

B103 City of Bend

B-103

T 153

STATUS OF APPLICATION

Change in use, place of use and pt. of div.
Date filed June 13, 1957
Date returned for further data _____
Date application completed _____
Notice for publication mailed _____
Date notice published _____
Date of hearing _____
Place of hearing 4/1/58 335
Date of order 2/1/58 Vol. 9, page 306
Date of application of water 10/1/65
Proof mailed _____
Proof received _____
Certificate issued JUN 20 1964 Vol. 23, page 31665 WAC

DESCRIPTION OF WATER RIGHT

Name of stream Tumalo Creek
Trib. of _____ County of Desch.
Use irr.
Quantity of water _____ No. of acres 55.2
Name of ditch Tumalo Bend Feed Canal
Col. So. Canal
Date of priority Sept. 1900
In name of M.A. Piercy (Now Vol. 16, p. 192)
Tumalo Adjudication, Vol. 15, Page 322
App. No. 3263 Per No. 19628 Cert. No. 26508
Certificate cancelled _____
Notation made on record by RB

FEES PAID

Date	Amount	Receipt No.
<u>6/13/57</u>	<u>25-</u>	<u>12200</u>
<u>6/13/57 Pub.</u>	<u>30-</u>	<u>12200</u>
Total		
	\$1 Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.
<u>9/4/57</u>	<u>10.57</u>	<u>6989</u>
	<u>19.43</u>	<u>6988</u>

1974
TRANSFER TO ARCHIVES AFTER

REMARKS

From the City of Bend Tumalo Sec B-92 2B-102

PROOF OF APPLICATION OF WATER
TO BENEFICIAL USE

B-103

B-108

Transfer No. B-109

County Deschutes

1. Name City of Bend
2. Address Bend, Oregon
3. Source of Supply Tumalo Creek Tributary of Deschutes River
4. Amount of Water see below
5. Priority date see below
6. Use For municipal purposes during the period April 15 to October 15 of each year
7. Location of Point of Diversion _____

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	Section	Forty-acre Tract	No. Acres Described in Transfer	No. Acres Actually Irrigated
T. 17 S., R. 11 E., W. M.					
		Section 34	- S $\frac{1}{2}$ SE $\frac{1}{4}$	Section 4	- S $\frac{1}{2}$ NW $\frac{1}{4}$
		Section 35	- S $\frac{1}{2}$ S $\frac{1}{2}$	Section 5	- SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 36	- S $\frac{1}{2}$ S $\frac{1}{2}$	Section 6	- S $\frac{1}{2}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$
T. 18 S., R. 11 E., W. M.					
		Section 20	- S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$	Section 4	- N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$
		Section 21	- W $\frac{1}{2}$ SW $\frac{1}{4}$	Section 5	- SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ east of Deschutes River, E $\frac{1}{2}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$
		Section 28	- NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$	Section 6	- SE $\frac{1}{4}$ SE $\frac{1}{4}$ east of Deschutes River and N $\frac{1}{2}$ NE $\frac{1}{4}$
		Section 29	- S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ east of Deschutes River, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$	Section 7	- NE $\frac{1}{4}$ NE $\frac{1}{4}$
		Section 30	- SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$	Section 8	- W $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$
		Section 31	- N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$	Section 9	- SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$
		Section 32	- All	Section 16	- W $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$
		Section 33	- W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$	T. 18 S., R. 12 E., W. M.	
		Section 34	- SW $\frac{1}{4}$		
T. 17 S., R. 12 E., W. M.					
		Section 1	- S $\frac{1}{2}$ SE $\frac{1}{4}$		
		Section 2	- SW $\frac{1}{4}$ SW $\frac{1}{4}$		
		Section 10	- NE $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$		
T. 18 S., R. 10 E., W. M.					

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 _____

B-103 Sept. 1900 - 0.75 c.f.s. or 94.68 ac. ft. from Apr. 15 to Oct. 15 of each year

B-108 June 1, 1907 - 1.103 c.f.s. or 138.96 a.f. from Apr. 15 to Oct. 15 of each year

B-109 Sept. 1900 - 0.564 c.f.s. or 94.5 a.f. from Apr. 15 to Oct. 15 of each year
Apr. 28, 1905 - 0.186 c.f.s.

52.62

772

39.5

134

B-103

B-108

Transfer No. B-109

County Deschutes

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.

[illegible]

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. _____

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 _____

B-103 Sept. 1900 - 0.75 c.f.s. or 94.68 ac. ft. from Apr. 15 to Oct. 15 of each year

B-108 June 1, 1907 - 1,103 c.f.s. or 138.96 a.f. from Apr. 15 to Oct. 15 of each year

B-109 { Sept. 1900 - 0.564 c.f.s. or 94.5 a.f. from Apr. 15 to Oct. 15 of each year
Apr. 28, 1905 - 0.186 c.f.s.

