

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION)
OF A. O. FUSTON AND ROSIE M.)
FUSTON AND CALVIN L. SHERMAN AND)
MARTHA M. SHERMAN FOR THE APPROVAL)
OF A CHANGE IN PLACE OF USE OF)
WATER FROM DESCHUTES RIVER.)

O R D E R

APPROVING APPLICATION

On August 13, 1959, A. O. Fuston, Rosie M. Fuston, Calvin L. Sherman and Martha M. Sherman filed an application in the office of the State Engineer for the approval of a change in place of use of water from Deschutes River pursuant to the provisions of ORS 540.510 to 540.530.

By decree of the Circuit Court for Deschutes County, Oregon, entered July 18, 1958, in the matter of the determination of the relative rights to the use of the waters of Deschutes River and its tributaries, a water right was established in the name of the Deschutes Reclamation and Irrigation Company for the irrigation of, among other lands, 7 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ (southeast of the old The Dalles-California Highway), and 4 acres in the N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 16 South, Range 12 East, W. M., from Deschutes River through the Swalley canal, with a date of priority of September 1, 1899, said 11 acres being tabulated under the name of L. E. Tussing.

A. O. Fuston and Rosie M. Fuston, owners of the land above described, proposed to transfer 10 acres of the water right therefrom, to-wit: 7 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ (southeast of the old The Dalles-California Highway), and 3 acres in the N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 16 South, Range 12 East, W. M., without loss of priority, to 10 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 17 South, Range 12 East, W. M., owned by Calvin L. Sherman and Martha M. Sherman.

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.

The Board of Directors of the Deschutes Reclamation and Irrigation Company have approved and recommended the proposed change in place of use of water.

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

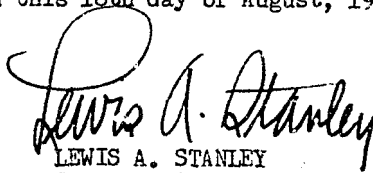
NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water be and the same is approved and that the water right hereinbefore described as appurtenant to 7 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ (southeast of the old The Dalles-California Highway), and 3 acres in the N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 16 South, Range 12 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 10 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16, Township 17 South, Range 12 East, W. M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1960 or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of the complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to the Deschutes Reclamation and Irrigation Company to the extent to which the water has been applied beneficially at the time certificates are issued in the Deschutes River adjudication proceedings.

Dated at Salem, Oregon this 18th day of August, 1959.

*Noted on Final Decree
Vol. 16, p. 163
Trsf. # F-42*


LEWIS A. STANLEY
State Engineer