

**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-9303, 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 20, 2002, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 76106, 74147, 74148, 74149, and 76520. The Department assigned the application number T-9303.
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, 1990, September 1990, 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 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#		
09/01/00	16	S	11	E	WM	13	SW	NE	902	LILLEGARD TRUST	0.96	02-006
09/01/00	16	S	11	E	WM	13	SE	NE	900	D & J KIESOW	1.40	02-005
09/01/00	16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	1.70	02-002
06/01/07	16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	4.50	02-002
09/01/00	16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.20	02-002
09/01/00	16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.20	02-003
09/01/00	16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.40	02-003
TOTAL:									9.36			

4. Application T-9303 proposed to change the place of use to:

PRIORITY	TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
09/01/00	16	S	11	E	WM	13	SE	NE	900	D & J KIESOW	1.40	02-005
09/01/00	16	S	11	E	WM	13	SE	NW	902	LILLEGARD TRUST	0.96	02-006
09/01/00	16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	0.20	02-002
06/01/07	16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	2.40	02-002
06/01/07	16	S	11	E	WM	23	NW	SW	502	COYOTE PROPERTIES	2.10	02-002
09/01/00	16	S	11	E	WM	23	SW	SW	523	COYOTE PROPERTIES	0.90	02-002
09/01/00	16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.80	02-002
09/01/00	16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.60	02-003
TOTAL:									9.36			

5. The portion of the second 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	17	NE	NE	102	G PENNOCK & L ROBERTS	2.00	02-003
TOTAL:									2.00		

6. Application T-9303 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	27	SE	NW	208	J & J GISLER	1.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.80	02-003
TOTAL:									2.00		

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:** Maximum of 1/80 cfs per acre, and 9.91 acre-feet per acre per year.

**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	SW	NE	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	13	SE	NE	900	D & K KIESOW	1.40	02-005
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	1.70	02-002
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	4.50	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.40	02-003
TOTAL:									9.36		

8. Application T-9303 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	D & J KIESOW	1.40	02-005
16	S	11	E	WM	13	SE	NW	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	2.40	02-002
16	S	11	E	WM	23	NW	SW	502	COYOTE PROPERTIES	2.10	02-002
16	S	11	E	WM	23	SW	SW	523	COYOTE PROPERTIES	0.90	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.80	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.60	02-003
TOTAL:									9.36		

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	D & K KIESOW	1.40	02-005
16	S	11	E	WM	13	SW	NE	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	1.70	02-002

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	4.50	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.40	02-003
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.20	02-003
TOTAL:									9.36		

10. Application T-9303 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	D & K KIESOW	1.40	02-005
16	S	11	E	WM	13	SE	NW	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	2.40	02-002
16	S	11	E	WM	23	NW	SW	502	COYOTE PROPERTIES	2.10	02-002
16	S	11	E	WM	23	SW	SW	523	COYOTE PROPERTIES	0.90	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.80	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.60	02-003
TOTAL:									9.36		

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	D & J KIESOW	1.40	02-005
16	S	11	E	WM	13	SW	NE	902	LILLEGARD TRUST	0.96	02-006
16	S	12	E	WM	17	NE	NE	102	G PENNOCK & L ROBERTS	2.00	02-003
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	1.70	02-002
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	4.50	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.40	02-003
TOTAL:									11.36		

12. Application T-9303 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	D & J KIESOW	1.40	02-005
16	S	11	E	WM	13	SE	NW	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	0.20	02-002

TWP	RNG	MER	SEC	1/4	1/4	TL	USER	AC	NOT#		
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	2.40	02-002
16	S	11	E	WM	23	NW	SW	502	COYOTE PROPERTIES	2.10	02-002
16	S	11	E	WM	23	SW	SW	523	COYOTE PROPERTIES	0.90	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.80	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.60	02-003
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	1.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.80	02-003
TOTAL:									11.36		

13. The portion of the sixth 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	SW	NE	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	13	SE	NE	900	D & K KIESOW	1.40	02-005
16	S	12	E	WM	17	NE	NE	102	G & L ROBERTS	2.00	02-003
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	1.70	02-002
16	S	11	E	WM	23	SW	SW	520	COYOTE PROPERTIES	4.50	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.40	02-003
TOTAL:									11.36		

14. Application T-9303 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	D & J KIESOW	1.40	02-005
16	S	11	E	WM	13	SE	NW	902	LILLEGARD TRUST	0.96	02-006
16	S	11	E	WM	23	NE	SW	523	COYOTE PROPERTIES	0.20	02-002
16	S	11	E	WM	23	NE	SW	502	COYOTE PROPERTIES	2.40	02-002
16	S	11	E	WM	23	NW	SW	502	COYOTE PROPERTIES	2.10	02-002
16	S	11	E	WM	23	SW	SW	523	COYOTE PROPERTIES	0.90	02-002
16	S	11	E	WM	23	SE	SW	523	COYOTE PROPERTIES	0.80	02-002
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	0.60	02-003
16	S	11	E	WM	27	SE	NW	208	J & J GISLER	1.20	02-003
16	S	11	E	WM	27	SE	NW	214	J & J GISLER	0.80	02-003
TOTAL:									11.36		

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

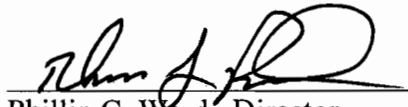
### **Conclusions of Law**

The proposed changes in place of use in Transfer Application T-9303 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, 76106, 74147, 74148, 74149, 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, 76106, 74147, 74148, 74149, 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 shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2007.
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 11<sup>th</sup> day of July, 2005.

  
Phillip C. Ward, Director