

BEFORE THE STATE ENGINEER OF OREGON.

Deschutes County

IN THE MATTER OF THE APPLICATION OF)
A. L. LEMKE AND DONALD E. AND PATRICIA)
ANN BERGSENG FOR THE APPROVAL OF A)
CHANGE IN PLACE OF USE OF WATER FROM)
DESCHUTES RIVER.)

O R D E R
APPROVING APPLICATION

On February 9, 1956 A. L. Lemke and Donald E. and Patricia Ann Bergseng filed an application 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.

In the supplemental findings of fact and order of determination of the State Engineer entered May 15, 1953, 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 adjudicated in the name of Deschutes Reclamation and Irrigation Company for the irrigation of, among other lands, 29.5 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, through the Swalley Canal from Deschutes River. Subsequently, the State Engineer approved two applications for a change in place of use of water wherein the water rights appurtenant to 3 acres of the lands above described were transferred therefrom to other lands within the project, leaving a balance of 26.5 acres with a water right in this forty acre tract.

A. L. Lemke, owner of 3 acres of the lands above described, proposes to transfer the water right therefrom, without loss of priority, to 3 acres owned by Donald E. and Patricia Ann Bergseng described as follows:

That portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 16 South, Range 12 East, W. M., bounded and described as follows:

Beginning at the intersection of the north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ with the east waterline of the New Swalley Ditch which runs northwesterly and southeasterly across said SE $\frac{1}{4}$ NW $\frac{1}{4}$, which intersection is at a distance of 86 rods measured easterly along the north line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said section from the west line of said section; thence from said point of beginning easterly along said north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 440 feet; thence south 45° west a distance of 650 feet to said east water line of said New Swalley Ditch; thence northwesterly along said east water line of said ditch a distance of 545 feet more or less to said north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the point of beginning; being a triangular tract comprising three acres more or less; excepting therefrom the right of way of the Old The Dalles-California Highway.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason said section provides notice is not required on applications for a change in place of use of water only.

The Board of Directors of the Deschutes Reclamation and Irrigation Company have filed their written approval of 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 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 from Deschutes River be and the same hereby is approved and that the water right hereinbefore described as appurtenant to 3 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 be severed therefrom and simultaneously and without loss of priority transferred to the following described tract:

That portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 16 South, Range 12 East, W. M., bounded and described as follows:

Beginning at the intersection of the north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ with the east waterline of the New Swalley Ditch which runs northwesterly and southeasterly across said SE $\frac{1}{4}$ NW $\frac{1}{4}$, which intersection is at a distance of 86 rods measured easterly along the north line of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of said section from the west line of said section; thence from said point of beginning easterly along said north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 440 feet; thence south 45° west a distance of 650 feet to said east water line of said New Swalley Ditch; thence northwesterly along said east water line of said ditch a distance of 545 feet more or less to said north line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the point of beginning; being a triangular tract comprising three acres more or less; excepting therefrom the right of way of the Old The Dalles-California Highway.

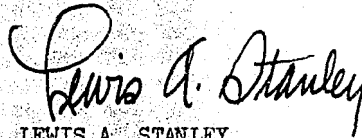
It is FURTHER ORDERED that the construction work shall be completed and the water applied to beneficial use upon the lands to which it is transferred hereby on or before October 1, 1956 or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use upon the land 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 17th day of February 1956.

*Noted on Suppl. Findings
Vol. 15, p. 283*

Trsf No. L-50



LEWIS A. STANLEY
State Engineer