

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING  
T-13709, Hood River County                            )     A DISTRICT TEMPORARY TRANSFER  
  )

**Authority**

Oregon Revised Statute (ORS) 540.570 establishes the process in which a district may submit a request to temporarily 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**

EAST FORK IRRIGATION DISTRICT  
PO BOX 162  
ODELL, OR 97044

**Findings of Fact**

1. On May 13, 2021, East Fork Irrigation District (EFID) filed a district transfer application to temporarily change the places of use within the boundaries of the irrigation district under Certificate 92000. The Department assigned the application number T-13709.
2. Notice of the application for transfer was published on May 24, 2021, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:

**Certificate:** 92000 in the name of EAST FORK IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County)

**Use:** IRRIGATION of 6.2 acres

**Priority Date:** NOVEMBER 25, 1895

**Rate / Duty:** ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year.

**Source:** EAST FORK HOOD RIVER, tributary to HOOD RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

This is an order in other than a 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 OAR 137-004-0080, 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.

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
2 N	10 E	WM	36	NE NE	6.2	300	OLDFATHER

- Transfer Application T-13709 proposes to temporarily change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
1 N	10 E	WM	2	NE SE	4.2	2000	MCNERNEY
1 N	10 E	WM	2	SE SE	2.0	2000	MCNERNEY
<b>Total:</b>					<b>6.2</b>		

- The authorized place of use described in Finding of Fact #3, above, is layered with irrigation under Certificate 85344. This certificate is not involved in the transfer. The applicant has stated that the irrigation use under Certificate 83544 will remain unexercised during the period of this temporary transfer.
- As a condition of Transfer T-13609, the portion of Certificate 85344 that is appurtenant to the authorized place of use as described in Finding of Fact #3, above, shall remain unexercised during the period of this temporary transfer.
- The district temporary transfer application satisfies the criteria of ORS 540.570 and OAR 690-385-3000, contains the information required under OAR 690-385-3200, and includes a map meeting the requirements of OAR 690-385-3300.
- Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- Diversion structures, district canals, pumps, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- The proposed change in place of use, as conditioned, will not result in enlargement of the rights as defined in OAR 690-385-0100(6).
- The proposed change in place of use would not result in injury to other water rights as defined in OAR 690-385-0100(4).
- All other applicable requirements for district temporary water right transfers are met.



## Conclusions of Law

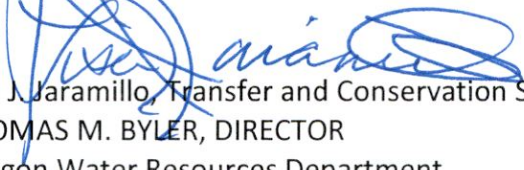
The temporary change in place of use proposed in Temporary Transfer Application T-13709, as conditioned above, is consistent with the requirements of ORS 540.570 and OAR 690-385-3500.

### Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Transfer Application T-13709, as conditioned, is approved.
2. The portion of Certificate 85344 that is appurtenant to the authorized place of use as described in Finding of Fact #3, above, shall remain unexercised during the period of this temporary transfer.
3. The land from which the water right is removed under Certificates 92000 shall receive no water under the transferred right during the 2021 irrigation season.
4. The use shall revert to the authorized place of use after the 2021 irrigation season.
5. Any application for permanent transfer of Certificate 92000 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Divisions 380 or 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The time during which water is used on the proposed lands under this approved temporary transfer does not apply toward a finding of forfeiture of Certificate 92000 under ORS 540.610.
7. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
8. The use of water under this temporary transfer may be conditioned or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.
9. Pursuant to ORS 536.900, a district and user may be subject to civil penalties for allowing the use of water on both the land from which water is transferred, and the lands to which the water is transferred, during the same irrigation season or calendar year.
10. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 92000.

11. The use of the remaining water rights described by Certificates 92000 not involved in this transfer shall continue to be in accordance with the terms and conditions of Certificate 92000.

Dated in Salem, Oregon on JUL 28 2021

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing Date: JUL 29 2021