

B 102

B-102

T 152

STATUS OF APPLICATION

Change in use, place of use and pt of div
 Date filed May 22, 1957
 Date returned for further data _____
 Date application completed _____
 Notice for publication mailed _____
 Date notice published _____
 Date of hearing _____
 Place of hearing _____
 ✓ Date of order 8/22/57 Vol. 9, page 227
 Date of application of water 10/1/60
 Proof mailed _____
 Proof received _____
 Certificate issued Feb 3, 1964 Vol. 23, page 31411 ✓ WAK

DESCRIPTION OF WATER RIGHT

Name of stream Tumalo Creek
 Trib. of _____ County of Desc.
 Use Irr.
 Quantity of water 2.03 No. of acres 142
 Name of ditch Col. Southern
 Date of priority _____
 In name of F.W. Lovgrenz - Cert. 74, (Vol 1 p. 135)
R.H. Bailey - 51, (Vol 1 p. 137)
Chas. J. Mace - 75 (Vol 1 p. 138)
 _____ Adjudication, Vol. _____, Page _____
 App. No. _____ Per No. _____ Cert. No. _____
 Certificate cancelled _____
 Notation made on record by VR ✓

FEES PAID

Date	Amount	Receipt No.
5/22/57	25 -	11876
" " Pub.	30 -	"
Total		
12-12-60	\$1 Cert. Fee	27971

FEES REFUNDED

Date	Amount	Check No.
7-12-57	6921	2378
	6922	6.22

TRANSFER TO ARCHIVES AFTER

REMARKS

9/29/60 - Expiration notice
 11/25/60 - Rec'd Application to applicant
 12/2/60 - Proof received - lands irrigated.
 OK for certificate

TO BE ENTERED WHERE CHECKED

INDEX CARDS:	Entered	Checked
Name		
Stream		
Pt. of Div.		
Calendar		
CHECKED TO RECORDS:		
Twp. & Rge.		
Decree-vault		
Decree-safe		
Cert. of W/R		
Per. Folder		
Chaindex		
Cross Ref.		
Power Claim		
Abstracts		

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION)
OF THE CITY OF BEND, OREGON, FOR)
THE APPROVAL OF A CHANGE IN USE,)
PLACE OF USE AND POINT OF DIVER-)
SION OF WATER FROM TUMALO CREEK)
AND A CHANGE IN PLACE OF USE OF)
WATER FROM DESCHUTES RIVER.)

ORDER

APPROVING APPLICATION

On May 22, 1957, the City of Bend, Oregon, filed an application in the office of the State Engineer for the approval of a change in use, place of use and point of diversion of water from Tumalo Creek and a change in place of use of water from Deschutes River, pursuant to the provisions of ORS 540.510 to 540.530.

In the adjudication proceedings determining the relative rights to the use of the waters of Tumalo Creek and its tributaries a water right was established for the irrigation of 21.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, 30 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, 32.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, 17.5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 38.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., and 25 acres in the NE $\frac{1}{4}$, Section 3, Township 17 South, Range 11 East, W. M., and NE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., with a date of priority of September 1900. Subsequently the State Engineer entered an order wherein the water right appurtenant to 28 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 35, were transferred therefrom, leaving a water right for 10.5 acres in said SE $\frac{1}{4}$ SE $\frac{1}{4}$. These lands are irrigated through either the Tumalo Feed Canal or the Columbia Southern Canal, the point of diversion of the Tumalo Feed Canal being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 23, Township 17 South, Range 11 East, W. M., and the point of diversion of the Columbia Southern Canal being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, Township 18 South, Range 10 East, W. M.

The right to the use of water from Tumalo Creek for the irrigation of the above described lands is limited to a rate of flow of one-seventieth of one

as per C-7-25

cubic foot per second per acre and the quantity of water diverted during the irrigation season from April 15 to October 15 of each year is limited to a diversion of not to exceed 1.8 acre feet per acre.

In the Deschutes River adjudication proceedings the Deschutes County Municipal Improvement District was adjudicated a right to the use of 9.5 cubic feet per second of the waters of Deschutes River with a date of priority of 1905, which right was made appurtenant to all lands within the district.

Permit No. 19628, issued to the Deschutes County Municipal Improvement District, is for a supplemental supply of water from Crater Creek, Little Crater Creek and three springs for the irrigation of, among other lands, 39 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M.

