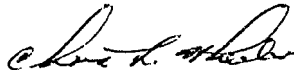
It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed:

That the diversion works shall include a weir or other suitable device for measuring the water to which the applicant is entitled.

That the plans of the weir or other suitable device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificates of water right heretofore issued to C. C. Cooper and recorded at page 3960, Volume 5; Ethelbert T. Cotton, recorded at page 5616, Volume 6; and Adaline L. Kessler, recorded at page 5651, Volume 6, State Record of Water Right Certificates, are canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized changes in points of diversion and application of water to beneficial use, certificates of water right shall be issued to City of Dufur confirming the extent to which the water has been applied beneficially and said changes in points of diversion.

Dated at Salem, Oregon, this 19th day of January, 1965.



CHRIS L. WHEELER
State Engineer