

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10052, Deschutes County) **APPROVING A DISTRICT**
) **PERMANENT TRANSFER**

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 AVENUE
BEND, OREGON 97701

Findings of Fact

1. On December 22, 2005, 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-10052.
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
Priority Date: August 5, 1900, September 1900, April 28, 1905, May 27, 1907, and June 1, 1907.
Rate & Duty: Maximum of 1/70 cfs per acre & 1.8 acre-feet per acre per year.
Source: Tumalo Creek, tributary to Deschutes River.

This is a final 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

Authorized Place of Use:

PRIORITY	TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
9/1/1900	16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	4.26	05-008
9/1/1900	16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.50	05-006
9/1/1900	16	S	11	E	WM	28	SW	NE	900	COLLINS RD. INVESTMT	.40	05-009
9/1/1900	16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.30	05-009
9/1/1900	16	S	11	E	WM	33	SW	SE	806	DALE A. MEYER	.92	05-010
9/1/1900	16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	.40	05-006
9/1/1900	16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-003
9/1/1900	16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.10	05-004
9/1/1900	17	S	11	E	WM	1	NE	SE	700	PATRICK M. GISLER	3.50	05-001
9/1/1900	17	S	11	E	WM	11	NW	NE	200	SARAH P. RESOR	2.00	05-007
TOTAL									18.38			

4. Application T-10052 proposed to change the place of use to:

PRIORITY	TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
9/1/1900	16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	.26	05-008
9/1/1900	16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.90	05-006
9/1/1900	16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.70	05-009
9/1/1900	16	S	11	E	WM	33	SW	SE	806	DALE MEYER & J. UPP	.92	05-010
9/1/1900	16	S	11	E	WM	34	SW	NE	905	MYRON M. SCHWAB	1.10	05-004
9/1/1900	16	S	11	E	WM	34	SW	NW	600	WESTPHAL FAMILY TRUST	4.00	05-008
9/1/1900	16	S	11	E	WM	34	SE	SW	1404	JACK J. MOORE	3.50	05-001
9/1/1900	16	S	12	E	WM	17	NW	NE	302	DAVID T. REGNIER	1.00	05-003
9/1/1900	17	S	11	E	WM	11	SW	NE	800	DANBAR TRUST	2.00	05-007
TOTAL									18.38			

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

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

Use: Irrigation

Priority Date: October 29, 1913

Rate & Duty: 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 1/32.4cfs, and 9.91 acre-feet per acre during the season.

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

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.90	05-002

6. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	25	SW	SW	904	JAMES P. PENTZ	.90	05-002

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

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

Use: Supplemental Irrigation

Priority Date: October 29, 1913

Rate & Duty: 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 1/32.4cfs, and 9.91 acre-feet per acre during the season.

Source: Tumalo Creek, Crater Creek, Little Crater Creek, and Three Spring branches, tributaries of the Deschutes River.

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	4.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.50	05-006
16	S	11	E	WM	28	SW	NE	900	COLLINS RD. INVESTMT	.40	05-009
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.30	05-009
16	S	11	E	WM	33	SW	SE	806	DALE A. MEYER	.92	05-010
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	.40	05-006
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-003
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.10	05-004
17	S	11	E	WM	1	NE	SE	700	PATRICK M. GISLER	3.50	05-001
17	S	11	E	WM	11	NW	NE	200	SARAH P. RESOR	2.00	05-007
								TOTAL	18.38		

8. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.90	05-006
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.70	05-009
16	S	11	E	WM	33	SW	SE	806	DALE MEYER & J. UPP	.92	05-010
16	S	11	E	WM	34	SW	NE	905	MYRON M. SCHWAB	1.10	05-004
16	S	11	E	WM	34	SW	NW	600	WESTPHAL FAMILY TRUST	4.00	05-008
16	S	11	E	WM	34	SE	SW	1404	JACK J. MOORE	3.50	05-001
16	S	12	E	WM	17	NW	NE	302	DAVID T. REGNIER	1.00	05-003
17	S	11	E	WM	11	SW	NE	800	DANBAR TRUST	2.00	05-007
								TOTAL	18.38		

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

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

Use: Supplemental Irrigation

Priority Date: April 7, 1911

Rate & Duty: Maximum of 7.4 acre-feet per year (May 15 – September 15 season)

Source: Crescent Lake Reservoir, a tributary of Crescent Creek.

