

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-10043, Jackson County)	DISTRICT PERMANENT TRANSFER,
)	A PARTIAL CANCELLATION AND
)	DIMINUTION OF CERTIFICATE 15922

Authority

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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

TALENT IRRIGATION DISTRICT
PO BOX 467
TALENT, OR 97540

Findings of Fact

1. On December 15, 2005, Talent Irrigation District (TID) filed a district transfer application to permanently change the place of use under Certificates 79212 and Water Use Permit S-25915. The Department assigned the application number T-10043.
2. Water Use Permit S-25915 was confirmed by Certificate 83727 on January 10, 2008.
3. Notice of the application for transfer was published on December 27, 2005, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
4. The portion of the first right to be transferred is as follows:
Certificate: 79212, in the name of TALENT IRRIGATION DISTRICT
Use: IRRIGATION of 12.30 acres

Authorized Source, Tributaries (Trib.), Priority Date and Description of Points of Diversion:

Source	Trib.	Priority Date	Twp	Rng	Mer	Sec	Q-Q	Measured Distances/Description
Emigrant Creek	Bear Creek	05/23/1912	39S	2E	WM	20	SESE	POINT OF DIVERSION IS LOCATED AT THE TOE OF EMIGRANT DAM
McDonald Creek	Little Applegate River	08/20/1915	40S	1W	WM	10	SESE	McDONALD CREEK CANAL; 700 FEET NORTH AND 300 FEET WEST FROM THE SE CORNER OF SECTION 10
Greeley Creek	Little Applegate River	08/20/1915	40S	1W	WM	3	NWSE	McDONALD CREEK CANAL; 2400 FEET NORTH AND 2300 FEET WEST FROM THE SE CORNER OF SECTION 3
Bear Creek	Rogue River	07/31/1915	38S	1E	WM	33	SESW	OAK STREET DAM; 150 FEET NORTH AND 2020 FEET EAST FROM THE SW CORNER OF SECTION 33
Neil Creek	Bear Creek	07/31/1915	39S	2E	WM	30	SESW	ASHLAND LATERAL; 600 FEET NORTH AND 1350 FEET EAST FROM THE SW CORNER OF SECTION 30
Ashland Creek	Bear Creek	07/31/1915	39S	1E	WM	4	NENW	710 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 4
Emigrant Creek	Bear Creek	07/31/1915	40S	2E	WM	2	SWNE	ASHLAND LATERAL; 520 FEET NORTH AND 1900 FEET WEST FROM THE E1/4 CORNER OF SECTION 2
Wagner Creek	Bear Creek	07/31/1915	39S	1W	WM	2	SWSE	UPPER WEST LATERAL; 100 FEET NORTH AND 1800 FEET WEST FROM THE SE CORNER OF SECTION 2
Wagner Creek	Bear Creek	07/31/1915	38S	1W	WM	35	SESW	WEST LATERAL; 600 FEET NORTH AND 3600 FEET WEST FROM THE SE CORNER OF SECTION 35
Anderson Creek	Bear Creek	07/31/1915	38S	1W	WM	33	NESE	2100 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF SECTION 33
Anderson Creek	Bear Creek	07/31/1915	38S	1W	WM	34	NENW	WEST LATERAL; 800 FEET SOUTH AND 2400 FEET EAST FROM THE NW CORNER OF SECTION 34
Anderson Creek	Bear Creek	07/31/1915	38S	1W	WM	27	NENW	TALENT MIDDLE CANAL; 4000 FEET NORTH AND 2500 FEET EAST FROM THE SW CORNER OF SECTION 27
Coleman Creek	Bear Creek	09/06/1915	38S	1W	WM	20	SESW	2100 FEET SOUTH AND 1500 FEET EAST FROM THE NW CORNER OF SECTION 20
Coleman Creek	Bear Creek	09/06/1915	38S	1W	WM	17	SESE	TALENT MIDDLE CANAL; 900 FEET NORTH AND 1100 FEET WEST FROM THE SE CORNER OF SECTION 17
Kenutchen Creek (Knudsen Creek)	Bear Creek	09/06/1915	38S	1E	WM	18	SWNW	1450 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 18
Meyers Creek (Myers Creek)	Bear Creek	09/06/1915	38S	1E	WM	20	SESE	700 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF SECTION 20
Butler Creek	Bear Creek	09/06/1915	38S	1E	WM	28	SESW	2500 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 28
Keene Creek and Reservoir (Hyatt Reservoir)	Jenny Creek	05/23/1912	--	--	--	--	--	SOURCES ARE TRIBUTARIES OF JENNY CREEK IN THE KLAMATH RIVER BASIN. LIMITED TO 100 CFS

