

BEFORE THE STATE ENGINEER OF OREGON

JACKSON COUNTY

IN THE MATTER OF THE APPLICATION)
OF THE FARMERS DITCH COMPANY FOR)
PERMISSION TO CHANGE THE POINT OF)
DIVERSION OF WATER FROM LITTLE) O R D E R
APPLEGATE RIVER.)

Now at this time this matter coming on for consideration by the State Engineer on the application of the Farmers Ditch Company for permission to change the location of its diversion from the present location thereof in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Thirteen (13), Township Thirty-six (36) South, Range Three (3) West of the Willamette Meridian, to a point lower down on the stream in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Fourteen (14), Township Thirty-six (36) South, Range Three (3) West of the Willamette Meridian; and it appearing:

That the rights of the owners of the Farmers Ditch were adjudicated and determined by orders of the State Water Board and Circuit Court in re Rogue River, and at the time of the adjudication proceedings, and at all times since, up to the present time, the diversion point has been in its present location. It is now proposed to change the location to a point more than 4000 feet below, thereby saving maintenance on that length of main canal and reducing seepage losses.

Application has been filed by Ed A. and Silas A. Smith for permit to appropriate water from Little Applegate River, the water to be taken at a point below the present location of the Farmers Ditch diversion, and above the point where it will be located, if this change is effected. Objections to the proposed change have been filed by the Smiths, who claim that the proposed change cannot be made because it

will adversely affect their junior right as represented by their application to appropriate water, which has not yet been approved.

At periods of low water there is not sufficient water flowing in the channel of Little Applegate River to supply all of the vested water rights which will be prior to the Smith right, if their application is approved.

The dam maintained at the head of the Farmers Ditch may not have been tight enough to cut off all seepage, and the seepage through the canal above the Smiths' proposed diversion may have returned to the stream as claimed by the Smiths so that there was always some water in the channel of Little Applegate River at the point the Smiths proposed to divert the same. This condition will not exist if the Farmers Ditch Company's diversion is removed to a point lower down, but the change cannot injure the Smiths because the seepage and return flow from the Farmers Ditch could not have been diverted and used by them, because in times of water shortage it would have been required for the use of prior rights below. It therefore appears that the proposed change will not affect existing rights and that it will result in a more economical use of water;

NOW, THEREFORE, it is ORDERED that the change be allowed, and the water master is hereby directed to allow the water to be diverted into the Farmers Ditch at the proposed location in the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}$) of Section Fourteen (14), Township Thirty-six (36) South, Range Three (3) West of the Willamette Meridian, under the same dates of priority and in the same manner as it has been heretofore diverted in the Southwest Quarter of the Northeast Quarter ($SW\frac{1}{4}NE\frac{1}{4}$) of Section Thirteen (13), Township Thirty-six (36) South, Range Three (3) West of the Willamette Meridian.

Dated this 10th day of March, 1926, at Salem, Oregon.