59.5

(134)

CITY OF BEND WATER DEPARTMENT

Three Month Highest Flow of 1961

	JUNE	JULY	AUGUST
1.	3,046,000	9,217,000	3,954,000
2.	6,456,000	8,276,000	9,476,000
3.	4,806,000	8,284,000	10,788,000
4.	2,277,000	8,609,000	10,573,000
5.	4,631,000	7,525,000	10,931,000
6.	6,012,000	6,745,000	5,759,000
7.	5,147,000	7,954,000	7,564,000
8.	6,579,000	7,994,000	9,974,000
9.	6,260,000	8,733,000	10,104,000
10.	8,013,000	9,697,000	9,544,000
11.	6,060,000	10,449,000	10,075,000
12.	9,996,000	10,603,000	9,335,000
13.	3,982,000	10,940,000	7,746,000
14.	7,373,000	8,956,000	7,306,000
15.	9,343,000	9,153,000	8,340,000
16.	8,638,000	8,771,000	6,162,000
17.	9,320,000	8,673,000	7,415,000
18.	8,564,000	10,102,000	8,483,000
19.	8,676,000	10,456,000	8,509,000
20.	9,911,000	9,759,000	7,374,000
21.	10,172,000	10,212,000	7,350,000
22.	8,284,000	9,448,000	8,879,000
23.	9,830,000	9,062,000	9,779,000
24.	8,097,000	8,014,000	9,027,000
25.	9,287,000	10,199,000	8,658,000
26.	8,994,000	9,813,000	6,153,000
27.	10,170,000	10,183,000	4,376,000
28.	9,308,000	9,643,000	5,118,000
29.	9,025,000	9,706,000	7,599,000
30.	7,912,000	8,283,000	8,125,000
31.		8,341,000	8,162,000

Tot. (G.P.M.)

226,169,000

283,800,000

252,638,000

Day of Highest Flows:

June 21st	10,172,000 G.P.D.	15.74 cfs
July 13th	10,940,000 "	16.93 "
Aug. 5th	10,931,000 "	16.91 "

RECEIVED
MAR 27 1964
STATE ENGINEER

CITY OF BEND WATER DEPARTMENT

Three Months Highest Flow of 1962

RECEIVED
MAR 12 1964
STATE ENGINEER
ALEX. OTTE

	JUNE	JULY	AUGUST
1.	3,000,000	6,180,000	4,364,000
2.	6,146,000	6,257,000	10,400,000
3.	4,130,000	8,007,000	10,226,000
4.	2,666,000	8,354,000	5,560,000
5.	3,251,000	6,589,000	5,085,000
6.	5,175,000	8,350,000	6,490,000
7.	6,848,000	8,687,000	7,405,000
8.	7,720,000	8,006,000	4,525,000
9.	9,300,000	8,561,000	2,685,000
10.	7,167,000	9,262,000	3,240,000
11.	6,536,000	9,281,000	3,280,000
12.	7,994,000	8,399,000	5,970,000
13.	8,051,000	9,105,000	5,286,000
14.	5,802,000	8,174,000	6,132,000
15.	6,867,000	7,855,000	8,092,000
16.	7,904,000	7,195,000	8,301,000
17.	7,358,000	9,494,000	8,402,000
18.	7,121,000	8,980,000	7,189,000
19.	9,414,000	8,806,000	6,685,000
20.	9,264,000	9,310,000	6,037,000
21.	9,200,000	9,918,000	8,214,000
22.	9,260,000	9,191,000	6,987,000
23.	9,380,000	9,284,000	7,785,000
24.	6,680,000	10,267,000	7,440,000
25.	7,710,000	10,645,000	8,223,000
26.	6,050,000	8,855,000	6,950,000
27.	9,799,000	8,991,000	5,794,000
28.	10,574,000	10,008,000	6,270,000
29.	11,049,000	8,629,000	6,395,000
30.	9,477,000	8,002,000	6,077,000
31.		11,739,000	7,571,000
Tot. G.P.M.	220,893,000	270,381,000	203,060,000

Day of Highest Flow:

June 29th 11,049,000 G.P.D. 17.10 cfs
 July 31st 11,739,000 " 18.1 cfs
 Aug. 2nd 10,400,000 " 16.1

