

Deschutes County

IN THE MATTER OF THE APPLICATION)
 OF A. L. LEMKE, JOHN A. OLSON AND)
 MARIE J. OLSON FOR THE APPROVAL OF)
 A CHANGE IN PLACE OF USE OF WATER)
 FROM DESCHUTES RIVER.)

O R D E R
APPROVING APPLICATION

On June 9, 1952 A. L. Lemke and John A. Olson and Marie J. Olson, husband and wife, of Bend, Oregon filed an application for the approval of a change in place of use 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. Subsequently, on April 25, 1952, the State Engineer approved an application wherein the water right appurtenant to 2 acres of the foregoing described land was transferred therefrom, leaving an inchoate water right for the irrigation of 28 acres appurtenant to said SW $\frac{1}{4}$ NE $\frac{1}{4}$.

A. L. Lemke, owner of 1 acre of the land above described, proposes to transfer the water right therefrom, without loss of priority, to 1 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29 and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., owned by John A. Olson and Marie J. Olson.

Notice by publication as provided by Section 116-606, O. C. L. A., was not given in connection with this application for the reason said section provides that notice is not required in applications for only a change in place of use of water.

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

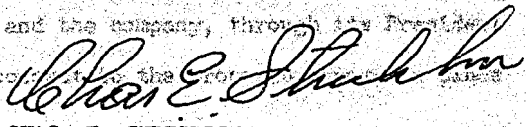
No objections having been filed and it appearing that the proposed change in place of use and point of diversion of water may be made without injury to existing rights, the application should be approved.

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 1 acre 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 1 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29 and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., said 1 acre being within the following described tract:

Beginning at a point which is located southerly along the section line between said Sec. 28 and 29, a distance of 508 feet from the northeast corner of said Section 29; thence North 87.50' West to the East right of way line of the Dalles-California Highway 1931 location approximately 170' feet; thence northerly along said east right of way line 25 feet, more or less, to its point of intersection with the north right of way line of the Deschutes Reclamation and Irrigation Canal (Swalley Ditch); thence northeasterly along the north right of way line of said Swalley Ditch to its intersection with the section line between said Section 28 and 29; thence southerly 80 feet along said section line to a point on the south right of way line of the Swalley Ditch; thence northeasterly 20 feet, more or less, along said south right of way line to its point of intersection with the west right of way line of the Dalles-California Highway (1920) location thence southwesterly along said west right of way line on a 11.10' curve to the right 200 feet, more or less, to a point which bears south 87.50' East from the point of beginning; thence North 87.50' West 25 feet, more or less, to the point of beginning.

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. and from which it is proposed to transfer the water and the land Dated at Salem, Oregon this 13th day of June 1952. irrigated through the Swalley Ditch Company's system and the company, through its President



CHAS. E. STRICKLIN
State Engineer

Notary by publication as provided by Section 11-2-10, O.S.A.

and not given in connection with this application for use under that title

Noted from Suppl. Findings
Vol. 15, p. 283
of use of water.
File # L-41