

**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-10765, Jefferson County                    )    APPROVING A DISTRICT  
  )    PERMANENT TRANSFER

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**

NORTH UNIT IRRIGATION DISTRICT  
2024 NW BEECH STREET  
MADRAS, OREGON 97741

**Findings of Fact**

**Background**

1. On January 2, 2009, North Unit Irrigation District filed a district transfer application to change the place of use under Certificates 72279, 72281 and 72283. The Department assigned the application number T-10765.
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 first right to be transferred is as follows:  
**Certificate:** 72279, issued in the name of North Unit Irrigation District  
**Use:** Irrigation  
**Acres:** 47.90  
**Priority Date:** February 28, 1913  
**Rate & Duty:** Maximum of 1/40 cfs per acre & 5.25 acre-feet per acre during the irrigation season of each year.  
**Source:** Deschutes River, Wickiup and Haystack Reservoirs, tributary to Columbia River

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 OAR 137-004-080 and OAR 690-01-005 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.

**Authorized Points of Diversion:**

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
17 S	12 E	WM	29	SE NE	DESCHUTES RIVER: 1,700 FEET SOUTH AND 730 FEET WEST FROM NE CORNER OF SECTION 29
22 S	93	WM	7	SW NE	WICKIUP RESERVOIR
12 S	13 E	WM	27	SW NE	HAYSTACK RESERVOIR

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
10 S	13 E	W.M.	17	SW NE	9.30	200	CAMPBELL	08-06
10 S	13 E	W.M.	35	SW SE	0.10	1602	PATTERSON	08-16
10 S	13 E	W.M.	35	SW SE	0.20	1603	HIGH DESSERT PROPERTIES	08-13
10 S	13 E	W.M.	35	SW SE	2.00	100	NORTH UNIT IRRIGATION DISTRICT	08-02-B
10 S	13 E	W.M.	35	SE SE	0.10	1600	SELLIN	08-15
10 S	13 E	W.M.	35	SE SE	0.20	1601	YATES-HAGEDORN & ALGER	08-14
10 S	13 E	W.M.	35	SE SE	0.20	1604	HIGH DESSERT PROPERTIES	08-13
10 S	13 E	W.M.	35	SE SE	1.70	300	NORTH UNIT IRRIGATION DISTRICT	08-02-B
11 S	13 E	W.M.	2	NE NW	7.80	603	PETTY	08-20
11 S	13 E	W.M.	2	NW NW	7.60	603	PETTY	08-20
11 S	13 E	W.M.	2	SW NW	5.70	603	PETTY	08-20
11 S	13 E	W.M.	2	SE NW	4.20	603	PETTY	08-20
11 S	13 E	W.M.	4	SW NW	0.10	301	HOEFER	08-19
11 S	13 E	W.M.	5	NE NE	0.90	100	HOEFER	08-19
11 S	13 E	W.M.	5	SE NE	0.40	101	HOEFER	08-19
11 S	13 E	W.M.	26	SE NW	0.60	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	NE SW	1.20	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	NW SE	0.10	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	SW SE	1.40	400	HOFFMAN SR	08-17
12 S	12 E	W.M.	25	NW NW	4.10	207	ROMANICK	08-04
TOTAL:					47.90			

4. Application T-10059 proposed to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
10 S	13 E	W.M.	20	SW SW	9.00	501	POLAND	08-06
10 S	13 E	W.M.	20	SE SW	0.30	501	POLAND	08-06
10 S	14 E	W.M.	9	SE NE	3.70	103	FEIGNER	08-02-B
11 S	13 E	W.M.	2	NW NW	0.40	603	PETTY	08-20
11 S	13 E	W.M.	2	SW NW	0.70	603	PETTY	08-20
11 S	13 E	W.M.	2	SE NW	0.40	603	PETTY	08-20
11 S	13 E	W.M.	3	NW NE	2.90	300	PETTY	08-20
11 S	13 E	W.M.	3	NE NW	20.90	300	PETTY	08-20
11 S	13 E	W.M.	4	NW NW	1.40	200	HOEFER	08-19
11 S	13 E	W.M.	26	SW SW	0.40	800	HOFFMAN SR FAMILY TRUST	08-13

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
11 S	13 E	W.M.	26	SW SW	0.20	800	HOFFMAN SR FAMILY TRUST	08-14
11 S	13 E	W.M.	26	SW SW	0.10	800	HOFFMAN SR FAMILY TRUST	08-15
11 S	13 E	W.M.	26	SW SW	0.10	800	HOFFMAN SR FAMILY TRUST	08-16
11 S	13 E	W.M.	26	SW SW	3.30	800	HOFFMAN SR FAMILY TRUST	08-17
12 S	12 E	W.M.	23	SE NE	4.10	200	A & A FARM TRUST	08-04
TOTAL:					47.90			

