

CERTIFICATE NO. 53323

\* Permit No. 6704

ABSTRACT MADE

APPLICATION FOR A PERMIT

# To appropriate the Public Waters of the State of Oregon

I, CITY OF MEDFORD, by H. L. Walther, Chairman, and M. L. Alford,  
(Name of Applicant)  
Secretary of its Board of Water Commissioners,  
of Medford, (Postoffice), County of Jackson,  
State of Oregon, do hereby make application for a permit to appropriate the

following described public waters of the State of Oregon subject to existing rights:

If the applicant is a corporation, give date and place of incorporation. Originally incorporated as town of Medford, February 24, 1885, and incorporated as City of Medford, 1905, existing under Charter of 1905 and amendments thereto.

1. The source of the proposed appropriation is Big Butte Creek, its tributaries and the springs contributing to it and those (Name of stream) forming it.

tributary of Rogue River,

2. The amount of water which the applicant intends to apply to beneficial use is Forty (40) cubic feet per second.

3. The use to which the water is to be applied is Municipal, including irrigation, domestic, sewer, fire protection, and all other municipal purposes. (Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. The point of diversion is located in Section 18, Township 35 South, of Range 3 (Give distance and bearing to section corner) East of W. M., and also from the Big Butte Creek springs in Northwest quarter of Southwest quarter of Section 21, said township and range.

being within the (Give smallest legal subdivision) of Sec.                     , Tp.                      (No. N. or S.)

R.                     , W. M., in the county of                      (No. E. or W.)

5. The ditch, canal, and pipe line to be forty (40) miles at or (Main ditch, canal or pipe line) in length, terminating/in the said City of Sec.                     , Tp.                      (Smallest legal subdivision) (No. N. or S.)

R.                     , W. M., the proposed location being shown throughout on the accompanying map. (No. E. or W.)

6. The name of the ditch, canal or other works is City of Medford Pipe Line,

## DESCRIPTION OF WORKS

### DIVERSION WORKS—

7. (a) Height of dam                      feet, length on top                      feet, length at bottom                      feet; material to be used and character of construction                      (Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

Attached hereto is Exhibit 1, especially referred to and made a part hereof, which answers inquiry or statement number 7.

(b) Description of headgate                      (Timber, concrete, etc., number and size of openings)

\* A different form of application is provided where storage works are contemplated. These forms can be secured without charge, together with instructions, by addressing the State Engineer, Salem, Oregon.

CANAL SYSTEM—

8. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: Width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(b) At ..... miles from headgate. Width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

Attached hereto is Exhibit 1, especially referred to and made a part hereof, which answers inquiry or statement number 8.

FILL IN THE FOLLOWING INFORMATION WHERE THE WATER IS USED FOR:

IRRIGATION—

9. The land to be irrigated has a total area of ..... acres, located in each smallest legal subdivision, as follows:

(Give area of land in each smallest legal subdivision which you intend to irrigate)

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

(If more space required, attach separate sheet)

POWER, MINING, MANUFACTURING, OR TRANSPORTATION PURPOSES—

10. (a) Total amount of power to be developed ..... theoretical horsepower.

(b) Total fall to be utilized ..... feet.  
(Head)

(c) The nature of the works by means of which the power is to be developed .....

(d) Such works to be located in ..... of Sec.....  
(Legal subdivision)  
Tp....., R....., W. M.  
(No. N. or S.) (No. E. or W.)

(e) Is water to be returned to any stream? .....  
(Yes or No)

(f) If so, name stream and locate point of return .....  
....., Sec....., Tp....., R....., W. M.  
(No. N. or S.) (No. E. or W.)

(g) The use to which power is to be applied is .....

(h) The nature of the mines to be served .....

EXHIBIT NUMBER 1

Detailed information as to dimensions of dam, place of headgate, material of which diversion works is to be constructed will depend upon result of engineering work now being initiated. And this applies as well to question number eight, concerning dimensions of canal or pipe line, headgate, grade, etc., As required by the State Engineer, the City will furnish information demanded to fully comply with all legal requirements and demands.