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	4.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.50	05-006
16	S	11	E	WM	28	SW	NE	900	COLLINS RD. INVESTMT	.40	05-009
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.30	05-009
16	S	11	E	WM	33	SW	SE	806	DALE A. MEYER	.92	05-010
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-003
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.10	05-004
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	.40	05-006
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.90	05-002
17	S	11	E	WM	1	NE	SE	700	PATRICK M. GISLER	3.50	05-001
17	S	11	E	WM	11	NW	NE	200	SARAH P. RESOR	2.00	05-007
TOTAL									19.28		

10. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	.26	05-008
16	S	11	E	WM	25	SW	SW	904	JAMES P. PENTZ	.90	05-002
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.90	05-006
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.70	05-009
16	S	11	E	WM	33	SW	SE	806	DALE MEYER & J. UPP	.92	05-010
16	S	11	E	WM	34	SW	NE	905	MYRON M. SCHWAB	1.10	05-004
16	S	11	E	WM	34	SW	NW	600	WESTPHAL FAMILY TRUST	4.00	05-008
16	S	11	E	WM	34	SE	SW	1404	JACK J. MOORE	3.50	05-001
16	S	12	E	WM	17	NW	NE	302	DAVID T. REGNIER	1.00	05-003
17	S	11	E	WM	11	SW	NE	800	DANBAR TRUST	2.00	05-007
TOTAL									19.28		

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

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

Use: Supplemental Irrigation

Priority Date: 1905

Rate & Duty: Maximum of 9.5 acre-feet per acre per year.

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

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	4.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.50	05-006
16	S	11	E	WM	28	SW	NE	900	COLLINS RD. INVESTMT	.40	05-009
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.30	05-009
16	S	11	E	WM	33	SW	SE	806	DALE A. MEYER	.92	05-010
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	.40	05-006
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-003
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.10	05-004
17	S	11	E	WM	1	NE	SE	700	PATRICK M. GISLER	3.50	05-001
17	S	11	E	WM	11	NW	NE	200	SARAH P. RESOR	2.00	05-007
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.90	05-002
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.10	05-002
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	.10	05-004
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-005
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	1.00	05-005
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	1.60	05-006
									TOTAL	23.08	

12. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.90	05-006
16	S	11	E	WM	25	SW	SW	904	JAMES P. PENTZ	.90	05-002
16	S	11	E	WM	25	SW	SW	904	JAMES P. PENTZ	.10	05-002
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.60	05-006
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.70	05-009
16	S	11	E	WM	33	SW	SE	806	DALE MEYER & J. UPP	.92	05-010
16	S	11	E	WM	34	SW	NE	905	MYRON M. SCHWAB	1.10	05-004
16	S	11	E	WM	34	SW	NE	905	MYRON M. GENEVIEVE	.10	05-004
16	S	11	E	WM	34	SW	NW	600	WESTPHAL FAMILY TRUST	4.00	05-008
16	S	11	E	WM	34	SE	SW	1404	JACK J. MOORE	3.50	05-001
16	S	11	E	WM	34	SE	SW	1405	LON BRYANT TRUST	2.00	05-005
16	S	12	E	WM	17	NW	NE	302	DAVID T. REGNIER	1.00	05-003
17	S	11	E	WM	11	SW	NE	800	DANBAR TRUST	2.00	05-007
									TOTAL	23.08	

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

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

Use: Irrigation

Priority Date: December 8, 1961

Rate & Duty: 1/70 cfs per acre, and 2.5 acre-feet per acre per year.

Source: Tumalo Creek and Upper Tumalo Reservoir, tributaries of Deschutes River.

