

BEFORE THE STATE ENGINEER OF OREGON

Harney County

IN THE MATTER OF THE APPLICATION OF )  
 THE EDWARD HINES WESTERN PINE COMPANY )  
 FOR APPROVAL OF A CHANGE OF USE AND )  
 CHANGE IN PLACE OF USE OF WATER. )

A M E N D E D  
O R D E R

This matter now coming on for consideration and order of the State Engineer upon the application of the Edward Hines Western Pine Company as amended by the stipulation of the Edward Hines Western Pine Company and Pacific Livestock Company on file herein, for approval of a change in use and change in place of use of the water from what is known as the Warm Spring located near the center of the Northeast quarter of the Northeast quarter of Section 35, Township 23 South, Range 30 East, W. M., from certain lands hereinafter described to which such waters are now appurtenant for irrigation purposes to other lands owned by the Edward Hines Western Pine Company where such waters are to be used for industrial purposes, and it appearing;

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That the Edward Hines Western Pine Company is the owner of the West half of Section 25, and the East half of the East half of Section 26, Township 23 South, Range 30 East, W. M., to which lands the following described rights are appurtenant by virtue of the decree of the Circuit Court for Harney County, dated February 23, 1926, which decree was entered on the mandate of the Supreme Court of the State of Oregon, dated October 2, 1925:

A right to the use of 2.37 second-feet of water under priority of 1900 from Warm Springs and Silvias River for irrigation of 189 acres described as follows:

12 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$   
 27 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$   
 40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$   
 50 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$

40 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$   
40 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 25,  
Tp. 23 S., R. 30 E., W. M.

A right to the use of 0.34 second-foot of water from the North  
Warm Springs under priority of 1887 for irrigation of the  
following:

8 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$   
19 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 26,  
Tp. 23 S., R. 30 E., W. M.

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That the Pacific Livestock Company is the owner of the North half  
and the North half of the South half of Section 36, Township 23 South, Range  
30 East, W. M., to which the following described water right is appurtenant by  
virtue of the decree of the Circuit Court hereinbefore described:

A right to the use of water from Warm Springs and Silvies River  
under priority of 1888 for irrigation of the following described  
lands:

40 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$   
40 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$   
40 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$   
40 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$   
28 acres in the NE $\frac{1}{4}$  NW $\frac{1}{4}$   
35 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$   
31 acres in the SW $\frac{1}{4}$  NW $\frac{1}{4}$   
37 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$   
40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$   
20 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$   
40 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$   
40 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 36,  
Tp. 23 S., R. 30 E., W. M.

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That it is proposed to change the place of use of the water rights  
appurtenant to the above described lands; namely, the South half of the North-  
west quarter and East half of the Southwest quarter of Section 25 and the North  
half and the North half of the South half of Section 36, Township 23 South,  
Range 30 East, W. M., insofar as such rights relate to the use of water from

that certain Warm Spring hereinbefore described, to the West half of the Southwest quarter of Section 25, and the East half of the Southeast quarter of Section 26, said township and range, and to change the use of water so transferred from irrigation to industrial purposes. It is also proposed to change from irrigation to industrial purposes the use of the water now appurtenant to the said West half of the Southwest quarter of Section 25, and East half of the Southeast quarter of Section 26 insofar as such rights authorize the use of waters of said Warm Spring.

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That notice of a hearing on said application of said Edward Hines Western Pine Company was published in the entire issue of the Burns News, a newspaper of general circulation printed and published in Harney County, State of Oregon, for four successive and consecutive weeks, being in the issues dated November 16, 23 and 30, and December 7, and 14, 1928, as required by law and all objections filed against the granting of said application have been withdrawn and that there is no objection to this order at this time.

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And it further appearing that the proposed change in use and place of use of such waters can be effected without injury to the rights of other appropriators of water from said Warm Springs,

THEREFORE, IT IS ORDERED that the change in use and change in place of use hereinbefore described be and the same hereby is approved and that all rights to the use of water from the Warm Spring located in the Northeast quarter of the Northeast quarter of Section 35, Township 23 South, Range 30 East, such rights being appurtenant to the said South half of the Northwest quarter and East half of the Southwest quarter of Section 25, and the North half and North half of the South half of Section 36, be severed from said lands and simultaneously and without loss of priority transferred to the West half of the Southwest quarter of Section 25, and the East half of the Southeast quarter of Section 26, Township 23 South, Range 30 East, W. M., and the use of

water from said Warm Spring for all the South half of the Northwest quarter and the Southwest quarter of Section 25, the East half of the Southeast quarter of Section 26, and the North half and the North half of the South half of Section 36, said township and range, hereby is changed from irrigation to industrial purposes: Provided, however, that the transfer of rights and change in use and place of use of said waters of Warm Spring are hereby made with the express proviso that any and all of said waters of Warm Spring so transferred and changed as to use and place of use which are not used for industrial purposes by Edward Hines Western Pine Company, a corporation, its successors and assigns, or which may be in excess of the amounts necessary for industrial uses by Edward Hines Western Pine Company, a corporation, its successors and assigns, are hereby made and shall remain appurtenant to North half ( $N\frac{1}{2}$ ) and North half of South half ( $N\frac{1}{2} S\frac{1}{2}$ ) of Section 36, Township 23 South, Range 30 East, W. M. for irrigation uses, and to that end all overflow from the sawmill pond of Edward Hines Western Pine Company, a corporation, its successors and assigns, which includes or involves any of the waters covered hereby shall be directed or permitted to flow into what is known as the Pacific Livestock Company Ditches which run along the north line of Section 36 and the east line of Section 35, both in Township 23 South, Range 30 East, W. M.

IT IS FURTHER ORDERED That the rights to use of water on any or all of the above described lands from Silvies River shall not be affected in any manner whatever by this order, but shall remain appurtenant to said lands as described in the Circuit Court decree to which reference has hereinbefore been made.

Dated at Salem, Oregon, this 12th day of April, 1935.

*Noted on Decree, Vol. 9,  
p. 182*

*Chas E Stricklin*  
CHAS. E. STRICKLIN  
State Engineer