

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

COUNTY OF DESCHUTES

In the Matter of a Proposed Change) ORDER
In Place of Use of Water Within an) APPROVING A PERMANENT
Irrigation District — TRANSFER 9307) DISTRICT TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.572, TUMALO IRRIGATION DISTRICT, 64697 Cook Ave., Bend, OR, 97701, petitioned the Oregon Water Resources Department to permanently change the place of use of water within the boundaries of the irrigation district. The petition was received on December 23, 2002, and included the required fees.
2. Under ORS 540.572, whenever land within the boundaries of a district is no longer irrigated or susceptible to irrigation, the district may petition to transfer the use of water to other irrigable lands within the district boundaries.
3. The Department assigned the petition transfer application number T-9307.
4. The Department published notice of receipt of the petition in the Department's Weekly Notice dated January 7, 2003. The petition was noticed as a transfer within irrigation district boundaries.
5. No comments or timely protests were received in response to the published notice.
6. The following right is proposed to be modified:

PRIMARY IRRIGATION

Certificate 76106: issued in the name of Tumalo Irrigation District

Use: Irrigation

Priority Date: December 8, 1961

Rate & Duty: 1/70 cfs per acre irrigated & 2.5 acre-feet per acre per year

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order

Source: Tumalo Creek and Upper Tumalo Reservoir

Point of Diversion:

TWP	RNG	MER	SEC	¼ ¼		LOCATION					
16	S	11	E	W.M.	33	SE	SW	Upper Tumalo Reservoir			
17	S	11	E	W.M.	23	SE	NE	Tumalo Creek: 2080 feet south and 1310 feet west from the NE Corner of Section 23			

6. Tumalo Irrigation District petitioned to permanently change the place of use from the location identified in Table 1 to the location listed in Table 2.

TABLE 1. AUTHORIZED PLACE OF USE											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	APPLICANT	NOT#		
17	S	11	E	W.M.	14	NE	NE	11000	2.0	STOLLER	N/A

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and the use also shall conform to any reasonable rotation system ordered by the proper state officer.

TABLE 2. PROPOSED PLACE OF USE											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	APPLICANT	NOT#		
16	S	11	E	W.M.	35	NE	SE	02000	2.0	TUMALO ID	N/A

7. Pursuant to ORS 540.572 and ORS 540.574, 540.576, and 540.580, in reviewing the petition submitted by Tumalo Irrigation District, the Department has determined the following:

- a) The district is managed by a full-time manager and is implementing an approved conservation plan as required under ORS 540.572.
- b) The district followed the notice and hearing procedures under ORS 540.572, and advised the user of the district's intent to petition to transfer the use of water.
- c) After a hearing and having found the land no longer irrigated or susceptible to irrigation, the district submitted a petition to transfer the use of water in accordance with ORS 540.572.
- d) The district mailed a copy of the petition and map to the landowner, and provided notice of a 60-day protest period pursuant to ORS 540.576.
- e) The Department received no protests to the petition under ORS 540.578.
- f) The petition contains the information required under ORS 540.574(3).
- g) The petition meets the requirements of ORS 540.580.
- h) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.
- i) The rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to transfer.

- j) The use authorized by the water right subject to transfer will not change; and
- k) The proposed change in place of use will not result in injury to other water rights.

CONCLUSIONS OF LAW


1. The petition submitted by Tumalo Irrigation District proposing permanent changes in place of use within district boundaries complies with the requirements of ORS 540.572, and included the information, and satisfied the criteria, required by ORS 540.574(3).
2. The user was notified of the petition pursuant to ORS 540.576.
3. The Department received no protests under ORS 540.578.
4. The proposed transfer complies with the requirements of ORS 540.580.
5. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.572, 540.574(3) and ORS 540.580 resulting in no injury to other water rights.

ORDER

It is hereby ORDERED :

1. The proposed changes to the water right evidenced by Certificate 76106 may be made provided the following conditions are met by the water user:
 - a. The proposed changes shall be completed on or before October 1, 2005.
 - b. The former places of use shall no longer be irrigated as a part of this water right.
 - c. Proof, to the satisfaction of the Director, that the changes approved by this order have been completed must be submitted by Tumalo Irrigation District, on or before October 1, 2006.
2. Except as modified herein, all other conditions and limitations of Certificate 76106 remain in effect.
3. When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of the right not modified by this or any other order.

WITNESS the signature of the Water Resources Director affixed MAY 05 2003.



Paul R. Cleary
For