EXHIBIT NUMBER 2

Application is hereby made that there be allotted to said City of Medford from the waters of said Big Butte Creek, said tributaries and said springs, withdrawn August 21, 1915, the amount of 40 cubic feet per second to be applied by said City beneficially for municipal and domestic uses, and for irrigation and fire protection, and for sewerage purposes, and for all other useful and beneficial municipal purposes, and for the benefit and use of the inhabitants of said City on their properties situated therein, respectively. And this application is that said 40 cubic feet per second of said waters be granted with a priority as of August 21, 1915 and a priority equal to that of any other claimant to whom an allotment of such withdrawn waters has already been made, so far as the use of waters so withdrawn and so allotted from such withdrawal are concerned. But such equal priority applies only to the use of waters so allotted. And if, for any reason, such withdrawal should be ineffectual, or such allotment should be ineffectual, this is nevertheless an application for the said 40 cubic feet per second of said waters for said City for such purposes. By the making of this application the said City does not waive any of the rights and privileges granted to it by Chapter 166 of the Laws of 1925, as passed by the Legislative Assembly of the State of Oregon for the year 1925, referring to the waters of said stream and its tributaries. Nor does said City by this application waive any of the rights heretofore acquired, or which it now has under and by virtue of application number 8092 filed with the State Engineer on behalf of said City by J. M. Keene, Chairman of the Water Committee, and T. W. Miles, member of the Water Committee, September 16, 1921. Nor does the said City, by the making of this application, waive any rights acquired by it or which it now has under and by virtue of application number 8671,

filed in the name of said City by Dr. J. M. Keene, Chairman of the Water Committee of said City, on the second day of October, 1922, and this appropriation is in addition to each of said appropriations ~~so applied for by said appropriations~~ so applied for by said respective committees and to the rights granted by said Act.

There is hereto attached, marked Exhibit A to Exhibit Number 2, a copy of a resolution duly passed by the Board of Water Commissioners of the City of Medford, on the 6th day of April, 1925, together with a duly certified copy of Ordinance Number 1686 of said City of Medford approved by the Mayor of said City and effective on the date of its approval, April 7, 1925, and marked Exhibit "B" to Exhibit #2. This resolution and ordinance are made in connection with this application and the same are made parts thereof, and they are likewise authority for the making and filing thereof, and the application is made in accordance with the terms and conditions thereof for permits to be granted accordingly.

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EXHIBIT "A" TO EXHIBIT #2

RESOLUTION NO. 12

BE IT RESOLVED by the BOARD OF WATER COMMISSIONERS of the City of Medford, now duly and regularly convened and in session for that purpose, that the City of Medford, Oregon, does hereby accept the provisions of Chapter 166 of the General Laws for Oregon, as the same was enacted by the Legislative Assembly for the year 1925, and does hereby accept the rights to the use of the waters of Big Butte Creek, a tributary of the Rogue River, and of the tributaries of said Big Butte Creek, and of the springs contributing to and forming the same, and does hereby appropriate for municipal purposes of every kind and nature, including domestic, irrigation, sewer, fire protection, and all other municipal uses, all of the waters of said Big Butte Creek, its tributaries, and of said springs, to be diverted in Section 18, Township 35 South of Range 3 East of the Willamette Meridian, Jackson County, Oregon, and from the Big Butte springs situated in the Northwest quarter of the Southwest quarter of Section 21, in said Township and Range.

BE IT RESOLVED FURTHER that the acts of J. M. Keene, as Chairman of the Water Committee for said City, and T. W. Miles as a member of said Water Committee in the making of the application for a permit to appropriate such waters, known as number 8092, and which was filed in the office of the State Engineer of Oregon at Salem, Oregon, on the 16th day of September, 1921, be and the same hereby are ratified and confirmed. And that said City accepts said appropriation so made in

its name at said time, and declares it to be the intention of said City to complete the appropriation therein initiated and made, and to utilize the water therein appropriated. And this action of the City in ratifying said acts and taking advantage of said application does not in any way limit or diminish the rights granted to said City by said Chapter 166 of said Laws of 1925.

