

**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-12237, Malheur 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

OWHYHEE IRRIGATION DISTRICT
17 SOUTH FIRST ST
NYSSA, OR 97913

Findings of Fact

1. On March 28, 2016, the Department signed a final order, which was mailed on April 1, 2016 and recorded in Special Order Volume 98, Pages 1077-1083, approving Transfer Application T-12237 involving Certificates 75691, 75712, 75708, 75688, and 75689. The final order established October 1, 2017, as the date for completion of the authorized changes in place of use.
2. On September 21, 2017, the Department signed a correcting superseding a final order, which was mailed on September 26, 2017, and recorded in Special Order Volume 105, Pages 803-809, to correct omissions of supplemental irrigation rights and errors in the final order recorded in Special Order Volume 96, Pages 1077-1083.

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 October 2, 2017, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-12237.
4. On December 6 and 10, 2018, the Department received a missing site report and corresponding map to complete the claim of beneficial and some correcting maps, thereby satisfying the requirements of providing proof of use under OAR 690-385-7400.
5. The Department reviewed the CBU and maps submitted by the applicant for Transfer Application T-12237.
6. 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.
7. The proposed place of use for Certificate 75691 as approved the final order for Transfer Application T-12237, and as recorded in Special Order Volume 105, Pages 803-809, is shown in Table 1, below:

Table 1:

PRIMARY IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
21 S	46 E	WM	12	NW NW	0.73	300	Johnston
20 S	46 E	WM	8	NW SW	0.74	102	Hartley
20 S	46 E	WM	8	SW SW	7.04	102 ¹	Hartley
20 S	46 E	WM	5	SW SW	0.37	800	Grant 4D Farms
20 S	46 E	WM	5	SE SW	0.80	800	Grant 4D Farms
20 S	46 E	WM	8	NE NW	4.48	300	Grant 4D Farms
18 S	46 E	WM	27	SW SW	0.78	700	Bishop
21 S	46 E	WM	5	SE SW	12.05	700	Cruickshank
21 S	46 E	WM	5	SW SW	9.14	700	Cruickshank
21 S	46 E	WM	8	NW NW	5.79	700	Cruickshank
18 S	47 E	WM	4	SW NW	4.00	400	Poole
19 S	46 E	WM	15	NW SE	0.76	3700	Kesler
17 S	47 E	WM	17	NW NE	0.74	100	Dixon
17 S	47 E	WM	30	NW NE	0.58	901	White
18 S	46 E	WM	27	SW NE	4.25	801	Edison
18 S	46 E	WM	27	NE SW	2.63	801	Edison
18 S	46 E	WM	27	NW SE	3.41	801	Edison
20 S	46 E	WM	11	NE NE	4.63	200	Kurtz
16 S	47 E	WM	20	NE NE	3.51	7600	Unruh
16 S	47 E	WM	20	NW NE	4.85	7600	Unruh
16 S	47 E	WM	20	SE NE	1.35	7600	Unruh
16 S	47 E	WM	20	NE NW	0.32	7600	Unruh
16 S	47 E	WM	20	SW NE	0.09	7600	Unruh
20 S	46 E	WM	18	NE NW	4.97	300	Bennett
20 S	46 E	WM	18	NW NW	4.46	300	Bennett
20 S	46 E	WM	18	NW SE	9.31	600	Bennett
Total:					91.78		

¹ This was incorrectly listed as tax lot 1102 in the Final Order recorded in Special Order Volume 105, Pages 803-809. The correct tax lot for this parcel is 102.

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	4.52	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	1.10	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	0.62	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW NE	0.40	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.78	300	Hammelman	15-125100B
Total:					7.42			

8. The proposed place of use for Certificate 75712 as approved the final order for Transfer Application T-12237, and as recorded in Special Order Volume 105, Pages 803-809, is shown in Table 2, below:

Table 2:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	4.52	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	1.10	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	0.62	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW NE	0.40	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.78	300	Hammelman	15-125100B
Total:					7.42			

9. The proposed place of use for Certificate 75708 as approved the final order for Transfer Application T-12237, and as recorded in Special Order Volume 105, Pages 803-809, is shown in Table 3, below:

Table 3:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	
18 S	47 E	WM	4	SW NW	2.70	400	Poole	

10. The proposed place of use for Certificate 75689 as approved the final order for Transfer Application T-12237, and as recorded in Special Order Volume 105, Pages 803-809, is shown in Table 4, below:

Table 4:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	
18 S	47 E	WM	4	SW NW	2.70	400	Poole	

11. The proposed place of use for Certificate 75688 as approved the final order for Transfer Application T-12237, and as recorded in Special Order Volume 105, Pages 803-809, is shown in Table 5, below:

Table 5:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	4.52	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	1.10	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	0.62	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW NE	0.40	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.78	300	Hammelman	15-125100B
Total:					7.42			

12. 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-12237 was completed to the extent authorized in the transfer as described in Tables 1, 2, 3 4, and 5.

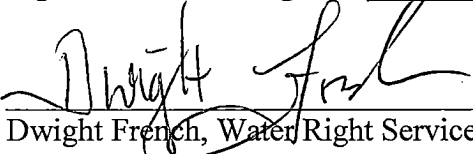
Conclusions of Law

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, and 5, above.
3. The applicant has demonstrated proof of completion under T-12237 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-12237 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

1. Water right Certificates 75691, 75712, 75708, 75688, and 75689 are modified as shown in Tables 1, 2, 3, 4 and 5, above. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon on DEC 18 2018



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

Mailing date: DEC 19 2018