

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

In the Matter of Transfer Application) SECOND CORRECTING FINAL ORDER
T-11701, Deschutes County) APPROVING A DISTRICT 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

Background

1. On November 15, 2000, Special Order Volume 54, Pages 826-834, a DETERMINATION AND ORDER APPROVING ALLOCATION AND ASSIGNMENT OF CONSERVED WATER (CW-9) was issued involving Tumalo Irrigation District’s (TID) Certificates 74146, 74148 and 76106. On April 18, 2005, Special Order Volume 64, Pages 157-158, an ORDER FINALIZING THE ALLOCATION AND ASSIGNMENT OF CONSERVED under CW-9 was issued. This finding of fact clarifies the assignment of the conserved water under Certificates 74146 (primary irrigation) and 74148 (supplemental irrigation) to the place of use originally described under Certificate 76106.
 - a. Consistent with these orders, the applicant’s share of conserved water (11.3 cfs with a priority date of September 1900) under Certificate 74146¹ was assigned to serve the 790.6 acres originally associated with Certificate 76106. Consistent with the order, lands formerly under Certificate 76106 assigned to Certificate 74146 (790.6 acres) have a priority date of September 1900 for primary irrigation.
 - b. When the Department determines it is necessary for record keeping, it will issue a single superseding certificate for Certificate 74146. The superseding certificate will include both the place of use originally under Certificate 74146, and the place of use

¹ The State of Oregon’s share of conserved water (5.82 cfs) from Certificate 74146 was finalized under Certificate 81333.

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.

- (790.6 acres) formerly under Certificate 76106 now assigned to Certificate 74146, as modified by any transfers, including T-11701, completed pursuant to ORS 540.580.
- c. Also consistent with these orders, Certificate 76106 was cancelled with the issuance of confirming water right Certificate 81332 for the use of the waters of Tumalo Creek for instream use with priority date December 8, 1961, and the issuance of diminishment remaining right Certificate 88894 for use of the water of Upper Tumalo Reservoir for supplemental uses. Certificate 81332 was issued to the State of Oregon in exchange for TID receiving the State of Oregon's portion of conserved water under Certificate 74148.
 - d. Thus, consistent with these orders, the entirety of the conserved water under Certificate 74148 (3,746 ac-ft) became the applicant's portion for supplemental irrigation under the same Certificate 74148. The conserved portion of water was assigned to serve the place of use (790.6 acres) described under Certificate 76106 for supplemental irrigation with the April 7, 1911 priority date.
 - e. When the Department determines it is necessary for record keeping, it will issue a single superseding certificate for Certificate 74148 for supplemental irrigation. The superseding certificate will include both the place of use originally under Certificate 74148, and the place of use for the 790.6 acres as had been described in Certificate 76106, as modified by any transfers, including T-11701, completed pursuant to ORS 540.580.

Findings of Fact

2. On December 19, 2013, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 74147, 74148, 74149, 76520, and the "Water Right affected by Special Order Volume 64, Pages 157-158" (place of use formerly under 76106). The Department assigned the application number T-11701.
3. Notice of the application for transfer was published on December 31, 2013, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
4. On March 4, 2014, the Department approved Transfer Application T-11701 for primary irrigation under water right Certificates 74146, 74147, and the "Water Right affected by Special Order Volume 64, Pages 157-158" (place of use formerly under 76106). This final order is recorded in Special Order Volume 91 at Pages 916-919.
5. On February 1, 2017, the Department signed a correcting final order which was mailed on February 9, 2017, to supplement the original final order described in Finding of Fact #4, above. The correcting order is recorded at Special Order Volume 103, Pages 887-893. It was issued to correct the omission of water rights for supplemental irrigation under Certificates 74147, 74148, 74149, and 76520 associated with the approved primary acreage.
6. Transfer T-11701 was issued after the issuance date, being April 18, 2005, of the ORDER

FINALIZING THE ALLOCATION AND ASSIGNMENT OF CONSERVED under CW-9, referenced in Background Item #1, above. The final order and correcting final order for Transfer T-11701 were issued without including the place of use changes to Certificate 74148 for supplemental irrigation as affected by Special Order Volume 64, Pages 157-158 (place of use formerly described under Certificate 76106). This second correcting order is issued to correct omission of these places of use and supplements both the original transfer final order recorded at Special Order Volume 91 at Pages 916-919, and the correcting final order recorded at Special Order Volume 103, Pages 887-893.

7. All lands under Certificate 74148 as affected by Special Order Volume 64, Pages 157-158 (place of use formerly described under Certificate 76106), which were omitted in the two prior orders, are layered with places of use identical to lands approved in T-11701 under Certificate 74146² for primary irrigation, and Certificates 74149 and 76520 for supplemental irrigation.
6. The portion 74148 as affected by Special Order Volume 64, Pages 157-158 to be transferred is as follows:

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

Use: Supplemental Irrigation of 2.7 acres

Priority Date: April 7, 1911

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:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17 S	11 E	WM	11	SE NW	2.6	600	Joyce E. Coats Rev. Trust	13.001
17 S	11 E	WM	11	NE SE	0.1	1002	Shannon	13.005
Total:					2.7			

² Lands for primary irrigation under Certificate 74146 as a result of CW-9 were referenced as "Water right affected by Special Order Volume 64, Pages 157-158" in both the original transfer final order recorded at Special Order Volume 91 at Pages 916-919, and in the correcting final order recorded at Special Order Volume 103, Pages 887-893.

7. Transfer Application T-11701 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
16 S	12 E	WM	08	SE NW	2.0	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	0.6	700	Fredrick & Mary C. Selleck Trust	13.001
17 S	11 E	WM	11	NE SE	0.1	1002	Shannon	13.005
Total:					2.7			

Conclusions of Law

The proposed changes in places of use as shown in Findings of Facts #6 and 7 for Transfer T-11701 satisfy the requirements of ORS 540.574(3) and 540.585.

Now, therefore, it is ORDERED:

The final order approving T-11701, as recorded in Special Order Volume Special Order Volume 91 at Pages 916-919 and the correcting order as recorded in Special Order Volume 103 at Pages 887-893, are hereby corrected to approve the place of use change for 2.7 acres under Certificate 74148 for supplemental irrigation, as shown in Finding of Facts #6 and 7, above. All other terms and conditions of Special Order Volume Special Order Volume 91 at Pages 916-919 and of Special Order Volume 103 at Pages 887-893 remain the same.

Signed at Salem, Oregon on SEP 20 2019.



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: SEP 23 2019