An agreement dated May 9, 1957 between the City of Bend and Deschutes County Municipal Improvement District provides that only the right to the use of the water of Tumalo Creek for the irrigation of 142 acres is to be transferred to the City of Bend for municipal purposes. The agreement further provides that the City of Bend will perpetually pay to the Deschutes County Municipal Improvement District the annual assessments for operation and maintenance, the payment of outstanding indebtedness including outstanding bonds, and for replacements and capital repairs on the basis of 142 acres, each acre to be assessed equally as all other lands within the district are assessed.

It is the desire of the District that the 142 acres are to be divested of all water rights and those rights from all sources other than Tumalo Creek are to be transferred to other lands within the District or canceled.

The applicant herein, proposes to transfer the water rights appurtenant to 142 acres of the lands described in paragraph 2 hereof, to-wit: 21.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, 30 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, 32.5 acres in

the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, 17.5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 10.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., and 25 acres in the NE $\frac{1}{4}$, Section 3, Township 17 South, Range 11 East, W. M., and the NE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., from irrigation purposes to that of municipal use within the corporate limits of the City of Bend, Oregon and surrounding territory served by its water supply pipeline and to divert the water at the City of Bend's intake from Tumalo Creek in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 18 South, Range 10 East, W. M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed change in use, place of use and point of diversion of water, if any there were, namely: at the county courthouse in Bend, Oregon, on August 21, 1957, beginning at 10:00 o'clock a.m. The notice was published in the Bend Bulletin, a newspaper printed and having general circulation in Deschutes County, Oregon, for a period of three weeks in the issues of June 25 and July 2 and 9, 1957. The date set for hearing in said notice was not less than thirty days after the last publication of said notice.

The Deschutes County Municipal Improvement District, owner of the lands involved herein, on June 5, 1957 by authority of and pursuant to a resolution adopted by the Board of Directors of said District on May 7, 1957, approved the proposed transfer of the water rights appurtenant to the said 142 acres for irrigation purposes to the City of Bend, Oregon, for municipal purposes.

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

NOW, THEREFORE, it hereby is ORDERED that the water right from Tumalo Creek hereinbefore described as appurtenant to 142 acres, to-wit: 21.5 acres

in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, 30 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, 32.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, 17.5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 10.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., and 25 acres in the NE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., and NE $\frac{1}{4}$, Section 3, Township 17 South, Range 11 East, W. M., with a date of priority of September 1900, be severed therefrom and simultaneously and without loss of priority transferred to the City of Bend, Oregon, for municipal use within the corporate limits of the said city and surrounding territory served by its water supply pipelines and said water shall be diverted at the City of Bend's intake from Tumalo Creek located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, Township 18 South, Range 10 East, W. M.

It is FURTHER ORDERED that the water so transferred shall be applied to beneficial use by the City of Bend, Oregon, on or before October 1, 1960 or within such extension of time as may be granted by the State Engineer for good cause shown.

It is FURTHER ORDERED that the quantity of water heretofore used for irrigation of 142 acres from Tumalo Creek described in paragraph 8 hereof and by this order transferred to municipal purposes by the City of Bend, Oregon, shall be limited to a maximum diversion of 2.03 cubic feet per second, beginning on April 15 and ending on October 15 of each year, and the total quantity diverted during said period shall not exceed 255.6 acre feet, measured at the meter in the existing pipeline and at the meter to be installed in the parallel pipeline now under construction.

It is FURTHER ORDERED that a meter shall be installed in the parallel pipeline now under construction at a point opposite or near the meter in the existing pipeline, said meter to be approved by the watermaster of Deschutes County, Oregon, before the beginning of construction work and installed under his general supervision.

It is FURTHER ORDERED that that part of the right to the use of 9.5 cubic feet per second of the waters of Deschutes River with a date of priority

of 1905, appurtenant to the lands described in paragraph 8 hereof be severed therefrom and simultaneously and without loss of priority transferred to the remaining lands having water rights within the Deschutes County Municipal Improvement District.

It is FURTHER ORDERED that the lands involved herein and described in Permit No. 19628, to-wit: 39 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 40 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, and 40 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 16 South, Range 11 East, W. M., be eliminated from said permit.

