

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

In the Matter of the Completion of a Change)
in Place of Use Under Transfer Application)
T-12254, Hood River County) **DETERMINATION OF SATISFACTORY
PROOF OF COMPLETION FOR A
PERMANENT DISTRICT TRANSFER**

Authority

Oregon Administrative Rule (OAR) 690-385-7400 describes the documentation the district must file with the Department in order to provide proof of use.

OAR 690-385-7600 provides in pertinent part that satisfactory proof shall be (a) a determination by the Department that application of water to beneficial use under the terms of the transfer final order was completed to the extent authorized, or (b) a determination by the Department that the application of water to a beneficial use under the terms of the transfer final order was completed to an extent less than authorized.

Oregon Revised Statute (ORS) 540.530(2)(a) and OAR 690-385-7600 authorize the Department to issue or modify a certificate of water right upon satisfactory proof of completion of the change or changes authorized by a final order approving a permanent district transfer.

Applicant

FARMERS IRRIGATION DISTRICT
1985 COUNTY CLUB RD
HOOD RIVER

Findings of Fact

1. On February 29, 2016, the Department signed a final order, which was mailed on March 28, 2016, and recorded in Special Order Volume 98, Pages 1014-1024, approving Transfer Application T-12254 involving Certificates 74306, 74307, 85974, 74299, 74302, 74343, 74361, 85975, and 85976. The final order established October 1, 2017, as the date for completion of the authorized changes in place of use.
2. On June 16, 2017, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-12254 satisfying the requirements for proof of use under OAR 690-385-7400.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

3. On August 9, 2017, and August 11, 2017, the Department received an amended place of use table and amended maps, thereby satisfying the requirements for proof of use under OAR 690-385-7400.
4. The Department reviewed the CBU and map(s) submitted by the applicant for Transfer Application T-12254.
5. The CBU did not contain a map of the point of diversion from the source. However, since the transfer involved the transfer of places of use only within an irrigation district and did not involve a change in the point of diversion, the existing maps on file with the Department are sufficient to identify the point of diversion from the source.
6. The proposed place of use for Certificate 74306 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 1, below:

Table 1:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	1	NW SW	200	0.50	Burdick	--
2 N	10 E	WM	1	NW SW	300	0.30	Fiedler	--
2 N	10 E	WM	1	NW SW	400	0.30	Roark	--
2 N	10 E	WM	1	NW SW	500	0.50	Adair	--
2 N	10 E	WM	1	NW SW	600	0.40	Bottman	--
2 N	10 E	WM	1	NW SW	700	0.40	Kauble	--
2 N	10 E	WM	1	NW SW	800	0.60	Adair	--
2 N	10 E	WM	2	NE SE	1900	6.00	Hergenrather	7483
2 N	10 E	WM	3	NE NE	805	0.35	Hood River Homes Inc.¹	7519
2 N	10 E	WM	3	NE NE	806	0.50	HPC Properties	7518
2 N	10 E	WM	3	SE NE	800	0.55	HPC Properties	7489
2 N	10 E	WM	3	SE NE	801	2.05	HPC Properties	7490
2 N	10 E	WM	3	SE NE	802	1.15	HPC Properties	7491
2 N	10 E	WM	3	SE NE	803	1.55	HPC Properties	7492
2 N	10 E	WM	3	SE NE	804	1.75	Reynier	7501
2 N	10 E	WM	3	SE NE	806	0.30	HPC Properties	7496
2 N	10 E	WM	3	SE NE	1300	1.45	Woodland	--
2 N	10 E	WM	3	NW NW	2200	1.25	Smith	7448
2 N	10 E	WM	3	NE SW	701	3.70	Samkow	7544
2 N	10 E	WM	10	NW NE	3400	0.15	Deborde	--
2 N	10 E	WM	12	NW NW	1800	0.45	Benton	7500
2 N	10 E	WM	14	NW NW	1200	0.13	Nastasi	--
3 N	10 E	WM	34	NE NW	3900	0.20	Rangel	7529
Total:						24.53		

¹ This is different from the water user (HCP Properties) that was listed in the transfer final order. It has been updated here to reflect the change as shown in the CBU.

