

BEFORE THE STATE ENGINEER OF OREGON

Baker County

IN THE MATTER OF THE APPLICATION)
OF HESTER ANN McCULLOUGH FOR THE)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER FROM NORTH)
POWDER RIVER.)

O R D E R
APPROVING APPLICATION

On June 18, 1952 Hester Ann McCullough of North Powder, Oregon, filed an application for the approval of a change in point of diversion of water from North Powder River, pursuant to the provisions of Section 116-506, C. C. L. A.

By decree of the Circuit Court for Union County, dated April 6, 1914, In The Matter of the Determination of the Relative Rights to the Waters of North Powder River and Its Tributaries, a water right was adjudicated in the name of W. R. Hutchinson for the irrigation of 160 acres with a date of priority of 1871 and 51.5 acres with a date of priority of 1883 and 40 acres with a date of priority of 1899, of which 40 acres is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 35 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 10 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 27 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, Township 7 South, Range 38 East, W. M. These lands are irrigated through the Gardner Mill Race, the point of diversion of said race being located 440 feet north and 1810 feet west from the southeast corner of Section 32, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 32, Township 6 South, Range 38 East, W. M.

Hester Ann McCullough, owner of 77 acres of the lands above described, to-wit: 4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 35 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 11 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 27 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, Township 7 South, Range 38 East, W. M., proposes to change the point of diversion for the

irrigation of said lands to the head of the Side Hill ditch, the point of diversion of said ditch being located 165 feet north and 2165 feet west from the southeast corner of Section 32, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 32, Township 6 South, Range 38 East, W. M.

Notice by publication as provided by Section 116-606, D. C. L. A., was not given in connection with this application for the reason that said section provides that notice is not required in applications for a change in point of diversion of less than one-fourth mile and where there are no intervening diversions between the old point of diversion of the applicant and his proposed new point of diversion.

Mr. Floyd Willis, Watermaster of District No. 14, has filed a report to the effect that the proposed change in point of diversion of water from North Powder River may be made without injury to existing rights.

A. W. Peters, Merton A. Davis, E. E. Davis and Melvin Gekeler, owners of both the Gardner Mill Race and the Side Hill ditch, have filed written approval of the proposed change in point of diversion of water by Hester Ann McCullough.

No objections having been filed and it appearing that the proposed change in point of diversion of water from North Powder 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 point of diversion of water from North Powder River, to-wit:

From a point located 440 feet north and 1810 feet west from the southeast corner of Section 32, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 32, Township 6 South, Range 38 East, W. M.,

To a point to be located 165 feet north and 2165 feet west from the southeast corner of Section 32, and being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 32, Township 6 South, Range 38 East, W. M.,

for the irrigation of 4 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 35 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 11 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 27 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, Township 7 South, Range 38 East, W. M., of which 49.2 acres have a date of priority of 1871 and 15.5 acres have a date of priority of 1883 and 12.3 acres have a date of priority of 1899, be and the same hereby is approved.

It is FURTHER ORDERED that the construction work shall be done and the change in point of diversion of water made on or before October 1, 1952 or within such extension of time as may be granted by the State Engineer for good cause shown, and that upon the completion of such work, satisfactory proof shall be filed with the State Engineer.

Dated at Salem, Oregon this 24th day of July 1952.

Noted on Decree
Vol. 1, p 402 Vol. 3 p 262
Cert. 1470


CHAS. E. STRICKLIN
State Engineer