

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

| | | |
|---|---|-----------------------------|
| In the Matter of the Petition by Hudson Bay |) | RECONSIDERATION OF A |
| Improvement Company to Map District |) | FINAL ORDER RECORDED |
| Water Rights pursuant to ORS 541.329, |) | IN SPECIAL ORDER |
| Umatilla County |) | VOLUME 74, PAGES 455 – 459, |
| |) | ASSOCIATED TABLES AND |
| |) | RESULTING CERTIFICATES OF A |
| |) | FINAL ORDER APPROVING AN |
| |) | ORS 541.329 PETITION |

Authority

ORS 541.325 to ORS 541.333 establishes the process in which a district may petition the Water Resources Commission for approval and acceptance of a district map identifying the location and use of the water rights within the district. OAR 137-004-0080 describes the process for reconsideration of an order in other than contested case.

Findings of Fact

1. Pursuant to ORS 541.329, Hudson Bay District Improvement Company (HBDIC), PO Box 110, Milton-Freewater, OR, 97862, submitted a petition requesting approval and acceptance of district maps showing the location and use of water rights within and served by Hudson Bay District Improvement Company. The petition was submitted to the Oregon Water Resources Commission on June 30, 1993, and included the required fees.
2. After issuance of the Final Order (entered on March 26, 2008, and recorded in Special Order Volume 74, Pages 455 - 459) additional information prompted the Department to further review the petition as it was submitted.
3. The reconsideration was initiated within the 60-day period specified in ORS 183.484. As a result of the completed review the Department has modified its original order including the addition of Transfer Applications T-7452, T-7687, T-7688 and T-8248, amended the location and use of water rights within the district and made other necessary corrections (scrivener's errors) that were discovered as a result of the reconsideration.
4. The water rights petitioned by Hudson Bay District Improvement Company (HBDIC) are for the entirety or a portion of the rights described by the following water right certificates and completed transfers:

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.

| Water Right Certificates | | | | | | | |
|--------------------------|-------|-------|-------|-------|-------|-------|-------|
| 25 | 39 | 41 | 1751 | 2199 | 2431 | 3878 | 6712 |
| 10536 | 12177 | 12262 | 20800 | 20815 | 24513 | 27021 | 27126 |
| 28039 | 28730 | 28731 | 31113 | 33368 | 33376 | 42046 | 42341 |
| 49672 | 49818 | 50402 | 52575 | 53477 | 55027 | 55207 | 60604 |
| 67205 | 68008 | 68009 | 68010 | 68011 | 76774 | 76996 | 79764 |
| | | 80399 | 80949 | 81806 | | | |

| Completed Transfers | | | | | | |
|---------------------|--------|--------|--------|--------|--------|--------|
| T-3887 | T-4297 | T-5325 | T-5517 | T-5938 | T-7643 | T-7927 |
| | | T-7452 | T-7687 | T-7688 | T-8248 | |

5. The water rights and completed transfers petitioned by HBDIC, as listed in Finding of Fact #3, allow the use of the waters of the Walla Walla River, its tributaries and ground water for irrigation, supplemental irrigation, domestic and livestock purposes. The points of diversion and appropriation for the petitioned rights remain unchanged and are located as identified by the appropriate water right certificate.
6. The water rights and authorized place of use modified by the petition are listed in Table 1.
7. Table 2 lists the petitioned changes in place of use and type of use. The petitioned changes are for irrigation of 4,734.27 acres and supplemental irrigation of 2,081.61 for a total of 6815.88 acres.
8. Table 3 lists the water right and authorized place of use not altered by the petition. The petition leaves unchanged the place of use for irrigation of 2,653.53 acres.
9. The petition includes requests to diminish and cancel portions of rights appurtenant to specific parcels. The pertinent affidavits have been filed, and the rights to be canceled or diminished are listed in Table 4.
10. Conserved Water Application CW-38 was submitted which effects Certificate 67205 and Transfer Application T-5938. The district requested that the conserved water application be processed concurrently with the district's petition filed under ORS 541.329. On March 20, 2008, the Department received a request from John Zerba, on behalf of Hudson Bay Improvement District to place Conserved Water Application CW-38 on administrative hold. Therefore, this order approving the petition to map district water rights filed pursuant to ORS 541.325 to ORS 541.333 shall not include changes originating from CW-38
11. The Department has determined the HBDIC petition, in some instances, changes the place of use for irrigation to lands with existing irrigation rights. The conflicting (layered) water rights are listed in Table 5. Landowners have not submitted affidavits to diminish the existing irrigation right to supplemental irrigation.
12. Transfer Application T-5517 was approved under Special Order Volume 39, Page 71. The final order approved an additional point of diversion for Certificates 52575 and 52576. Prior to a confirming certificate being issued for Transfer Application T-5517, Transfer Application T-5938 was approved on February 28, 1992 with the remaining right Certificate 67205 issued.