It is FURTHER ORDERED that certificate of water right heretofore issued to R. H. Bayley and recorded at page 51, and certificate of water right heretofore issued to F. W. Leverenze and recorded at page 74, and certificate of water right heretofore issued to Chas. J. Mock and recorded at page 75, all in Volume 1, State Record of Water Right Certificates, which certificates cover a part of the lands from which the water is being transferred herein, be and the same are canceled.

It is FURTHER ORDERED that certificate of water right heretofore issued to Columbia Southern Irrigation Company and recorded at page 104, Volume 1, State Record of Water Right Certificates, which certificate covers, among other lands, a part of the lands from which the water is being transferred herein, be and the same hereby is canceled and that a new certificate of water right be issued to the Deschutes County Municipal Improvement District, successor in interest to the Columbia Southern Irrigation Company, covering the balance of the lands not involved in this proceeding.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of application of water to beneficial use for municipal purposes within the corporate limits of the City of Bend, Oregon, and surrounding

territory served by its water supply pipelines, a certificate of water right shall be issued to the City of Bend, Oregon to the extent to which the water has been used beneficially.

Dated at Salem, Oregon this 22nd day of August 1957.

LEWIS A. STANLEY
State Engineer

Application for Transfer of Water Right

To the STATE ENGINEER OF OREGON:

I, City of Bend
(Name of applicant)

of Bend, County of Deschutes
(Postoffice)

State of Oregon, do hereby make application for change place of use,

point of diversion and type of use

(In point of diversion; place of use; use heretofore made of the water)

1. The source of present water right is Tumalo Creek
(Name of stream)
2. The use to which the water is applied is Municipal
(Irrigation; Mining; Power; Manufacturing; etc.)
3. The name of the ditch, canal or pipe line is Columbia Southern and Tumalo Feed Canal
4. The point of diversion is located ft. and ft. from the corner of
(N. or S.) (E. or W.)
(Section or subdivision)

of Section Tp. R. W. M., in the County of
(No. N. or S.) (No. E. or W.)

5. Give the number of acres irrigated in each smallest legal subdivision (40-acre tract). Only show the acreage which is being transferred. If the water is used for power, mining or other use, show place of use.

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$
16	11	17	✓	21.5	(Cert. 74)		F.W. Leverenz	1/2										
16	11	22	✓												30.0	(Cert. 104)	Col. So. Irr. Co. 1/2	
16	11	26											32.5	(Cert. 104)		Col. So. Irr. Co. 1/2		
16	11	35													17.5	5.0		10.5

NOTE: If you own less than 40-acre tracts, attach a description of your land as it appears in your deed.

17 11 3 25.0 Chas. J. Mock 1/2 Total 142 ac
Cert. 75 (Attach separate sheet if necessary) 142 ac
Total 142 acres

6. Are you the legal owner of the above described lands? No: owned by Deschutes County Mun.
(If not owner, explain your interest)

Imp. Dist.- See contract dated May 9, 1957 between said district and the City of Bend.

7. What is the priority date of your water right? Sept. 1900

8. Was your water right acquired by State Engineer's Permit? No If so, give number
(Yes or No)

of permit

Sec. 35 Per. 19628

39° 40' — 40°

9. Do you hold a water right certificate? No If so, give number of certificate
(Yes or No)

10. Was your water right determined by State Engineer's order of Determination or Decree of Court?
..... If so, give title of proceedings Tumalo Creek Adjudication
(Yes or No)

11. Is the water right recorded in your name? Deschutes County Municipal Improvement District
(If not, give name)

12. I propose to transfer the water right to the following described lands: (Do not answer if your application is for change in point of diversion only.)

Twp.	Range	Sec.	NE 1-4				NW 1-4				SW 1-4				SE 1-4			
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$

(Attach separate sheet if necessary)

NOTE: Do not answer questions 13, 14 and 15, if the application is not for change in point of diversion.

13. The proposed point of diversion is located 464.28 ft. N. and 538.69 ft. W from the E
(N. or S.) (E. or W.)
corner of SE $\frac{1}{4}$ being within the NE $\frac{1}{4}$ of Section 7 Tp. 18 R. 10 E. W. M.,
(Smallest legal subdivision) (No. N. or S.) (No. E. or W.)
in the county of Deschutes The name of the ditch to be used is Columbia Southern

14. Are you the owner of the land on which the proposed point of diversion is to be located? No

15. If not the owner of the land on which the proposed point of diversion is to be located, give the name and address of owner and submit evidence of your right-of-way for your proposed ditch, canal, or pipe line.

