

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10037, Umatilla County) **APPROVING A PERMANENT**
) **DISTRICT TRANSFER, AND**
) **PARTIAL DIMINISHMENT OF A**
) **WATER RIGHT**

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

HERMISTON IRRIGATION DISTRICT
366 E. HURLBURT AVE
HERMISTON, OR 97838

Findings of Fact

1. On December 15, 2005, HERMISTON IRRIGATION DISTRICT, filed a district transfer application to permanently change the place of use of water under their vested right for irrigation within the boundaries of the irrigation district. The Department assigned the application number T-10037.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:

Certificate: Decree of the Circuit Court of the State of Oregon for Umatilla County. Of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242, as modified herein and issued in the name of Hermiston Irrigation District.

Use: Irrigation and Supplemental Irrigation

Priority Date: February 25, 1904, for use of natural flow of the Umatilla River through the Maxwell Canal for irrigation and September 6, 1905 for supplemental irrigation from water stored in Cold Springs Reservoir. The waters may be used jointly and interchangeably upon the lands described by the decree.

<p>This is a final order in other than 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 OR 137-004-0080 you may either 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.</p>
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Rate & Duty: For those lands comprised of loam or fine sand or fine textured soil the amount of water diverted for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated each year. For those lands comprised of coarse sand or loose gravel subsoil or loose coarse texture soil the amount of water diverted 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) and 6.0 acre-feet for each acre irrigated each year.

Source: Umatilla River and Cold Springs Reservoir, tributary of Columbia River

Authorized Points of Diversion:

TWP	RNG	MER	SEC	QTR-QTR	LOCATION
4 N	28 E	W.M.	28	NW SW	Maxwell Canal
4 N	29 E	W.M.	3	SE NW	"A" Line Canal / Cold Springs Dam

Authorized Place of Use:

IRRIGATION & SUPPLEMENTAL IRRIGATION – UMATILLA RIVER DECREE – V. 3, p 242								
TWP	RNG	SEC	QTR-QTR	TL	AC	DUTY	USER	NOTICE#
4 N	28 E	9	NE SE	9600	0.30	6.0	ALVAREZ	2005-07
4 N	28 E	11	SW SE	700	0.30	3.0	PARTLOW	2005-13
4 N	28 E	11	SW SE	705	0.30	3.0	NORRIS	2005-06
4 N	28 E	11	SW SE	733	0.30	3.0	NORRIS	2005-06
4 N	28 E	11	SW SE	734	0.30	3.0	NORRIS	2005-06
4 N	28 E	11	SW SE	3400	0.20	3.0	RYAN	2005-12
4 N	28 E	14	SW NE	900	5.80	3.0	SHERRELL, P.	2005-14
4 N	28 E	14	SW NE	1000	0.50	3.0	BRUCE	2005-10
4 N	28 E	14	NE NW	803	0.21	3.0	METHVIN	2005-11
4 N	28 E	14	NW SW	407	1.43	3.0	VANDEWALL	2005-01
4 N	28 E	15	SW NW	501	0.70	3.0	BRANDT	2005-04
4 N	28 E	15	SW NW	501	6.60	6.0	BRANDT	2005-04
4 N	28 E	15	SE NW	400	5.84	6.0	BRANDT	2005-04
4 N	29 E	6	SE NW	5000	3.50	6.0	VERDEGAN	2005-02
5 N	28 E	15	SW SW	1600	0.23	3.0	SANGUINO	2005-08
5 N	28 E	15	SW SW	2600	0.21	3.0	BLAIR	2005-05
5 N	28 E	34	NE SW	104	1.00	6.0	SHAFFER	2005-03
5 N	29 E	32	SE SW	100	1.22	6.0	SMITH	2005-09
TOTAL:					28.94			

