

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION OF )  
THE CITY OF BEND, E. T. GARRISH, )  
C. A. BOYD, C. W. BOYD, AND CAROL )  
BOYD FOR THE APPROVAL OF A CHANGE IN )  
PLACE OF USE OF WATER FROM DESCHUTES )  
RIVER. )  
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ORDER  
APPROVING APPLICATION

On July 11, 1940, the City of Bend, E. T. Garrish, C. A. Boyd, C. W. Boyd, and Carol Boyd filed an application for approval of a change in place of use of water from Deschutes River.

In the adjudication proceedings involving the determination of the relative rights to the use of the waters of Deschutes River and its tributaries, a water right was recognized in the name of the Deschutes Reclamation and Irrigation Company for the irrigation of, among other lands, 40 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 40 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and 40 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 28, Township 16 South, Range 12 East, W. M., with a date of priority of September 1, 1899.

The City of Bend, owner of the above-described land, proposes to transfer the water right appurtenant to 40 acres in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 40 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , and 6 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 28, Township 16 South, Range 12 East, W. M., to 25 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 28, Township 17 South, Range 12 East, W. M., owned by E. T. Garrish, 33 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 17 South, Range 12 East, W. M., owned by C. A. Boyd, 25 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 17 South, Range 12 East, W. M., owned by C. W. Boyd, and 3 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M., owned by Carol Boyd.

The NW $\frac{1}{2}$  NW $\frac{1}{4}$ , Section 28, Township 17 South, Range 12 East, W. M., to which it is proposed to transfer water for the irrigation of 25 acres, has a water right from Deschutes River for the irrigation of 33 acres with a date of priority of August 12, 1905. In order that the aggregate area in this tract having a water right will not exceed 40 acres when the transfer is consummated, Mr. E. T. Garrish, owner of the tract, requests that 18 acres of the August 12, 1905, right be cancelled.

Notice by publication, as provided by Section 47-712, Oregon Code 1935 Supplement, was not given in connection with this application for the reason that said section provides that notice is not required in applications for only a change in place of use.

The Deschutes Reclamation and Irrigation Company approved the transfer on September 16, 1940, and it appearing that such change in place of use can 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 the water right hereinbefore described as appurtenant to 40 acres in the NW $\frac{1}{2}$  NE $\frac{1}{4}$ , 40 acres in the SW $\frac{1}{2}$  NE $\frac{1}{4}$ , and 6 acres in the SE $\frac{1}{2}$  NE $\frac{1}{4}$ , Section 28, Township 16 South, Range 12 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 25 acres in the NW $\frac{1}{2}$  NW $\frac{1}{4}$ , Section 28, Township 17 South, Range 12 East, W. M., owned by E. T. Garrish, 33 acres in the SW $\frac{1}{2}$  SW $\frac{1}{4}$ , Section 21, Township 17 South, Range 12 East, W. M., owned by C. A. Boyd, 25 acres in the NW $\frac{1}{2}$  SW $\frac{1}{4}$ , Section 21, Township 17 South, Range 12 East, W. M., owned by C. W. Boyd, and 3 acres in the NE $\frac{1}{2}$  NE $\frac{1}{4}$ , Section 29, Township 17 South, Range 12 East, W. M., owned by Carol Boyd.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use within the time fixed for completion of inchoate water rights allowed in the matter of the determination of the relative rights to the use of the waters of Deschutes River and its tributaries,

or such extension of time as may be granted in said matter by the State Engineer.

It is FURTHER ORDERED that the water right appurtenant to 18 acres in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 28, Township 17 South, Range 12 East, W. M., from Deschutes River with a date of priority of August 12, 1905, be and the same hereby is considered abandoned and the water appurtenant to said 18 acres shall revert to the State of Oregon and become subject to appropriation in order of priority.

Dated at Salem, Oregon, this 5th day of October, 1940.

  
CHAS. E. STRICKLIN

State Engineer

*Noted on Decree,  
Vol. 12, p. 290*

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