

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

**COUNTY OF JACKSON**

In the Matter of a Proposed Change	)	ORDER
In Place of Use of Water Within an	)	APPROVING A PERMANENT
Irrigation District — TRANSFER 9316	)	DISTRICT TRANSFER

**FINDINGS OF FACT**

1. Pursuant to ORS 540.580, TALENT IRRIGATION DISTRICT, 2598 PO Box 467, Talent, OR, 97540, 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 January 3, 2003, and included the required fees.
2. The Department assigned the petition transfer application number T-9316.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated January 21, 2003. The petition was noticed as a transfer within irrigation district boundaries.
4. No comments or timely protests were received in response to the published notice.
5. Talent Irrigation District petitioned to modify the following rights:

**A. IRRIGATION**

**Certificate 79212:** issued in the name of Talent Irrigation District

**Use:** Irrigation and Supplemental Irrigation

**Source:** Emigrant Cr., McDonald Cr., Greeley Cr., Bear Cr., Neil Cr., Ashland Cr., Wagner Cr., Anderson Cr., Coleman Cr., Kenutchen Cr., Meyers Cr., Butler Cr., Keene Cr., and Emigrant and Keene Creek Reservoir

**Priority Date:** May 23, 1912; July 31, 1915; August 20, 1915; September 6, 1915; and January 20, 1920

**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

**Rate & Duty:** Limited to not more than the rate specified by source and a total diversion not to exceed 166.4 cfs from all sources. Maximum of 1/80 cfs per acre irrigated during the irrigation season of each year.

**B. IRRIGATION**

**Permit 25915:** issued in the name of U.S. Bureau of Reclamation

**Use:** Irrigation and Supplemental Irrigation

**Source:** Emigrant Cr., S. Fk. Little Butte Cr., Conde Cr., Dead Indian Cr., Daley Cr., Beaver Dam Cr., Pole Bridge Cr., Deadwood Cr., Keene Cr., Grizzly Cr., Soda Cr., Little Beaver Cr., and Keene Creek, Howard Prairie, and Emigrant Reservoirs

**Priority Date:** September 6, 1915, and June 8, 1953

**Rate & Duty:** Limited to not more than the rate specified by source. Maximum of 1/40 cfs per acre irrigated and 4.5 acre feet per acre irrigated during the irrigation season of each year.

6. Talent Irrigation District petitioned to permanently change the place of use for irrigation authorized by Certificate 79212 from the location identified in Table 1 to the location listed in Table 2.

TABLE 1. AUTHORIZED PLACE OF USE - IRRIGATION											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	LAND OWNER	NOT#		
38	S	1	W	WM	14	SW	SE	2502	1.21	SMITH	02-8
38	S	1	W	WM	14	SW	SE	2503	0.13	SMITH	02-8
38	S	1	W	WM	23	NW	NE	2503	6.79	SMITH	02-8
38	S	1	W	WM	25	NW	SW	7900	4.60	MTN. PARK DEV.	02-2
39	S	1	E	WM	14	SW	NE	2400	0.10	MTN. PARK DEV.	02-2
39	S	1	E	WM	14	SW	NE	2401	3.60	MTN. PARK DEV.	02-2
39	S	1	E	WM	14	SW	NE	2402	0.80	MTN. PARK DEV.	02-2
39	S	1	E	WM	14	SE	NW	700	0.10	MTN. PARK DEV.	02-2
									17.33		

TABLE 2. PROPOSED PLACE OF USE - IRRIGATION											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	LAND OWNER	NOT#		
38	S	1	W	WM	14	NE	NE	2503	6.17	ANDERSON	02-8
38	S	1	W	WM	23	NW	NE	2503	1.96	ANDERSON	02-8
39	S	1	E	WM	12	NW	SE	500	3.0	IRVINE	02-2
39	S	1	E	WM	12	SW	SE	500	6.2	IRVINE	02-2
									17.33		

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

permit The use also shall conform to any reasonable rotation system ordered by the proper state officer.

7. The appropriation of water under Permit 25915 has been perfected to the satisfaction of the Department in accordance with ORS 537.250 and qualifies as a water use subject to transfer.
8. Talent Irrigation District petitioned to permanently change the place of use for irrigation authorized by Permit 25915 from the location identified in Table 3 to the location listed in Table 4.

TABLE 3. AUTHORIZED PLACE OF USE - IRRIGATION											
TWP	RNG		MER	SEC	1/4	1/4	TL	ACRES	LAND OWNER	NOT#	
37	S	1	W	WM	27	SE	NW	500	3.00	CRYSTAL SPRS DEV.	02-6
39	S	1	E	WM	12	NE	NE	109	1.14	KERWIN	02-4
39	S	2	E	WM	7	NW	NW	109	0.71	KERWIN	02-4
39	S	2	E	WM	7	SW	NW	109	2.86	KERWIN	02-4
39	S	2	E	WM	7	NW	SW	109	0.02	KERWIN	02-4
									7.73		

TABLE 4. PROPOSED PLACE OF USE - IRRIGATION											
TWP	RNG		MER	SEC	1/4	1/4	TL	ACRES	LAND OWNER	NOT#	
39	S	2	E	WM	7	SW	NW	109	3.80	KERWIN	02-4
39	S	2	E	WM	7	NW	SW	109	0.93	KERWIN	02-4
39	S	2	E	WM	32	NE	SW	1415	2.52	GOLLEDGE	02-6
39	S	2	E	WM	32	SE	SW	1415	0.48	GOLLEDGE	02-6
									7.73		

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 permit. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

9. Pursuant to ORS 540.574 and ORS 540.580, in reviewing the petition submitted by Talent Irrigation District, 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.
9. The District failed to file the petition prior to the end of the calendar year in which the changes were made or prior to any delivery of water as required under ORS 540.580(2). However, the District had notified the Department of the petitioned changes prior to obtaining approval for the changes in accordance with ORS 540.580(3). The Department's review of the noticed changes found they caused no injury. Having found no injury, the Department was not required to order the District to cease delivery of water or mitigate injury as authorized by ORS 540.580(5). Although the filing date of the petition represents a failure to comply with statutory criteria, the late filing does not warrant issuance of notice of violation nor does it produce measurable or irreparable harm to the use of the state's water resources and the public interest.

#### CONCLUSIONS OF LAW

1. The petition submitted by Talent Irrigation District proposing permanent changes in place of use within district boundaries 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; with the exception that the petition was not received prior to the end of the calendar year in which the change occurs as required under ORS 540.580(2). *See Findings of Fact #9.*
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.

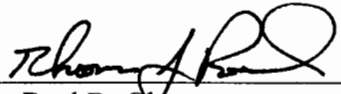
#### ORDER

It is hereby ORDERED :

1. The proposed changes to the water rights evidenced by Certificate 79212 and Permit 25915 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 Talent Irrigation District on or before October 1, 2006.

2. Except as modified herein, all other conditions and limitations of the water rights 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 DEC 22, 2003.

  
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For Paul R. Cleary