Source	Trib.	Priority Date	Twp	Rng	Mer	Sec	Q-Q	Measured Distances/Description
Keene Creek	Jenny Creek	09/06/1915	39S	3E	WM	16	SESE	HYATT RESERVOIR; 15 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 16
Keene Creek	Jenny Creek	09/06/1915	39S	3E	WM	20	SESE	REDIVERSION - LITTLE HYATT POOL DIVERSION; 800 FEET NORTH AND 750 FEET WEST FROM THE SE CORNER OF SECTION 20
Keene Creek	Jenny Creek	09/06/1915	39S	3E	WM	33	SWSW	REDIVERSION AT KEENE CREEK DIVERSION DAM (beginning point of Green Springs Tunnel); 1200 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 33
Emigrant Reservoir	Emigrant Creek	01/27/1920	39S	2E	WM	20	SESE	POINT OF DIVERSION IS LOCATED AT THE TOE OF EMIGRANT DAM

Authorized Places of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
38S	1E	WM	28	SWNE	119	2.00	Elliott	04-24
38S	1W	WM	18	NENE	2400	2.00	Reeder	04-5A
38S	1W	WM	23	SENE	1000	2.00	Jackson Co FD 5	04-25
38S	1W	WM	23	NESW	1000	1.30	Jackson Co FD 5	04-25
38S	1W	WM	23	SESE	300	4.50	Oak Valley Ltd.	04-30
38S	2W	WM	12	NENE	100	0.50	Naumes	04-6
Total:						12.30		

5. Transfer Application T-10043 proposes to change the places of use to:

Proposed Places of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
38S	1E	WM	28	SWNE	119	2.00	Garden Valley Ctr.	04-24
38S	1W	WM	1	NWNW	248	2.00	Damon	04-25
38S	1W	WM	18	NWNE	800	2.00	Bock	04-05A
38S	2W	WM	11	SENE	6101	0.40	Henningfield	04-6
38S	2W	WM	11	NESW	6101	0.10	Henningfield	04-6
39S	1E	WM	12	NESE	400	2.50	Miller	04-30
39S	2E	WM	30	NWNE	302	0.60	Jackson Co. FD 5	04-25
39S	2E	WM	30	NWNE	300	0.70	Knowles	04-25
39S	2E	WM	7	NWSW	400	2.00	Miller	04-30
Total:						12.30		

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

Certificate: 83727 (perfected under Permit S-25915) in the name of U. S. Bureau of Reclamation

Use: IRRIGATION of 2.23 acres and SUPPLEMENTAL IRRIGATION of 12.30 acres

Priority Dates: June 8, 1953 for Soda Creek and Little Beaver Creek and September 6, 1915 for all other streams.

Authorized Source, Tributaries and Description of Points of Diversion:

Source	Tributary	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Emigrant Creek and Emigrant Reservoir	Bear Creek	39S	2E	WM	20	SESE	THE POINT OF DIVERSION IS LOCATED AT THE OUTLET OF EMIGRANT RESERVOIR.
South Fork Little Butte Creek	Little Butte Creek	37S	4E	WM	16	SESE	1240 FEET NORTH AND 1100 FEET WEST FROM THE SE1/4 CORNER OF SECTION 16
Conde Creek	South Fork Little Butte Creek	38S	3E	WM	9	SWSW	1320 FEET NORTH AND 600 FEET EAST FROM THE SW CORNER OF SECTION 9
Dead Indian Creek	South Fork Little Butte Creek	38S	3E	WM	15	SESW	1310 FEET NORTH AND 1100 FEET WEST FROM THE SOUTH ¼ CORNER OF SECTION 15
Daley Creek	South Fork Little Butte Creek	37S	4E	WM	34	SWSE	750 FEET NORTH AND 480 FEET EAST FROM THE SOUTH ¼ CORNER OF SECTION 34
Beaver Dam Creek	South Fork Little Butte Creek	38S	4E	WM	4	NESW	2000 FEET NORTH AND 1800 FEET EAST FROM THE SW CORNER OF SECTION 4
Pole Bridge Creek	South Fork Little Butte Creek	37S	4E	WM	28	SENW	1380 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 28
Deadwood Creek	South Fork Little Butte Creek	38S	4E	WM	6	NESE	Not specified on certificate.
Keene Creek and Reservoir	Jenny Creek	39S	3E	WM	16	SESE	HYATT RESERVOIR; 15 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 16
Keene Creek and Reservoir	Jenny Creek	39S	3E	WM	20	SESE	REDIVERSION AT LITTLE HYATT POOL DIVERSION; 800 FEET NORTH AND 750 FEET WEST FROM THE SE CORNER OF SECTION 20
Keene Creek and Reservoir	Jenny Creek	39S	3E	WM	33	SWSW	KEENE CREEK DIVERSION DAM (beginning of Green Springs Tunnel); 1200 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 33
Grizzly Creek and Howard Prairie Reservoir	Jenny Creek	38S	4E	WM	32	E1/2 of SW1/4	Not specified on certificate
Soda Creek	Grizzly Creek	39S	4E	WM	8	SWNW	2200 FEET SOUTH AND 60 FEET EAST FROM THE NW CORNER OF SECTION 8
Little Beaver Creek	Jenny Creek	39S	4E	WM	19	SESW	600 FEET NORTH AND 1930 FEET EAST FROM THE SW CORNER OF SECTION 19

Authorized Places of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
37S	1W	WM	27	NESW	1000	2.00	Crystal Sprgs Dev.	04-58
39S	1E	WM	12	NENE	1400	0.23	Kerwin	04-12A
Total:						2.23		