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.10	05-002
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	.10	05-004
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-005
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	1.00	05-005
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	1.60	05-006
TOTAL									3.80		

6. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	25	SW	SW	904	JAMES P. PENTZ	.10	05-002
16	S	11	E	WM	34	SW	NE	905	MYRON M. GENEVIEVE	.10	05-004
16	S	11	E	WM	34	SE	SW	1405	LON BRYANT TRUST	2.00	05-005
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.60	05-006
TOTAL									3.80		

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

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

Use: Supplemental Irrigation

Priority Date: December 8, 1961

Rate & Duty: Maximum of 9.91 acre-feet per acre per year.

Source: Crescent Lake Reservoir, tributary of Crescent Creek and Little Deschutes River.

Authorized Place of Use:

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	13	SE	NE	900	RONALD R. MILLER	4.26	05-008
16	S	11	E	WM	27	NW	NE	108	STEPHEN A. MANN	1.50	05-006
16	S	11	E	WM	28	SW	NE	900	COLLINS RD. INVESTMT	.40	05-009
16	S	11	E	WM	28	SE	NE	900	COLLINS RD. INVESTMT	3.30	05-009
16	S	11	E	WM	33	SW	SE	806	DALE A. MEYER	.92	05-010
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-003
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.10	05-004
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	.40	05-006
16	S	12	E	WM	8	NW	NW	500	DOUGLAS J. SHEY	1.00	05-005
16	S	12	E	WM	8	NW	NW	402	AMER. EXCHANGE SERV.	1.60	05-006
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.90	05-002
16	S	12	E	WM	8	SW	NW	403	JAMES A. COOK	.10	05-002
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	.10	05-004
16	S	12	E	WM	8	SW	NW	500	DOUGLAS J. SHEY	1.00	05-005
17	S	11	E	WM	1	NE	SE	700	PATRICK M. GISLER	3.50	05-001
17	S	11	E	WM	11	NW	NE	200	SARAH P. RESOR	2.00	05-007
TOTAL									23.08		

14. Application T-10052 proposes to change the place of use to:

TWP	RNG	MER	SEC	¼	1/4	TL	USER	AC	NOT#	
16	S	11	E	WM	13	SE NE	900	RONALD R. MILLER	.26	05-008
16	S	11	E	WM	25	SW SW	904	JAMES P. PENTZ	.90	05-002
16	S	11	E	WM	25	SW SW	904	JAMES P. PENTZ	.10	05-002
16	S	11	E	WM	27	NW NE	108	STEPHEN A. MANN	1.90	05-006
16	S	11	E	WM	27	NW NE	108	STEPHEN A. MANN	1.60	05-006
16	S	11	E	WM	28	SE NE	900	COLLINS RD. INVESTMT	3.70	05-009
16	S	11	E	WM	33	SW SE	806	DALE MEYER & J. UPP	.92	05-010
16	S	11	E	WM	34	SW NE	905	MYRON M. SCHWAB	1.10	05-004
16	S	11	E	WM	34	SW NE	905	MYRON M. GENEVIEVE	.10	05-004
16	S	11	E	WM	34	SW NW	600	WESTPHAL FAMILY TRUST	4.00	05-008
16	S	11	E	WM	34	SE SW	1404	JACK J. MOORE	3.50	05-001
16	S	11	E	WM	34	SE SW	1405	LON BRYANT TRUST	2.00	05-005
16	S	12	E	WM	17	NW NE	302	DAVID T. REGNIER	1.00	05-003
17	S	11	E	WM	11	SW NE	800	DANBAR TRUST	2.00	05-007
TOTAL								23.08		

15. 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.
16. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
17. The proposed change in place of use would not result in enlargement of the rights.
18. 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-10052 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 are approved.
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, 2007.

5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2008.
6. The Department shall issue a water right certificate on a determination that it is necessary to produce a certificate describing the water right.

Dated at Salem, Oregon this 31st day of March, 2006.

FOR 

Phillip C. Ward, Director

Mailing Date: APR 07 2006