

## Deschutes County

IN THE MATTER OF THE APPLICATION )  
 OF DESCHUTES COUNTY MUNICIPAL IM- )  
 PROVEMENT DISTRICT FOR APPROVAL )  
 OF A CHANGE IN USE, PLACE OF USE )  
 AND POINT OF DIVERSION OF WATER )  
 FROM TUMALO CREEK )  
 ----- )

O R D E RAPPROVING APPLICATION

On June 16, 1942, Deschutes County Municipal Improvement District filed an application with the State Engineer for the approval of a change in point of diversion, use, and place of use of water of Tumalo Creek, a tributary of Deschutes River, Deschutes County, Oregon. On October 16, 1942, this application was amended in respect to the description of the lands from which it is proposed to transfer the water.

By decree of the Circuit Court of the State of Oregon for Crook County, dated July 13, 1911, in the matter of the determination of the relative rights to the use of the waters of Tumalo Creek, tributary of Deschutes River, Crook County, Oregon, a vested water right was allowed for the irrigation of 11.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 1.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , 0.5 acre in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ , 7.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 19.8 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  and an inchoate right for the irrigation of 14.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 37.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ , 40.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  and 8.7 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , all in Section 32, Township 16 South, Range 11 East, W. M. This right is through the Columbia Southern Canal with a date of priority of August 5, 1900.

Said Circuit Court decree fixed the rate of flow as one-seventh of one cubic foot per second for each acre irrigated and limited the quantity of water diverted during any irrigation season, which begins on April 15 and ends on October 15, to not to exceed 1.8 acre feet per acre measured at 1/2 mile from the lands.

The application filed by the Deschutes County Municipal Improvement District proposes to transfer the water right appurtenant to the 140 acres of land above-described, amounting to 2 cubic feet per second, to the City of Bend for municipal use and to change the point of diversion from the Columbia Southern Canal, which diverts from Tumalo Creek at a point located north  $14^{\circ} 42'$  East 1713 feet from the south quarter corner of Section 2, Township 18 South, Range 10 East, W. M., to the point of diversion of the City of Bend's pipe line which diverts from Tumalo Creek at a point located approximately 3300 feet north from the southeast corner of Section 7, Township 18 South, Range 10 East, W. M.

The lands above-described, from which it is proposed to transfer the water, belong to the State of Oregon having been acquired by the Desert Land Board from private parties in the purchase of other lands required for use as a reservoir in the construction of the Columbia Southern project, which project was authorized and constructed pursuant to Chapter 119, General Laws of Oregon, 1913, but the water right was transferred to the Deschutes County Municipal Improvement District in March, 1928 by the State Reclamation Commission.

The Deschutes County Municipal Improvement District is to receive from the City of Bend \$10,000 for the 2.0 cubic feet per second of water to be transferred and the district proposes to spend the money on rehabilitating the flumes on the Bend Feed canal and the Twin Flumes on Tumalo Feed Canal. This improvement is to be in addition to that to be done as annual maintenance with funds received from annual operation and maintenance assessments.

Notice by publication as provided for by Section 116-606, O. C. L. A., was given in the Bend Bulletin, a newspaper of general circulation in Deschutes County, Oregon, for a period of four successive weeks in issues of July 9, 16, 23, and 30, 1942, and no objection to the approval of said application has been filed.

Taking into consideration that the money received from transferring the water from the 14.0 acres of land described herein for municipal use is to be used for the rehabilitation of the flumes on the Bend Feed Canal and the Twin Flumes on the Tumalo Feed Canal, which sum is in addition to that to be raised by the district through annual assessment for maintaining and rehabilitating these structures, it appears that the approval of 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 water right hereinbefore described as appurtenant to 11.0 acres in SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, 1.5 acres in SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, 14.0 acres in NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, 38.0 acres in NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, 40.0 acres in SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, 15.7 acres in SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and 19.3 acres in SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, Section 32, Township 16 South, Range 11 East, W. M., with a date of priority of August 5, 1900, through the Columbia Southern Canal, the point of diversion being located north 14° 42' East 1713 feet from the south quarter corner of Section 2, Township 18 South, Range 10 East, W. M., be transferred to the City of Bend, Oregon, for municipal use within the boundaries of said city and adjacent territory served by its water system, and to carry the water for said use through the pipe line of the City of Bend which diverts from Tumalo Creek at a point located approximately 3300 feet north from the southeast corner of Section 7, Township 18 South, Range 10 East, W. M.

It is FURTHER ORDERED that the time limit for application of water to beneficial use by the City of Bend, Oregon, be fixed as October 1, 1943, or such further extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that said right, as transferred, is limited to a maximum diversion of 2.0 cubic feet per second, beginning on April 15 and ending on October 15 of each year, and the total quantity is limited to not exceed 252 acre feet or 82,114,200 gallons during said

period of time. The place of measurement of the rate of flow and quantity to which the City of Bend is entitled to divert under this right is at the point of diversion from Tumalo Creek.

Dated at Salem, Oregon, this 30th day of October, 1942.


*Noted on Decree*

*File # D-22*

  
CHAS. E. STRICKLIN

State Engineer

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CHAS. E. STRICKLIN  
State Engineer