

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION )  
OF A. L. LEMKE AND A. C. KIRTSIS )  
FOR THE APPROVAL OF A CHANGE IN )  
PLACE OF USE AND POINT OF DIVER- )  
SION OF WATER FROM DESCHUTES RIVER. )  
-----

ORDER  
APPROVING APPLICATION

On February 14, 1952, A. L. Lemke and A. C. Kirtsis of Bend, Oregon filed an application for the approval of a change in place of use and point of diversion of water from Deschutes River, pursuant to the provisions of Section 116-606, O. C. L. A.

By Decree of the Circuit Court for Deschutes County, Oregon entered February 10, 1928 in the Matter of the Determination of the Relative Rights to the Use of the Waters of Deschutes River and Its Tributaries, the Deschutes Reclamation and Irrigation Company was adjudicated an inchoate water right for the irrigation of, among other lands, 30 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 5, Township 17 South, Range 12 East, W. M., with a date of priority of September 1, 1899. The water for the irrigation of these lands is conveyed through the Swalley Canal, the point of diversion of said canal being located 990 feet north and 630 feet west from the east quarter corner of Section 29, Township 17 South, Range 12 East, W. M.

A. L. Lemke, owner of 2 acres of the land above described, proposes to transfer the water right therefrom, without loss of priority, to 2 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M., owned by A. C. Kirtsis, and to irrigate said 2 acres by means of a pumping plant, the point of diversion of said pumping plant to be located 540 feet west from the southeast corner of the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M.

Notice by publication as provided by Section 116-606, O. C. L. A., was given in the Bend Bulletin, a newspaper printed and having general circulation in Deschutes County, Oregon, for a period of 3 weeks, being the issues of February 23 and March 1 and 8, 1952. The time fixed for hearing in the notice, namely: April 17, 1952, was not less than 30 days after the last publication of said notice.

The Board of Directors of the Deschutes Reclamation and Irrigation Company, on February 4, 1952, approved the proposed change in place of use and point of diversion of water.

From a physical examination of the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 5, Township 17 South, Range 12 East, W. M., made by Mr. Geo. V. Naderman, a representative of the State Engineer, prior to the expiration date for the completion of the inchoate water rights allowed in the Deschutes River adjudication proceedings, it appears that 29.5 acres have been reclaimed and irrigated. It further appears that the company claimed 29.5 acres as being reclaimed and irrigated in connection with the proceedings to determine the extent to which the inchoate water rights have been completed.

No objections having been filed and it appearing that the proposed change in place of use and point of diversion 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 be, and the same hereby is approved, and that the water right hereinbefore described as appurtenant to 2 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 5, Township 17 South, Range 12 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 2 acres in the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M., said 2 acres being within the following described tract:

Beginning at the Southeast corner of the Southwest Quarter of the Southeast Quarter, Section 29, Township 17 South, Range 12 East, W. M., thence North 20 rods; thence West to Deschutes River; thence Southerly along said river to the South line of said Section 29, thence East along said Section line to a point of beginning, excepting therefrom a strip of land along the North side thereof reserved for road purposes.

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

From a point located 990 feet north and 630 feet west from the east quarter corner of Section 29, Township 17 South, Range 12 East, W. M.,

To a point to be located 540 feet west from the southeast corner of the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M.,

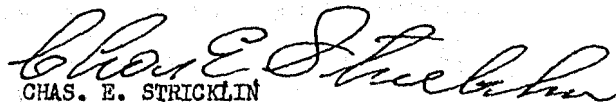
for the irrigation of the 2 acres above described to which the water is transferred hereby, be and the same hereby is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1952 or 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 at the time certificates are issued in the Deschutes River adjudication proceedings.

Dated at Salem, Oregon this 25th day of April 1952.

*Noted on Suppl. Findings  
Vol. 15 p. 283  
File # L-40*

  
CHAS. E. STRICKLIN  
State Engineer