RECEIVED
MAR 27 1964
STATE ENGINEER
ALEX. OTTE

CITY OF BEND WATER DEPARTMENT

Three Months Highest Flow of 1963

RECEIVED
MAR 1 1964
STATE ENGINEER
JAMES C. GIBSON

	JUNE	JULY	AUGUST
1.	2,802,000	4,683,000	5,153,000
2.	5,991,000	7,652,000	9,350,000
3.	3,951,000	8,842,000	9,330,000
4.	5,326,000	8,617,000	7,941,000
5.	5,822,000	7,022,000	8,445,000
6.	4,703,000	7,233,000	10,206,000
7.	7,352,000	5,115,000	10,017,000
8.	6,716,000	2,878,000	9,905,000
9.	7,072,000	3,710,000	10,430,000
10.	5,812,000	4,983,000	6,182,000
11.	6,828,000	6,170,000	5,193,000
12.	8,658,000	7,764,000	6,195,000
13.	9,302,000	8,858,000	9,619,000
14.	8,740,000	8,311,000	9,499,000
15.	9,056,000	7,675,000	8,950,000
16.	9,015,000	8,213,000	8,359,000
17.	7,770,000	8,153,000	9,295,000
18.	9,672,000	6,844,000	7,564,000
19.	9,473,000	8,920,000	6,952,000
20.	9,153,000	9,219,000	7,172,000
21.	7,930,000	8,517,000	7,745,000
22.	5,416,000	7,576,000	6,765,000
23.	2,814,000	8,710,000	7,100,000
24.	2,616,000	8,916,000	4,939,000
25.	4,369,000	7,393,000	5,480,000
26.	4,447,000	7,902,000	5,700,000
27.	7,065,000	9,190,000	7,587,000
28.	5,055,000	8,439,000	7,761,000
29.	2,755,000	8,128,000	8,377,000
30.	2,667,000	10,153,000	8,287,000
31.		9,753,000	8,315,000
Tot. G.P.M.	188,348,000	235,539,000	243,813,000

Day of Highest Flow:

June 18th 9,672,000 G.P.D. 14.96 c.f.s.
 July 30th 10,153,000 " 15.71 "
 Aug. 9th 10,430,000 " 16.14 "

RECEIVED
MAR 27 1964
STATE ENGINEER
JAMES C. GIBSON

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 pipelines, the capacity of both lines being 17.17 c.f.s.
attached are record of daily flow for months of June, July and August, 1961
through 1963

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 26th day of

March, 19 64.

RECEIVED
MAR 2 1964
STATE ENGINEER
ALBANY, N.Y.

W. P. Drost

Superintendent

B 103

To the STATE ENGINEER OF OREGON:

.....
(Name of applicant)

(Postoffice)

point of diversion and type of use

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

.....
(Name of stream)

(Irrigation; Mining; Power; Manufacturing; etc.)

Tumalo

(N. or S.)

(E. or W.)

(Section or subdivision)

(No. N. or S.)

(No. E. or W.)

[illegible]

33² 22² (15-322) M.A. Piercy

.0789 c.f.s.

(362 137 Per. 19628)

(If not owner, explain your interest)

Sept

No
.....
(Yes or No)

Form 113-1M-6-51

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 Adjuctication
(Yes or No)

11. Is the water right recorded in your name? Yes No, in name of M.A. Piercy
(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 161.28 ft. N. and 538.69 ft. W from the E
(N. or S.) (E. or W.)
corner of S.E. $\frac{1}{4}$ being within the N.E. $\frac{1}{4}$ of Section 7 Tp. 18 R. 10E. 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 Tumalo Creek

14. Are you the owner of the land on which the proposed point of diversion is to be located? _____

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 7th day of May, 1957.

city of Bend

Walter T. Thompson
(Name of applicant) city manager

Subscribed and sworn to before me this 7th day of May, 1957.

[Notarial Seal]

Barry A. English
NOTARY PUBLIC FOR OREGON

My commission expires July 2, 1959

Remarks Contract with Deschutes County Municipal Improvement District date of
November 4, 1950, January 9, 1953, November 3, 1953 and April 4, 1956.

State Engineers office has copies of above agreements and map of City water intake.

55.2 acres water on above described land. City to receive 52.6 acres as per
agreement - District to retain 2.6 acres.

The right to use water from Deschutes River is to be transferred from said 52.6
acres to remaining lands within the District - the District to retain water for
2.6 acres.

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.

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

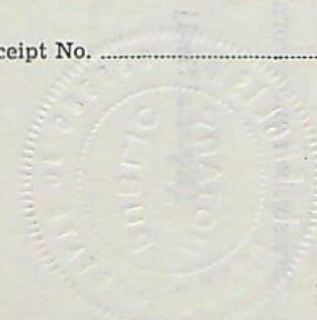
Date of issuance of certificate
confirming change

Recorded in State Record of Water Right Certificates,

volume, page

Fees paid

Receipt No.



DIRECTORS:

R. V. GILLISPIE
F. J. BRENNAN
C. E. HEISINGER

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT
(TUMALO IRRIGATION PROJECT)
RURAL ROUTE 2
BEND, - OREGON

G. W. MONTGOMERY
SECRETARY
MANAGER
PHONE 272-L

August 8, 1957

Re: Transfer No. B-103

Att: Mr. Rogers

State Engineers Office
Salem, Oregon

RECEIVED
AUG 12 1957
STATE ENGINEER
SALEM, OREGON

Dear Mr. Rogers:

In reply to your letter of July 24th, 1957, the 2.6 acres of water to be reserved by this District is to be kept on the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 16, Twp. 16, Range 12 EWM, formerly owned by the H.O. Piercy Estate.

