

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application            )   FINAL ORDER APPROVING A DISTRICT  
T-11329, Deschutes County                    )   PERMANENT TRANSFER

**Authority**

ORS 540.570 to 540.580 establishes the process in which a district may submit a request to transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department’s procedures and criteria for evaluating district transfer applications.

**Applicant**

TUMALO IRRIGATION DISTRICT  
64697 COOK AVE.  
BEND, OR 97701

**Findings of Fact**

1. On December 15, 2011, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 74147, 74148, 74149, 76106 and 76520. The Department assigned the application number T-11329.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The portion of the first right to be transferred is as follows:

**Certificate:** 74146, issued in the name of Tumalo Irrigation District

**Use:** Irrigation of 0.22 acre

**Priority Date:** June 1, 1907

**Rate & Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-SEVENTIETH of one cubic foot per second (or its equivalent) and 1.8 acre-feet, measure at or within one-half mile of the land to be irrigated, for each acre irrigated during the irrigation season of each year.

**Source:** Tumalo Creek, tributary to the Deschutes River

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	11 E	WM	23	SW NE	NORTH 70° 21' WEST, 1550 FEET FROM THE EAST ¼ CORNER OF SECTION 23
18 S	10 E	WM	2	NW SW	NORTH 14° 02' EAST, 1713 FEET FROM THE SOUTH ¼ CORNER OF SECTION 2

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	User Name	Notice
17S	11E	WM	2	NE NE	0.22	106	Silver	11.002

6. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

IRRIGATION								
Twp	Rng	Wm	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17S	11E	WM	1	SW NW	0.22	408	Johnson-Green Living Trust	11.002

7. The portion of the second right to be transferred is as follows:

**Certificate:** 74147, issued in the name of Tumalo Irrigation District

**Use:** Irrigation of 1.00 acre and Supplemental Irrigation of 0.22 acre.

**Priority Date:** October 29, 1913

**Rate & Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited as follows:

Apr 1 to May 1 and Oct 1 to Nov 1 -1/80 cfs per acre

May 1 to May 15 and Sep 15 to Oct 1 -1/60 cfs

May 15 to Sep 15 1/32.4 cfs, and 9.91 total acre-feet per acre at the diversion during the season.

**Source:** Tumalo Creek, Crater Creek, Little Crater Creek and Three Springs Branches, tributaries of the Deschutes River.

**Authorized Point of Diversion:**

POD #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	17 S	11 E	WM	23	SW NE	TUMALO FEED CANAL - NORTH 70° 21' WEST, 1550 FEET FROM THE EAST ¼ CORNER OF SECTION 23

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	11E	WM	33	SE NE	1.00	900	O'Neal	11.001

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17S	11E	WM	2	NE NE	0.22	106	Silver	11.002

8. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17S	11E	WM	1	SW NW	1.00	408	Johnson-Green Living Trust	11.001

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Wm	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17S	11E	WM	1	SW NW	0.22	408	Johnson-Green Living Trust	11.002

9. The portion of the third right to be transferred is as follows:

**Certificate:** 74148, issued in the name of Tumalo Irrigation District

**Use:** Supplemental Irrigation of 1.22 acres

**Priority Date:** September 1, 1900

**Rate & Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-SEVENTIETH of one cubic foot per second (or its equivalent) and 1.8 acre-feet, measure at or within one-half mile of the land to be irrigated, for each acre irrigated during the irrigation season of each year.

**Source:** Crescent Lake Reservoir (constructed under Permit R-102), tributary to Crescent Creek.

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
24 S	6 E	WM	11	SE SW
24 S	6 E	WM	11	SW SE

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	11E	WM	33	SE NE	1.00	900	O'Neal	11.001
17S	11E	WM	2	NE NE	0.22	106	Silver	11.002
<b>Total:</b>					<b>1.22</b>			

10. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17S	11E	WM	1	SW NW	1.00	408	Johnson-Green Living Trust	11.001
17S	11E	WM	1	SW NW	0.22	408	Johnson-Green Living Trust	11.002
<b>Total:</b>					<b>1.22</b>			

11. The portion of the fourth right to be transferred is as follows:

**Certificate:** 74149, issued in the name of Tumalo Irrigation District

**Use:** Supplemental Irrigation of 3.98 acres

**Priority Date:** 1905

**Rate & Duty:** The use is limited to the amount beneficially used and shall not exceed 9.50 cubic feet per second for supplemental irrigation, industrial use and pond maintenance during the irrigation season from April 1 to November 1 and storage of said water in Crescent Lake Reservoir during the non-irrigation season, or its equivalent in case of rotation, measured at the point of diversion from the source.