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

**Certificate:** 72283, issued in the name of North Unit Irrigation District

**Use:** Irrigation

**Acres:** 44.40

**Priority Date:** September 18, 1968

**Rate & Duty:** Maximum of 1/40 cfs per acre and 4.0 acre-feet per acre during the irrigation season of each year.

**Source:** Crooked River, tributary to Deschutes River.

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
9 S	14 E	W.M.	29	SE NW	6.40	401	MARSHALL	08-05
9 S	14 E	W.M.	29	NE SW	1.00	401	MARSHALL	08-05
10 S	13 E	W.M.	20	SE SW	0.90	400	SULLIVAN	08-07
10 S	13 E	W.M.	35	SW SE	3.00	100	NORTH UNIT IRRIGATION DISTRICT	08-02-B
10 S	14 E	W.M.	9	SE NE	3.30	103	FEIGNER	08-02-A
11 S	13 E	W.M.	3	NW NE	2.90	300	PETTY	08-20
11 S	13 E	W.M.	3	NE NW	20.70	300	PETTY	08-20
11 S	13 E	W.M.	26	SE NW	1.10	400	HOFFMAN SR FAMILY TRUST	08-17
11 S	13 E	W.M.	26	NW SW	1.20	400	HOFFMAN SR FAMILY TRUST	08-17
12 S	12 E	W.M.	23	SE NE	3.90	200	A & A FARM TRUST	08-03
TOTAL:					44.40			

6. Application T-10059 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
9 S	14 E	W.M.	29	SW NW	6.40	401	MARSHALL	08-05
9 S	14 E	W.M.	29	SE NW	1.00	401	MARSHALL	08-05
10 S	13 E	W.M.	20	SE SW	0.90	501	POLAND	08-07
10 S	14 E	W.M.	9	SE NE	3.30	103	FEIGNER	08-02-A
10 S	14 E	W.M.	9	SE NE	3.00	103	FEIGNER	08-02-B
11 S	13 E	W.M.	2	NE NW	6.80	603	PETTY	08-20

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
11 S	13 E	W.M.	2	NW NW	6.90	603	PETTY	08-20
11 S	13 E	W.M.	2	SW NW	5.70	603	PETTY	08-20
11 S	13 E	W.M.	2	SE NW	4.20	603	PETTY	08-20
11 S	13 E	W.M.	26	SW SW	2.30	800	HOFFMAN SR FAMILY TRUST	08-17
12 S	12 E	W.M.	25	NW NW	3.90	207	ROMANICK	08-03
TOTAL:					44.40			

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

**Certificate:** 72281, issued in the name of North Unit Irrigation District

**Use:** Supplemental Irrigation

**Acres:** 47.90

**Priority Date:** June 23, 1955

**Rate & Duty:** Maximum of 1/40 cfs per acre, and 4.0 acre-feet per acre during the irrigation season of each year.

**Source:** Crooked River, tributary to Deschutes River.

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
10 S	13 E	W.M.	17	SW NE	9.30	200	CAMPBELL	08-06
10 S	13 E	W.M.	35	SW SE	0.10	1602	PATTERSON	08-16
10 S	13 E	W.M.	35	SW SE	0.20	1603	HIGH DESSERT PROPERTIES	08-13
10 S	13 E	W.M.	35	SW SE	2.00	100	NORTH UNIT IRRIGATION DISTRICT	08-02-B
10 S	13 E	W.M.	35	SE SE	0.10	1600	SELLIN	08-15
10 S	13 E	W.M.	35	SE SE	0.20	1601	YATES-HAGEDORN & ALGER	08-14
10 S	13 E	W.M.	35	SE SE	0.20	1604	HIGH DESSERT PROPERTIES	08-13
10 S	13 E	W.M.	35	SE SE	1.70	300	NORTH UNIT IRRIGATION DISTRICT	08-02-B
11 S	13 E	W.M.	2	NE NW	7.80	603	PETTY	08-20
11 S	13 E	W.M.	2	NW NW	7.60	603	PETTY	08-20
11 S	13 E	W.M.	2	SW NW	5.70	603	PETTY	08-20
11 S	13 E	W.M.	2	SE NW	4.20	603	PETTY	08-20
11 S	13 E	W.M.	4	SW NW	0.10	301	HOEFER	08-19
11 S	13 E	W.M.	5	NE NE	0.90	100	HOEFER	08-19
11 S	13 E	W.M.	5	SE NE	0.40	101	HOEFER	08-19
11 S	13 E	W.M.	26	SE NW	0.60	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	NE SW	1.20	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	NW SE	0.10	400	HOFFMAN SR	08-17
11 S	13 E	W.M.	26	SW SE	1.40	400	HOFFMAN SR	08-17
12 S	12 E	W.M.	25	NW NW	4.10	207	ROMANICK	08-04
TOTAL:					47.90			