7. The proposed place of use for Certificate 74307 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 2, below:

Table 2:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	3	NW NE	1900	1.65	Marchesi	5817

8. The proposed place of use for Certificate 85974 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 3, below:

Table 3:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	9	NW SW	3000	0.15	Kinoshita	--
2 N	10 E	WM	9	NW SW	3100	2.50	Kinoshita	7538
2 N	10 E	WM	9	NW SW	3200	1.55	Kinoshita	7543
Total						4.20		

9. The proposed place of use for Certificate 74299 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 4, below:

Table 4:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	9	NW SW	3000	0.15	Kinoshita	--
2 N	10 E	WM	9	NW SW	3100	2.50	Kinoshita	7535
2 N	10 E	WM	9	NW SW	3200	1.55	Kinoshita	7540
Total						4.20		

10. The proposed place of use for Certificate 74302 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 5, below:

Table 5:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	Notice
2 N	10 E	WM	9	NW SW	3100	2.50	Kinoshita	7534
2 N	10 E	WM	9	NW SW	3200	0.65	Kinoshita	7539
Total						3.15		

11. The proposed place of use for Certificate 74343 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 6, below:

Table 6:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	Notice
2 N	10 E	WM	10	NW NE	3400 ¹	0.15	Deborde ¹	n/a

¹This information was inadvertently omitted in the transfer on order.

12. The proposed place of use for Certificate 74361 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 7, below:

Table 7:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	10 E	WM	3	NE NE	10.00

13. Based on information in the CBU and on the final proof maps, the place of use for Certificate 74361 beneficial use under T-12254 has been demonstrated as shown in Table 8, below:

Table 8:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	Notice
2 N	10 E	WM	3	SE NE	800	0.55	HPC Properties	n/a
2 N	10 E	WM	3	SE NE	801	2.05	HPC Properties	n/a
2 N	10 E	WM	3	SE NE	802	1.15	HPC Properties	n/a
2 N	10 E	WM	3	SE NE	803	1.55	HPC Properties	n/a
2 N	10 E	WM	3	SE NE	804	1.75	Reynier	n/a
2 N	10 E	WM	3	SE NE	806	0.3	HPC Properties	n/a
2 N	10 E	WM	3	SE NE	1300	1.45	Woodland	n/a
Total						8.80		

14. The proposed place of use for Certificate 85975 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 9, below:

Table 9:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	9	NW SW	3000	0.15	Kinoshita	--
2 N	10 E	WM	9	NW SW	3100	2.50	Kinoshita	7537
2 N	10 E	WN	9	NW SW	3200	1.55	Kinoshita	7541
Total:						4.20		

15. The proposed place of use for Certificate 85976 as approved the final order for Transfer Application T-12254, and as recorded in Special Order Volume 98, Pages 1014-1024 is shown in Table 10, below:

Table 10:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
2 N	10 E	WM	9	NW SW	3000	0.15	Kinoshita	--
2 N	10 E	WM	9	NW SW	3100	2.50	Kinoshita	7536
2 N	10 E	WM	9	NW SW	3200	1.55	Kinoshita	7542
Total						4.20		

16. Based on the review of evidence submitted by the applicant, the Department finds that the application of water to beneficial use under the terms of the transfer final order for T-12254 was completed to the extent authorized in the transfer as described in Tables 1, 2, 3, 4, 5, 6, 9, and 10, above.
17. Based on the review of evidence submitted by the applicant, the Department finds the application of water to a beneficial use under the terms of the transfer final order for T-12254 was completed to an extent less than authorized in the transfer. The Department finds that beneficial use was made to the extent shown in Table 8, above.

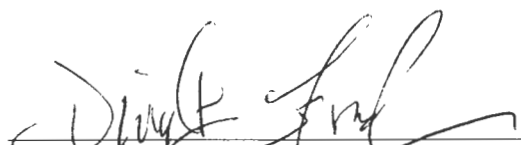
Conclusions of Law

1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.
2. Application of water to a beneficial use under the terms of the transfer final order has been made to the extent shown in Tables 1, 2, 3, 4, 5, 6, 8, 9, and 10, above.
3. The applicant has demonstrated proof of completion under T-12254 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-12254 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

1. Water right Certificate 74361 is cancelled. The Department will issue a confirming certificate which will supersede Certificate 74361. The place of use has been modified as shown in Table 8.
2. Water right Certificate 74343 is modified. No new certificate will be issued describing the modification of this right because the place of use change occurs within the same quarter-quarter as authorized on the certificate.
3. Water right Certificates 74306, 74307, 85974, 74299, 74302, 85975, and 85976 are modified as shown in Tables 1, 2, 3, 4, 5, 6, 9, and 10, above. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon this 16 day of October 2017.


Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing date: OCT 20 2017