

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12676, 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
P.O. BOX 162
OELL, OR. 97044

Findings of Fact

1. On May 26, 2017, East Fork Irrigation District filed a district transfer application to temporarily change the places of use within the boundaries of the irrigation district under Certificates 80929 and 92000. The Department assigned the application number T-12676.

2. Notice of the application for transfer was published on June 6, 2017, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.

3. The portion of the first right to be transferred is as follows:

Certificate: 80929 in the name of East Fork Irrigation District (perfected under Permit S-29617)

Use: IRRIGATION of 6.5 acres

Priority Dates: MARCH 13, 1964

Rate & Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: EAST FORK HOOD RIVER, A TRIBUTARY TO HOOD RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	10 E	WM	4	NW SW	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:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
1 N	10 E	WM	2	SE SW	1800	6.5	WALLACE

4. Transfer Application T-12676 proposes to TEMORARILY change the place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
1 N	10 E	WM	2	NE SE	2000	4.50	GOSS
1 N	10 E	WM	2	SE SE	2000	2.00	GOSS
Total:						6.50	

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

Certificate: 92000 in the name of East Fork Irrigation District (confirmed by the Hood River Decree at Volume 17, Page 333)

Use: IRRIGATION of 1.45 acres

Priority Date: NOVEMBER 25, 1895

Rate & Duty: The amount of water used for irrigation, is limited to a diversion of 1/80 of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and an annual volume limitation of 24,817.38 acre-feet per year.

Source: EAST FORK HOOD RIVER, TRIBUTARY TO THE HOOD RIVER

Authorized Point of Diversion:

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

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
1 N	10 E	WM	22	NW NE	102	1.45	PERKINS

6. Transfer Application T-12676 proposes to change the place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
1 N	10 E	WM	11	SW SW	1500	1.20	CURTIS
1 N	10 E	WM	11	SW NW	1000	0.25	BROCK
Total:						1.45	

7. 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.
8. 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.

9. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
10. 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.
11. The proposed change in place of use, will not result in enlargement of the rights as defined in OAR 690-385-0100(6).
12. The proposed change in place of use would not result in injury to other water rights as defined in OAR 690-385-0100(4).
13. 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-12676 is consistent with the requirements of ORS 540.570 and OAR 690-385-3500.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use proposed in Transfer Application T-12676, as conditioned above, are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2017, irrigation season.
3. The use shall revert to the authorized place of use after the 2017, irrigation season.
4. Any application for permanent transfer of Certificates 80929 and 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.
5. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture of Certificates 80929 and 92000 under ORS 540.610.
6. The use of water on the lands from which the water right is transferred and at the new temporary place of use during the same irrigation season or calendar year is prohibited and may subject the district and landowner to civil penalties.
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. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 80929 and 92000.

10. The use of the remaining water rights described by Certificates 80929 and 92000 not involved in this transfer shall continue to be in accordance with the terms and conditions of Certificates 80929 and 92000.

Signed at Salem, Oregon this 14 day of July 2017.



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing Date: JUL 18 2017