

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10266, Deschutes County) CHANGE IN PLACE OF USE

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CHARLES WOOLSEY
19330 PINEHURST ROAD
BEND OR 97701

Findings of Fact

1. On November 13, 2006, Charles Woolsey filed a transfer application to change the place of use under Certificate 74147, 74148, 74149, and 76520. The Department assigned the application number T-10266.
2. The portion of the first right to be transferred is as follows:

Certificate: 74147 in the name of Tumalo Irrigation District (perfected under Permit S-19628)

Use: IRRIGATION OF 3.0 ACRES

Priority Date: OCTOBER 29, 1913

Season of Use: April 1st to May 1st, described herein as Season 1
May 1st to May 15th, described herein as Season 2
May 15th to Sept. 15th, described herein as Season 3
Sept. 15th to Oct. 1st, described herein as Season 4
Oct. 1st to Nov. 1st, described herein as Season 5

Quantity: Season 1: 0.04 cubic foot per second (cfs)
Season 2: 0.05 cfs
Season 3: 0.09 cfs
Season 4: 0.05 cfs
Season 5: 0.04 cfs

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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 either 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.

Rate/Duty: Season 1: Limited to 1/80th cfs per acre
 Season 2: Limited to 1/60th cfs per acre
 Season 3: Limited to 1/32.4th cfs per acre
 Season 4: Limited to 1/60th cfs per acre
 Season 5: Limited to 1/80th cfs per acre
 Not to exceed 9.91 acre-feet per acre

Source: Tumalo Creek, Crater Creek, Little Crater Creek, and Three Spring Branches, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	9 E	WM	31	NE SW	SPRING BRANCH #2—NO COORDINATES GIVEN
17 S	9 E	WM	31	NW SE	SPRING BRANCH #1—NO COORDINATES GIVEN
17 S	9 E	WM	31	NW SE	LITTLE CRATER CREEK—NO COORDINATES GIVEN
17 S	9 E	WM	31	SE SE	CRATER CREEK—NO COORDINATES GIVEN
17 S	11 E	WM	23	SW NE	TUMALO CREEK #1—NORTH 70 DEGREES 21 MINUTES WEST, 1550 FEET FROM E1/4 CORNER, SECTION 23
18 S	9 E	WM	5	SE NW	SPRING BRANCH #3—NO COORDINATES GIVEN
18 S	10 E	WM	2	SW NE	TUMALO CREEK #2—NORTH 14 DEGREES 2 MINUTES EAST, 1713 FEET FROM S1/4 CORNER, SECTION 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	25	SW NW	2.5
16 S	11 E	WM	25	SE NW	0.5

3. Application T-10266 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	27	SE NW	3.0

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

Certificate: 74148 in the name of Tumalo Irrigation District (perfected under Permit S-624)
Use: SUPPLEMENTAL IRRIGATION OF 3.0 ACRES
Priority Date: April 7, 1911

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 the following amounts measured at the point of diversion from the Deschutes River for each acre irrigated during the periods indicated during the irrigation season of each year.

Season of Use: April 1st to May 1st, described herein as Season 1
 May 1st to May 15th, described herein as Season 2
 May 15th to Sept. 15th, described herein as Season 3
 Sept. 15th to Oct. 1st, described herein as Season 4
 Oct. 1st to Nov. 1st, described herein as Season 5

Quantity: Season 1: 0.75 acre-foot
 Season 2: 0.50 acre-foot
 Season 3: 7.40 acre-feet
 Season 4: 0.50 acre-foot
 Season 5: 0.75 acre-foot

And shall be further limited to a total diversion of not to exceed 35,000 acre-feet during any one irrigation season for original and modified acreage.

Source: Crescent Lake Reservoir, tributary to Crescent Creek, constructed under permit R-102

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:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	25	SW NW	2.5
16 S	11 E	WM	25	SE NW	0.5

5. Application T-10266 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	27	SE NW	3.0

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

Certificate: 76520 in the name of Tumalo Irrigation District (perfected under Permit S-27841)

Use: SUPPLEMENTAL IRRIGATION OF 3.0 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.

Source: Cresent [Crescent] Lake Reservoir constructed under permit R-2744, tributary to Cresent [Crescent] Creek and Little Deschutes River

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	32	NW NE	DESCHUTES RIVER (TUMALO IRRIGATION DISTRICT BEND FEED CANAL)--2050FEET WEST FROM THE NE CORNER OF SECTION 32.
24 S	6 E	WM	11	SE SW	CRESENT [CRESCENT] LAKE RESERVOIR— NO COORDINATES GIVEN

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	25	SW NW	2.5
16 S	11 E	WM	25	SE NW	0.5

7. Application T-10266 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	27	SE NW	3.0

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

Certificate: 74149 in the name of Tumalo Irrigation District

Use: SUPPLEMENTAL IRRIGATION OF 3.0 ACRES

Priority Date: 1905

The use is limited to the amount beneficially used and shall not exceed 9.5 cfs (for the total original rights) for supplemental irrigation, industrial use, and pond maintenance during the irrigation season from April 1st to November 1st, and storage of said water in Crescent Lake Reservoir during the non-irrigation season.

Source: The Deschutes River, tributary to Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	12 E	WM	32	NW NE	100 FEET SOUTH AND 550 FEET EAST FROM THE N¼ CORNER OF SECTION 32

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	25	SW NW	2.5
16 S	11 E	WM	25	SE NW	0.5

“The Deschutes County Municipal Improvement District is hereby given the right to use said 9½ second feet of water for the irrigation of lands within said district during the irrigation season from April 1st to November 1st, and to store said water in its reservoir at Crescent Lake during the non-irrigation season so that the water so stored may be released at such later date as the district sees fit to use the same for the irrigation of lands within the district. The storage, diversion and use of said 9½ second feet of water by said district shall be subject to all the provisions and limitations contained in Paragraph 33 of said order of determination of June 21, 1926.” (Decree dated February 10, 1928, signed by T.E.J. Duffy, Circuit Judge)

9. Application T-10266 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	27	SE NW	3.0

10. Notice of the application for transfer was published on November 21, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. On December 16, 2006, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10266 to the applicant. The draft Preliminary Determination set forth a deadline of March 21, 2007, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
12. On July 13, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-10266 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on July 17, 2007 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

Conclusions of Law


The proposed changes in place of use in application T-10266 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-10266 are approved.
2. Water right certificates 74147, 74148, 75149 and 76520 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.
3. Except as modified herein, all other conditions and restrictions on Certificates 74147, 74148, 74149, and 76520 remain in effect.

4. 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 74147, 74148, and 76520 and any related decree.
5. The former place of use of the transferred water shall no longer receive water as part of these rights.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

Dated at Salem, Oregon this 17th day of August 2007.


Pr Phillip C. Ward, Director

Mailing date: AUG 22 2007