16. Are there any diversions between your present point of diversion and the proposed point of diversion?

NOTE: Do not answer questions 17 and 18 if application is for change in point of diversion only.

17. Are the lands from which you propose to transfer your water right free of all encumbrances, including taxes, mortgages, liens, etc.? Yes
(Answer Yes or No)

18. If not, give below a description of existing encumbrances:

NATURE OF ENCUMBRANCE	HELD BY	AMOUNT

19. Reasons for the proposed changes are Needed in the City of Bend for
Municipal use.

AFFIDAVIT OF APPLICANT

STATE OF OREGON,

County of Deschutes

SS.

I, Walter T. Thompson, the applicant herein, being first duly sworn, depose and say that I have read the above and foregoing application for transfer of water right; that I know the contents thereof and that the statements therein made are true and correct to the best of my knowledge and belief.

In Witness Whereof, I have hereunto set my hand this 20th day of May, 1957.

City of Bend

W. T. Thompson

(Name of applicant)

Subscribed and sworn to before me this 20th day of May, 1957.

[Notarial Seal]

Larry C. English

NOTARY PUBLIC FOR OREGON

My commission expires

July 2, 1959

Remarks Contract with Deschutes County Municipal Improvement District

date of May 9, 1957--copy of contract enclosed.

State Engineer's office has copy of map of City of Bend water

intake location.

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT is the owner of the lands involved herein and approves of the proposed transfer of the water rights appurtenant to said lands for irrigation purposes to the City of Bend, Oregon, for municipal purposes.

SIGNED this 5th day of June, 1957 by authority of and pursuant to resolution adopted by the Board of Directors of said District on the 7th day of May 1957.

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT

By W. R. Lames President

(DISTRICT SEAL)

By A. W. Montgomery Secretary

This application must be accompanied by a map showing the location of the point of diversion, place of use and works utilized under the present water right. The map should also show the new point of diversion or place of use, as the case may be.

The right to the use of water from Deschutes River for the irrigation of the lands involved herein are to be transferred therefrom and made appurtenant to the remaining land within the District. The lands involved herein also are described in Permit 19628, said land to be eliminated from said permit.

Application for Transfer of Water Right

Name of
applicant

Date filed

Date returned for further data

Date application completed

Date notice published

Date of hearing

Place of hearing

Date of final order
of State Engineer

Date of issuance of certificate
confirming change

Recorded in State Record of Water Right Certificates,

volume, page

Fees paid

Receipt No.

CITY OF BEND WATER DEPARTMENT FLOW RECORD

Yr.	1960	Awbrey Butte	Overturf Butte	Total	Awbrey Butte	Overturf Butte	West Hills	Total	Awbrey Butte	Overturf Butte
Mo.	July	Reservoir	Reservoir	Intake	Reservoir	Reservoir	Pump	Usage	Maximum	Maximum
Date	Time	Inlet G.P.D.	Inlet G.P.D.	G.P.D.	Outlet G.P.D.	Outlet G.P.D.	G.P.D.	G.P.D.	Flow Rate	Flow Rate
1	8:40	6,894,000	702,000	7,596,000						
2	8:30	7,296,000	474,000	7,770,000						
3	7:30	6,433,000	582,000	7,015,000						
4	7:45	6,428,000	518,000	6,946,000						
5	8:40	7,412,000	351,000	7,763,000						
6	8:40	7,801,000	701,000	8,502,000						
7	8:40	7,303,000	1,071,000	8,374,000						
8	8:40	7,739,000	819,000	8,558,000						
9	9:15	7,810,000	799,000	8,609,000						
10	9:10	6,235,000	825,000	7,060,000						
11	8:40	6,253,000	556,000	6,809,000						
12	8:40	7,425,000	876,000	8,301,000						
13	8:40	7,440,000	830,000	8,270,000						
14	8:40	7,056,000	698,000	7,754,000						
15	8:45	6,936,000	1,041,000	7,977,000						
16	8:55	7,130,000	729,000	7,859,000						
17	8:35	7,647,000	490,000	8,137,000						
18	8:55	7,301,000	518,000	7,819,000						
19	8:40	8,080,000	1,191,000	9,271,000	- equiv. to 14.34 c.f.s.					
20	8:40	7,834,000	1,066,000	8,900,000						
21	8:40	7,403,000	1,036,000	8,439,000						
22	8:35	7,382,000	1,125,000	8,507,000						
23	9:00	7,642,000	1,049,000	8,691,000						
24	9:05	6,673,000	726,000	7,399,000						
25	9:45	6,491,000	569,000	7,060,000						
26	8:40	6,573,000	752,000	7,325,000						
27	8:40	6,830,000	837,000	7,667,000						
28	8:40	6,584,000	834,000	7,418,000						
29	8:55	7,127,000	1,290,000	8,417,000						
30	8:55	6,441,000	640,000	7,081,000						
31	8:40	2,180,000	603,000	2,783,000						

