BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

| In the Matter of Transfer Application |) | CORRECTING FINAL ORDER |
|---------------------------------------|---|------------------------|
| T-12226, 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 IRRIGATION DISTRICT 64697 COOK AVE. BEND, OR 97701

Findings of Fact

- 1. On December 19, 2013, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 74147, 74148, 74149, and 76520. The Department assigned the application number T-12226.
- 2. Notice of the application for transfer was published on January 6 and January 12, 2016, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
- 3. On March 28, 2016, the Department Approved Transfer Application T-12226 as described in Special Order Volume 98 at Page 1084.
- 4. On August 26, 2016, scrivener's errors were found throughout the final order approving, this Order is issued to Correct all the errors located in Special Order Volume 98, Page 1084, and supersedes that order. Corrections will be shown in *Bold and Italic*.
- 5. The portion of the right to be transferred is as follows:

Certificate: 74146, issued in the name of Tumalo Irrigation District

Use: Irrigation of 10.64 acres

Priority Date: September 1900, August 5, 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, measured 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

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 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 |

Authorized Place of Use:

| | IRRIGATION | | | | | | | | | | | | |
|------|------------|-----|-----|--------|-------|---------|----------------------|----------------------|--------|--|--|--|--|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Priority Date | Notice | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 8/5/1900 | 15.001 | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 9/1/1900 | 15.001 | | | | |
| 16 S | 11 E | WM | 34 | SE NW | 3.00 | 402 | O'Connor (Wolfenson) | 8/5/1900 | 15.002 | | | | |
| 16 S | 11 E | WM | 34 | SW SE | 1.14 | 1303 | McMahon Family Trust | 9/1/1900 | 15.004 | | | | |
| 16 S | 12 E | WM | 30 | NW NE | 3.00 | 900 | Radcliff | 9/1/1900 | 15.004 | | | | |
| 17 S | 11 E | WM | 11 | NW NE | 1.00 | 200 | Resor | 9/1/1900 | 15.005 | | | | |
| | | | | Total: | 10.64 | | v | | | | | | |

6. Transfer Application T-12226 proposes to change the place of use to:

| | | · | | | | IRRIC | GATION | | |
|------|------|-----|-----|--------|-------|---------|--------------------------------|------------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Priority Date | Notice |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 8/5/1900 | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 9/1/1900 | 15.001 |
| 17 S | 11 E | WM | 2 | NE NE | 3.00 | 106 | Sizoo | 8/5/1900 | 15.002 |
| 16 S | 11 E | WM | 34 | SW SE | 0.67 | 1303 | McMahon Family Trust | 9/1/1900 | 15.004 |
| 16 S | 12 E | WM | 30 | NW NE | 3.47 | 900 | Radcliffe/ von Hurst Rev Trust | 9/1/1900 | 15.004 |
| 17 S | 11 E | WM | 11 | SW NE | 1.00 | 800 | Campbell | 9/1/1900 | 15.005 |
| | | | | Total: | 10.64 | | | | |

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

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

Use: Irrigation of 3.50 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:

| April I to May I | 1/80 cfs per acre | | | | | |
|--|---------------------|--|--|--|--|--|
| May 1 to May 15 | 1/60 cfs per acre | | | | | |
| May 15 to September 15 | 1/32.4 cfs per acre | | | | | |
| September 15 to October 1 | 1/60 cfs per acre | | | | | |
| October 1 to November 1 1/80 cfs per acre | | | | | | |
| 9.91 total acre-feet per acre at the diversion during the season | | | | | | |

Sources: 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 | Water User | Notice | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 701 | Enduring Log Finishes, Ltd | 15.003 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 908 | Shockey | 15.007 | | | | | |
| 16 S | 11 E | WM | 25 | NW SE | 1.00 | 908 | Shockey | 15.007 | | | | | |
| | | | | Total | 3.50 | | | | | | | | |

