

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10724, Umatilla County) DISTRICT PERMANENT TRANSFER and
) A DIMINUTION OF A PERFECTED AND
) DEVELOPED WATER RIGHT
) EVIDENCED BY CERTIFICATE 56392

Authority

ORS 540.570 and 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

HERMISTON IRRIGATION DISTRICT
366 E. HURLBURT AVE.
HERMISTON, OR 97838

Findings of Fact

1. On November 10, 2008, Hermiston Irrigation District filed a district transfer application to permanently change the place of use under their vested right for irrigation within the boundaries of the irrigation district. The Department assigned the application number T-10724.
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 right to be transferred is as follows:

Water Right: Decree of the Circuit Court of the State of Oregon for Umatilla County, of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242, as modified herein and issued in the name of Hermiston Irrigation District.

Uses: Primary and Supplemental Irrigation

Priority Dates: February 25, 1904, for use of natural flow of the Umatilla River through the Maxwell Canal for primary irrigation and September 6, 1905 for supplemental irrigation from water stored in Cold Springs Reservoir. The waters may be used jointly and interchangeably upon the lands described by the decree.

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.

Rate & Duty: For those lands comprised of loam or fine sand or fine textured soil the amount of water diverted for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated each year. For those lands comprised of coarse sand or loose gravel subsoil or loose coarse texture soil the amount of water diverted for 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 cfs (or its equivalent) and 6.0 acre-feet for each acre irrigated each year.

Source: Umatilla River and Cold Springs Reservoir, tributary of the Columbia River

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Description
4N	28E	WM	28	NW SW	Maxwell Canal
4N	29E	WM	3	SE NW	"A" Line Canal / Cold Springs Dam

Authorized Place of Use: (Notices # 2008-01 – 04)

PRIMARY & SUPPLEMENTAL IRRIGATION								
Twp	Rng	Sec	Q - Q	Tax Lot	Acres	User	Duty(AF)	Notice #
5 N	28 E	27	NW NE	603	32.6	PHILLIPS & KARLSON	6.0	2008-01
5 N	28 E	27	NW NE	600	1.40	PHILLIPS & KARLSON	6.0	2008-01
Total for Notice # 2008-01:					34.0			
4 N	28 E	4	SE SE	1601	4.0	CARPENTER	6.0	2008-02
Total for Notice # 2008-02:					4.0			
4 N	28 E	16	SE NE	9100	4.0	DELORIS GLYNN	3.0	2008-03
Total for Notice # 2008-03:					4.0			
4 N	28 E	16	SE NE	9000	11.4	DESERT OAKS ESTATES	6.0	2008-04
Total for Notice # 2008-04:					11.4			

4. Transfer Application T-10724 proposes to change the place of use to:

PRIMARY & SUPPLEMENTAL IRRIGATION								
Twp	Rng	Sec	Q - Q	Tax Lot	Acres	User	Duty (AF)	Notice #
5 N	28 E	34	NE NE	5600	1.0	MIGUEL ORTEGA	6.0	2008-01
5 N	28 E	34	NE NE	5500	2.0	RAFAEL ORTEGA	6.0	2008-01
5 N	29 E	34	NW NE	3400	15.0	COLEMAN	6.0	2008-01
5 N	28 E	34	SE NW	900	12.0	RYSDAM	6.0	2008-01
5 N	28 E	34	SE NW	802	2.0	DAVID PALACIOS	6.0	2008-01
5 N	28 E	34	SE NW	803	2.0	MARRIO PALACIOS	6.0	2008-01
Total for Notice # 2008-01:					34.0			
5 N	29 E	31	SE NW	1800	4.0	CATHY STOLZ	6.0	2008-02
Total for Notice # 2008-02:					4.0			
5 N	28 E	36	NW SW	400	1.0	LEDBETTER	3.0	2008-03
5 N	28 E	36	NW SW	500	3.0	LEDBETTER	3.0	2008-03
Total for Notice # 2008-03:					4.0			
5 N	28 E	26	NW NE	200	9.6	MATHIS	6.0	2008-04
5 N	28 E	26	NW NE	300	1.8	MATHIS	6.0	2008-04
Total for Notice # 2008-04:					11.4			

Diminishment of a Portion of a Water Right

- On December 29, 2008, Frank W. and Delores F. Ledbetter, owners of certain lands in which a portion of water right Certificate 56392 is appurtenant to, submitted an affidavit to diminish a portion of the water right found to be in conflict with the incoming District right and is described as follows:

Certificate: 56392 in the name of Frank Ledbetter (perfected under Permit G-7745)

Use: IRRIGATION of 4.0 ACRES

Priority Date: September 2, 1977

Rate: 0.05 cubic foot per second (cfs)

Source: a well within the Umatilla River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
5 N	28 E	WM	36	NW SW	1350 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 36

Authorized Place of Use to be diminished to supplemental irrigation:

IRRIGATION						
Twp	Rng	Sec	Q - Q	Tax Lots	Acres	Affiant
5 N	28 E	36	NW SW	400 and 500	4.0	FRANK & DELORES LEDBETTER

- 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.
- The application was filed prior to the end of the calendar year or prior to any delivery of water as required under ORS 540.580(2).
- The water right is subject to transfer as defined in OAR 690-385-0100(17).
- The proposed change in place of use would not result in enlargement of the right.

Conclusions of Law

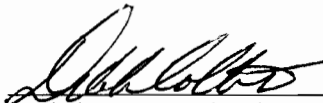
The proposed change in place of use in Transfer Application T-10724 satisfies the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

- The proposed change to the District’s vested water right evidenced by the decree recorded in the records of the Water Resources Director, in Volume 3, Page 242, is approved.
- The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in the decree and the Final Order approving T-10724.
- Certificate 56392 is cancelled.

4. The portion of the water right, as described in Finding of Fact #5, is diminished from a right for primary irrigation to a right for supplemental irrigation. The Department shall issue a new and superseding certificate to confirm the diminution of the right and the portion of the certificate not modified by the diminution.
5. The former places of use shall no longer be irrigated as part of this water right.
6. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
7. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
8. The proposed change shall be completed on or before **October 1, 2010**.
9. A Claim of Beneficial Use and Final Proof Map shall be submitted by Hermiston Irrigation District to the Department by **October 1, 2011**.

Dated at Salem, Oregon this 6th day of January, 2009.


Phillip C. Ward, Director
JAN 09 2009
Mailing date: _____