

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

COUNTY OF MALHEUR

In the Matter of a Proposed Change) ORDER
In Place of Use of Water Within an) APPROVING A PERMANENT
Irrigation District — TRANSFER 9534) DISTRICT TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.580, GEM IRRIGATION DISTRICT, P.O. Box 67, Homedale, ID, 83628, and the U.S. BUREAU OF RECLAMATION (co-applicant), 1150 N. Curtis Rd., Suite 100, Boise, ID, 83706-1234, petitioned the Oregon Water Resources Department to permanently change the place of use of water within the boundaries of the irrigation district. The petition was received on August 29, 2003, and included the required fees.
2. The Department assigned the petition transfer application number T-9534.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated October 14, 2003. The petition was noticed as a transfer within irrigation district boundaries.
4. Gem Irrigation District and Ridgeview Irrigation District are administrative sub units of the South Board of Control, Owyhee Project (South Board of Control).
5. The South Board of Control operates as one district in two states; with the Ridgeview Irrigation District sub unit formed under Oregon irrigation district laws and the Gem Irrigation District sub unit formed under Idaho irrigation district laws.
6. The permanent district transfer petition proposes to change the place of use of water, authorized under a water right issued by the State of Oregon, within the Gem Irrigation District sub unit of the South Board of Control.
7. No comments or timely protests were received in response to the published notice.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order

8. Gem Irrigation District petitioned to modify the following rights:

IRRIGATION

Certificate 75692: issued in the name of United States of America, Bureau of Reclamation

Use: Irrigation

Source: Owyhee River and Owyhee Reservoir

Priority Date: February 14, 1916, for 231.0 cubic feet per second (cfs), and August 19, 1924, for 298.2 cfs of direct flow from the Owyhee River.

February 15, 1916, for 30, 805.1 acre feet and August 20, 1924, for 184,830.6 acre feet of stored water from Owyhee Reservoir.

Rate & Duty: 1/60 cfs per acre irrigated & 3.0 acre-feet per acre irrigated per year from direct flow, with a maximum combined duty of 6.7 acre feet per irrigation season from direct flow and stored water.

9. Gem Irrigation District petitioned to permanently change the place of use for irrigation and supplemental irrigation from the location identified in Table 1 to the location listed in Table 2.

The quantity of water proposed for transfer authorized under Certificate 75692 for irrigation of 43.5 acres is 0.72 cfs of direct flow from the Owyhee River; being 0.31 cfs with a priority date of February 14, 1916, and 0.41 cfs with a priority date of August 19, 1924. The volume of water proposed for transfer from Owyhee Reservoir is 295.2 acre feet; being 42.2 acre feet with a priority date of February 15, 1916, and 253 acre feet with a priority date of August 20, 1924.

TABLE 1. – AUTHORIZED PLACE OF USE										
TWP	RNG		MER	SEC	1/4	1/4	LOT	TL	AC	LANDOWNER
3	N	4	W	BM	21	SE	SW	5	0.5	MOORE
3	N	4	W	BM	21	SE	SW	5	2.0	ARCHER
3	N	4	W	BM	21	SE	SW	5	41.0	STOWELL
Total:									43.5	

TABLE 2. – PROPOSED PLACE OF USE										
TWP	RNG		MER	SEC	1/4	1/4	LOT	TL	AC	LANDOWNER
3	N	5	W	BM	8	NW	NW	0010	15.0	SNODGRASS
3	N	5	W	BM	8	SW	NW	0020	3.0	SNODGRASS
3	N	5	W	BM	8	SW	SW	009A	10.0	HILLS
3	N	5	W	BM	18	NW	SW	6700	2.5	JOHNSON

TABLE 2. – PROPOSED PLACE OF USE											
TWP		RNG		MER	SEC	1/4	1/4	LOT	TL	AC	LANDOWNER
3	N	5	W	BM	18	SW	SW		6700	10.4	JOHNSON
3	N	5	W	BM	18	SE	SW		6700	2.6	JOHNSON
Total:										43.5	

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the water right. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

10. Pursuant to ORS 540.574 and ORS 540.580, in reviewing the petition submitted by Gem Irrigation District and the U.S. Bureau of Reclamation, the Department has determined the following:
 - a) The petition contains the information required under ORS 540.574(3).
 - b) The petition meets the requirements of ORS 540.580.
 - c) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.
 - d) The petition includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
 - e) The rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to transfer.
 - f) The lands from which the water right would be moved by the proposed transfer will not continue to receive water under the water right.
 - g) The use authorized by the water right subject to transfer will not change; and
 - h) The proposed change in place of use will not result in injury to other water rights.
11. The petition was filed prior to the end of the calendar year or prior to any delivery of water as required under ORS 540.580(2).

CONCLUSIONS OF LAW

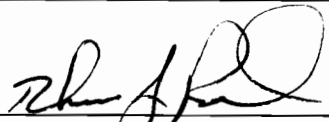
1. The petition submitted by Gem Irrigation District and the U.S. Bureau of Reclamation proposing permanent changes in place of use within the district boundaries of the South Board of Control included the information, and satisfied the criteria, required by ORS 540.574(3).
2. The proposed transfer complies with the requirements of ORS 540.580.
3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.580 resulting in no injury to other water rights.

ORDER

It is hereby ORDERED :

1. The proposed changes to the water rights evidenced by Certificate 75692 may be made provided the following conditions are met by the water user:
 - a. The proposed changes shall be completed on or before October 1, 2005.
 - b. The former places of use shall no longer be irrigated as a part of this water right.
 - c. The Claim of Beneficial Use, showing the changes approved by this order have been completed, must be submitted by Gem Irrigation District and the U.S. Bureau of Reclamation on or before October 1, 2006.
2. Except as modified herein, all other conditions and limitations of the water right remain in effect.
3. When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of the right not modified by this or any other order.

WITNESS the signature of the Water Resources Director affixed MAR 22 2004



Paul R. Cleary
For