

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A DISTRICT
T-11167, Deschutes County) 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

Findings of Fact

1. On December 17, 2010, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 74147, 76106 and 76520. The Department assigned the application number T-11167.
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 of 28.14 acres

Priority Date: September 1, 1900

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: Tumalo Creek, tributary to the Deschutes River

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	11 E	WM	23	SW NE	NORTH 70° 21’ WEST, 1550 FEET FROM THE EAST ¼ CORNER OF SECTION 23
18 S	10 E	WM	2	NW SW	NORTH 14° 02’ EAST, 1713 FEET FROM THE SOUTH ¼ CORNER OF SECTION 2

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.

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot'	Owner Name	Notice
16 S	11 E	WM	22	SE SW	0.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	3.24	1000	FRANCIS	10-008
16 S	11 E	WM	33	NE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	2.00	700	SNYDER	10-004
16 S	12 E	WM	8	SE NW	3.35	700	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	11.00	2000	DLMM PROPERTIES, LLC	10-006
17 S	11 E	WM	11	NW NE	3.50	200	RESOR	10-002
17 S	11 E	WM	11	NW NE	2.00	700	RESOR	10-005
Total:					28.14			

6. Transfer Application T-11167 proposes to change the place of use to:

IRRIGATION								
Twp	Rng	Wm	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	3.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	0.24	1000	FRANCIS	10-008
16 S	11 E	WM	25	SE NW	2.00	406	EASTERLY	10-005
16 S	11 E	WM	33	SE NW	2.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	1.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	1.35	700	SNYDER	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	11.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	1.74	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SW SE	0.73	2400	DLMM PROPERTIES, LLC	10-004
16 S	12 E	WM	19	SW SE	0.26	2400	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SE SE	1.27	2400	DLMM PROPERTIES, LLC	10-004
Total:					28.14			

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

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

Use: Irrigation of 6.19 acres and Supplemental Irrigation of 28.14 acres.

Priority Date: October 29, 1913

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 as follows:

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 1/32.4 cfs, and 9.91 total acre-feet per acre at the diversion during the season.

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

Authorized Point of Diversion:

POD #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	17 S	11 E	WM	23	SW NE	TUMALO FEED CANAL - NORTH 70° 21' WEST, 1550 FEET FROM THE EAST ¼ CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	12 E	WM	19	NE SE	6.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
Total:					6.19			

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	0.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	3.24	1000	FRANCIS	10-008
16 S	11 E	WM	33	NE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	2.00	700	SNYDER	10-004
16 S	12 E	WM	8	SE NW	3.35	700	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	11.00	2000	DLMM PROPERTIES, LLC	10-006
17 S	11 E	WM	11	NW NE	3.50	200	RESOR	10-002
17 S	11 E	WM	11	NW NE	2.00	700	RESOR	10-005
Total:					28.14			

8. Transfer Application T-11167 proposes to change the place of use to:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	12 E	WM	19	NE SE	6.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
Total:					6.19			

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Wm	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	3.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	0.24	1000	FRANCIS	10-008
16 S	11 E	WM	25	SE NW	2.00	406	EASTERLY	10-005
16 S	11 E	WM	33	SE NW	2.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	1.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	1.35	700	SNYDER	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	11.00	2000	DLMM PROPERTIES, LLC	10-006

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Wm	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	12 E	WM	19	NW SE	1.74	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SW SE	0.73	2400	DLMM PROPERTIES, LLC	10-004
16 S	12 E	WM	19	SW SE	0.26	2400	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SE SE	1.27	2400	DLMM PROPERTIES, LLC	10-004
Total:					28.14			

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

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

Use: Irrigation of 23.33 acres

Priority Date: September 1, 1900

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:

SUPPLEMENTAL IRRIGATION								
Twp	Rng		Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	0.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	3.24	1000	FRANCIS	10-008
16 S	11 E	WM	33	NE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	2.00	700	SNYDER	10-004
16 S	12 E	WM	8	SE NW	3.35	700	SNYDER	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	6.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
17 S	11 E	WM	11	NW NE	3.50	200	RESOR	10-002
17 S	11 E	WM	11	NW NE	2.00	200	RESOR	10-005
Total:					23.33			

10. Transfer Application T-11167 proposes to change the place of use to:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	3.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	0.24	1000	FRANCIS	10-008
16 S	11 E	WM	25	SE NW	2.00	406	EASTERLY	10-005

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	33	SE NW	2.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	1.25	600	HUDSON	10-002
16 S	11 E	WM	33	SE SW	2.00	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	1.35	700	SNYDER	10-007
16 S	12 E	WM	18	NW SW	1.00	600	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	6.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	NW SE	1.74	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SW SE	0.73	2400	DLMM PROPERTIES, LLC	10-004
16 S	12 E	WM	19	SW SE	0.26	2400	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SE SE	1.27	2400	DLMM PROPERTIES, LLC	10-004
Total:					23.33			

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

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

Use: Irrigation of 8.80 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 ONE-SEVENTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from Upper Tumalo Reservoir constructed under water use Permit R-2743.

