BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13816, Malheur County)	A DISTRICT PERMANENT TRANSFER FOR
)	PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

VALE OREGON IRRIGATION DISTRICT 521 A ST WEST VALE, OR 97918

Findings of Fact

- On September 3, 2021, VALE OREGON IRRIGATION DISTRICT (VOID) filed a district transfer application to permanently change the place of use under Certificates 76204, 74080 and 74081. The Department assigned the application number T-13816.
- 2. On April 17, 2017, VALE OREGON IRRIGATION DISTRICT (VOID) filed a district transfer application to permanently change the place of use of 2.0 acres under Certificates 74080 and 74081. The Department assigned the application number T-12645. On June 7, 2017, the Department signed a final order which was recorded in Special Order Volume 105, Pages 51-54, approving Transfer Application T-12645 involving Certificates 74080 and 74081. The final order incorrectly approved a temporary change in place of use instead of a permanent change in place of use. On September 14, 2021, the VOID emailed an amendment to T-13816 requesting to include in this transfer the 2.0 acres involved in T-12645.
- 3. Notice of the District Permanent Transfer Application was published on September 14, 2021 pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notices.
- 4. The U.S. Bureau of Reclamation was notified of the transfer application on September 14, 2021; no comments were received within 90 days of the notification.

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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

5. The portion of the first right to be transferred is as follows:

Certificate: 76204 in the name of VALE OREGON IRRIGATION DISTRICT (confirmed by decree

of the Circuit Court of the State of Oregon for Malheur County)

Use: IRRIGATION of 24.8 ACRES

Priority Date: April 1885

Limits/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 1.5 ACRE FEET per acre in any 30 day period prior to June 1st of each year, a diversion of 1.0 acre-foot per acre in any 30 day period after June 1st of each year, or a total diversion of 3.0 ACRE FEET for each acre irrigated during the irrigation season of each year at a rate not to exceed ONE-TWENTIETH of one cubic foot per second, or its equivalent for each acre irrigated during the

irrigation season of each year.

Source: The NORTH FORK OF THE MALHEUR RIVER, tributary to the MALHEUR RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec Q-Q		Mer Sec Q-Q Measured Distances		Measured Distances
20 S	41 E	WM	31	NW SE	VALE MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31		

Authorized Place of Use:

	IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
20 S	41 E	WM	12	SW SW	9.1	1000	ALLAIRE, BRYANT					
20 S	41 E	WM	12	SE SW	6.7	1000	ALLAIRE, BRYANT					
20 S	41 E	WM	12	NW SE	1.8	1100	ALLAIRE, R. T., JR					
20 S	41 E	WM	12	SW SE	7.2	1000	ALLAIRE, BRYANT					
				Total	24.8							

6. Transfer Application T-13816 proposes to change the place of use to:

Proposed Place of Use:

•	. Opos	cu i iu		550.										
		IRRIGATION												
	Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User						
	20 S	41 E	WM	12	NE SW	14.5	2400	ALLAIRE, ELIZABETH						
	20 S	41 E	WM	12	SW SW	0.7	2300	ALLAIRE, BRYANT						
	20 S	41 E	WM	12	SE SW	1.0	2300	ALLAIRE, BRYANT						
	20 S	41 E	WM	12	NW SE	8.3	2300	ALLAIRE, R. T., JR						
	20 S	41 E	WM	12	SW SE	0.3	2300	ALLAIRE, BRYANT						
					Total	24.8								

7. The portion of the second right to be transferred is as follows:

Certificate: 74080 in the name of U.S. BUREAU OF RECLAMATION and VALE OREGON IRRIGATION DISTRICT (perfected under Permit S-7867)

Use: PRIMARY IRRIGATION of 2.0 ACRES and SUPPLEMENTAL IRRIGATION of 24.8 ACRES

Priority Dates: MAY 10, 1926 & JANUARY 11, 1927

Limits/Duty: One half of the stored water available each year from Warmsprings Reservoir (Permit No. R-457), which is to be released into the Malheur River and rediverted therefrom through Vale Oregon Project main canal at a maximum rate of 600 CUBIC FEET PER SECOND.

> All of the drainage water, seepage water, return flow, and waste water from the Vale Oregon Project, estimated to be 200 CUBIC FEET PER SECOND to be used in Warmsprings Irrigation District under contract between that District and the United States under which the Warmsprings District is to accept such return flow from the Vale Oregon Project and allow the United States, in return, an equivalent amount of stored water and natural flow from the Malheur River.

