

BEFORE THE STATE ENGINEER OF OREGON

Marion County

IN THE MATTER OF THE APPLICATION)
OF WALTER DUDA FOR THE APPROVAL)
OF A CHANGE IN PLACE OF USE OF)
WATER FROM BUTTE CREEK)

ORDER APPROVING
TRANSFER NO. 2422

On July 23, 1970, Walter Duda filed an application in the office of the State Engineer for the approval of a change in place of use of water from Butte Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at page 16712, Volume 13, State Record of Water Right Certificates, confirmed a right to the appropriation of 0.226 cubic foot per second of water from Butte Creek for the irrigation of 18.1 acres, with a date of priority of April 6, 1944. Subsequently, a change in place of use to the irrigation of 0.4 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.8 acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 10.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 4.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.2 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 2.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 5 South, Range 1 West, W.M. was approved by order of the State Engineer entered December 18, 1969. Satisfactory proof has been submitted to the State Engineer that water has been applied beneficially to these lands.

The applicant herein, owner of the lands above described, proposes to transfer the water right appurtenant to 8.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3.6 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 2.4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 5 South, Range 1 West, W.M. therefrom, without loss of priority, to 3.8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 9.8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 1.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 5 South, Range 1 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. Clayton J. Gardner, Watermaster of District No. 1, has filed a statement to the effect that the proposed change in place of use of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in place of 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 place of use of water is approved and the water right hereinbefore described as appurtenant to 8.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 3.6 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 2.4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944, be severed therefrom and simultaneously and without loss of priority, transferred to 3.8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 9.8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 1.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 5 South, Range 1 West, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1970.

It is FURTHER ORDERED that no new certificate be issued as provided by the order entered December 18, 1968, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, a certificate of water right shall be issued to Walter Duda confirming the extent to which the water has been applied beneficially and covering the balance of the lands not involved in this proceeding.

Dated at Salem, Oregon, this 24th day of July, 1970.


CHRIS L. WHEELER
State Engineer