

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION OF)
R. H. FOLEY AND IRENE FOLEY, HUSBAND)
AND WIFE, AND H. L. MAKER FOR APPROVAL)
OF A CHANGE IN PLACE OF USE OF WATER)
WITHIN THE BOUNDARIES OF THE ARNOLD)
IRRIGATION DISTRICT, PURSUANT TO THE)
PROVISIONS OF SECTION 116-606, O. C. L. A.)

O R D E R
APPROVING APPLICATION

On August 20, 1945, R. H. Foley and Irene Foley, husband and wife, and H. L. Maker filed an application for approval of a change in place of use of water from Deschutes River within the boundaries of the Arnold Irrigation District.

In the adjudication proceedings determining the relative rights to the use of the waters of Deschutes River and its tributaries, a water right was recognized in the name of Arnold Irrigation Company for the irrigation of, among other lands, 25 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., with dates of priority of February 1, 1905, and April 25, 1905.

R. H. Foley and Irene Foley, husband and wife, owners of the above-described land, propose to transfer the water right appurtenant to $1\frac{1}{2}$ acres thereof to $1\frac{1}{2}$ acres in the following described tract owned by H. L. Maker:

North 45 feet of Lots 1 to 8 inclusive; all of lots 9 to 24 inclusive, Block 47; South half of Block 50 and all of Block 51 in Weistoria, now within the City of Bend, together with one-half of the vacated streets abutting said property, all being within the Southwest quarter of the Southeast quarter, Section 28, Township 17, South Range 12, E. W. M., in Deschutes County, Oregon.

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

R. H. Foley and Irene Foley, husband and wife, have submitted an affidavit to the effect that water has been used beneficially upon the $1\frac{1}{2}$ acres from which it is proposed to transfer the water, for a period of more than 15 years.

The Arnold Irrigation District, successor to the Arnold Irrigation Company, having submitted its approval of the proposed change in place of use of water, and it appearing that such change may 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 that the water right hereinbefore described as appurtenant to $1\frac{1}{2}$ acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to $1\frac{1}{2}$ acres in the following described tract:

North 45 feet of Lots 1 to 8 inclusive; all of lots 9 to 24 inclusive, Block 47; South half of Block 50 and all of Block 51 in Weistoria, now within the City of Bend, together with one-half of the vacated streets abutting said property, all being within the Southwest quarter of the Southeast quarter, Section 28, Township 17, South Range 12, E. W. M., in Deschutes County, Oregon.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before January 1, 1946, or such extension of time as may be granted by the State Engineer for good cause shown.

Dated at Salem, Oregon, this 22nd day of August, 1945.


CHAS. E. STRICKLIN
State Engineer

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