**Source:** Deschutes River, a tributary of the Columbia River.

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	12 E	WM	32	NW NE	100 FEET SOUTH AND 550 FEET EAST FROM THE N1/4 CORNER OF SECTION 32

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng		Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	12E	WM	7	NE NE	0.18	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	0.96	101	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	0.84	102	Gobeille Living Trust	11.003
16S	11E	WM	33	SE NE	1.00	900	O'Neal	11.001
17S	11E	WM	2	NE NE	0.22	106	Silver	11.002
17S	11E	WM	2	NE NE	0.78	106	Silver	11.002
<b>Total:</b>					<b>3.98</b>			

12. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	12E	WM	7	NE NE	0.95	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	1.03	101	Gobeille Living Trust	11.003
17S	11E	WM	1	SW NW	0.22	408	Johnson-Green Living Trust	11.002
17S	11E	WM	1	SW NW	1.00	408	Johnson-Green Living Trust	11.001
17S	11E	WM	1	SW NW	0.78	408	Johnson-Green Living Trust	11.002
<b>Total:</b>					<b>3.98</b>			

13. The portion of the next right to be transferred is as follows:

**Certificate:** 76106, issued in the name of Tumalo Irrigation District

**Use:** Irrigation of 2.76 acres

**Priority Date:** December 8, 1961

**Rate & Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-SEVENTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from Upper Tumalo Reservoir constructed under water use Permit R-2743.

**Source:** Tumalo Creek and Upper Tumalo Reservoir (constructed under Permit R-2743) tributaries of the Deschutes River.

**Authorized Points of Diversion:**

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Tumalo Creek	17 S	11 E	WM	23	SE NE	2080 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 23
Upper Tumalo Reservoir	16 S	11 E	WM	33	SE SW	Not listed on certificate

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	12E	WM	7	SE NE	0.84	102	Gobeille Living Trust	11.003
16S	12E	WM	7	NE NE	0.18	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	0.96	101	Gobeille Living Trust	11.003
17S	11E	WM	2	NE NE	0.78	106	Silver	11.002
<b>Total:</b>					<b>2.76</b>			

14. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	12E	WM	7	NE NE	0.95	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	1.03	101	Gobeille Living Trust	11.003
17S	11E	WM	2	SW NW	0.78	408	Johnson-Green Living Trust	11.002
<b>Total:</b>					<b>2.76</b>			

15. The portion of the next right to be transferred is as follows:

**Certificate:** 76520, issued in the name of Tumalo Irrigation District

**Use:** Supplemental Irrigation of 3.98 acres

**Priority Date:** December 8, 1961

**Rate & Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of not to exceed 9.91 acre-feet per acre for each acre irrigated during the irrigation season of each year and the right allowed hereunder for the appropriation of water for lands having a valid prior right shall be limited to the amount necessary to make up any deficiency in water available to said lands under said prior right and the amount allowed herein, together with the amount secured under any other right existing for said lands, shall be limited by the duty of water as fixed herein,; and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

**Sources:** Crescent Lake Reservoir (constructed under Permit R-2744), tributary of Crescent Creek and the Little Deschutes River

**Authorized Points of Diversion:**

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Deschutes River -- Tumalo Irrigation District Bend Feed Canal	17 S	12 E	WM	32	NW NE	2050 FEET WEST FROM THE NE CORNER OF SECTION 323
Crescent Lake Reservoir	24 S	6 E	WM	11	SE SW	Not listed on certificate

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16S	11E	WM	33	SE NE	1.00	900	O'Neal	11.01
16S	12E	WM	7	SE NE	0.84	102	Gobeille Living Trust	11.003
16S	12E	WM	7	NE NE	0.18	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	0.96	101	Gobeille Living Trust	11.003
17S	11E	WM	2	NE NE	0.78	106	Silver	11.002
17S	11E	WM	2	NE NE	0.22	106	Silver	11.002
<b>Total:</b>					<b>3.98</b>			

16. Transfer Application T-11329 proposes to change the place of use to:

**Proposed Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng		Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
17S	11E	WM	2	SW NW	0.78	408	Johnson-Green Living Trust	11.002
17S	11E	WM	1	SW NW	0.22	408	Johnson-Green Living Trust	11.002
16S	12E	WM	7	NE NE	0.95	102	Gobeille Living Trust	11.003
16S	12E	WM	7	SE NE	1.03	101	Gobeille Living Trust	11.003
17S	11E	WM	1	SW NW	1.00	408	Johnson-Green Living Trust	11.001
<b>Total:</b>					<b>3.98</b>			

17. The district permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
18. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
19. The proposed change in place of use would not result in enlargement of the rights.
20. The proposed change in place of use would not result in injury to other water rights

**Conclusions of Law**

The proposed changes in place of use in Transfer Application T-11329 satisfy the requirements of ORS 540.574(3) and 540.580.

**Now, therefore, it is ORDERED:**

1. The proposed changes to the water rights evidenced by Certificates 74146, 74147, 74148, 74149, 76106 and 76520.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 74146, 74147, 74148, 74149, 76106 and 76520 and any related decree.
3. The former place of use shall no longer be irrigated as part of this water right.
4. The proposed change, as authorized by this final order, shall be completed within one full year from the approval date plus any additional time before or until October 1, 2013.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2014.
6. Certificates 74146, 74147, 74148, 74149, 76106 and 76520 are modified. The Department will issue superseding certificates describing the right when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 28 day of February, 2012.

  
Dwight French, Water Right Services Administrator for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: **FEB 29 2012**