Source: Tumalo Creek and Upper Tumalo Reservoir (constructed under Permit R-2743) tributaries of the Deschutes River.

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Tumalo Creek	17 S	11 E	WM	23	SE NE	2080 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 23
Upper Tumalo Reservoir	16 S	11 E	WM	33	SE SW	Not listed on certificate

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	33	SE SW	0.80	600	HUDSON	10-002
16 S	12 E	WM	19	NE SE	8.00	2000	DLMM PROPERTIES, LLC	10-006
Total:					8.80			

12. Transfer Application T-11167 proposes to change the place of use to:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	33	SE SW	0.80	600	HUDSON	10-002
16 S	12 E	WM	19	NE SE	8.00	2000	DLMM PROPERTIES, LLC	10-006
Total:					8.80			

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

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

Use: Supplemental Irrigation of 26.13 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.

Sources: Crescent Lake Reservoir (constructed under Permit R-2744), tributary of Crescent Creek and the Little Deschutes River

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Deschutes River – Tumalo Irrigation District Bend Feed Canal	17 S	12 E	WM	32	NW NE	2050 FEET WEST FROM THE NE CORNER OF SECTION 323
Crescent Lake Reservoir	24 S	6 E	WM	11	SE SW	Not listed on certificate

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	0.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	3.24	1000	FRANCIS	10-008
16 S	11 E	WM	33	NE SW	2.00	600	WESSINGER	10-002
16 S	11 E	WM	33	SE SW	0.80	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	2.00	700	SNYDER	10-004
16 S	12 E	WM	8	SE NW	3.35	700	SNTDER	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	8.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
17 S	11 E	WM	11	NW NE	3.50	200	RESOR	10-002
17 S	11 E	WM	11	NW NE	2.00	200	RESOR	10-005
Total					26.13			

14. Transfer Application T-11167 proposes to change the place of use to:

SUPPLEMENTAL IRRIGATION								
Twp	Rng		Sec	Q-Q	Acres	Taxlot	Owner Name	Notice
16 S	11 E	WM	22	SE SW	3.05	2502	DYER	10-008
16 S	11 E	WM	24	SW NE	0.24	1000	FRANCIS	10-008
16 S	11 E	WM	25	SE NW	2.00	406	EASTERLY	10-005
16 S	11 E	WM	33	SE NW	2.25	600	HUDSON	10-002
16 S	11 E	WM	33	NE SW	1.25	600	HUDSON	10-002
16 S	11 E	WM	33	SE SW	2.00	600	HUDSON	10-002
16 S	11 E	WM	33	SE SW	0.80	600	HUDSON	10-002
16 S	12 E	WM	8	SE NW	1.35	700	SNYDER	10-007
16 S	12 E	WM	18	NW SW	1.00	900	VLACH TRUST	10-003
16 S	12 E	WM	19	NE SE	8.00	2000	DLMM PROPERTIES, LLC	10-006
16 S	12 E	WM	19	NW SE	0.19	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	NW SE	1.74	2200	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SW SE	0.73	2400	DLMM PROPERTIES, LLC	10-004
16 S	12 E	WM	19	SW SE	0.26	2400	DLMM PROPERTIES, LLC	10-007
16 S	12 E	WM	19	SE SE	1.27	2400	DLMM PROPERTIES, LLC	10-004
Total					26.13			

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

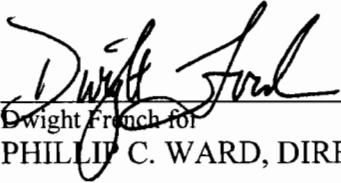
The proposed changes in place of use in Transfer Application T-11167 satisfy the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 74146, 74147, 74148, 76106 and 76520.
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, 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, 2012.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2013.
6. Certificates 74146, 74147, 74148, 74149, 76106 and 76520 are modified. The Department

will issue superseding certificates describing the right when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 28th day of January, 2011.



Dwight French for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JAN 28 2011