Yours very truly,

Deschutes County Municipal
Improvement District

James S. Frakes

James S. Frakes, Manager

JSF/mp

C O N T R A C T

RECEIVED
JAN 25 1956
STATE ENGINEER
SALEM, OREGON

THIS AGREEMENT made and entered into between CITY OF BEND, a municipal corporation, and political subdivision of the State of Oregon, hereinafter called The City and DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, A municipal corporation, hereinafter called the District, WITNESSETH:

THAT WHEREAS The City, in order to obtain an additional water supply from Tumalo Creek for domestic use for its inhabitants has obtained options for the purchase of the following described premises, to-wit:

West Half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$), Section Six (6) Township Sixteen (16), South Range Twelve (12), E. W. M., Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of Section One (1), Township Sixteen (16), South Range Eleven (11), E. W. M. The West Half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), Section Sixteen (16), Township Sixteen (16), South Range Twelve (12); North Half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$), Section Two (2), and the North Half of the Northwest Quarter of the Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$) Section One (1), all in Township Seventeen (17) South Range Eleven (11), E. W. M., and the Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$) of Section Thirty-five (35), Township Sixteen (16), South Range Eleven (11), E. W. M., all of which lands are located in Deschutes County, Oregon

AND WHEREAS the above described lands lie within the District, which is an irrigation district, organized and existing under and by virtue of the laws of the State of Oregon, and which lands have a water right appurtenant to the respective tracts in the aggregate amount of 226.4 acres and are subject to levy and assessment for the operation and maintenance of the District and the payment of outstanding indebtedness including outstanding bonds.

That the District, through its irrigation system, is required to maintain a system sufficient to furnish water under its present set up, for approximately 6800 acres of land, and that the revenue to be derived from said 6800 acres of land, including the water appurtenant to the lands hereinafter described, are necessary for the operation and maintenance of the District and the releasing or transferring of the water right appurtenant to said lands to the City would decrease the revenue of the District, but would not decrease the maintenance and operation expense, and in order to maintain the District so as to be able to furnish water to all the lands requiring water under the District's irrigation system it is necessary to maintain an acreage as large as the present acreage within the District including the lands hereinabove described.

AND WHEREAS it is the desire of the City to transfer the water rights appurtenant to the lands hereinabove described from said lands and apply the same for domestic use for the inhabitants of the City; the effect of which transfer would remove the water rights from said lands and leave the same dry and they would, therefore, no longer be subject to assessment for the payment of operation and maintenance expenses and outstanding indebtedness including bonds.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that there is outstanding indebtedness against said District including outstanding bonds for the payment of which all of the irrigable lands within the District are liable and that to release these lands from the obligation of the payments of said outstanding indebtedness and outstanding bonds would result in an increased burden on the balance of the lands in the District for the payment thereof.

NOW, THEREFORE, IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED that the City does hereby specifically undertake and agree with the District that it will perpetually pay to the District a like amount per irrigable acre for all the water transferred from the above described premises, each year as is assessed or levied against the balance of the acreage within said District, for the payment of operation and maintenance and the payment of outstanding indebtedness, including outstanding bonds and for replacements and capital repairs, but in no event shall the City be required to pay any greater sum per acre of water right transferred to it than shall be charged and paid by any other irrigable acre of land within the District for any of the purposes set out in the paragraph or otherwise; such payments to be made upon presentation of a statement of the amount to the City by the District during the months of January and July of each year.

In consideration of the foregoing, the District does hereby agree to approve such transfer and to execute such instruments as may be necessary for said transfer; provided, it is understood by both the parties hereto that this agreement is conditioned upon the approval of such transfer by the State Engineer of the State of Oregon, without which approval the agreement shall be considered as of no force and effect.

IT IS FURTHER UNDERSTOOD AND AGREED that if and when such transfer of water rights shall be made from said described tracts, the District shall thereafter be under no obligation to furnish any water to any part of said land, but until

said transfer is actually made and the water rights removed or transferred to the City, the City may demand and receive water therefor, if the same shall be put to farming use by the City or its tenants.

