

BEFORE THE STATE ENGINEER OF OREGON

Union County

IN THE MATTER OF THE APPLICATION)
OF OREGON STATE GAME COMMISSION)
FOR THE APPROVAL OF A CHANGE IN)
PLACE OF USE AND POINT OF DIVERSION)
OF WATER FROM LADD CREEK, A CHANGE)
IN USE AND POINT OF DIVERSION OF)
WATER FROM WEST BRANCH LADD CREEK,)
AND A CHANGE IN USE OF WATER FROM)
A CREEK FORMED BY UNNAMED SPRINGS)

ORDER APPROVING
TRANSFER NO. 0-55

On September 30, 1968, Oregon State Game Commission filed an application in the office of the State Engineer for the approval of a change in place of use and point of diversion of water from Ladd Creek, a change in use and point of diversion of water from West Branch Ladd Creek, and a change in use of water from a creek formed by unnamed springs, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Union County, Oregon, entered August 8, 1925, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Grande Ronde River and its Tributaries, a water right was established in the name of G. W. Jorris for the use of the waters of Ladd Creek for the irrigation of, among other lands, 4.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 4 South, Range 38 East, W.M., with a date of priority of 1885. This right is evidenced by certificate recorded at page 6403, Volume 6, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 120 feet south and 500 feet east from the NW corner of Section 12 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 4 South, Range 38 East, W.M.

The applicant herein, owner of the lands above described, proposes to transfer the water right therefrom, without loss of priority, to 4.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 4 South, Range

38 East, W.M. and irrigate these lands from a point of diversion to be located 1320 feet south from the NW corner of Section 1 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, Township 4 South, Range 38 East, W.M.

By Decree of the Circuit Court for Union County, Oregon, entered August 8, 1925, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Grande Ronde River and its Tributaries, a water right was established in the name of John J. Peebler for the use of the waters of West Branch Ladd Creek for the irrigation of, among other lands, 0.63 acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 4 South, Range 38 East, W.M., with a date of priority of 1876. This right is evidenced by certificate recorded at page 6512, Volume 6, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 980 feet south and 930 feet east from the NW corner of Section 2 being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 4 South, Range 38 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the use from irrigation, without loss of priority, to use in Ladd Marsh for wildlife habitat in Sections 34 and 35, Township 3 South, Range 38 East, W.M. and to change the point of diversion to a point to be located 2120 feet north and 2670 feet east from the SW corner of Section 35 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 3 South, Range 38 East, W.M.

Certificate of water right issued to H. W. Peebler and recorded at page 12481, Volume 11, State Record of Water Right Certificates, confirms a right to the use of 0.125 cubic foot per second of water from a creek formed by unnamed springs for the irrigation of, among other lands, 0.31 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.32 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 0.62 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 3 South, Range 38 East, W.M., with a date of priority of October 10, 1938. These lands are irrigated from a point of diversion located 2120 feet north and 2670 feet east

from the SW corner of Section 35 being within the NW¼ SE¼ of Section 35, Township 3 South, Range 38 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the use from irrigation, without loss of priority, to use in Ladd Marsh for wildlife habitat in Sections 34 and 35, Township 3 South, Range 38 East, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed changes in use, places of use and points of diversion of water, if any there were, namely: at the county courthouse in La Grande, Oregon, on September 18, 1969, at 9:30 a.m. The notice was published in The Observer, a newspaper printed and having general circulation in Union County, Oregon, for a period of three weeks in the issues of July 21, 28, and August 4, 1969. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. Ward Miller, Watermaster of District No. 6, has filed a report to the effect that the proposed changes in use, places of use, and points of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes in use, places of use and points 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 from Ladd Creek is approved and the water right hereinbefore described as appurtenant to 4.0 acres in SW¼ NW¼, Section 1, Township 4 South, Range 38 East, W.M., with a date of priority of 1885, be severed therefrom and simultaneously and without loss of priority, transferred to 4.0 acres in SE¼ NW¼, Section 1, Township 4 South, Range 38 East, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from Ladd Creek, to-wit:

From a point located 120 feet south and 500 feet east from the NW corner of Section 12 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 4 South, Range 38 East, W.M.

To a point to be located 1320 feet south from the NW corner of Section 1 being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, Township 4 South, Range 38 East, W.M.

for the irrigation of 4.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 4 South, Range 38 East, W.M., with a date of priority of 1885, is approved.

It is FURTHER ORDERED that the quantity of water diverted from Ladd Creek at the new point of diversion shall not exceed the quantity of water available at the old point of diversion and shall be limited to three acre feet per acre in any irrigation season, diverted at a rate of not to exceed one-fortieth of a cubic foot per second per acre.

It is FURTHER ORDERED that the change in use of water from West Branch Ladd Creek is approved and the water right hereinbefore described as appurtenant to 0.63 acre in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 4 South, Range 38 East, W.M., with a date of priority of 1876, be severed therefrom and simultaneously and without loss of priority transferred to use in Ladd Marsh for wildlife habitat in Sections 34 and 35, Township 3 South, Range 38 East, W.M.

It is FURTHER ORDERED that the proposed change in point of diversion of water from West Branch Ladd Creek, to-wit:

From a point located 980 feet south and 930 feet east from the NW corner of Section 2 being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 4 South, Range 38 East, W.M.

To a point to be located 2120 feet north and 2670 feet east from the SW corner of Section 35 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 3 South, Range 38 East, W.M.

for use in Ladd Marsh for wildlife habitat in Sections 34 and 35, Township 3 South, Range 38 East, W.M., with a date of priority of

1876, is approved.

It is FURTHER ORDERED that the quantity of water diverted from West Branch Ladd Creek at the new point of diversion shall not exceed the quantity of water available at the old point of diversion and shall be limited to 1.89 acre feet in any irrigation season, diverted at a rate of not to exceed 0.016 cubic foot per second.

It is FURTHER ORDERED that the proposed change in use of water from a creek formed by unnamed springs is approved and the water right hereinbefore described as appurtenant to 0.31 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 0.32 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$, and 0.62 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 3 South, Range 38 East, W.M., with a date of priority of October 10, 1938, be severed therefrom and simultaneously and without loss of priority transferred to use in Ladd Marsh for wildlife habitat in Sections 34 and 35, Township 3 South, Range 38 East, W.M.

It is FURTHER ORDERED that the quantity of water diverted from the creek formed by unnamed springs shall be limited to 3.75 acre feet in any irrigation season, diverted at a rate of not to exceed 0.016 cubic foot per second.

It is FURTHER ORDERED that said waters so transferred shall be applied to beneficial use and the change in points of diversion be made on or before October 1, 1970.

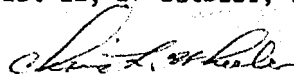
It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new points of diversion as herein confirmed.

That the diversion works shall include in-line flow meters, weirs, or other suitable devices for measuring the water to which the applicant is entitled.

That the type and plans of the measuring devices be approved by the watermaster before the beginning of construction work and that the weirs or measuring devices be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that certificates of water right heretofore issued to H. W. Peebler, John J. Peebler, and G. W. Jorris and recorded at pages 6403 and 6512, Volume 6, and page 12481, Volume 11, State Record of Water Right Certificates, are canceled and in lieu thereof three new certificates be issued covering the balance of the lands not involved in this proceeding, and upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use, three certificates of water right shall be issued to Oregon State Game Commission confirming the change in points of diversion and the extent to which water has been applied beneficially.

Dated at Salem, Oregon, this 31st day of October, 1969.



CHRIS L. WHEELER
State Engineer 7