REMARKS: Daily Adv. 7,897,548.4

C O N T R A C T

MAY 22 1957
STATE ENGINEER
SALEM, OREGON

THIS AGREEMENT made and entered into this 9th day of May, 1957, by and between DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, A Municipal Corporation, hereinafter called the "District" and CITY OF BEND, a Municipal Corporation and Political Subdivision of the State of Oregon, hereinafter called the "City", W I T N E S S E T H:

THAT WHEREAS the District is an irrigation district, situated in Deschutes County, Oregon, and is the owner of the following described lands, together with vested water rights appurtenant thereto, in the amount of approximately 142 acres, to-wit:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17	21.5 Acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22	30.0 Acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26	32.5 Acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35	17.5 Acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35	5 Acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35	10.5 Acres

All in Township Sixteen (16) South, Range Eleven (11), E.W.M., Deschutes County, Oregon

And

NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, Township 17 South, Range 11, E.W.M., Deschutes County, Oregon - - - - - 25 Acres.

Water to supply said lands with water under rights as above stated, being from the natural flow of Tumalo Creek, and

WHEREAS the City is in need of additional water from Tumalo Creek with which to supply its inhabitants with water for domestic use and is desirous of purchasing from the District the above described lands with the water right appurtenant thereto as hereinabove set forth, and transferring the place and manner of use of said water from said lands for municipal purposes in supplying additional water for its inhabitants.

NOW, THEREFORE, It is mutually understood and agreed by and between the parties hereto that the District will and does hereby agree to sell the above described premises, together with the water right appurtenant thereto to the City for the sum of Twenty-eight Thousand Four Hundred Dollars (\$28,400.00), which the City agrees to pay as follows: One-half thereof, or Fourteen Thousand Two Hundred Dollars (\$14,200.00) on July 1, 1957, or on the date of the transfer of the water right from the District to the City, whichever is first, and Fourteen Thousand Two

Hundred Dollars (\$14,200.00) on or before July 1, 1958, or one year from the date of said transfer, whichever is first.

It is agreed that the balance as above set forth shall not bear interest until after maturity.

It is further agreed that said purchase price above set forth is figured on a price of Two Hundred Dollars (\$200.00) per acre of water right, and that if the quantity thereof is changed while this agreement is in force the parties agree to adjust the dollar figure to conform to the \$200.00 per acre of water right base figure.

It is further understood and agreed by and between the parties hereto that the District, through its irrigation system, is required to maintain a system sufficient to furnish water for irrigation in accordance with the amount of water per acre required and allotted under the Decree of the Circuit Court of the State of Oregon for Deschutes County, for approximately 6,800 acres of land, and that the revenues thereby derived from the said lands within the District, including the lands hereinabove described, are necessary for the operation and maintenance of said District and for rehabilitation, repair or any indebtedness which the District now owes, and that in order to maintain the District so as to be able to furnish water to all the lands under its irrigation system, it is necessary that the District retain revenue for the water rights hereinabove described; the City, therefore, agrees as a part of the consideration of this contract and transfer of said water right and land, to perpetually pay to the District a like amount per irrigable acre for all of the water right transferred from the above described premises, each year as is assessed and levied against the balance of the acreage within the District, for the payment of operation and maintenance and other expenses of the District as may now exist or may hereafter arise, but in no event shall the City be required to pay any greater sum per acre on the above described water right to be transferred to it than shall be charged and paid on any other irrigable acre of land within the District for any of the purposes set forth in this paragraph; such payments to be made upon the presentation of a statement by the District to the City during the months of January and July of each year.

As further consideration, the City does hereby covenant and agree that upon the completion of the transfer of the Tumalo Creek water right for the 142 acres to it by the District through and with the approval of the State Engineer of the State of Oregon, it will reconvey to the District by quitclaim deed all of the above described lands.