IT IS FURTHER UNDERSTOOD AND AGREED that if the District deems it detrimental to the District to permit the transfer of water from the Robert F. Alley property described as:

$N\frac{1}{2}$ $NE\frac{1}{4}$ Sec. 2, Twp. 17, S. Range 11, E. W. M.
 $N\frac{1}{2}$ $NW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 1, Twp. 17, S. Range 11, E. W. M.
 $SW\frac{1}{4}$ $SE\frac{1}{4}$ Sec. 35, Twp. 16, S. Range 11, E. W. M.

except that portion thereof served by a syphon, then it may refuse to transfer the said water rights to the City, even though the City has acquired title to the lands, but in such case the District does hereby agree to transfer to the City other lands within the District with water rights appurtenant thereto equal to the amount reserved on the Alley land, at which time the City will transfer that portion of the Alley tract to which water rights has not been transferred to the District or its assignees, the District shall pay the difference in the value per acre of the two tracts, said difference to be represented by the value of the improvements thereon in the amount of \$7000.00 or

If the District deems it more beneficial to the District to retain all the water rights on the Alley tract except that served by syphon, the City may exercise its option on said Alley tract, in which case the District will consent to the transfer of the water rights appurtenant to the land served by syphon only and transfer to the City other lands within the District having a water right appurtenant thereto equal to the amount reserved for which the City shall pay the District the sum of \$100.00 per acre. The City may retain title to the Alley tract and sell the same with appurtenant water right to the extent of the amount reserved by the District.

In case the District deems it advisable and for the best interest of the District to not transfer any portion of the water right to any of the other tracts above described, then it will transfer to the City other lands within the District having a water right appurtenant thereto equal to the amount so reserved.

IN WITNESS WHEREOF THE CITY OF BEND has caused this contract to be signed by its duly authorized officers, this 4th day of November, 1950, by Resolution duly adopted and the DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, has caused this contract to be signed by its duly authorized officers this 4th day of November, 1950, by Resolution duly adopted.

CITY OF BEND

SEAL

By: /s/ T. D. Sexton
Mayor

By /s/ W. T. Thompson
City Recorder

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT

SEAL

By: /s/ Delmer Davis
President

By: /s/ G.W. Montgomery
Secretary

STATE OF OREGON)
 (SS.
County of Deschutes)

On this 4th day of November, 1950, before me appeared THEODORE D. SEXTON AND WALTER THOMPSON, both to me personally known, who being duly sworn, did say that he, the said Theodore D. Sexton is the Mayor, and he, the said Walter Thompson is the City Recorder of the City of Bend, 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 said Theodore D. Sexton and Walter Thompson acknowledged said instrument to be the free act and deed of said Corporation.

SEAL

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.

/s/ D.H. Peoples
Notary Public for Oregon
My Commission Expires: January 9, 1953

STATE OF OREGON)
 (ss.
County of Deschutes)

On this 3rd day of November, 1950, before me appeared DELMER DAVIS and G. W. MONTGOMERY, both to me personally known, who being duly sworn, did say that he, the said Delmer Davis is the President, and he, the said G. E. 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 said Delmer Davis 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 affixed my official seal, this the day and year first in this, my certificate, written.

SEAL

Notary Public for Oregon
My Commssion Expires January 9, 1953

C
O
P
Y

RECEIVED
JAN 25 1956
STATE ENGINEER
SALEM, OREGON

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT made and entered into between CITY OF BEND, A Municipal Corporation and political subdivision of the State of Oregon, hereinafter called The City, and DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, A Municipal Corporation, hereinafter called The District,

W I T N E S S E T H:

WHEREAS the parties hereto heretofore on the 4th day of November, 1950, entered into a contract regarding the transfer of water rights from lands within the district to domestic use for the city, and

WHEREAS said contract set out the terms and condition under which the district would permit the transfer of water from various tracts of land within the district as to which the city had options for the purchase, and

WHEREAS it is understood that the city is now in the process of exercising the option on the Robert F. Alley property herinafter called The Alley Option, and it is the desire of the parties hereto to clarify the rights of the respective parties heretwas to the water right appurtenant to said Alley option lands, which may be transferred in accordance with said contract to the city for domestic use,

NOW, THEREFORE, IT IS HEREBY AGREED between the parties hereto as follows:

THAT THE LANDS covered by said Alley option are described as follows and have the apparent water right set after each description at the present time:

Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$), Section Thirty-five (35), Township Sixteen (16) South Range Eleven (11), E. W. M.	28	Acres vested right
Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Two (2), Township Seventeen (17) South, Range Eleven (11), E.W.M.	22.9	Acres per State Engineer's survey
Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Two (2), Township Seventeen (17) South, Range Eleven (11), E.W.M.	36.0	Acres per State Engineer's survey
TOTAL	86.9	Acres

IT IS UNDERSTOOD AND AGREED between the parties hereto that as to the water rights upon the lands above mentioned the district shall be obligated to approve a transfer at the time and in the manner mentioned in said contract between the parties hereto of November, 1950, of only 84.6 acres of water right and shall not be required to

deliver in excess of 84.6 acres of water at any time and that prior to the time the city requests the transfer of any water rights for its own domestic purposes in accordance with said contract of November, 1950, if at any time the district request its, the city will cause to be transferred and will join in any proposed transfer to lands selected by the district all water rights appurtenant to said above-described lands in excess of 84.6 acres to be so transferred at the option of the district. If the district desires to sell to the city the number of acres of water right in excess of said 84.6 acres above mentioned then the city agrees to pay the sum of \$100.00 per acre for such water rights in excess of said 84.6 acres.

