

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

In the Matter of Transfer Application        )  
T-12043, Hood River County                )     **FINAL ORDER APPROVING  
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  
PO BOX 162  
ODELL, OR 97044

**Findings of Fact**

1. On April 20, 2015, John R. Buckley, Manager of 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 81340. The Department assigned the application number T-12043.
2. Notice of the application for transfer was published on April 28, 2015, pursuant to OAR 690-380-4000. 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 8.40 acres  
**Priority Date:** MARCH 13, 1964  
**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year  
**Source:** EAST FORK HOOD RIVER, tributary to the HOOD RIVER

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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 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	2	SE SW	1800	8.40	PESSL H. MICHAEL

4. Transfer Application T-12043 proposes to TEMPORARILY change the place of use for the above described right 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	TRUMAN AND MILDRED GOSS
1 N	10 E	WM	2	SE SE	2000	2.00	TRUMAN AND MILDRED GOSS
2 N	10 E	WM	20	SW SE	2202	0.40	GRANT AND SANDRA PORTER
2 N	10 E	WM	20	SE SE	2202	1.50	GRANT AND SANDRA PORTER
<b>TOTAL:</b>						<b>8.40</b>	

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

**Certificate:** 81340, issued in the name of East Fork Irrigation District (confirmed by decree, Hood River County, Vol. 17, Page 33)

**Use:** Irrigation of 1.20 acres

**Priority Date:** NOVEMBER 25, 1895

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each 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	2	NE SW	1800	1.20	H. MICHAEL PESSL

6. Transfer Application T-12043 proposes to TEMPORARILY change the place of use for the above described right to:

**Proposed Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	Water User
2 N	10 E	WM	20	SE SE	2202	1.20	GRANT AND SANDRA PORTER

7. 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.
8. A diversion structure, district canal, pump, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights is present.

9. 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.
10. The proposed changes would not result in injury to other water rights as defined in OAR 690-385-0100(4).
11. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
12. All other applicable requirements for district temporary water right transfers are met.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.570(6) if the Department later finds that the transfer is causing injury to any existing water right.

### **Conclusions of Law**


The temporary change in place of use proposed in Temporary Transfer Application T-12043 is consistent with the requirements of ORS 540.570 and OAR 690-385-8000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

### **Now, therefore, it is ORDERED:**

1. The temporary changes in place of use as proposed in Transfer Application T-12043 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2015 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2015 irrigation season.
4. A subsequent application for permanent transfer of Certificates 80929 and 81340 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
5. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 80929 and 81340.
6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. 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.

8. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
9. 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.
10. The use of the remaining water right described by Certificates 80929 and 81340 shall continue to be in accordance with the terms and conditions Certificates 80929 and 81340.

Dated at Salem, Oregon this 18<sup>th</sup> day of June, 2015.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing Date: JUN 22 2015