BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	CORRECTING FINAL ORDER
T-11939, 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 12, 2014, Tumalo Irrigation District filed a district transfer application to permanently change the place of use under Certificates 74146, 74147, 74148, 74149, 76520, and 76106. The Department assigned the application number T-11939.
- 2. Notice of the application for transfer was published on December 23, 2014, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
- 3. On April 18, 2005, Special Order Volume 64, Pages 157-158, Allocation of Conserved Water CW-9 was approved. This order supersedes the portion of Certificate 76106 involved with T-11701.
- 4. Special Order Volume 64, Pages 157-158, cancelled Certificate 76106 and described the portion of conserved water from Tumalo Creek with the priority date of September 1, 1900, now to serve the lands originally associated with Certificate 76106. These lands are herein referred to as the "Water Right affected by Special Order Volume 64, Pages 157-158" (place of use formerly under 76106).
- 5. On February 17, 2016, and as described in Special Order Volume 98 at Pages 750-753, the Department approved Transfer Application T-11939 for primary irrigation under water right Certificate 74146, 74147, and the "Water Right affected by Special Order Volume 64, Pages 157-158" (place of use formerly under 76106).
- 6. On January 31, 2017, it was discovered that the water rights for supplemental irrigation under Certificates 74147, 74148, 74149, and 76520 associated with the approved primary

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.

acreage was inadvertently omitted from the original order approving the transfer T-11939. This Order is issued to correct the omission of supplemental irrigation in Special Order Volume 98, Pages 750-753, and supplements that order.

6. The portion of the fourth right under T-11939 to be transferred is as follows:

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

Use: Supplemental Irrigation of 21.00 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 1 to May 1	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:

IRRI	GATIO	N						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	HE	WM	33	NE SE	0.50	1200	Lucky Lake Investment LLC	N14.004
16 S	12 E	WM	17	SE NW	1.20	1800	Pride	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
				Total:	21.00			

7. Transfer Application T-11939 proposes to change the place of use to:

	IRRIGATION											
Twp	wp Rng Mer Sec Q-Q Acres Tax Lot Owner Name		Owner Name	Notice								
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001				
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investments LLC	N14.004				
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003				
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003				
				Total:	21.00							

8. The portion of the fifth right under T-11939 to be transferred is as follows:

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

Use: Supplemental Irrigation of 24.00 acres

Priority Date: April 7, 1911

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:

	IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice				
16 S	11 E	WM	25	NE SE	3.00	702	Madison	14.001				
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001				
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investment LLC	N14.004				
16 S	12 E	WM	17	SE NW	1.20	1800	Pride	N14.003				
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003				
				Total:	24.00							

9. Transfer Application T-11939 proposes to change the place of use to:

Proposed Place of Use:

	IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice				
16 S	11 E	WM	26	SE NW	3.00	204	Levin	N14.001				
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001				
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investments LLC	N14.004				
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003				
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003				
				Total:	24.00							

10. The portion of the sixth right under T-11939 to be transferred is as follows:

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

Use: Supplemental Irrigation of 28.50 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	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:

IRRI	GATIO	N						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	25	NE SE	3.00	702	Madison	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investment LLC	N14.004
16 S	12 E	WM	17	SE NW	1.20	1800	Pride	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
17 S	11 E	WM	13	NW SE	4.50	100	Joyce E. Coats Rev. Trust	N14.004
				Total:	28.50			

11. Transfer Application T-11939 proposes to change the place of use to:

Proposed Place of Use:

IRRI	GATIC	N						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	26	SE NW	3.00	204	Levin	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investments LLC	N14.004
16 S	11E	WM	33	NE SE	0.08	1100	Lucky Lake Investment LLC	N14.004
16 S	11E	WM	33	NE SE	0.02	1200	Lucky Lake Investment LLC	N14.004
16 S	HE	WM	33	NE SE	4.40	1300	Lucky Lake Investment LLC	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
				Total:	28.50			

12. The portion of the seventh right under T-11939 to be transferred is as follows:

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

Use: Supplemental Irrigation of 28.50 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		2050 FEET WEST FROM THE NE CORNER OF SECTION 23
Crescent Lake Reservoir	24 S	6 E	WM	11	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	25	NE SE	3.00	702	Madison	N14.001			
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001			
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investment LLC	N14.004			
16 S	12 E	WM	17	SE NW	1.20	1800	Pride	N14.003			
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003			
17 S	11 E	WM	13	NW SE	4.50	100	Joyce E. Coats Rev. Trust	N14.004			
				Total:	28.50						

13. Transfer Application T-11939 proposes to change the place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	26	SE NW	3.00	204	Levin	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Lucky Lake Investments LLC	N14.004
16 S	11E	WM	33	NE SE	0.08	1100	Lucky Lake Investment LLC	N14.004
16 S	11 E	WM	33	NE SE	0.02	1200	Lucky Lake Investment LLC	N14.004
16 S	11E	WM	33	NE SE	4.40	1300	Lucky Lake Investment LLC	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:					28.50			

- 14. 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.
- 15. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- 16. The proposed change in place of use would not result in enlargement of the rights.
- 17. 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-11939 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 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 74147, 74148, 74149, and 76520.
- 3. The former place of use shall no longer be irrigated as part of these water rights.
- 7. 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.

- 8. Water Right Certificates 74147, 74148, 74149, and 76520 are modified. The Department will issue superseding certificates describing the rights when it determines that it is necessary for record keeping.
- 9. All other terms and conditions of Special Order Volume Special Order Volume 98 at Pages 750-753 remain the same.

Dated at Salem, Oregon this _____ day of February, 2017

Dwight French, Water Right Services Administrator for

THOMAS M. BYLER, DIRECTOR

Mailing Date: FEB 1 7 2017