IT IS UNDERSTOOD AND AGREED that although there was included in the Alley option lands described as:

North Half of the Northwest Quarter of the Northwest Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$), Section One (1), Township Seventeen (17) South Range Eleven (11), E. W. M

that Robert F. Alley and Irene Alley, his wife, had theretofore contracted to convey the same to the district and that said twenty acre tract is not included in lands as to which the city will acquire a water right or other interest.

ONLY AS ABOVE MENTIONED is said contract of November, 1950, so clarified and supplemented.

IN WITNESS WHEREOF, the City of Bend has caused this Supplemental Agreement to be signed by its duly authorized officers this 3rd day of March, 1951, by Resolution duly adopted and the Deschutes County Municipal Improvement District has caused this Agreement to be signed by its duly authorized officers, this 2nd day of March, 1951, by Resolution duly adopted.

CITY OF BEND

/s/ W. T. Welcome
Mayor

/s/ W. T. Thompson
City Recorder

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT

/s/ Delmer Davis
President

/s/ G. W. Montgomery
Secretary

STATE OF OREGON)
 (ss.
County of Deschutes)

On this day of March, 1951, before me appeared Wesley T. Welcome and Walter Thompson, both to me personally known, who being duly sworn, did say that he, the said Wesley T. Welcome is Mayor, and he, the said Walter Thompson is the City Recorder of the City of Bend, 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 said Wesley T. Welcome and Walter Thompson acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.

Notary Public for Oregon
My Commission Expires:

STATE OF OREGON)
 (ss.
County of Deschutes)

On this 5th day of March, 1951, before me appeared DELMER DAVIS and G. W. MONTGOMERY, both to me personally known, who being duly sworn, did say that he, the said Delmer Davis is the President, and he, the said G. W. Montgomery is the Secretary of Dechutes 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 said Delmer Davis and G. W. Montgomery acknowledged said instrument ot be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the day and year first in this, my certificate, written.

/s/ Robert H. Foley
Notary Public for Oregon

My Commission Expires: January 2, 1954

C
O
P
Y

WHEREAS, on the 3rd day of November, 1950, Deschutes County Municipal Improvement District, by resolution duly adopted, entered into a contract with the City of Bend, under the terms of which contract the City was authorized to purchase certain described lands within the District, having a water right, with the understanding that the District would permit a transfer of the water rights appurtenant to said lands to the City for its municipal use of the City of Bend, provided the City, in case of such transfer, should perpetually pay annual charges against each acre of water right so transferred equal to the amount assessed per acre of the lands within the District for operation and maintenance purposes and pay proportionately all other charges which might accrue against the District, including payment of outstanding bonds and all subject to the approval of the State Engineer of the State of Oregon, and

WHEREAS included in said contract was the following described property:

West Half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), Section Sixteen (16), Township Sixteen (16), South Range Twelve (12), E.W.M. in Deschutes County, Oregon

and laying within the boundaries of the District, and

WHEREAS The City of Bend has not heretofore exercised its right to purchase the above described lands, the present owners of which are George Heilman and Rachel Heilman, Husband and Wife, and the M.A. Piercy Estate, which lands have a water right for approximately fifty-one (51) acres, and

WHEREAS City of Bend has now requested authority to enter into a contract with the present owners with the ultimate purpose of transferring the water rights to the City under the conditions outlined in said contract, and

WHEREAS the Board feels that the District is bound under the terms of the original contract,

THEREFORE, BE IT RESOLVED that the City of Bend be and it is hereby authorized to purchase said lands and water rights, provided such purchase is made strictly in accordance with the terms of said contract on November 3, 1950, and provided further that if and when the City requests transfer of all or any water rights from said lands to the City of Bend, the District reserves the right, in lieu of such transfer, to transfer to the City an equal amount of water right requested by the City within the limits of the water rights appurtenant to said lands from any lands owned by the District to which a water right is appurtenant, in which case the water right transferred from the District lands to the City shall be subject to the provisions of said contract with reference to the payment of operation and maintenance

cost and other charges as provided in said contract.

BE IT FURTHER RESOLVED that the board authorize its President and Secretary to execute any instruments which may be necessary in connection with such transfer.

BE IT FURTHER RESOLVED that notwithstanding any of the provisions contained in the contract referred to in this Resolution, or any statements contained in this Resolution, any acreage in the contract referred to over the amount specified in the T I P contract as irrigable, shall be subject to and controlled by the policy of the Board with reference to such excess acreages as they apply to this or any other ownerships within the District.