8. Application T-10059 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
10 S	13 E	W.M.	20	SW SW	9.00	501	POLAND	08-06
10 S	13 E	W.M.	20	SE SW	0.30	501	POLAND	08-06
10 S	14 E	W.M.	9	SE NE	3.70	103	FEIGNER	08-02-B
11 S	13 E	W.M.	2	NW NW	0.40	603	PETTY	08-20
11 S	13 E	W.M.	2	SW NW	0.70	603	PETTY	08-20
11 S	13 E	W.M.	2	SE NW	0.40	603	PETTY	08-20
11 S	13 E	W.M.	3	NW NE	2.90	300	PETTY	08-20
11 S	13 E	W.M.	3	NE NW	20.90	300	PETTY	08-20
11 S	13 E	W.M.	4	NW NW	1.40	200	HOEFER	08-19
11 S	13 E	W.M.	26	SW SW	0.40	800	HOFFMAN SR FAMILY TRUST	08-13
11 S	13 E	W.M.	26	SW SW	0.20	800	HOFFMAN SR FAMILY TRUST	08-14
11 S	13 E	W.M.	26	SW SW	0.10	800	HOFFMAN SR FAMILY TRUST	08-15
11 S	13 E	W.M.	26	SW SW	0.10	800	HOFFMAN SR FAMILY TRUST	08-16
11 S	13 E	W.M.	26	SW SW	3.30	800	HOFFMAN SR FAMILY TRUST	08-17
12 S	12 E	W.M.	23	SE NE	4.10	200	A & A FARM TRUST	08-04
TOTAL:					47.90			

**Portion of Water Use Permit Not to be Perfected**

9. North Unit Irrigation District identified that the owner of lands to which a portion of Water Use Permit S-47284 is appurtenant will not perfect the following described portion of the water use permit:

**Permit:** S-47284, issued in the name of North Unit Irrigation District

**Use:** Irrigation

**Acres:** 4.10

**Priority Date:** October 21, 1982

**Rate & Duty:** Maximum of 1/40 cfs per acre & 4.0 acre-feet per acre per year.

**Source:** Crooked River, tributary to Deschutes River

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2,790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOT#
9 S	14 E	W.M.	29	NE SW	4.10	401	MARSHALL	08-05

**Transfer Review Criteria (OAR 690-385-5000)**

10. 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.

11. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
12. The proposed change in place of use would not result in enlargement of the rights.
13. The proposed change in place of use would not result in injury to other water rights.
14. The application was not filed prior to the end of the calendar year in which the changes occur as required under ORS 540.580(2). However, the District had notified the Department of the proposed changes in accordance with ORS 540.580(3). The Department's review of the noticed changes found they caused no injury. Having found no injury, the Department was not required to order the District to cease delivery of water or mitigate injury as authorized by ORS 540.580(5). Although the filing date of the application represents a failure to comply with statutory criteria, the late filing does not warrant issuance of notice of violation nor does it produce measurable or irreparable harm to the use of the state's water resources and the public interest.


### Conclusions of Law

The proposed changes in place of use in Transfer Application T-10765 satisfy the requirements of ORS 540.574(3) and 540.580, with the exception that the application was not received prior to the end of the calendar year in which a change in place of use occurs as required under ORS 540.580(2). See *Finding of Fact #14*.

### Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 72279, 72281 and 72283 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 72279, 72281 and 72283 and any related decree.
3. The former place of use shall no longer be irrigated as part of this water right.
4. The proposed change shall be completed on or before October 1, 2010.
5. The portion of Water Use Permit S-47284 described in *Finding of Fact #9* shall not be perfected under the terms and conditions of the water use permit.
6. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2011.
7. Certificates 72279, 72281 and 72283 are modified. The Department will issue a superseding certificate on a determination that it is necessary for recordkeeping.

Dated at Salem, Oregon this 17<sup>th</sup> day of February, 2009.

for   
Phillip C. Ward, Director

Mailing Date: FEB 24 2009