

BEFORE THE STATE ENGINEER OF OREGON

Polk County

IN THE MATTER OF THE APPLICATION)
OF MARY ISABEL WEISENSEE FOR THE)
APPROVAL OF A CHANGE IN PLACE OF)
USE AND AN ADDITIONAL POINT OF)
DIVERSION OF WATER FROM LUCKIAMUTE)
RIVER)

ORDER APPROVING
TRANSFER NO. 2976

On February 13, 1974, Mary Isabel Weisensee filed an application in the office of the State Engineer for the approval of a change in place of use and an additional point of diversion of water from Luckiamute River, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Lloyd R. and Mary Isabel Weisensee and Margaret W. O'Brien and recorded at page 26623, Volume 18, State Record of Water Right Certificates, confirms a right to the use of not to exceed 0.60 cubic foot per second of water from Luckiamute River for the irrigation of, among other lands, 4.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 8.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 18.7 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 4.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 4.4 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, and 0.6 acre in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, Township 9 South, Range 6 West, W.M., with a date of priority of October 10, 1952. These lands are irrigated from a point of diversion located 2280 feet South and 340 feet West from the North $\frac{1}{4}$ corner of Section 26, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, Township 9 South, Range 6 West, W.M.

The applicant herein, owner of the land above described, proposes to transfer the water right appurtenant to 4.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 3.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 14.2 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, and 3.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, without loss of priority to 11.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.7 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 2.9 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 7.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 1.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.5 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 6 West, W.M., and to establish an additional point of diversion for irrigation of 7.9 acres in

SW $\frac{1}{4}$ NW $\frac{1}{4}$, 9.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 2.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 5.9 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, and 0.6 acre in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, Township 9 South, Range 6 West, W.M., from a point of diversion to be located 3000 feet South and 1200 feet East from the Northwest corner of Section 26, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 6 West, W.M.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that said section provides notice is not required on an application for a change in place of use of water.

Mr. Gene McGinnis, Watermaster of District No. 2, has filed a statement to the effect that the proposed change in place of use and point of diversion of water may be made without injury to existing rights.

The Federal Land Bank, mortgage holder, has submitted written approval of the proposed change in place of use and point of diversion.

No objections having been filed and it appearing that the proposed change in place of use and point of diversion may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the change in place of use of water is approved and the water right hereinbefore described as appurtenant to 4.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 3.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 14.2 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, and 3.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 6 West, W.M., with a date of priority of October 10, 1952, be severed therefrom and simultaneously and without loss of priority transferred to 11.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.7 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 2.9 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 7.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 1.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.5 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, Township 9 South, Range 6 West, W.M.

It is FURTHER ORDERED that the applicant may maintain the following point of diversion of water from Luckiamute River, to wit:

Located 2280 feet South and 340 feet West from the North $\frac{1}{4}$ corner of Section 26, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 9 South, Range 6 West, W.M.

and may establish and maintain an additional point of diversion, to wit:

To be located 3000 feet South and 1200 feet East from the Northwest corner of Section 26, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 9 South, Range 6 West, W.M.

for the irrigation of 7.9 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 9.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 2.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 5.9 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, and 0.6 acre in Section 27, Township 9 South, Range 6 West, W.M., with a date of priority of October 10, 1952, is approved.

It is FURTHER ORDERED that water so transferred shall be applied to beneficial use and the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1976.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion, and shall not exceed 0.28 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

That the type and plans of the measuring 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 certificate of water right heretofore issued to Lloyd R. and Mary Isabel Weisensee and Margaret W. O'Brien and recorded at page 26623, Volume 18, State Record of Water Right Certificates, is canceled, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use and completion of the authorized change in point of diversion, a certificate of water right shall be issued

to Mary Isabel Weisensee confirming the extent to which the water has been applied beneficially and the change in additional point of diversion and including the balance of the lands not involved in this proceeding.

Dated at Salem, Oregon, this 28th day of May, 1974.



CHRIS L. WHEELER
State Engineer