

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 PLACE OF USE OF WATER FROM )  
ANTHONY CREEK. )

O R D E R

APPROVING APPLICATION

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On March 20, 1947, E. R. McCanse of North Powder, Oregon, filed an application for the approval of a change in place of use of water from Anthony Creek, a tributary of 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 John Shaw for the irrigation of 40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 40 acres in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , 14.5 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , and 32 acres in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 33, Township 5 South, Range 39 East, W.M., from Anthony Creek, a tributary of North Powder River, to be diverted and conveyed through Carnes Co. Ditch with a date of priority of 1898.

The applicant herein, owner of the above-described lands and water rights appurtenant thereto, proposes to change the place of use to 40 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 30 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 40 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and 16.5 acres in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 29, Township 5 South, Range 39 East, W.M.

Notice by publication was not given as notice by publication is not required by Section 116-606, O.C.L.A., for changes in place of use, but the State Engineer did, on December 11, 1947, make an examination of the premises.

The Carnes Co. Ditch diverts from Anthony Creek within the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 13, Township 6 South, Range 37 East, W.M., and extends in a general easterly and northerly course to a point near the center of Section 14, Township

6 South, Range 38 East, W.M., where the water is diverted into two branches or laterals. One branch extends in a general southerly direction and the other in a general easterly and northerly direction. Water for the irrigation of the lands of the applicant, together with water for lands owned by others, are conveyed in the northerly branch or lateral to a point near the center of the  $SE\frac{1}{4} SW\frac{1}{4}$ , Section 32, Township 5 South, Range 39 East, W.M., where the water for the irrigation of the lands of the applicant from which it is proposed to transfer the water is turned out. From this turnout the water is carried to the applicants lands in a lateral ditch about one mile in length.

It was stated by the applicant that considerable water is lost in the lateral now serving the applicants lands which would be largely eliminated in irrigating the lands to which it is proposed to transfer the water, as the water from the aforesaid lateral would be permitted to flow down the Carnes Co. Ditch in which losses are relatively small.

It appears that the proposed change in place of use as set forth in the application would not result in injury to existing rights as contemplated by Section 116-606, O.C.L.A.

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use be and hereby is approved and the water right hereinbefore described as appurtenant to 40 acres in the  $NE\frac{1}{4} SW\frac{1}{4}$ , 14.5 acres in the  $NW\frac{1}{4} SW\frac{1}{4}$ , 32 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 33, Township 5 South, Range 39 East, W.M., with a date of priority of 1898, be severed therefrom and simultaneously and without loss of priority transferred to 40 acres in the  $SW\frac{1}{4} NE\frac{1}{4}$ , 30 acres in the  $SE\frac{1}{4} NW\frac{1}{4}$ , 40 acres in the  $NE\frac{1}{4} SW\frac{1}{4}$  and 16.5 acres in the  $NW\frac{1}{4} SW\frac{1}{4}$ , Section 29, Township 5 South, Range 39 East, W.M.

It is FURTHER ORDERED that water so transferred shall be applied to beneficial use on or before October 1, 1948, or 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 complete application of water to beneficial use upon the lands to which the water is transferred hereby, and upon the payment of one dollar recording fee by the applicant, a Certificate of Water Right shall be issued describing the lands as herein changed and that the Certificate of Water Right heretofore issued to John Shaw and recorded in the State Record of Water Right Certificates, Volume 2, Page 1538, be cancelled.

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

*Chas. E. Stricklin*  
CHAS. E. STRICKLIN  
State Engineer

*Trst. No. M-51*

*Noted on Decree*

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*Cert. 1538*