It is further understood and agreed, and the City does hereby particularly agree that upon the execution and the signing of this contract by the parties hereto, it will forthwith take such steps as may be necessary to have said water rights transferred from said lands to it and the District agrees that it will approve such transfer and execute such instruments as may be necessary to complete such transfer.

It is understood by both parties hereto, that this Agreement is conditioned upon the approval by the State Engineer of the State of Oregon, without which approval this Agreement shall be considered as of no force or effect.

SIGNED in duplicate by the "District" by its President and Secretary this 9th day of May, 1957, by authority of and pursuant to a resolution duly adopted by the Board of Directors of the "District" on this 7th day of May, 1957.

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT

By: W. G. Lamer
President

By: S. W. Montgomery
Secretary

SIGNED in duplicate by the "City" by its Mayor and City Recorder this 9th day of May, 1957, by authority of and pursuant to a resolution duly adopted by the City Commission of the "City" on this 27th day of ~~May~~ ^{FEBRUARY}, 1957.

CITY OF BEND

By: W. M. Roy
Mayor

By: Gene S. Johnson
City Recorder



STATE OF OREGON)
) ss.
County of Deschutes)

On this 9th day of May, 1957, before me appeared _____
_____ W. A. CRAMER _____ and G. W. MONTGOMERY, both to me personally known,
who being duly sworn, did say that he, the said _____

_____ W. A. CRAMER _____ is the President, and he, the said G. W. MONTGOMERY
is the Secretary of DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, the within
named Corporation, and that the seal affixed to said instrument is the corporate
seal of said Corporation, and that the said instrument was signed and sealed in
behalf of said Corporation by authority of its Board of Directors, and _____
_____ W. A. CRAMER _____ and G. W. MONTGOMERY acknowledged said
instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and
year last above written.

_____ *John D. Armont* _____
Notary Public for Oregon
My Commission Expires: 4/10/61 _____

STATE OF OREGON)
) ss.
County of Deschutes)

On this 9th day of May, 1957, before me appeared W. M. LOY and
JULIA S. JOHNSON, both to me personally known, who being duly sworn, did say that he,
the said W. M. Loy is the Mayor, and she, the said Julia S. Johnson is the City Re-
corder of the CITY OF BEND, A Municipal Corporation, and that the seal affixed to
said instrument is the corporate seal of said Corporation, and that the said ins-
trument was signed and sealed in behalf of said Corporation by authority of its
City Commission, and W. M. LOY and JULIA S. JOHNSON acknowledged said instrument to
be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and
year last above written.

_____ *Larry A. English* _____
Notary Public for Oregon
My Commission Expires: July 2, 1958 _____

PROOF OF APPLICATION OF WATER
TO BENEFICIAL USE

RECEIVED
DEC 2 1960
STATE ENGINEER
SALEM, OREGON

Transfer No. B-102

County Deschutes

1. Name City of Bend 2. Address Bend, Oregon
3. Source of Supply Tumalo Creek Tributary of _____
4. Amount of Water 255.6 ac. feet 5. Priority date 1900
From April 15 to Oct. 15
6. Use From irrigation to municipal
7. Location of Point of Diversion 464.28 feet north and 538.69 feet west from
the east corner of SE $\frac{1}{4}$ being within the NE $\frac{1}{4}$ of Sec. 7, T. 18 S., R. 10 E., W. M.
8. The description of the land given below corresponds to that found in your transfer covering land to be irrigated, or if for other purposes, the place of use. In the blank column on the right, headed "No. Acres Actually Irrigated", fill in the number of acres you have irrigated in each of the tracts described.

Town- ship	Range	Sec- tion	Forty-acre Tract	No. Acres Des- cribed in Transfer	No. Acres Actually Irrigated
			Corporate limits of City of Bend for municipal use		
			Also area adjoining City limits.		

