

BEFORE THE STATE ENGINEER OF OREGON

Marion County

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

ORDER APPROVING
TRANSFER NO. D-133

On August 15, 1968, Walter A. 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 issued to Henry Homann and recorded at page 16712, Volume 13, State Record of Water Right Certificates, confirms a right to the use of 0.226 cubic foot per second of the waters of Butte Creek for the irrigation of 8.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.7 acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 5 South, Range 1 West, W.M., with a date of priority of April 6, 1944.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom, without loss of priority, to 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.

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 only.

Mr. Clayton J. Gardner, Watermaster of District No. 1, has filed a statement to this effect that the proposed change in place of use of water may be made without injury to existing rights.

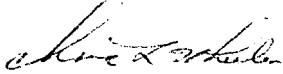
No objections having been filed and it appearing that the proposed change in place of use of water may be made without injury to existing rights, the application should be approved.

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 8.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.7 acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 1.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 7.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 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 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.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1969.

It is FURTHER ORDERED that certificate of water right heretofore issued to Henry Homann and recorded at page 16712, Volume 13, 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, a certificate of water right shall be issued to Walter A. Duda confirming the extent to which the water has been applied beneficially.

Dated at Salem, Oregon, this 18th day of December, 1968.


CHRIS L. WHEELER
State Engineer