Transfer Application T-12226 proposes to change the place of use to:

| | IRRIGATION | | | | | | | | | | | | |
|------|------------|-----|-----|-------|-------|---------|------------|--------|--|--|--|--|--|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 702 | Walton | 15.003 | | | | | |
| 16 S | 11 E | WM | 28 | NW NE | 2.00 | 200 | Cibelli | 15.007 | | | | | |
| | <u> </u> | | | Total | 3.50 | | - | | | | | | |

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

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

Use: Supplemental Irrigation of 14.14 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: 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 | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 34 | SE NW | 3.00 | 402 | O'Connor (Wolfenson) | 15.002 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 701 | Enduring Log Finishes Ltd | 15.003 | | | | | |
| 16 S | 11 E | WM | 34 | SW SE | 1.14 | 1303 | McMahon Family Trust | 15.004 | | | | | |
| 16 S | 12 E | WM | 30 | NW NE | 3.00 | 900 | Radcliffe/von Hurst Rev Trust | 15.004 | | | | | |
| 17 S | 11 E | WM | 11 | NW NE | 1.00 | 200 | Resor | 15.005 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 908 | Shockey | 15.007 | | | | | |
| 16 S | 11 E | WM | 25 | NW SE | 1.00 | 908 | Shockey | 15.007 | | | | | |
| | | | | Total | 14.14 | | | | | | | | |

10. Transfer Application T-12226 proposes to change the place of use to:

Proposed Place of Use:

| | SUPPLEMENTAL IRRIGATION | | | | | | | | | | | | |
|------|-------------------------|-----|-----|-------|-------|---------|-------------------------------|--------|--|--|--|--|--|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 15.001 | | | | | |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 | | | | | |
| 17 S | 11 E | WM | 02 | NE NE | 3.00 | 106 | Sizoo | 15.002 | | | | | |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 702 | Walton | 15.003 | | | | | |
| 16 S | 11 E | WM | 34 | SW SE | 0.67 | 1303 | McMahon Family Trust | 15.004 | | | | | |
| 16 S | 12 E | WM | 30 | NW NE | 3.47 | 900 | Radcliffe/von Hurst Rev Trust | 15.004 | | | | | |
| 17 S | 11 E | WM | 11 | SW NE | 1.00 | 800 | Campbell | 15.005 | | | | | |
| 16 S | 11 E | WM | 28 | NW NE | 2.00 | 200 | Cibelli | 15.007 | | | | | |
| | | | | Total | 14.14 | | | | | | | | |

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

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

Use: Supplemental Irrigation of 14.14 acres

Priority Date: 1905

Rate & Duty: The use is limited to the amount beneficially used and shall not exceed 9.50

cubic feet per second for supplemental irrigation, industrial use and pond maintenance during the irrigation season from April 1 to November 1 and storage of said water in Crescent Lake Reservoir during the non-irrigation season, or its equivalent in case of rotation, measured at the point of

diversion from the source.

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

Authorized Points of Diversion:

| Twp | Rng | Mer | Mer Sec Q-Q | | Measured Distances |
|------|------|-----|-------------|-------|--|
| 17 S | 12 E | WM | 32 | NW NE | 100 FEET SOUTH AND 550 FEET EAST FROM THE N1/4 CORNER OF SECTION 32 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-------------------------|------|-----|-----|-------|-------|---------|-----------------------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 701 | Enduring Log Finishes, Ltd. | 15.003 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 908 | Shockey | 15.007 |
| 16 S | 11 E | WM | 25 | NW SE | 1.00 | 908 | Shockey | 15.007 |
| 16 S | 11 E | WM | 34 | SE NW | 3.00 | 402 | O'Conner (Wolfenson) | 15.002 |
| 16 S | 11 E | WM | 34 | SW SE | 1.14 | 1303 | McMahon Family Trust | 15.004 |
| 16 S | 12 E | WM | 30 | NW NE | 3.00 | 900 | Radcliff vonHurst Rev Trust | 15.004 |
| 17 S | 11 E | WM | 11 | NW NE | 1.00 | 200 | Resor | 15.005 |
| | | | | Total | 14.14 | | | |

