

BEFORE THE STATE ENGINEER OF OREGON

Union County

IN THE MATTER OF THE APPLICATION)
OF THE OREGON STATE GAME COMMISSION)
FOR THE APPROVAL OF A CHANGE IN USE)
OF WATER FROM TROUT CREEK AND BIG)
CREEK)

O R D E R
APPROVING APPLICATION

On March 11, 1963, the Oregon State Game Commission of Portland, Oregon, filed an application in the office of the State Engineer for the approval of a change in use of water from Trout Creek and Big Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to Grande Ronde Lumber Company and recorded at page 7388, Volume 7, State Record of Water Right Certificates, confirms a change in use of water wherein the right to the use of 1/4th cubic foot per second of the waters of Big Creek for irrigation purposes, with a date of priority of 1892, was changed to manufacturing use near the line between the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 6 South, Range 41 East, W. M.

Certificate of water right issued to P. J. Powers, J. R. Wanker and Pondosa Water Company and recorded at page 10747, Volume 10, State Record of Water Right Certificates, confirms a right under Permit No. 9866 to the use of 5 cubic feet per second of the waters of Trout Creek for domestic use, supply for a lumber and manufacturing plant and the irrigation of the following described lands; with a date of priority of August 15, 1930.

40 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$
40 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$
35 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$
5 acres in the SE $\frac{1}{4}$ 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 $\frac{1}{4}$
5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
22 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 25,
40 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$
40 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 26,

40 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$
40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$
40 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$
40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
said Section 26,
Township 6 South,
Range 41 East, W.M.
40 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 1
40 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 2,
Township 7 South,
Range 41 East, W.M.

The Oregon State Game Commission proposes to change the use of the $\frac{1}{2}$ th cubic foot per second from Big Creek and not to exceed $\frac{3}{4}$ th cubic foot per second from Trout Creek heretofore used for manufacturing purposes to that of fish propagation and the maintenance of Pondosa Pond as a public fishing area.

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 courthouse in LaGrande, Oregon, on May 21, 1963, at 9:30 a.m. The notice was published in the La Grande Observer and the Baker Democrat-Herald, newspapers printed and having general circulation in Baker and Union Counties for a period of three weeks in the issues of March 25, April 1 and 8, 1963. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

A. H. Petersen and Barbara Petersen, owners of the SW $\frac{1}{4}$, Section 25, Township 6 South, Range 41 East, W.M., to which the water right for manufacturing purposes is appurtenant, and Chester M. Robbins and Elsie Robbins, who are purchasing said SW $\frac{1}{4}$, have by written instrument, assigned, transferred and set over to the Oregon State Game Commission all their right, title and interest to the water rights appurtenant to the said SW $\frac{1}{4}$ for manufacturing purposes, but not to exceed $\frac{1}{2}$ cubic foot per second from Big Creek and $\frac{3}{4}$ cubic foot per second from Trout Creek for the purpose of changing the use of said water from manufacturing purposes to that of fish propagation and the maintenance of Pondosa Pond as a public fishing area.

On May 10, 1963, Harold M. Daron of the law firm of Grant, Fuchs, Rose and Daron, on behalf of Pondosa Water Company, filed objections to the proposed change in use of water from Trout Creek. Subsequently, on May 16, 1963, Mr. Daron, on behalf of the Company, withdrew its objections to the proposed change in use of water.

Mr. Ward Miller, Watermaster of District No. 6, and Mr. David Hall, Watermaster of District No. 8, have filed reports to the effect that the proposed change in use of water may be made without injury to existing rights.

It appearing that the proposed change in use of water 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 of water is approved and that the water right hereinbefore described for the use of not to exceed 1/4 cubic foot per second of the waters of Big Creek for manufacturing purposes in the SW $\frac{1}{4}$, Section 25, Township 6 South, Range 41 East, W. M., with a date of priority of 1892, and the water right for the use of not to exceed 3/4 cubic foot per second of the waters of Trout Creek for manufacturing purposes in said SW $\frac{1}{4}$, Section 25, with a date of priority of August 15, 1930, be severed therefrom and simultaneously and without loss of priority transferred to fish propagation and the maintenance of Pondosa Pond as a public fishing area.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1964, or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water for fish propagation and the maintenance of Pondosa Pond as a public fishing area.

That two weirs or other suitable measuring devices shall be installed at points satisfactory to the watermaster, one near the point where the water is diverted from Big Creek and one on the overflow ditch from Pondosa Pond.

That the plans of the weirs or other suitable devices be approved by the watermaster and that the weirs or measuring devices be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificate of water right heretofore issued to Grande Ronde Lumber Company and recorded at page 7388, Volume 7, 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 from Big Creek as herein approved, a certificate of water right shall be issued to Oregon State Game Commission to the extent to which the water has been applied beneficially, but not to exceed 1/4 cubic foot per second.

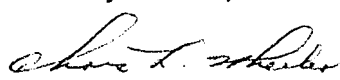
It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use from Trout Creek as herein approved, a certificate of water right shall be issued to P. J. Powers, J. R. Wanker, Pondosa Water Company and Oregon State Game Commission for the use of 5 cubic feet per second of the waters of Trout Creek for domestic use, fish propagation and the maintenance of Pondosa Pond as a public fishing area, and the irrigation of the following described lands:

40 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$
40 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$
35 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$
5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
40 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$	said Section 26,
40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$	Township 6 South,
5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$	Range 41 East, W.M.
22 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$	40 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 25,	Section 1,
40 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$
40 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$	Section 2,
Section 26,	Township 7 South,
	Range 41 East, W.M.

The quantity of Trout Creek water that may be diverted for fish propagation and the maintenance of Pondosa Pond as a public fishing area shall not exceed 3/4 cubic foot per second and provided that the overflow from the pond is released directly into Big Creek for use in the irrigation of the land above described. Upon receipt of proof and the issuance of certificate as above provided, certificate of water right heretofore issued to P. J. Powers, J. R. Wanker, Pondosa Water Company and recorded at page 10747, Volume 10, State Record of Water Right Certificates, shall be canceled.

Dated at Salem, Oregon, this 5th day of June, 1963.

Not for Record
Vol. 6 p. 420
Cert. # 7385
Also App. # 13662
Cert. # 10747


CHRIS L. WHEELER
State Engineer