9. Does the accompanying map, filed with your application, show correctly the point of diversion, area of land irrigated, or place of use? _____

10. If not, wherein is such map in error? _____

11. If for power, mining, municipal, manufacturing or any other purpose than irrigation, give extent and method of such use. _____

DESCRIPTION OF WORKS

12. Size of canal: Width on top (at waterline) _____ ft; width on bottom _____ ft.;
depth of water _____ ft; grade, _____ ft. fall per 1,000 ft. Actual capacity _____
_____ sec. ft. Give general description _____

13. Specific data required on pump and pipe or sprinkler systems:

PUMP: Make _____ Type _____ No. _____
Intake size _____ Discharge size _____
Suction head _____ Discharge head _____
Rating: G.P.M. _____ R.P.M. _____ Pressure _____

POWER PLANT: Type _____ Make _____
H.P. Rating _____ R.P.M. _____

POWER CONNECTION: Direct connected unit _____

If belt driven: Size of Drive Pulley _____ Driven Pulley _____

DISTRIBUTION SYSTEM: Main line: Size _____ Length _____ Kind of Pipe _____

Lateral lines: Size _____ Length _____ Kind of Pipe _____

SPRINKLER HEADS: Make _____ Size of Nozzles _____

Number of heads used _____ Discharge capacity of each _____ G.P.M.

Operating pressure _____ lbs.

REMARKS 2 parallel pipe lines capacity of both lines 17.17 sec. ft.

Copy of flow record for July and August enclosed.

I, W. P. Drost

say that I have read the foregoing proof of application of water to beneficial use;
that I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of
December, 19 60.

W P Drost

NOTICE OF FILING
APPLICATION FOR A CHANGE
IN USE, PLACE OF USE
AND POINT OF
DIVERSION OF WATER

Notice is given hereby that the City of Bend has filed an application for the approval of a change in use, place of use and point of diversion of water from Tumalo Creek pursuant to the provisions of ORS 540.510 to 540.530.

In the adjudication proceedings determining the relative rights to the use of the waters of Tumalo Creek and its tributaries a water right was established for the irrigation of 21.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17; 30 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22; 32.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26; 17.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 38.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 35, T. 16 S., R. 11 E., W. M., and 25 acres in NE $\frac{1}{4}$, Sec. 3, T. 17 S., R. 11 E., W. M., and NE $\frac{1}{4}$, Sec. 35, T. 16 S., R. 11 E., W. M., with a date of priority of Sept. 1900. These lands are irrigated thru either the Tumalo Feed Canal or the Columbia Southern Canal, the point of diversion of the Tumalo Feed Canal being within SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23, T. 17 S., R. 11 E., W. M., and the point of diversion of the Columbia Southern Canal being within NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, T. 18 S., R. 10 E., W. M.

The City of Bend, Ore., proposes to transfer the water right from the irrigation of 142 acres of the land above described, to-wit: 21.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17; 30 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22; 32.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 26; 17.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ and 10.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 35, T. 16 S., R. 11 E., W. M.; 25 acres in NE $\frac{1}{4}$, Sec. 3, T. 17 S., R. 11 E., W. M., and NE $\frac{1}{4}$, Sec. 35, T. 16 S., R. 11 E., W. M., to that of municipal purposes within the corporate limits of the City of Bend and surrounding territory served by its water supply pipeline and to divert the water at the City of Bend's intake from Tumalo Creek located in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 7, T. 18 S., R. 10 E., W. M.

All persons interested are notified hereby that a hearing will be held in the county court house at Bend, Ore., on Aug. 21, 1957, beginning at 10 A.M. All objections to the proposed changes, if any there are, will be heard at said time and place. Any objections shall be prepared in writing, one copy to be served on the City of Bend, Bend, Ore., and one copy mailed to the State Engineer, Salem, Ore., together with a \$2 filing fee, at least 10 days prior to the date set for hearing. If no objections are filed the application may be approved by the State Engineer without a hearing.

Dated at Salem, Ore., this 21st day of June 1957.

LEWIS A. STANLEY,
State Engineer

17-17-182-C

OK
VR
B-102
Affidavit of Publication

STATE OF OREGON, COUNTY OF DESCHUTES,—ss.

I, Nell Wescoatt, being first duly sworn, depose and say that I am the Principal Clerk of the Publisher of The Bend Bulletin, a newspaper of general circulation printed and published at Bend in the aforesaid county and state, as defined by ORS 193.010 and ORS 193.020, that.....

Notice of Filing Application

RECEIVED
JUN 10 1957
STATE ENGINEER
SALEM, OREGON
a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for three successive and consecutive weeks in the following issues: June 25; July 2, 9

Nell Wescoatt

Subscribed and sworn to before me this 9th day of July, 19 57

Man Carley

Notary Public for Oregon

(My Commission Expires May 6, 1961)