12. Transfer Application T-12226 proposes to change the place of use to:

Proposed Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-------------------------|------|-----|-----|-------|-------|---------|----------------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 |
| 17 S | 11 E | WM | 02 | NE NE | 3.00 | 106 | Sizoo | 15.002 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 702 | Walton | 15.003 |
| 16 S | 11 E | WM | 34 | SW SE | 0.67 | 1303 | McMahon Family Trust | 15.004 |
| 16 S | 12 E | WM | 30 | NW NE | 3.47 | 900 | Radcliffe | 15.004 |
| 17 S | 11 E | WM | 11 | SW NE | 1.00 | 800 | Campbell | 15.005 |
| 16 S | 11 E | WM | 28 | NW NE | 2.00 | 200 | Cibelli | 15.007 |
| | | | | Total | 14.14 | | | |

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 14.14 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 | - | | Sec | Q-Q | Measured Distances 2050 FEET WEST FROM THE NE CORNER OF SECTION 23 | |
|---|------|-----|----|-----|-------|---|--|
| Deschutes River – Tumalo Irrigation District Bend Feed Canal | 17 S | | | 32 | NW NE | | |
| 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 | Water User | Notice |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 1.00 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 701 | Enduring Log Finishes, Ltd. | 15.003 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 908 | Shockey | 15.007 |
| 16 S | 11 E | WM | 25 | NW SE | 1.00 | 908 | Shockey | 15.007 |
| 16 S | 11 E | WM | 34 | SE NW | 3.00 | 402 | O'Conner (Wolfenson) | 15.002 |
| 16 S | 11 E | WM | 34 | SW SE | 1.14 | 1303 | Resor | 15.004 |
| 16 S | 12 E | WM | 30 | NW NE | 3.00 | 900 | McMahon Family Trust | 15.004 |
| 17 S | 11 E | WM | 11 | NW NE | 1.00 | 200 | Radcliffe/von Hurst Rev Trust | 15.005 |
| | | | | Total | 14.14 | | | |

14. Transfer Application T-12226 proposes to change the place of use to:

Proposed Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-------------------------|------|-----|-----|-------|-------|---------|------------------------------|--------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Tax Lot | Water User | Notice |
| 16 S | 11 E | WM | 24 | SW SE | 1.50 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | _24 | SW SE | 1.00 | 2300 | Hagen | 15.001 |
| 16 S | 11 E | WM | 24 | SW SE | 0.50 | 2300 | Hagen | 15.001 |
| 17 S | 11 E | WM | 02 | NE NE | 3.00 | 106 | Sizoo/Turner | 15.002 |
| 16 S | 11 E | WM | 25 | NE SE | 1.00 | 702 | Reece Madison Gisler | 15.003 |
| 16 S | 11 E | WM | 34 | SW SE | 0.67 | 1303 | McMahon Family Trust | 15.004 |
| 16 S | 12 E | WM | 30 | NW NE | 3.47 | 900 | Radcliffe/vonHurst Rev Trust | 15.004 |
| 17 S | 11 E | WM | 11 | SW NE | 1.00 | 800 | Campbell | 15.005 |
| 16 S | 11 E | WM | 28 | NW NE | 2.00 | 200 | Cibelli | 15.007 |
| | | | | Total | 14.14 | | | |

- 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 as proposed in Transfer Application T-12226 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, 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, 76520, and any related decree.
- 3. The former place of use shall no longer be irrigated as part of these water rights.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. A Claim of Beneficial Use shall be submitted by Tumalo Irrigation District to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

| 7. Water Right Certificates 74146, 74147, 74148, 74149, and 76520 are modified. The |
|--|
| Department will issue superseding certificates describing the rights when it determines that i |
| is necessary for record keeping, |
| 14 |
| Dated at Salem, Oregon this day of February 2017. |
| Dunist The |
| Dwight French, Water Right Services Administrator for |
| |
| THOMAS M. BYLER, DIRECTOR |

Mailing Date: FEB 17 2017