

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

In the Matter of the Completion of a Change)
of Place of Use Authorized by the Final)
Order Approving District Permanent)
Transfer T-11549, Malheur County) CORRECTING AND SUPERSEDING
DETERMINATION OF SATISFACTORY
PROOF

Authority

Oregon Administrative Rule (OAR) 690-385-7400 describes the documentation the district must file with the Department in order to provide proof of use.

OAR 690-385-7600 provides in pertinent part that satisfactory proof shall be (a) a determination by the Department that application of water to beneficial use under the terms of the transfer final order was completed to the extent authorized, or (b) a determination by the Department that the application of water to a beneficial use under the terms of the transfer final order was completed to an extent less than authorized.

Oregon Revised Statute (ORS) 540.530(2)(a) and OAR 690-385-7600 authorize the Department to issue or modify a certificate of water right upon satisfactory proof of completion of the change or changes authorized by a final order approving a permanent district transfer.

Applicant

Owyhee Irrigation District
17 South First St.
Nyssa, OR 97913

Findings of Fact

1. On June 7, 2013, the Department issued a final order, recorded in Special Order Volume 89, Pages 883 - 887, approving district permanent transfer application T-11549. The order established October 1, 2014, as the date for completion of the authorized change in place of use.
2. On October 6, 2014, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-11549 satisfying the requirements for proof of use under OAR 690-385-7400.
3. On March 4, 2015, the Department issued a final order for Determination of Satisfactory Proof under transfer T-11549, recorded in Special Order Volume 95, Pages 185 – 186.

This is a final 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.

4. On September 28, 2017, the Department signed a correcting superseding final order which was mailed on October 3, 2017, and recorded in Special Order Volume 105, Pages 845-849. This order superseded the Final Order recorded at Special Order Volume 89, Pages 883-887 referenced in Finding of Fact #1, above. This correcting order was necessary to correct a scrivener's error in one of the quarter-quarters, one of the section numbers, and to correct the inadvertent omission of an additionally layered supplemental irrigation right on one place of use location. The transfer of both primary irrigation and supplemental irrigation was approved in the original Final Order recorded at Special Order Volume 89, Pages 883-887 for the identical place of use also layered with the omitted supplemental right.
5. The Department re-reviewed the CBU and maps submitted by the applicant for Transfer Application T-11549.
6. The CBU did not contain maps of the points of diversion from the source. However, since the transfer involved the transfer of places of use only within an irrigation district, and did not involve changes in points of diversion, the existing maps on file with the Department are sufficient to identify the points of diversion from the source.
7. Satisfactory proof of the changes was submitted with evidence showing that water was used in the location and for the purpose as authorized by the superseding correcting final order recorded in Special Order Volume 105, Pages 845-849.
8. The proposed place of use for Certificate 75691 as approved in the superseding correcting final order for Transfer Application T-11549, and as recorded in Special Order Volume 105, Pages 845-849. is shown in Table 1, below:

Table 1:

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
21 S	46 E	WM	14	NW SW	0.50	800	Two Rivers Development Inc.	12-10202
21 S	46 E	WM	14	NW SW	0.50	900	Two Rivers Development Inc.	12-10202
18 S	46 E	WM	27	SW SW	0.90	700	Bishop	12-46401
18 S	46 E	WM	28	SE SE	7.30	800	Kemble	12-46100
20 S	46 E	WM	17	NE NW	13.44	1900	Brown	12-21402
20 S	46 E	WM	20	NE NE	0.38	100	Stephen	12-19400
20 S	46 E	WM	20	SE NE	2.38	100	Stephen	12-19400
19 S	46 E	WM	28	NW NW	1.60	5400	Mautz	12-29300
19 S	46 E	WM	28	SW NW	24.23	5400	Mautz	12-29300
19 S	46 E	WM	28	SW NW	0.90	5400	Finnerty	12-67101
20 S	46 E	WM	20	SE NW	3.00	200	Tullett	12-25900
20 S	46 E	WM	15	NW SW	0.50	500	Whipple	12-35500
20 S	46 E	WM	15	SW SW	5.50	500	Whipple	12-35500
18 S	45 E	WM	9	NW SW	2.11	1000	Jantz	12-56601
18 S	45 E	WM	9	NE SW	4.00	500	Jantz	12-56601
18 S	45 E	WM	16	NE NW	13.40	700	Jantz	12-56601
18 S	45 E	WM	16	NW NE	4.00	300	Jantz	12-56601
18 S	45 E	WM	16	SE NW	16.06	700	Jantz	12-56601
18 S	45 E	WM	16	SW NE	13.80	700	Jantz	12-56601
18 S	45 E	WM	9	SW SE	1.40	300	Jantz	12-56601

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
20 S	46 E	WM	20	SW NE	6.48	400	Malheur County	-----
Total:					122.38			

9. The proposed place of use for Certificate 75708 as approved in the superseding correcting final order for Transfer Application T-11549, and as recorded in Special Order Volume 105, Pages 845-849. shown in Table 2, below:

Table 2:

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
20 S	46 E	WM	20	SW NE	1.65	400	Malheur County	12-140501

10. The proposed place of use for Certificate 75989 as approved in the superseding correcting final order for Transfer Application T-11549, and as recorded in Special Order Volume 105, Pages 845-849 is shown in Table 3, below:

Table 3:

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
20 S	46 E	WM	20	SW NE	1.65	400	Malheur County	-----

11. Based on the review of evidence submitted by the applicant, the Department finds that the application of water to beneficial use under the terms of the transfer for T-11549 was completed to the extent authorized in the transfer as described in Tables 1, 2 and 3, above.

Conclusions of Law

1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.
2. Application of water to a beneficial use under the terms of the transfer superseding correcting final order has been made to the extent shown in Tables 1, 2, and 3, above.
3. The applicant has demonstrated proof of completion under T-11549 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-11549 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

1. The final order recorded in Special Order Volume 95, Pages 185 – 186 is withdrawn and of no further force or effect and is superseded by this order.

2. Water right Certificates 75691, 75708, and 75689 are modified as shown in Tables 1, 2 and 3, above. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Dated at Salem, Oregon this 1 day of December, 2017.



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR

Mailing Date: DEC 08 2017