

BEFORE THE STATE ENGINEER OF OREGON

Deschutes County

IN THE MATTER OF THE APPLICATION OF )  
ROBERT W. AND GWENDELYN S. DENNING )  
FOR THE APPROVAL OF A CHANGE IN )  
PLACE OF USE OF WATER FROM TUMALO )  
CREEK, DESCHUTES RIVER, CRATER )  
CREEK, LITTLE CRATER CREEK AND )  
THREE SPRINGS AND CRESCENT LAKE )  
RESERVOIR )

ORDER APPROVING  
TRANSFER NO. D-139

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On September 25, 1969, Robert W. and Gwendelyn S. Denning filed an application in the office of the State Engineer for the approval of a change in place of use of water from Tumalo Creek, Deschutes River, Crater Creek, Little Crater Creek and Three Springs and Crescent Lake Reservoir, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Crook County, Oregon, entered May 1, 1911, In the Matter of the Determination of the Relative Rights to the use of the waters of Tumalo Creek, a tributary of the Deschutes River, a water right was established in the name of Tumalo Irrigation District for the irrigation of, among other lands, 1.0 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$  and 3.5 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 22, Township 16 South, Range 11 East, W.M., with a date of priority of September, 1900, as described by certificate recorded at page 31410, Volume 23, State Record of Water Right Certificates.

By Decree of the Circuit Court for Deschutes County, Oregon, entered August 27, 1958, In the Matter of the Determination of the Relative Rights to the use of the waters of Tumalo Creek, a tributary of the Deschutes River, a water right was established in the name of Tumalo Irrigation District, tabulated in the name of R. W. Denning, for the irrigation of, among other lands, 3.0 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 22, Township 16 South, Range 11 East, W.M., with a date of priority of June 1, 1907, as described by certificate recorded at page 26508,

Volume 18, State Record of Water Right Certificates.

These lands also have supplemental rights under certificate recorded at page 31412, State Record of Water Right Certificates, to the use of water from the Deschutes River, with a date of priority of 1905; certificate recorded at page 26050, Volume 18, State Record of Water Right Certificates, to the use of water from Tumalo Creek, Crater Creek, Little Crater Creek and Three Springs, with a date of priority of October 29, 1913; certificate recorded at page 26051, Volume 18, State Record of Water Right Certificates, to the use of the waters of Crescent Lake Reservoir, with a date of priority of April 7, 1911; and permit No. 27841 for the use of waters of Crescent Lake Reservoir, with a date of priority of December 8, 1961.

The applicants herein, owners of the lands above described, propose to transfer the water right therefrom, without loss of priority, to 3.0 acres in N $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , under a date of priority of June 1, 1907, and 4.5 acres in S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , under a date of priority of September, 1900, Section 22, Township 16 South, Range 11 East, W.M.

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

The lands involved herein are within the boundaries of the Tumalo Irrigation District and the Board of Directors of said District approved the proposed change in place of use of water.

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

NOW, THEREFORE, it hereby is ORDERED that the proposed change in place of use of water is approved and the water right hereinbefore described as appurtenant to 1.0 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 3.5 acres

in SE¼ SE¼, as evidenced by certificate recorded at page 31410 with a date of priority of September, 1900, and 3.0 acres in SE¼ NE¼, as evidenced by certificate recorded at page 26508 with a date of priority of June 1, 1907, Section 22, Township 16 South, Range 11 East, W.M. be severed therefrom and simultaneously and without loss of priority transferred to 3.0 acres in N½ NE¼ SE¼, as evidenced by certificate recorded at page 26508, and 4.5 acres in S½ NE¼ SE¼, as evidenced by certificate recorded at page 31410, Section 22, Township 16 South, Range 11 East, W.M.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1971.

It is FURTHER ORDERED that upon receipt of proof satisfactory to the State Engineer of complete application of water to beneficial use on the lands to which the water is transferred hereby, certificate of water right shall be issued to Tumalo Irrigation District at the time certificate is issued to the District confirming other transfers within the District.

Dated at Salem, Oregon, this 17<sup>th</sup> day of August, 1970.

  
CHRIS L. WHEELER  
State Engineer