BE IT FURTHER RESOLVED that H. L. Walther, as the Chairman of said Board of Water Commissioners, with M. L. Alford as Secretary of said Commission, take such further and additional acts and execute and file with the State Engineer such additional instruments as may be necessary or deemed advisable in the completing of said appropriations, in accordance with the priorities acquired under said application number 8092 and number 8671, respectively.

BE IT FURTHER RESOLVED that the said Chairman of said Commission and the said Secretary make, execute and file with the State Engineer of Oregon, in the name of the City of Medford, and by its said officers, an application, in due form as required by law and the rules and regulations of the State Water Board, to appropriate forty cubic feet per second of said waters, to be diverted in said Section 18, Township 35 South of Range 3 East of the Willamette Meridian, and from said springs in said Northwest quarter of said Southwest quarter of said Section 21, for all such municipal purposes of said City, and for domestic, irrigation, sewer and fire protection, and other uses and purposes of said City, and to apply to have the same allotted to said City from such waters withdrawn August 21, 1915 by the State Engineer for Oregon under the provisions of Chapter 87 of the Laws of 1913, and that the priority of the waters so allotted be as of date August 21, 1915. And that said application provide that the said City, in its appropriation and use of said waters so allotted have a priority equal to that of any other claimant to whom an allotment of such withdrawn waters has already been made so far as the use of waters so withdrawn and so allotted from such withdrawal are concerned. But this provision as to equal priority of allotted waters out of such withdrawal shall not in any manner interfere with said City's use of waters so appropriated, as in this resolution provided, and as granted by the State of Oregon in said Chapter 166 of said Laws of 1925.

BE IT FURTHER RESOLVED that such application be so made that if such allotments should fail, or such withdrawal shall be determined to have been ineffectual, that nevertheless such application for such permit to so use said waters shall stand as an application for such permit to use said forty cubic feet per second of said waters by said City for such purposes.

BE IT FURTHER RESOLVED that it is the intention of the City of Medford to so use for its said purposes all of the waters of the said stream, its tributaries and of the springs contributing to it and of those forming the same. And that this resolution may be considered an application to said State Engineer for that purpose and to make record of such intention on the part of said City.

BE IT FURTHER RESOLVED that said H. L. Walther as Chairman of said Board of Water Commissioners, and M. L. Alford as its Secretary, file application with the State Engineer of Oregon in the name of and for the benefit of the City of Medford, for a permit to appropriate all of the waters of said Big Butte Creek and of its tributaries and of the springs forming and contributing to it which were open to appropriation on the date at which said Chapter 166 of said Laws of 1925 became effective, and to so appropriate for the benefit of said City all of the waters of said stream and its said tributaries and springs as of said date, subject only to such rights of other users as existed at the date when said Act became effective, and execute such instruments and take such action to effect such appropriation as is necessary therefor.

BE IT FURTHER RESOLVED that the act of Dr. J. M. Keene as Chairman of the Water Committee for said City of Medford, in the execution and filing of application 8671 for a permit to appropriate and use fifteen cubic feet per second of the waters of Kings Cabin Springs, a tributary of Big Butte Creek, for municipal purposes for said City of Medford, be and the same hereby is ratified and confirmed as the act of said City, and that the said City hereby declares it to be its intention and purpose to complete said appropriation and to so place said water to such beneficial use, and that the making of the other applications herein provided for shall in no wise be a waiver of the rights initiated either by said application 8092 or said applications herein provided for shall in no wise be a waiver of the rights initiated either by said application 8092 or said application 8671. Nor shall the ratification of either of said applications diminish the rights of said City otherwise existing and created by said Chapter 166 of said Laws of 1925.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the City Council of the City of Medford for action at its next meeting, and that a copy of such ordinance as shall be passed by said Council in relation to these matters, together with a copy of this resolution be transmitted to and filed with the said State Engineer, and copies thereof be made exhibits to the applications herein provided to be filed with such State Engineer.