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 shall be 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: The MALHEUR RIVER, tributary to the SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	ler Sec Q-Q		Measured Distances				
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31				
23 S	37 E	W.M	8	SW SW	WARMSPRINGS DAM *should be NW SE				

Authorized Place of Use:

	IRRIGATION										
Twp	Twp Rng Mer Sec Q-Q Acres Tax Lot Water User										
18 S	18 S										

	SUPPLEMENTAL IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
20 S	41 E	WM	12	SW SW	9.1	1000	ALLAIRE, BRYANT					
20 S	41 E	WM	12	SE SW	6.7	1000	ALLAIRE, BRYANT					
20 [°] S	41 E	WM	12	NW SE	1.8	1100	ALLAIRE, R. T., JR					
20 S	41 E	WM	12	SW SE	7.2	1000	ALLAIRE, BRYANT					
				Total	24.8							

8. Transfer Application T-13816 proposes to change the place of use to:

Proposed Place of Use:

	IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
18 S	44 E	WM	23	NE NE	0.9	100	HIATT					
18 S	44 E	WM	23	NW NE	1.1	300	HAITT					
				Total	2.0							

	SUPPLEMENTAL IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
20 S	41 E	WM	12	NE SW	14.5	2400	ALLAIRE, ELIZABETH					
20 S	41 E	WM	12	SW SW	0.7	2300	ALLAIRE, BRYANT					
20 S	41 E	WM	12	SE SW	1.0	2300	ALLAIRE, BRYANT					
20 S	41 E	WM	12	NW SE	8.3	2300	ALLAIRE, R. T., JR					
20 S	41 E	WM	12	SW SE	0.3	2300	ALLAIRE, BRYANT					
				Total	24.8							

9. The portion of the third right to be transferred is as follows:

Certificate: 74081 in the name of U.S. BUREAU OF RECLAMATION and VALE OREGON

IRRIGATION DISTRICT (perfected under Permit S-16707)

Use: SUPPLEMENTAL IRRIGATION of 26.8 acres

Priority Dates: DECEMBER 16, 1931 (stored water)

NOVEMBER 29, 1945 (direct flow)

Limits/Duty: The amount of water used for supplemental 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 the

equivalent for each acre irrigated during the irrigation season of each year.

Source: NORTH FORK MALHEUR RIVER, tributary to the MALHEUR RIVER, and BELUAH

RESERVOIR (A.K.A AGENCY VALLEY RESERVOIR, Permit R-671)

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
19 S	37 E	WM	15	SW SE	AGENCY VALLEY DAM
20.5	41 F	WM	71	NIM/ CE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET
203	415	VVIVI	31	NW SE	EAST FROM THE S¼ CORNER OF SECTION 31

Authorized Place of Use:

	SUPPLEMENTAL IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
18 S	44 E	WM	23	SW NE	2.0	300	HIATT					
20 S	41 E	WM	12	SW SW	9.1	1000	ALLAIRE, BRYANT					
20 S	41 E	WM	12	SE SW	6.7	1000	ALLAIRE, BRYANT					
20 S	41 E	WM	12	NW SE	1.8	1100	ALLAIRE, R. T., JR					
20 S	41 E	WM	12	SW SE	7.2	1000	ALLAIRE, BRYANT					
				Total	26.8		•					

10. Transfer Application T-13816 proposes to change the place of use to:

Proposed Place of Use:

	SUPPLEMENTAL IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User					
18 S	44 E	WM	23	NE NE	0.9	100	HIATT					
18 S	44 E	WM	23	NW NE	1.1	300	HAITT					
20 S	41 E	WM	12	NE SW	14.5	2400	ALLAIRE, ELIZABETH					
20 S	41 E	WM	12	SW SW	0.7	2300	ALLAIRE, BRYANT					
20 S	41 E	WM	12	SE SW	1.0	2300	ALLAIRE, BRYANT					

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	
20 S	41 E	WM	12	NW SE	8.3	2300	ALLAIRE, R. T., JR	
20 S	41 E	WM	12	SW SE	0.3	2300	ALLAIRE, BRYANT	
				Total	26.8			

- 11. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.
- 12. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
- 13. The water right is subject to transfer as defined in OAR 690-385-0100(17).
- 14. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
- 15. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
- 16. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13816 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.

Now, therefore, it is ORDERED:

- 1. The proposed changes in place of use to the water rights evidenced by Certificates 76204, 74080 and 74081 are approved.
- 2. The places of use from which the water rights are transferred off by Transfer T-13816 shall no longer be irrigated, and are cancelled from Certificates 76204, 74080 and 74081.
- 3. The right to the use of the water at the places of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificates 76204, 74080 and 74081.
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2023. A Claim of Beneficial Use shall be submitted by VOID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

6. Water right Certificates 76204, 74080 and 74081 are modified. After satisfactory proof of completion has been determined by the Department, superseding water right certificates will be issued when the Department determines it is necessary for record keeping.

DEC 2 7 2021	
Dated in Salem, Oregon on	_
Lisa J. Jaramiko Transfer and Conservation Section Manager for THOMAS M. BYLER, DIRECTOR Oregon Water Resources Department	-

Mailing Date: DEC 28 2021