

Wallowa County

IN THE MATTER OF THE APPLICATION)
 OF THE BIG BEND WATER DITCH COMPANY)
 FOR A CHANGE IN USE AND PLACE OF)
 USE OF WATER.)

O R D E R

Now at this time the above entitled cause coming on for consideration, the facts appearing as follows:

The Big Bend Water Ditch Company is an Oregon corporation organized for the purpose of appropriating and conveying the water of Wallowa River for irrigation and domestic purposes on lands which are particularly described in a certificate of water right which is recorded in Volume 4 at page 2950, State Record of Water Right Certificates. Said Certificate was issued in accordance with Section 5744, Oregon Laws, after the determination of the relative rights to the use of water from Wallowa River and its tributaries by decree of the Circuit Court of the State of Oregon for Wallowa County.

By a water right certificate recorded in Volume 4, Page 3007, State Record of Water Right Certificates, issued in accordance with above decree, H. E. and George F. Dawson had confirmed to them the right to the use of 30 second feet of water from Wallowa River for the development of 58 horsepower under date of February, 1884. The place of use for power is described in said certificate as being situated West of Block 4, Town of Joseph, Oregon, and the water returned to the Wallowa River at a point 165 feet West of Lot 10, Block 4, of the Town of Joseph, Oregon.

The Big Bend Water Ditch Company has acquired title to the real property, together with said water right of H. E. and George F. Dawson appurtenant thereto. On August 12, 1927, said Big Bend Water Ditch Company filed with the State Engineer an application for the approval of a change in use and place of use of water from power purposes on said real property to the use for irrigation and domestic purposes on the lands which are and have been irrigated through the Big Bend Ditch, and which are described in said Circuit Court decree and Water Right Certificate No. 2950 as above mentioned.

After receipt of the application for such change in use and place of

use a notice for publication was prepared by the State Engineer and caused to be published in the Enterprise Record Chieftain, a newspaper of general circulation, published at Enterprise in Wallowa County, Oregon, and said notice was published in accordance with the provisions of Section 5764, Oregon Laws as amended by the Laws of 1927, Chapter 219, Section 1, in the issues of September 1, 8, 15, and 22, 1927. Proof of such publication has been furnished the State Engineer by affidavit of the publisher.

The notice, aforesaid, set out that a hearing would be held by the State Engineer in the Justice Court Room in the County Court House at Enterprise, Oregon, at 2:00 o'clock, P.M. on Saturday, the 8th day of October, 1927 and all persons were therein notified to present at that time and place any objections they had to the approval of the proposed change. No objections were presented and filed, and at no time since the filing of said application has an objection of any nature to the approval of said change been presented to the State Engineer.

Wallowa River flows from Wallowa Lake at a point in the Northwest Quarter of Section 5, Township 3 South, Range 45 East, W.M. and flows in a general northwesterly direction. Several canals divert water from the river within the first one and one-half miles of its course below Wallowa Lake. The first of these below the outlet of the lake is the Silver Lake Canal, and then in successive order downstream are the diversions of the Farmers Canal, Cove Ditch Company Canal, Enterprise Electric Company Pipe Line, Dawson Planing Mill Canal, Big Bend Canal, and Granger Canal. These diversions named are all within one and one-half miles from the outlet of Wallowa Lake in the vicinity of Joseph, Oregon.

Below these diversions it is approximately four miles to the next important diversion for irrigation purposes, and a study of conditions upon which the State Engineer is informed indicates that sufficient water arises between the diversion point of the Granger Canal and the next diversion downstream to supply any and all of the existing rights to the waters of Wallowa River between these points. Whenever water has been used in the Dawson Planing Mill for development of power the water which operated the wheel was returned to Wallowa River at the site of the planing mill and was lost to use for irrigation by any of the ditch companies above mentioned. By making the proposed change the water used by the Dawson Plant will simply be diverted from Wallowa River at a point only a few feet

downstream from the present diversion point and instead of its use as a well it will be carried through the canal of the Big Bend Water Ditch Company and used for irrigation.

There are no diversions from Wallowa River between the present diversion for the Dawson Planing Mill and the diversion point of the Big Bend Canal.

And it further appearing that should the change be made no injury will result to any of the other rights to the use of water from this stream, and that said change will be toward a beneficial use of the water on the lands under the Big Bend Canal, and the State Engineer now being fully advised in the premises,

It is therefore ORDERED that said change be and the same is hereby approved.

It is further ORDERED that the water right certificate issued to H. E. and George F. Dawson and which is recorded in Volume 4 at Page 3007, State Record of Water Right Certificates be and the same is hereby cancelled and declared of no further force and effect.

And it is further ORDERED that a new certificate of water right be issued to the Big Bend Water Ditch Company confirming the right of said company to the use of 30 cubic feet per second of water from the Wallowa River for irrigation and domestic purposes with a priority of February, 1884, the diversion from the Wallowa River to be at the present head of the Big Bend Canal in the NE¹/₄ NE²/₄ of Section 31, Township 2 South, Range 45 East, W.E. and the water to be used on the lands described in the water right certificate above mentioned, which is recorded in Volume 4 at page 2950, State Record of Water Right Certificates. Said certificate when issued shall confirm the right of the Big Bend Water Ditch Company to an appropriation of the same extent and with the same limitations as provided in the decree of the Circuit Court of the State of Oregon for Wallowa County with respect to the right of H. E. and George H. Dawson, and shall limit the use of water thereunder so that the quantity of water so used, together with the water used by virtue of the right confirmed by the Court for the lands under the Big Bend Canal, shall not exceed one and one-half acre feet per acre for each acre actually irrigated during any period of thirty days prior to July 31st of each year and shall not exceed one acre foot per acre for each acre actually irrigated during the remainder of the irrigation season.

Dated at Salem, Oregon, the 17th day of January, 1928.

*Cert No. 7716 Supersedes
No 3007 pursuant
to this order.*

*Notations made on cert. No.
3007 and Decree Vol 5 p. 160*

Rhea Luper
R H E A L U P E R

State Engineer.