Passed by the Board of Water Commissioners and signed by me in open session in authentication of its passage this 6th day of April, 1925.

H. L. Walther  
Chairman

ATTEST.

M. L. Alford  
Clerk

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EXHIBIT "B" TO EXHIBIT #2

ORDINANCE NO. 1686

THE CITY OF MEDFORD DOETH ORDAIN AS FOLLOWS:

**Section 1.** THAT the City of Medford, Oregon does hereby accept the provisions of Chapter 166 of the General Laws for Oregon, as the same was enacted by the Legislative Assembly for the year 1925, and does hereby accept the rights to the use of the waters of Big Butte Creek, a tributary of the Rogue River, and of the tributaries of said Big Butte Creek, and of the springs contributing to and forming the same, and does hereby appropriate for municipal purposes of every kind and nature, including domestic, irrigation, sewer, fire protection, and all other municipal uses, all of the waters of said Big Butte Creek, its tributaries, and of said springs, to be diverted in Section 18, Township 35 South of Range 3 East of the Willamette Meridian, Jackson County, Oregon, and from the Big Butte springs situated in the Northwest quarter of the Southwest quarter of Section 21, in said Township and Range.

**Section 2** That the acts of J. M. Keene, as Chairman of the Water Commission for said City, and of T. W. Miles as a member of said Water Committee, in the making of the application for a permit to appropriate such waters, known as number 8092, and which was filed in the office of the State Engineer of Oregon at Salem, Oregon, on the 16th day of September, 1921 be and the same hereby are ratified and confirmed. And that said City accepts said appropriation so made in its name at said time, and declares it to be the intention of said City to complete the appropriation therein initiated and made, and to utilize the water therein appropriated. And this action of the City in ratifying said acts and taking advantage of said application does not in any way limit or diminish the rights granted to said City by said Chapter 166 of said Laws of 1925.

**Section 3** That the act of Dr. J. M. Keene as Chairman of the Water

Committee for said City of Medford, in the execution and filing of application 8671 for a permit to appropriate and use fifteen cubic feet per second for the waters of Kings Cabin Springs, a tributary of Big Butte Creek, for municipal purposes for said City of Medford, be and the same hereby is ratified and confirmed as the act of said City, and that the said City hereby declares it to be its intention and purpose to complete said appropriation and to so place said water to such beneficial use, and that the making of the other applications herein provided for shall in no wise be a waiver of the rights initiated either by said application 8092 or said application 8671. Nor shall the ratification of either of said applications diminish the rights of said City otherwise.

Section 4. That H. L. Walther, as the Chairman of said Board of Water Commissioners, with M. L. Alford as Secretary of said Commission, take such further and additional acts and execute and file with the State Engineer such additional instruments as may be necessary or deemed advisable in the completing of said appropriations in accordance with the priorities acquired under said applications number 8092 and number 8671, respectively.

Section 5. That the said Chairman of said Commission and the said Secretary make, execute and file with the State Engineer of Oregon, in the name of the City of Medford, and by its said officers, an application, in due form as required by law and the rules and regulations of the State Water Board, to appropriate forty cubic feet per second of said waters, to be diverted in said Section 18, Township 35 South of Range 3 East of the Willamette Meridian, and from said springs in said Northwest quarter of said Southwest quarter of said Section 21, for all such municipal purposes of said City, and for domestic, irrigation, sewer and fire protection, and other uses and purposes of said City, and to apply to have the same allotted to said City from such waters withdrawn August 21, 1915 by the State Engineer for Oregon under the provisions of Chapter 87 of the Laws of 1913, and that the priority of the waters so allotted be as of date August 21, 1915. And that said application provide that the said City, in its appropriation and use of said waters so allotted have a priority equal to that of any other claimant to whom an allotment of such withdrawn waters has already been made so far as the use of waters so withdrawn and so allotted from such withdrawal are concerned. But this provision as to equal priority of allotted waters out of such withdrawal shall not in any manner interfere with said City's



use of waters so appropriated, as in this ordinance provided, and as granted by the State of Oregon in said Chapter 166 of the said Laws of 1925.

