

BEFORE THE STATE ENGINEER OF OREGON

Union County

IN THE MATTER OF THE APPLICATION OF )  
E. R. McCANSE FOR THE APPROVAL OF A )  
CHANGE IN POINT OF DIVERSION OF WATER )  
FROM NORTH POWDER RIVER. )

O R D E R  
APPROVING APPLICATION

-----

On May 5, 1947, E. R. McCanse of North Powder, Oregon, filed an application for a change in point of diversion of water from North Powder River pursuant to the provisions of Section 116-606, O.C.L.A.

By decree of the Circuit Court of the State of Oregon, for the County of Union, dated April 6, 1914, a water right was adjudicated in the name of Will F. Hutchinson, for the irrigation of 40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 36.5 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 26 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , and 40 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 6 South, Range 39 East, W.M., from North Powder River with a date of priority of 1896. The water is conveyed through the Davis-Kelsey Ditch, which diverts water from the North Powder River at a point 1820 feet south and 2640 feet west from the northeast corner of Section 35, Township 6 South, Range 38 East, W.M., being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 35.

The applicant herein, owner of the above-described lands and water right appurtenant thereto, proposes to change the point of diversion from the Davis-Kelsey Ditch to the point of diversion of the Coughanour Ditch which diverts from Anthony Creek, a tributary of North Powder River, at a point 1480 feet south and 2630 feet west from the northeast corner of Section 18, Township 6 South, Range 38 East, W.M., being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 18, and to convey the water through said ditch for the irrigation of the above-described lands.

Notice by publication, as provided by Section 116-606, O.C.L.A.,

was given in the LaGrande Evening Observer, a newspaper printed and having general circulation in Union County, for three successive and consecutive weeks in the issues of May 23, 30 and June 6, 1947. The date set for hearing in said notice being not less than thirty days after the date of the last publication of said notice.

In addition to the aforesaid public notice, a copy of the notice was sent by mail to seven land owners who have vested rights to the use of the waters of North Powder River and its tributaries, which it appeared might be affected by the proposed change in point of diversion.

No objections having been filed to the approval of the application, the State Engineer did make an examination of the premises and found that Anthony Creek is a tributary of North Powder River above the point of diversion of the Davis-Kelsey Ditch, that applicant owns carrying capacity in the Coughanour Ditch to convey the water for the irrigation of the above-described lands and during the last few years this ditch has been improved so that water can be conveyed to the applicants lands with a minimum loss. Also, it appears, that water for the irrigation of these lands was delivered through this canal during the last irrigation season. That in the distribution of water it is practical in this instance for the water master to determine the quantity of water that the applicant would be entitled to divert through the Coughanour Ditch by determining the quantity that could be diverted at the point of diversion of the Davis-Kelsey Ditch, and it appears that if the quantity of water to which the applicant shall be entitled to divert from Anthony Creek is determined in this manner no rights would be injured.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in the point of diversion from the point of diversion of the Davis-Kelsey Ditch which is above-described to the point of diversion of the Coughanour Ditch,

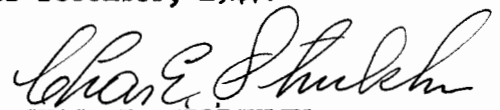
which diverts from Anthony Creek at a point 1480 feet south and 2630 feet west from the northeast corner of Section 18, Township 6 South, Range 38 East, W.M., and to carry the water through the Coughanour Ditch for the irrigation of 40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 36.5 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 26 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , and 40 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 6 South, Range 39 East, W.M., with a date of priority of 1896, be and the same is hereby APPROVED subject to the following conditions;

That the quantity of water to be diverted from Anthony Creek for the irrigation of these lands shall not exceed that which will be available in North Powder River at the point of diversion of the Davis-Kelsey Ditch for these lands;

That the quantity of water and rate of diversion for the irrigation of these lands shall be that as fixed in the courts decree determining the relative rights to the use of the waters of North Powder River and its tributaries;

That the order shall become effective only upon acceptance by the applicant on or before March 1, 1948.

Dated at Salem, Oregon, this 22nd day of December, 1947.

  
CHAS. E. STRICKLIN  
State Engineer

I hereby accept all of the terms and conditions of this order.

(Signed) Mr. E. R. McCause  
Applicant  
12-24-47  
Date

See transfer file M-53 for  
Mr. McCause's acceptance  
of this order

cert. 1974  
Decree Vol. 1 p 402