

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

In the Matter of Transfer Application            )     FINAL ORDER  
T-10725, 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 Town District Improvement Company  
Attn – Paul Motta  
64682 Cook Ave. #54  
Bend, OR 97701

**Findings of Fact**

1. On November 17, 2008, Tumalo Town District Improvement Company filed a district transfer application to permanently change the place of use under Certificate 76619. The Department assigned the application number T-10725.
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 right to be transferred is as follows:

**Certificate:** 76619 in the name of TUMALO TOWN DISTRICT IMPROVEMENT COMPANY

**Use:** IRRIGATION of 0.404 acre

**Priority Date:** AUGUST 25, 1938

**Rate:** 0.01 cubic foot per second (cfs)

**Duty/Limit:** ONE-EIGHTIETH of one cfs or its equivalent for each acre irrigated from April 1 to May 22, ONE-FORTIETH of one cfs or its equivalent for each acre irrigated from May 23 to August 20 of each year and ONE- EIGHTIETH of one cfs or its equivalent for each acre irrigated after August 20 of each year and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre irrigated during the irrigation season of each year from April 1 to November 1.

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.

**Sources:** Seepage from Tumalo Creek, a tributary of the Deschutes River and the Deschutes River, tributary to the Columbia River

**Certificate:** 76619 in the name of TUMALO TOWN DISTRICT IMPROVEMENT CO. (perfected under Permit S-13245)

**Use:** IRRIGATION of .4 ACRE

**Priority Date:** AUGUST 25, 1938

**Rate:** 0.010 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 4 acre-feet per acre per year

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	12 E	WM	6	NW SE	DIVERSION #1 - 2230 FEET SOUTH AND 1650 FEET WEST FROM THE SE CORNER OF SECTION 6

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	User	Notice #
16 S	12 E	WM	31	NW NE	0.232	Laidlaw Land Co. LLC	T2008-1
16 S	12 E	WM	31	NW NE	0.172	Mary Belle Peters	T2008-2
<b>Total:</b>					<b>0.404</b>		

4. The survey coordinates for the above listed authorized point of diversion and as described in Certificate 76619 contains a scrivener error. Consistent with all available information, the correct measured distances for the point of diversion is as follows:

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	12 E	WM	6	NW SE	DIVERSION #1 - 2230 FEET NORTH AND 1650 FEET WEST FROM THE SE CORNER OF SECTION 6

5. Transfer Application T-10725 proposes to change the place of use to:

**Proposed Places of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	User	NOTICE #
16 S	12 E	WM	31	NW NE	0.172	Jennifer Maccrone	T2008-1
16 S	12 E	WM	31	NW NE	0.232	Jason and Tamara Turney	T2008-2
<b>Total:</b>					<b>0.404</b>		

6. 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.
7. The water right is subject to transfer as defined in OAR 690-385-0100(17).
8. The proposed change in place of use will not result in enlargement of the right.
9. The proposed change in place of use will not result in injury to other water rights.

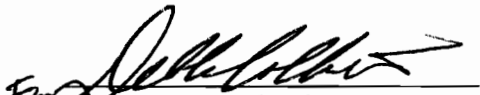
**Conclusions of Law**

The proposed change in place of use as proposed in Transfer Application T-10725 satisfy the requirements of ORS 540.574(3) and 540.580.

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

1. The proposed change in place of use to the water right evidenced by Certificates 76619 is 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 76619 and any related decree.
3. The former places of use shall no longer be irrigated as part of this water right.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2010.
5. A Claim of Beneficial Use (COBU) shall be submitted by the applicant to the Department by October 1, 2011.
6. Water right Certificate 76619 is modified. The Department will issue superseding certificates describing the right when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 8<sup>th</sup> day of January, 2009.

  
Phillip C. Ward, Director

Mailing Date: JAN 09 2009