Section 6 THAT such application be so made that if such allotments should fail, or such withdrawal shall be determined to have been ineffectual, that nevertheless such application for such permit to so use said waters shall stand as an application for such permit to use said forty cubic feet per second of said waters by said City for such purposes.

Section 7 THAT it is the intention of the City of Medford to so use for its said purposes all of the waters of the said stream, its tributaries and of the springs contributing to it and of those forming the same. And that this ordinance may be considered an application to said State Engineer for that purpose and to make record of such intention on the part of said City.

Section 8 THAT said H. L. Walther as Chairman of said Board of Water Commissioners, and M. L. Alford as its Secretary, file application with the State Engineer of Oregon in the name of and for the benefit of the City of Medford, for a permit to appropriate all of the waters of said Big Butte Creek and of its tributaries and of the springs forming and contributing to it which were open to appropriation on the date at which said Chapter 166 of said Laws of 1925 became effective, and to so appropriate for the benefit of said City all of the waters of said stream and its said tributaries and Springs as of said date, subject only to such rights of other users as existed at the date when said Act became effective, and execute such instruments and take such action to effect such appropriation as is necessary therefor.

Section 9. THAT the action of the Board of Water Commissioners of the City of Medford as set out in its resolution passed on April 6, 1925, and by it transmitted to the City Council of Medford for this action, and which contains substantially the foregoing provisions, be and the same hereby is adopted, ratified and confirmed as the act of the City of Medford.

Section 10. WHEREAS the City of Medford is greatly and immediately in need of a new water supply and of the right to use all the waters referred to and appropriated in this ordinance and it is essential that the provisions of Chapter 166 of the Laws of 1925, as enacted by the Legislative Assembly of the State of Oregon for said year 1925 be immediately accepted by the City of Medford, and the rights therein granted be immediately taken over by said City; and whereas it is necessary that immediate action be taken for the protection of the City's rights under the application which it now has pending and upon which action must be taken;

and whereas the City of Medford requires all of the waters of the said Big Butte Creek which may be had and used under the provisions hereof for fire protection, and for domestic use and for sewerage purposes and for irrigation and other municipal uses, and the present water system of said City is inadequate and the pipe line necessary to furnish said water to said City is in need of great repair immediately in order to protect said City. And whereas the Council believes and finds that it is necessary for the immediate preservation of the peace, health and safety of said City that this ordinance become immediately effective and operative.

NOW, THEREFORE, BE IT RESOLVED that such emergency does exist, and that the peace, health and safety of the City of Medford necessarily requires that this ordinance shall become immediately effective and operative upon its approval of its Mayor, now, therefore it is provided that the foregoing ordinance be upon the receipt of such affirmative vote of a majority of said Council and upon the approval of said Mayor at once operative and effective.

Section 11. That a certified copy of this ordinance be immediately upon such approval and passage transmitted to and filed with the State Engineer of Oregon, and that a copy thereof, together with a copy of said resolution of said Board of Water Commissioners may be affixed to and made a part of the respective applications for appropriation of said waters as herein provided for.

APPROVED this 7th day of April, 1925.

O. O. Alenderfer

ATTEST: M. L. Alford

MAYOR

RECORDER

The foregoing ordinance was passed and approved by the affirmative vote of a majority of the Council of the City of Medford at its regular meeting on April 7, 1925, on which date and at which time it was approved by the Mayor of said City.

O. O. Alenderfer

ATTEST: M. L. Alford

MAYOR

RECORDER

STATE OF OREGON,     )  
                           ( SS.  
 County of Jackson. )

I, M. L. Alford, do hereby certify that I am the duly elected and qualified Recorder of the City of Medford, in the County and State aforesaid and the legal custodian of the books, records and the corporate seal thereof, and that I am Clerk of the Council of said City.

