

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION OF)
ROBERT H. FOLEY AND IRENE J. FOLEY)
AND ROSS R. MITCHELL AND AVERILL J.)
MITCHELL FOR APPROVAL OF A CHANGE)
IN PLACE OF USE OF WATER FROM)
DESCHUTES RIVER.)
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O R D E R
APPROVING APPLICATION

On June 6, 1947, Robert H. Foley and Irene J. Foley, husband and wife, and Ross R. Mitchell and Averill J. Mitchell, husband and wife, 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, pursuant to the provisions of Section 116-606, O. C. L. A.

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 $\frac{1}{4}$, and 25 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., with dates of priority of February 1, 1905, and April 25, 1905. Subsequently, the State Engineer approved transfers wherein the water rights appurtenant to 23 $\frac{1}{2}$ acres of the above described lands were transferred therefrom, leaving water rights appurtenant to 12 $\frac{1}{2}$ acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 14 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M.

Robert H. Foley and Irene J. Foley, husband and wife, owners of the above described lands, propose to transfer the water right appurtenant to 19 $\frac{1}{2}$ acres thereof, to-wit: 8 $\frac{1}{2}$ acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 11 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., to 18 $\frac{1}{2}$ acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 20, Township 18 South, Range 13 East, W. M., owned by Ross R. Mitchell and Averill J. Mitchell, husband and wife, and 1 acre

in Block 46, Wiestoria, Bend, Deschutes County, said Block 46 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., and owned by Robert H. Foley and Irene J. Foley, husband and wife.

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.

Robert H. Foley has submitted an affidavit to the effect that the lands from which it is proposed to transfer the water were reclaimed and irrigated prior to 1943.

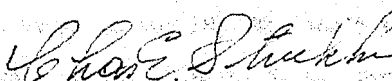
The Arnold Irrigation District, successor to the Arnold Irrigation Company, having submitted its approval of the proposed change in place of use of water, and it appearing that such change may be made without injury to existing rights, the application should be approved.

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 8 $\frac{1}{2}$ acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 11 acres in the NE $\frac{1}{2}$ SW $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M., be severed therefrom and simultaneously and without loss of priority transferred to 18 $\frac{1}{2}$ acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 20, Township 18 South, Range 13 East, W. M., and 1 acre in Block 46, Wiestoria, Bend, Deschutes County, said Block 46 being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Township 17 South, Range 12 East, W. M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before June 30, 1947.

Dated at Salem, Oregon, this 19th day of June, 1947.

*Noted on Decree,
Vol. 9, p. 453
Trsf. No. F-21*


CHAS. E. STRICKLIN
State Engineer