

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION OF)
W. L. KINCHELOE FOR THE APPROVAL OF)
A CHANGE IN POINT OF DIVERSION OF)
WATER FROM MIDDLE BRANCH OF MUD CREEK.)

O R D E R
APPROVING APPLICATION

On January 2, 1953, W. L. Kincheloe of Milton-Freewater, Oregon, filed an application for the approval of a change in point of diversion of water from Middle Branch of Mud Creek, pursuant to the provisions of Section 116-606, O. C. L. A.

In the adjudication proceedings determining the relative rights to the use of the water of Middle Branch of Mud Creek and its tributaries entered September 11, 1916, the Estate of William Swash was adjudicated a water right for the irrigation of, among other lands, 30 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 6 North, Range 35 East, W. M., with a date of priority of 1893. These lands are irrigated through the Swash ditch, the point of diversion of said ditch being located 400 feet east from the southwest corner of the NE $\frac{1}{4}$, Section 21, and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 21, Township 6 North, Range 35 East, W. M.

The applicant herein, owner of 23 acres of the lands above described, proposes to change the present point of diversion upstream to the Swash-Smitten ditch, the point of diversion of said ditch being located 300 feet north and 850 feet west from the southeast corner of Section 21, and being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 21, Township 6 North, Range 35 East, W. M.

Notice by publication as provided by Section 116-606, O. C. L. A., was given in the East Oregonian, a newspaper printed and having general

circulation in Umatilla County, Oregon, for a period of three weeks, being the issues of January 30 and February 6 and 13, 1953. The date fixed for hearing in said notice, namely: March 26, 1953, was not less than 30 days after the last publication of said notice.

Mr. W. C. Mason, Deputy Watermaster of District No. 5, has filed a report to the effect that the proposed change in point of diversion of water from Middle Branch of Mud Creek may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in point of diversion of water from Middle Branch of Mud Creek 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 Middle Branch of Mud Creek, to-wit:

From a point located 400 feet east from the southwest corner of the NE $\frac{1}{4}$, Section 21, and being within the SW $\frac{1}{4}$ NE $\frac{1}{2}$, said Section 21, Township 6 North, Range 35 East, W. M.,

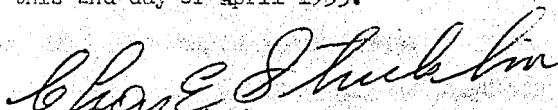
To a point to be located 383 feet north and 850 feet west from the southeast corner of Section 21, and being within the SE $\frac{1}{2}$ SE $\frac{1}{4}$, said Section 21, Township 6 North, Range 35 East, W. M.,

for the irrigation of 23 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 6 North, Range 35 East, W. M., with a date of priority of 1893, be and the same hereby is approved.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1953 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 2nd day of April 1953.

Noted on Decree
Vol. 3 p. 78
Cert. 1753


CHAS. E. STRICKLIN
State Engineer