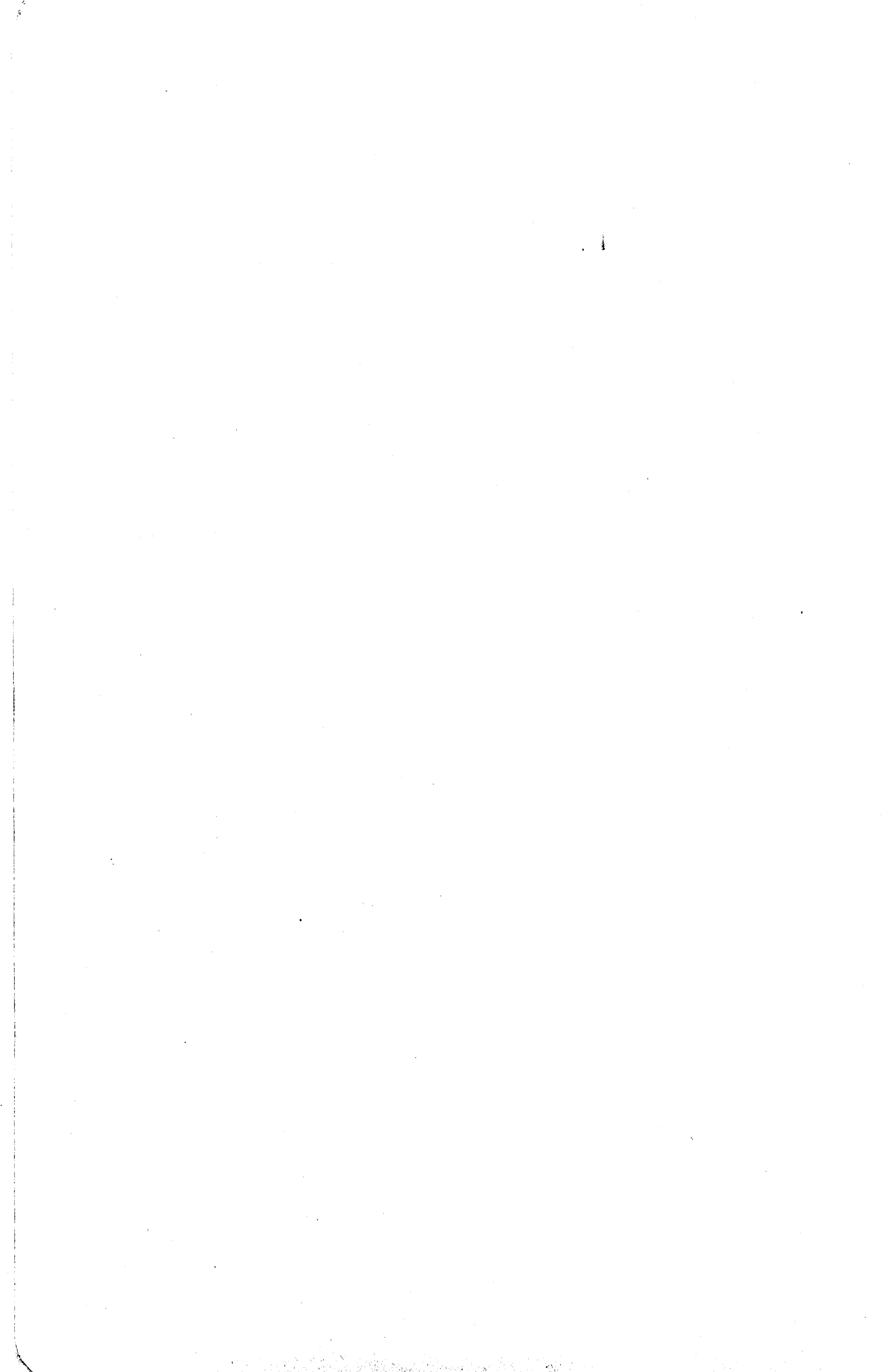
I further certify that the foregoing copy of Ordinance No. 1686 has been by me compared with the original and that it is a transcript therefrom, and of the whole of such original which is on file in this office and a part of the records of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said City, this 9 day of April, A.D. 1925.

