

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION OF THE CITY OF BEND FOR THE APPROVAL OF A CHANGE IN PLACE OF USE OF WATER FROM TUMALO, CRATER AND LITTLE CRATER CREEKS, THREE SPRING BRANCHES, DESCHUTES RIVER AND STORAGE FROM CRESCENT LAKE RESERVOIR.

O R D E R

APPROVING APPLICATION

On February 20, 1959, the City of Bend, Oregon, filed an application for the approval of a change in place of use of water from Tumalo, Crater and Little Crater Creeks, three spring branches, Deschutes River and storage from Crescent Lake Reservoir, within the boundaries of the Tumalo Irrigation District, formerly the Deschutes County Municipal Improvement District, pursuant to the provisions of ORS 540.510 to 540.530.

The City of Bend, owner of the  $W\frac{1}{2} NE\frac{1}{4}$  and  $SE\frac{1}{4} NE\frac{1}{4}$ , Section 7, Township 16 South, Range 12 East, W. M., on January 21, 1958, entered into an agreement with Elwyn W. and Mary E. Putnam, owners of the  $E\frac{1}{2} SE\frac{1}{4}$ , said Section 7, wherein the water rights appurtenant to the lands owned by the City of Bend are to be transferred to the lands owned by Elwyn W. and Mary E. Putnam, and simultaneously transfer the water rights appurtenant to the lands owned by Elwyn W. and Mary E. Putnam to the lands owned by the City of Bend. A description of said lands, the sources of supply from which said lands are irrigated, the number of acres irrigated from each of said sources and the number of acres of water right to be transferred follows:

| (1)                               | (2)                 | (3)   | (4)                            | (5)                    | (6)                            |
|-----------------------------------|---------------------|---|--------------------------------|------------------------|--------------------------------|
| <u>Sub-division</u>               | <u>Tumalo Creek</u> | <u>Tumalo, Crater, Little Crater, and Springs</u> | <u>Crescent Lake Reservoir</u> | <u>Deschutes River</u> | <u>Acres to be Transferred</u> |
| NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 38.8(P)             | 38.8(S)   | 38.8(S)                        | 38.8(S)                | 38.8                           |
| SE $\frac{1}{4}$ SE $\frac{1}{4}$ | 25.5(P)             | 3.0(P)  | 28.5(S)                        | 28.5(S)                | 25.5                           |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ |                     | 23.2(P)   | 23.2(S)                        | 23.2(S)                | 23.2                           |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ |                     | 28.7(P)   | 28.7(S)                        | 28.7(S)                | 28.7                           |
| SE $\frac{1}{4}$ NE $\frac{1}{4}$ |                     | 28.8(P)   | 28.8(S)                        | 28.8(S)                | 12.4                           |

(NOTE: The letter (P) indicates primary right and letter (S) indicates supplemental right)

In the matter of the determination of the relative rights to the use of the waters of Deschutes River and its tributaries, a water right was established in the name of the Deschutes County Municipal Improvement District for the storage of 35,000 acre feet of water in Crescent Lake Reservoir for the irrigation of, among other lands, those described in Column 4 above, with a date of priority of March 20, 1911. In the same proceedings the district established a right to the use of 9.5 cubic feet per second of the waters of Deschutes River for the irrigation of all lands within the district which include those lands described in Column 5 above. In the matter of the determination of the relative rights to the use of the waters of Tumalo Creek the lands above described in Column 2 were awarded a right for irrigation with a date of priority of September, 1900. The district has also perfected its appropriation under Permit 19628 to the use of the waters of Tumalo, Crater and Little Crater Creeks and 3 spring branches.

All lands involved herein are within the boundaries of the Tumalo Irrigation District (formerly Deschutes County Municipal Improvement District), and the Board of Directors of said district, at its meeting of April 7, 1959, approved the proposed exchange of water rights.

Since the proposed exchange of water rights does not involve the irrigation of additional lands it is not necessary to fix a time limit within which the application of water may be made.

Notice by publication as provided by ORS 540.520 was not given in connection with this application for the reason that notice is not required on applications for only a change in place of use of water.

No objections having been filed and it appearing that the proposed change in place of use of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the water rights hereinbefore described in Column 6, paragraph 2 above, be severed therefrom and simultaneously and without loss of priority transferred to the following described lands:

| <u>Sub-division</u>               | <u>Tumalo Creek</u> | <u>Tumalo, Crater, and Springs</u> | <u>Crescent Lake Reservoir</u> | <u>Deschutes River</u> |
|-----------------------------------|---------------------|------------------------------------|--------------------------------|------------------------|
| NE $\frac{1}{4}$ SE $\frac{1}{4}$ |                     | 33.8(P)                            | 38.8(S)                        | 38.8(S)                |
| SE $\frac{1}{4}$ SE $\frac{1}{4}$ |                     | 25.5(P)                            | 25.5(S)                        | 25.5(S)                |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ | 23.2(P)             | 23.2(S)                            | 23.2(S)                        | 23.2(S)                |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 28.7(P)             | 28.7(S)                            | 28.7(S)                        | 28.7(S)                |
| SE $\frac{1}{4}$ NE $\frac{1}{4}$ | 12.4(P)             | 12.4(S)                            | 12.4(S)                        | 12.4(S)                |

It is FURTHER ORDERED that certificates of water right being issued to the Tumalo Irrigation District confirming rights to the use of water from Tumalo, Crater and Little Crater Creeks, and 3 spring branches under Permit No. 19628 and water stored in Crescent Lake Reservoir under Permit No. 624 reflect the changes approved herein.

Dated at Salem, Oregon this 7th day of May, 1959.

Noted on Decrees  
Vol. 1, p. 137  
Vol. 16, p. 191

Cert. #68

*Lewis A. Stanley*

LEWIS A. STANLEY  
State Engineer

Cert. #26508 confirms part of this Order.

Trsf. "B-110"