

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-12808, Morrow County) ADDITIONAL POINT OF DIVERSION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

WEST EXTENSION IRRIGATION DISTRICT
PO BOX 100
IRRIGON, OR 97844

Findings of Fact

1. On December 26, 2017, WEST EXTENSION IRRIGATION DISTRICT filed an application for an additional point of diversion under Certificate 87799. The Department assigned the application number T-12808.
2. Notice of the application for transfer was published on January 9, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 19, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12808 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 19, 2018, for the applicant to respond. The applicant did not respond by the deadline.
4. On April 23, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant’s agent the Department was still waiting for the applicant’s response to the draft Preliminary Determination. The Department set forth a deadline of May 25, 2018, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

5. On July 1, 2018, the applicant submitted a Water Delivery Agreement.
6. On September 20, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12808 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 25, 2018, and in the Hermiston Herald newspaper on September 26, and October 3, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the right to be transferred is as follows:

Certificate: 87799 in the name of WEST EXTENSION IRRIGATION DISTRICT
(perfected under Permit S-45999)

Use: IRRIGATION of 159.1 ACRES

Priority Date: JUNE 15, 1981

Rate: 3.98 CUBIC FEET PER SECOND

Limit/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-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	26 E	WM	23	SE NE	5	800 FEET NORTH AND 200 FEET WEST FROM THE E1/4 CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	26 E	WM	4	SW NW	0.2
4 N	26 E	WM	4	SE NW	4.7
4 N	26 E	WM	4	NE SW	24.8
4 N	26 E	WM	4	NW SW	29.7
4 N	26 E	WM	4	SW SW	3.4
4 N	26 E	WM	4	SE SW	39.4
4 N	26 E	WM	4	NW SE	2.8
4 N	26 E	WM	4	SW SE	26.6
4 N	26 E	WM	5	NE SE	0.7
4 N	26 E	WM	9	NW NE	9.4
4 N	26 E	WM	9	NE NW	17.3
4 N	26 E	WM	9	NW NW	0.1
Total					159.1

8. Transfer Application T-12808 proposes an additional point of diversion approximately 9.2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 N	25 E	WM	35	SW SE	3	80 FEET NORTH AND 2480 FEET WEST FROM THE SE CORNER OF SECTION 35

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria [OAR 690-380-4010(2)]

10. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and canal system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12808.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

Conclusions of Law

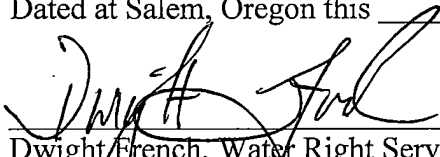
The additional point of diversion proposed in Transfer Application T-12808 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-12808 is 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 Certificate 87799 and any related decree.
3. Water right Certificate 87799 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the additional point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued in the name of West Extension Irrigation District.

Dated at Salem, Oregon this NOV 21 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: NOV 28 2018

2018