(SEAL)

M. L. Alford

Recorder of the City of Medford, Oregon.



MUNICIPAL SUPPLY—

11. To supply the city of The City of Medford,  
(Name of) County, having a present population of  
and an estimated population of in 19

(Answer questions 12, 13, 14 and 15 in all cases)

12. Estimated cost of proposed works, \$.....

13. Construction work will begin on or before .....

14. Construction work will be completed on or before .....

15. The water will be completely applied to the proposed use on or before Exhibit 2 hereto  
attached is especially referred to and made a part hereof.

Duplicate maps of the proposed ditch or other works, prepared in accordance with the rules of  
the State Water Board, accompany this application.

CITY OF MEDFORD, OREGON

By H. L. Walther,  
Chairman of <sup>(Name of applicant)</sup> Board of Water Commissioners,

By M. L. Alford,  
Secretary of Board of Water Commissioners.

Signed in the presence of us as witnesses:

- (1) John H. Carkin, Medford, Oregon.  
(Name) (Address of Witness)
- (2) F. G. Dillard, Talent, Ore.  
(Name) (Address of Witness)

Remarks: .....

STATE OF OREGON, }  
County of Marion, } ss.

This is to certify that I have examined the foregoing application, together with the accompanying  
maps and data, and return the same for correction or completion, as follows:

In order to retain its priority, this application must be returned to the State Engineer, with  
corrections, on or before .....

WITNESS my hand this ..... day of .....

State Engineer.

15 Application No. 10119

Permit No. 6704

PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

District No.

This instrument was first received in the office of the State Engineer at

Salem, Oregon, on the 20 day

of April, 1925,

at 8:30 o'clock A.M.

Returned to applicant for correction

Corrected application received

Approved:

April 25, 1925.

Recorded in Book No. 23 of Permits, on Page 6704.

RHEA LUPER

State Engineer.

1 Map E.R.

\$8.00

STATE OF OREGON, )
County of Marion, ) ss.

This is to certify that I have examined the foregoing application and do hereby grant the same, subject to the following limitations and conditions: If for irrigation, this appropriation shall be limited to one-eightieth of one cubic foot per second, or its equivalent, for each acre irrigated, and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The right herein granted is limited to the appropriation of water from Big Butte Creek, its tributaries, and the springs contributing to it and those forming it, for municipal purposes, including irrigation, domestic, sewer, fire protection, and all other municipal purposes, in accordance with the State Engineer's order and allotment dated April 25th, 1925, and recorded on pages 178-179 of Volume One, Special Order Record.

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and not to exceed 30.0 cubic feet per second, or its equivalent in case of rotation. The priority date of this permit is August 21, 1915.

Actual construction work shall begin on or before April 25, 1930, and shall thereafter be prosecuted with reasonable diligence and be completed on or before April 25, 1930.

Extended to Oct. 1, 1960
Extended to Oct. 1, 1970 B Extended to Oct. 1, 1980
Extended to Oct. 1, 1945
Extended to Oct. 1, 1950
Extended to Oct. 1, 1955

Complete application of the water to the proposed use shall be made on or before October 1, 1931.

Extended to Oct. 1, 1960
Extended to Oct. 1, 1970 C Extended to Oct. 1, 1980
Extended to Oct. 1, 1940
Extended to Oct. 1, 1945
Extended to Oct. 1, 1950
Extended to Oct. 1, 1955

WITNESS my hand this 25th day of April, 1925.

RHEA LUPER

State Engineer.

Permits for power development are subject to the limitation of franchise as provided in Section 5728, Oregon Laws, and the payment of annual fees as provided in Section 5803, Oregon Laws.