/s/ R.V.Gillispie
Director

/s/ C.E.Heisinger
Director

/s/ F.J.Brennan
Director

Dated; November 3, 1953

A G R E E M E N T

THIS AGREEMENT made and entered into this 24th day of April 1956, by and between the CITY OF BEND, A Municipal Corporation of the State of Oregon, hereinafter called the City, and DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT, A Municipal Corporation, hereinafter called the District,

W I T N E S S E T H:

That for some years prior to the date of this agreement the City and the District as above named have been parties to contracts and supplemental agreements pertaining to certain lands within the County of Deschutes, State of Oregon and further with regard to water rights as they pertained to those lands. Since the date of these prior agreements the State Engineer of the State of Oregon has surveyed the said properties and has determined that the amounts of water pertaining to the lands have been changed to some extent. In view of the aforesaid change, it is deemed necessary at this time that the parties hereto enter into this agreement to supplement and clarify the prior agreements between the parties. It is now agreed that the parties hereto do agree each with the other that the following described lands have water rights appurtenant thereto in the amounts as set forth opposite each description as herein set forth. That the lands contemplated herein are as follows:

NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 6, T. 16 S., R. 12 E. W. M.	26.0 Acres
SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 6, T. 16 S., R. 12 E. WM	30.0 Acres
SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 1, T. 16 S., R. 11 E. WM	31.6 Acres
NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 2, T. 17 S., R. 11, E. WM	22.9 Acres
NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 2, T. 17, S. R. 11 E. WM	36.0 Acres
SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 35 T. 16 S. R. 11, E. WM	28.0 Acres
Sub Total	174.5 Acres
NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12 E. WM	33.0 Acres
SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12, E. WM	22.2 Acres
Total Piercy Farm	55.2 Acres
Grand Total	229.7 Acres

It will be noted that by virtue of the above set forth break down of water rights that the total water right that the City has is in the amount of 229.7 acres rather than the figure 226.4 as in the prior agreement provided. With respect to the new figure of 229.7 the following agreement will prevail as between the parties hereto:

1. From the aforesaid figure of 229.7 acres it is agreed between the parties hereto that the District will approve the transfer of 174.5 acres at this time and further agrees to execute any and all instruments necessary to the aforesaid transfer of the 174.5 acres which said water will be taken from the lands as hereinafter described and in the amounts as set forth opposite the individual descriptions hereinafter set forth, to-wit:

NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 6, T. 16 S., R. 12, EWM	26.0 Acres ✓
SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 6, T. 16 S., R. 12, EWM	30.0 Acres ✓
SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 1, T. 16 S., R. 11, EWM	31.6 Acres ✓
NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 2, T. 17 S., R. 11, EWM	22.9 Acres
NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 2, T. 17 S., R. 11, EWM	36.0 Acres
SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 35, T. 16 S., R. 11, EWM	<u>28.0 Acres</u> ✓
	174.5 Acres

In addition, and at a later date, the District hereby agrees to approve the transfer from the following described lands of 55.2 acres of water, to-wit:

NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12, EWM	33.0 Acres
SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12, EWM	<u>22.2 Acres</u>
	55.2 Acres

but the City also agrees that at the time of the transfer of the 55.2 acres of water as in this paragraph provided to transfer back to the District the amount of 2.6 acres of water. That the 2.6 acres of water as aforesaid shall be taken from the 55.2 acres of water as aforesaid, leaving a balance to be transferred to the use of the City in the amount of 52.6 acres of water.

That when the parties hereto speak of transfer of water in the instrument is meant that the District will approve and the City will apply for transfer from the aforesaid lands back into Tumalo Creek for the use of the City for municipal purposes.

The City does hereby relinquish and disclaim its right to any water rights appurtenant to the above described premises, whether adjudicated or not, in excess of 227.1 acres and does hereby agree to execute any and all instruments necessary or required in effecting the transfer of such additional rights, if any, to the District or to other lands, or to cancel the same.

It is understood that the water rights contemplated to be transferred to the City by the Agreement and this Supplemental Agreement, pertains only to the water rights from Tumalo Creek.

This instrument is and shall be construed only as a supplement to the

existing contract or contracts between the parties hereto heretofore referred to in this Supplement and shall in no wise change or alter the terms or conditions of said contract or contracts except as provided in this Supplemental Agreement.

IN WITNESS WHEREOF, The parties hereto have caused this agreement to be executed in triplicate on the day and year first above written by their duly authorized officers.

IN WITNESS WHEREOF, The City of Bend has caused this agreement to be signed by its duly authorized officers, this 4th day of April, 1956, and the Deschutes County Municipal Improvement District has caused this agreement to be signed by its duly authorized officers, this 3rd day of April 1956.

