

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DOUGLAS COUNTY

IN THE MATTER OF THE APPLICATION )  
OF ELK LAKE TIMBER COMPANY )  
FOR APPROVAL OF CHANGES IN )  
USE AND PLACE OF USE OF WATER )  
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ORDER APPROVING  
TRANSFERS 4850,  
4851 and 4852

On August 6, 1981, 1981, applications were filed in the office of the Water Resources Director by Elk Timber Company for approval of changes in use and place of use of water from Windy Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Douglas County, Oregon, entered August 14, 1930, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Cow Creek and Its Tributaries, a water right was established in the name of F. R. Cunningham, tabulated in Volume 10, page 352, Order Record of the Water Resources Director, for use of the waters of Windy Creek, for irrigation of a certain 25.0 acres in NE 1/4 SW 1/4, Section 33, Township 32 South, Range 6 West, WM, with a date of priority of 1886, as evidenced by the certificate recorded at page 9615, Volume 9, State Record of Water Right Certificates.

By said Decree, a water right was established in the name of Glendale Lumber Company, tabulated in Volume 10, page 354, Order Record of the Water Resources Director, for use of the waters of Windy Creek, for irrigation of a certain 9.8 acres in NW 1/4 SW 1/4, Section 33, Township 32 South, Range 6 West, WM, with a date of priority of 1886, as evidenced by the certificate recorded at page 9629, Volume 9, State Record of Water Right Certificates.

The certificate recorded at page 20683, Volume 15, State Record of Water Right Certificates, in the name of The Robert Dollar Company, describes a right for the use of water from Windy Creek for irrigation of 2.7 acres in SE 1/4 NW 1/4, Section 33, Township 32 South, Range 6 West, WM, with a date of priority of 1886.

Water for said rights is diverted, through the Cunningham Ditch, from a point located 1,810 feet North and 760 feet East from the Southwest Corner of Section 27, being within the NW 1/4 SW 1/4, Section 27, Township 32 South, Range 6 West, WM.

The applicant herein, owner of the lands above described, proposes to sever the rights therefrom and, without loss of priority, to use said water for general sawmill purposes within NE 1/4 SW 1/4, NW 1/4 SW 1/4, SW 1/4 SW 1/4 and SE 1/4 SW 1/4, Section 33, Township 32 South, Range 6 West, WM.

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Notice of the applications, pursuant to ORS 540.520(2), was published in the News-Review, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of October 20, 27, and November 3, 1981.

Gary L. Ball, Watermaster, has filed a statement to the effect that the proposed changes in use and place of use may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the requested changes in use and place of use, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted shall not exceed 0.54 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment 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 NO time need be fixed for completion as the changes in use and place of use are completed.

It is FURTHER ORDERED that the certificates recorded at pages 9615 and 9629, Volume 9, and page 20683, Volume 15, State Record of Water Right Certificates, are canceled; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a single confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 4th day of January, 1982.

  
JAMES E. SEXSON  
Director

NOTE: The approval of a water right transfer application does not confirm the status of the right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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