4. Application T-10037 proposes to change the place of use to:

IRRIGATION & SUPPLEMENTAL IRRIGATION – UMATILLA RIVER DECREE – V. 3, p 242								
TWP	RNG	SEC	QTR-QTR	TL	AC	DUTY	USER	NOTICE#
4 N	28 E	14	NW SW	100	0.60	3.0	SHERRELL, RICHARD	2005-14
4 N	28 E	14	SW SW	100	5.20	3.0	SHERRELL, RICHARD	2005-14
4 N	28 E	21	NW NW	1000	1.43	3.0	SCHLUPE	2005-01
5 N	28E	34	NE SW	110	1.00	6.0	SHAFFER	2005-03
5 N	28 E	36	NE SE	503	2.00	6.0	HECKER & BANEY	2005-02
5 N	29 E	26	NW NE	2700	2.00	6.0	L.J. & ALICE MARKS	2005 (4 -13)
5 N	29 E	26	NE NW	2700	11.96	6.0	L.J. & ALICE MARKS	2005 (4 -13)
5 N	29 E	26	SW NW	2700	0.15	3.0	L.J. & ALICE MARKS	2005-11
5 N	2 9E	26	SE NW	2700	3.10	3.0	L.J. & ALICE MARKS	2005 (4 -13)
5 N	29 E	31	SE NW	1900	1.50	6.0	HECKER	2005-02
TOTAL:					28.94			

5. The Department received an affidavit from Leslie J. Marks and Alice B. Marks, the record owners of lands to which a portion of the following water right is appurtenant, requesting to diminish the described portion of the right from irrigation to supplemental irrigation. The portion of the right to be diminished is as follows:

Certificate: 52828, issued in the name of Leslie J. and Alice Marks

Use: Irrigation of 17.21 acres

Priority Date: May 23, 1980

Source: Columbia River, tributary of the Pacific Ocean

Rate & Duty: 1/40th cfs per acre irrigated not to exceed 4.5 acre-feet per acre per irrigation season

Authorized Point of Diversion:

TWP	RNG	MER	SEC	QTR-QTR	LOCATION
5 N	30 E	W.M.	7	SE SW	460 Feet North and 1680 Feet East from SW Corner of Section 7

Authorized Place of Use:

CERTIFICATE 52828								
DIMINISHED FROM IRRIGATION TO SUPPLEMENTAL IRRIGATION								
TWP	RNG	SEC	QTR-QTR	TL	AC	OWNER	NOTICE#	
5 N	29 E	26	NW NE	2700	2.00	L.J. & ALICE MARKS	2005 (4 -13)	
5 N	2 9E	26	NE NW	2700	11.96	L.J. & ALICE MARKS	2005 (4 -13)	
5 N	29 E	26	SW NW	2700	0.15	L.J. & ALICE MARKS	2005 (4 -13)	
5 N	2 9E	26	SE NW	2700	3.10	L.J. & ALICE MARKS	2005 (4 -13)	
TOTAL:					17.21			

6. 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.

7. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
8. The proposed change in place of use would not result in enlargement of the right.
9. The proposed change in place of use would not result in injury to other water rights.


Conclusions of Law

The proposed change in place of use in Transfer Application T-10037 satisfies the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The proposed change to the District's water right evidenced by Decree of the Circuit Court of the State of Oregon for Umtilla County, of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242 is approved.
2. The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in the decree and the Final Order approving T-10037.
3. The former places of use shall no longer be irrigated as part of this water right.
4. Water may be used on the proposed place of use described under Notices 2005-01 and 2005-02 only when water is available in the "A" line canal, and the district shall cease deliveries to those lands when the "A" line canal conveys no water.
5. The right evidenced by Certificate 52828 is diminished as described in *Finding of Fact #5*.
6. Certificate 52828 is canceled and the Department shall issue superseding Certificate 81918 to describe the modifications made to the water right by this order.
7. The proposed changes shall be completed on or before October 1, 2007.
8. A Claim of Beneficial Use and Final Proof Map shall be submitted by the applicant to the Department by October 1, 2008.
9. The Department shall issue a water right certificate on a determination that it is necessary to produce a certificate describing the right.

Dated at Salem, Oregon this 24th day of March, 2006


Phillip C. Ward, Director

Mailing Date: MAR 28 2006