CITY OF BEND

By: Hap Taylor
Mayor

By: Julia S. Johnson
City Recorder

DESCHUTES COUNTY MUNICIPAL IMPROVEMENT DISTRICT

By: A. V. Gillispie
President

By: M. W. Montgomery
Secretary

STATE OF OREGON)
(ss
County of Deschutes)

On this 4th day of April, 1956, before me appeared Hap Taylor and Julia S. Johnson, both to me personally known, who being duly sworn, did say that he, the said Hap Taylor is the Mayor, and she, the said Julia S. Johnson is the City Recorder of the City of Bend of the within named City of Bend and that the seal affixed to said instrument is the seal of said City of Bend and that the said instrument was signed and sealed in behalf of said City of Bend by authority of its City Commission, and said Hap Taylor and Julia S. Johnson acknowledged said instrument to be the free act and deed of said City of Bend.

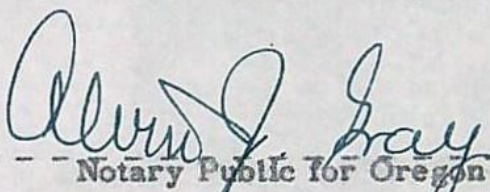
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this the day and year first in this, my certificate, written.

Larry A. English
Notary Public for Oregon
My Commission Expires:

STATE OF OREGON)
 (ss
County of Deschutes)

On this 3rd day of April, 1956, before me appeared R. V. Gillispie and G. W. Montgomery, both to me personally known, who being duly sworn, did say that he, the said R. V. Gillispie 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 R. V. Gillispie 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.



Notary Public for Oregon
My Commission Expires: 10-1-56

OK
WR

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.

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 33 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 22.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12 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 52.6 acres of the land above described, to-wit: 33 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 19.6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 16, T. 16 S., R. 12 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 courthouse at Bend, Ore., on Oct. 10, 1957, beginning at 9:30 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 filed with 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 13th day of Aug. 1957.

LEWIS A. STANLEY,
State Engineer

275-221-271-C

RECEIVED
SEP 8 1957
STATE ENGINEER
SALEM, OREGON

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 for a Change in Use,
Place of Use, and Point of Diversion of Water

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 August 16, 23, 30, 1957

Subscribed and sworn to before me this 30th day of August, 1957.

Nell Wescoatt
Notary Public for Oregon
(My Commission Expires May 6 1960)

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.)

ORDERAPPROVING APPLICATION

On June 13, 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 33 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 22.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., with a date of priority of September 1900. 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 these lands is limited to a rate of flow of one-seventieth of one 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 Tumalo Creek, Crater Creek, Little Crater Creek and three springs for the irrigation of, among other lands, 33 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 13.7 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., and for a primary right for the irrigation of 3.3 acres in said NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Agreements dated November 4, 1950 and April 4, 1956 between the City of Bend and Deschutes County Municipal Improvement District provide that the right to the use of water from Tumalo Creek only for the irrigation of 52.6 acres of the 55.2 acres described in paragraph 2 hereof, is to be transferred to the City of Bend for municipal purposes. The agreements further provide 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 52.6 acres, each acre to be assessed equally as all other lands within the district are assessed.

It is the desire of the district to divest the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., of all remaining water rights except for 2.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 16. That part of the 9.5 cubic feet per second right from Deschutes River appurtenant to the above lands, except said 2.6 acres, is to be transferred to the remaining lands within the district and that part of the right from Tumalo, Crater and Little Crater Creeks and three springs under Permit No. 19628, except for the irrigation of said 2.6 acres, is to be eliminated from the permit.

The applicant herein, owner of 33 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 19.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., proposes to transfer the water right from Tumalo Creek with a priority of September 1900 for 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 October 10, 1957, beginning at 9:30 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 August 16, 23 and 30, 1957. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

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 33 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 19.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 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, 1965 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 the irrigation of 52.6 acres from Tumalo Creek described in paragraph 7 hereof and by this order transferred to municipal purposes by the City of Bend, Oregon, shall be limited to a maximum diversion of 0.75 cubic foot 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 94.68 acre feet, measured at the existing meters in the city's parallel pipelines.

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 NW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., except for 2.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 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 following described lands be eliminated from Permit No. 19628, to-wit: 36.3 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 11.1 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M.

It is FURTHER ORDERED that when certificates of water right are issued confirming the rights to the use of the waters of Tumalo Creek and its tributaries, a certificate of water right shall be issued to the Deschutes County Municipal Improvement District for the irrigation of 2.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 16 South, Range 12 East, W. M., being the 2.6 acres 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 7th day of April 1958.

/s/ LEWIS A. STANLEY
State Engineer

Wendell
OLD COUNCIL TREE
ONION SKIN
100% RAG
MADE IN U.S.A.