

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE ORDER)
 OF THE STATE ENGINEER ENTERED)
 DECEMBER 19, 1949, APPROVING)
 THE APPLICATION OF DESCHUTES)
 COUNTY FOR A CHANGE IN PLACE)
 OF USE OF WATER FROM TUMALO)
 CREEK.)
 -----)

O R D E R
AMENDING ORDER

On December 19, 1949, the State Engineer entered an order approving an application of Deschutes County for a change in place of use of water from Tumalo Creek wherein certain vested water rights for the irrigation of 52.5 acres within the boundaries of the Deschutes County Municipal Improvement District were transferred to the following described lands in Section 36, Township 16 South, Range 11 East, W. M., to-wit:

<u>Subdivision</u>	<u>No. of Acres</u>	<u>Priority Date</u>
NE $\frac{1}{4}$ NE $\frac{1}{4}$	5.5	Sept. 1900
NW $\frac{1}{4}$ NE $\frac{1}{4}$	34.0	Sept. 1900
NW $\frac{1}{4}$ NE $\frac{1}{4}$	5.5	Apr. 28, 1905
NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.5	Apr. 28, 1905
NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.0	May 27, 1907

The land from which the water was transferred was acquired by Deschutes County through tax foreclosure proceedings and it was the desire of said county to transfer the water to irrigable lands within the Deschutes County Municipal Improvement District subject to irrigation.

The district has filed a statement that it was their understanding that the water was being transferred to 52.5 acres in Section 35, Township 16 South, Range 11 East, W. M., instead of Section 36. The land

in Section 36, to which the water was transferred, lies on a steep hillside and could not be irrigated through the district's system, whereas the land in Section 35 could be and was irrigated from the district's system.

From a survey made during July 1958 by Mr. Geo. V. Naderman, a representative of the State Engineer, it was found that 52.5 acres in said Section 35 were actually reclaimed and irrigated as follows, to-wit:

- 12.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$
- 15.3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$
- 25.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 35,
- T. 16 S., R. 11 E., W. M.

It appears that the order of the State Engineer entered December 19, 1949, should be amended to correctly describe the land to which it was intended to transfer the vested water rights and that the approval of such an order would not result in injury to existing rights.

NOW, THEREFORE, it is ORDERED that the order of the State Engineer entered December 19, 1949, approving the application of Deschutes County for a change in place of use of water for the irrigation of 52.5 acres to Section 36, Township 16 South, Range 11 East, W. M., be and the same is hereby amended to correctly describe the land to which it was intended to transfer the water, as follows, to-wit:

- 12.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$
- 15.3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$
- 25.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
- Section 35,
- T. 16 S., R. 11 E., W. M.

Dated at Salem, Oregon this 9th day of February 1959.

Lewis A. Stanley
 LEWIS A. STANLEY
 State Engineer

*Noted in Decree
 Vol. 1 p 137, 138, 139
 Cert. # 56, 58, 96, 104
 Amending Order of
 Sp. Cr. Vol. 6 p. 208*

these rights retransferred Sp. Cr. Vol. 10 p. 84