

BEFORE THE WATER RESOURCES DEPARTMENT
FOR THE
STATE OF OREGON

In the Matter of the Completion of a Change) DETERMINATION OF SATISFACTORY
in Place of Use Under Transfer Application) PROOF OF COMPLETION FOR A
T-12605 in Morrow County) 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

Willow Creek District Improvement Company
C/O Brian Thompson
55805 Hwy 74
Heppner, OR 97836

Findings of Fact

1. On October 18, 2017, the Department signed a final order, which was mailed on October 27, 2017, and recorded in Special Order Volume 107, Pages 5-12, approving Transfer Application T-12605 involving Certificates 82491 and 82490. The final order established October 1, 2018, as the date for completion of the authorized changes in place of use.
2. On January 8, 2019 the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-12605 satisfying the requirements for providing proof of use under OAR 690-385-7400 for Certificates 82491 and 82490.

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. The Department reviewed the CBU and maps submitted by the applicant for Transfer Application T-12605.
4. 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.
5. The proposed place of use for Certificate 82491 as approved the final order for Transfer Application T-12605, and as recorded in Special Order Volume 107, Pages 5-12 is shown in Table 1, below:

Table 1:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	Notice
1 S	25 E	WM	35	SE SE	4500	0.40	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE NE	500	1.50	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW NE	500	2.70	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE SW	600	20.70	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW SW	600	23.60	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SW SW	600	31.90	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SE SW	600	29.30	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE SE	600	13.80	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW SE	600	28.10	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SW SE	600	36.30	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SE SE	600	19.40	THOMPSON	THOMP 2017
3 S	25 E	WM	3	NE SE	600	31.80	THOMPSON	THOMP 2017
3 S	25 E	WM	3	NW SE	600	26.90	THOMPSON	THOMP 2017
3 S	25 E	WM	3	SW SE	600	27.80	THOMPSON	THOMP 2017
3 S	25 E	WM	3	SE SE	600	33.50	THOMPSON	THOMP 2017
Total:						327.7		

6. Information in the CBU indicates the water user has changed subsequent to the issuance of the final order approving Transfer Application T-12605 on the parcels affected by the transfer. In addition, portions of the transfer for Certificate 82491 were developed differently than authorized in the final order. Any such changes as identified in the CBU and associated maps are shown in BOLD in Table 2, below:

Table 2:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres ¹	Water User ¹
1 S	25 E	WM	35	SE SE	4500	0.4	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NE NE	500	1.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW NE	500	2.7	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NE SW	600	19.8	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW SW	600	25.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SW SW	600	33.3	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SE SW	600	27.3	FRANK TIEGS C/O BRIAN THOMPSON

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres ¹	Water User ¹
2 S	25 E	WM	2	NE SE	600	13.0	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW SE	600	28.8	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SW SE	600	36.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SE SE	600	18.0	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	NE SE	600	29.2	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	NW SE	600	30.1	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	SW SE	600	30.9	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	SE SE	600	30.7	FRANK TIEGS C/O BRIAN THOMPSON
Total:						327.7	

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

¹Water users listed in bold are different from the water user that was listed in the transfer final order. They have been updated here to reflect the changes as shown in the CBU.

¹Beneficial use of water was made on the same number of acres listed in bold as authorized in the order, but the configuration of the place of use is slightly different.

*These reconfigured places of use are within the same tax lot and quarter-quarter.

- The reconfigured changes in place of use as documented in the CBU and associated maps are determined satisfactory because the reconfigured, completed uses are under the same water right holders, do not enlarge the rights and affect the same number of irrigated acres.
- The proposed place of use for Certificate 82490 as approved in the final order for Transfer Application T-12605, and as recorded in Special Order Volume 107, Pages 5-12 is shown in Table 3, below:

Table 3:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
1 S	25 E	WM	35	SE SE	0.40	4500	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE NE	1.50	500	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW NE	2.70	500	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE SW	20.70	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW SW	23.60	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SW SW	31.90	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SE SW	29.30	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NE SE	13.80	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	NW SE	28.10	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SW SE	36.30	600	THOMPSON	THOMP 2017
2 S	25 E	WM	2	SE SE	19.40	600	THOMPSON	THOMP 2017
3 S	25 E	WM	3	NE SE	31.80	600	THOMPSON	THOMP 2017
3 S	25 E	WM	3	NW SE	26.90	600	THOMPSON	THOMP 2017
3 S	25 E	WM	3	SW SE	27.80	600	THOMPSON	THOMP 2017
3 S	25 E	WM	3	SE SE	33.50	600	THOMPSON	THOMP 2017
Total:					327.7			

9. Information in the CBU indicates the water user has changed subsequent to the issuance of the final order approving Transfer Application T-12605 on the parcels affected by the transfer. In addition, portions of the transfer for Certificate 82490 were developed differently than authorized in the final order. Any such changes as identified in the CBU and associated maps are shown in BOLD in Table 4 below:

Table 4:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres ¹	Water User ¹
1 S	25 E	WM	35	SE SE	4500	0.4	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NE NE	500	1.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW NE	500	2.7	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NE SW	600	19.8	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW SW	600	25.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SW SW	600	33.3	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SE SW	600	27.3	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NE SE	600	13.0	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	NW SE	600	28.8	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SW SE	600	36.5	FRANK TIEGS C/O BRIAN THOMPSON
2 S	25 E	WM	2	SE SE	600	18.0	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	NE SE	600	29.2	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	NW SE	600	30.1	FRANK TIEGS C/O BRIAN THOMPSON
3 S	25 E	WM	3	SW SE	600	30.9	FRANK TIEGS C/O BRIAN THOMPSON
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¹ Beneficial use of water was made on the same number of acres listed in bold as authorized in the order, but the configuration of the place of use is slightly different.

*These reconfigured places of use are within the same tax lot and quarter-quarter.

10. The reconfigured changes in place of use as documented in the CBU and associated maps are determined satisfactory because the reconfigured, completed uses are under the same water right holders, do not enlarge the rights and affect the same number of irrigated acres.

11. 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-12605 involving Certificates 82491 and 82490 were completed to the extent authorized in the transfer as described in Table 2 and Table 4, above.

Conclusions of Law

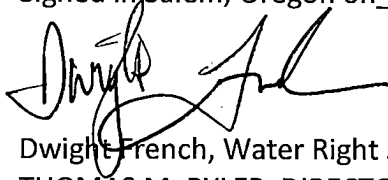
1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.

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 2, and 4, above.
3. The applicant has demonstrated proof of completion under T-12605 related to Certificates 82491 and 92490 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-12605 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

Water right Certificates 82491 and 82490 are modified as shown in Table 2 and Table 4, above. The Department will issue a superseding certificate describing these rights when it determines it is necessary for record keeping.

Signed in Salem, Oregon on MAY 23 2019



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

Mailing date: MAY 23 2019