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
38S	1E	WM	28	SWNE	119	2.00	Elliott	04-24
38S	1W	WM	18	NENE	2400	2.00	Reeder	04-5A
38S	1W	WM	23	SENE	1000	2.00	Jackson Co. FD 5	04-25
38S	1W	WM	23	NESW	1000	1.30	Jackson Co. FD 5	04-25
38S	1W	WM	23	SESE	300	4.50	Oak Valley Ltd.	04-30
38S	2W	WM	12	NENE	100	0.50	Naumes	04-6
Total:						12.30		

7. Transfer Application T-10043 proposes to change the places of use to:

Proposed Places of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
38S	2W	WM	2	SWSE	8600	2.00	Hunt	04-58
39S	1E	WM	12	NENE	1400	0.03	Kerwin	04-12A
39S	1E	WM	12	NENE	112	0.16	Kerwin	04-12A
39S	2E	WM	6	SESW	510	0.04	Kerwin	04-12A
Total:						2.23		

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User	Notice #
38S	1E	WM	28	SWNE	119	2.00	Garden Valley Ctr.	04-24
38S	1W	WM	18	NWNE	800	2.00	Bock	04-05A
38S	1W	WM	1	NWNW	248	2.00	Damon	04-25
38S	2W	WM	11	SENE	6101	0.40	Henningfield	04-6
38S	2W	WM	11	NESW	6101	0.10	Henningfield	04-6
39S	1E	WM	12	NESE	400	2.50	Miller	04-30
39S	2E	WM	7	NWSW	400	2.00	Miller	04-30
39S	2E	WM	30	NWNE	302	0.60	Jackson Co. FD 5	04-25
39S	2E	WM	30	NWNE	300	0.70	Knowles	04-25
Total:						12.30		

8. 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.

9. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
10. The proposed change in places of use will not result in enlargement of the rights.
11. The proposed change in places of use will not result in injury to other water rights.

Partial Cancellation of a Water Right

12. On August 18, 2011, Edwin M. and Karen A. Kerwin (955 Dead Indian Memorial Road, Ashland, OR 97520), submitted affidavits authorizing cancellation of a portion of Certificate 15922.
13. Pursuant to OAR 690-017-0100(2), the Department determined that the affiants are the record owners, as established by county deed records, of land to which the portion of the water right evidenced by Certificates 15922 is appurtenant.
14. The portion of the right to be cancelled is as follows:
Certificate: 15922, in the name of J. J. MURPHY, (confirmed by Rogue River Decree)
Use: IRRIGATION of 0.23 ACRE
Priority Date: 1860
Rate: 0.003 CUBIC FOOT PER SECOND (CFS)
Source: WALKER CREEK, a tributary of BEAR CREEK

Authorized Place of Use to be cancelled:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Affiants
39S	1E	WM	12	NENE	1400	0.23	Kerwin

Partial Diminution of a Water Right

15. On August 18, 2011, Edwin M. and Karen A. Kerwin (955 Dead Indian Memorial Road, Ashland, OR 97520), and Christian Drapeau and Natasha Lee Neece (PO Box 85, San Clemente, CA 92674) submitted affidavits authorizing diminution of a portion of Certificate 15922 to supplemental irrigation.
16. Pursuant to OAR 690-017-0100(2), the Department determined that the affiants are the record owners, as established by county deed records, of land to which the portion of the water right evidenced by Certificates 15922 found to be in conflict with an incoming district water right.
17. The portion of the right to be diminished is as follows:
Certificate: 15922, in the name of J. J. MURPHY, (confirmed by Rogue River Decree)
Use: IRRIGATION of 0.19 ACRE
Priority Date: 1860
Rate: 0.003 CUBIC FOOT PER SECOND (CFS)
Source: WALKER CREEK, a tributary of BEAR CREEK

Authorized Place of Use to be diminished:

Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Affiants
39S	1E	WM	12	NENE	1400	0.03	Kerwin
39S	1E	WM	12	NENE	112	0.16	Drapeau and Neece
Total:						0.19	

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-10043 satisfy the requirements of ORS 540.574(3) and 540.580. The proposed right to be diminished will be diminished and the abandoned portion of the right will be cancelled.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 79212 and 83727 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 79212 and 83727 and any related decree.
3. The former places of use shall no longer be irrigated as part of these water rights.
4. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
5. The portion of the water right evidenced by Certificate 15922, as described in Finding of Fact #14 is cancelled. The portion of the water right evidenced by Certificate 15922, as described in Finding of Fact # 17 is diminished to supplemental irrigation. A new certificate will be issued describing that portion of Certificate 15922 not affected by this diminishment and cancellation.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2012.
7. A Claim of Beneficial Use (CBU) shall be submitted by the applicant to the Department by October 1, 2013.
8. Water right certificates 79212 and 83727 are modified. The Department will issue superseding certificates describing the rights when it determines it is necessary for record keeping.

Dated at Salem, Oregon this 23 day of August, 2011.


Dwight French, Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing Date: AUG 24 2011