On March 2, 1987, Department staff confirmed the additional point of diversion was being used. A new certificate will be issued confirming the additional point of diversion approved by Special Order Volume 39, Page 71.

13. Transfer Application T-5325 was approved under Special Order Volume 38, Page 566. The transfer approved a change in point of diversion for Certificates 49818 and 50401. This order further stated that upon proof satisfactory to the Water Resources Director of complete application of water to beneficial use on the lands to which the water is transferred, the change in point of diversion shall be considered perfected, and at a later date, certificates of water right shall be issued to Pleasant View Irrigation Company confirming this and other changes. Remaining right Certificates 76773 and 76774 were issued but the lands involved in the transfer were not addressed in these certificates. Certificate 76773 was subsequently superseded by Certificate 79470 and 80399. New certificates will be issued that confirm the changes approved by the transfer.
14. The claims of beneficial use, the final proof surveys or inspections for Permits S-43973, S-53662, G-13979 and the transfers listed in Finding of Fact #3 have been completed. Certificates will be issued to confirm the above referenced permits and transfers.
15. The Department reviewed the petition and maps submitted by HBDIC. The Department's staff report on its findings is on file with the Department. Based upon its review and report, the Department finds:
 - a. HBDIC is a "district" as defined in ORS 541.325(1)
 - b. HBDIC has met the notice requirements of ORS 541.329(4).
 - c. HBDIC filed its petition and maps in a timely manner.
 - d. HBDIC paid the fees required under ORS 536.050(1)(m).
 - e. HBDIC certified that the notice requirements of ORS 541.329(4) were met.
 - f. The acreage petitioned is within the limits of the eligible water rights and the limits set forth in ORS 541.331(4).
 - g. The petition does not expand the total right of record of the district.
 - h. The changes result in no injury to existing water rights.
 - i. The content and quality of the HBDIC's petition and maps meet the requirements of ORS 541.331(4).
16. On October 2, 2007, the Department issued a *proposed* Final Order proposing to approve the petition and maps. On October 10, 2007, the District sent notice to the users of the district whose right of record is to be altered by the proposed order. Additionally, notice of the proposed Final Order for the petition was published in the Valley Herald newspaper on October 12, 2007, October 19, 2007, and October 26, 2007 and in the Department's weekly notice on October 2, 2007, pursuant to ORS 541.329(5). No protests or comments were filed in response to the notices.
17. On March 26, 2008, the Department issued a Final Order approving Hudson Bay District Improvement Company's petition.
18. Consistent with the process described in OAR 137-003-0675(5), the Department withdrew the order filed in Special Order Volume 74 Pages 455-459, associated tables and resulting certificates for purposes of reconsideration.

Conclusions of Law

The petition and maps submitted by Hudson Bay District Improvement Company comply with the requirements of ORS 541.325 to ORS 541.333.

Now, therefore, it is ORDERED:

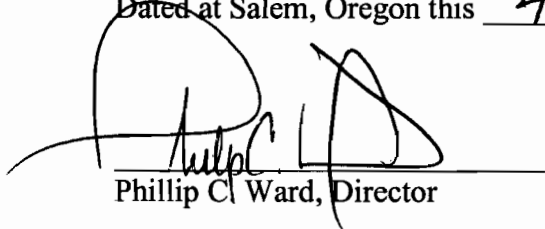
1. The Department approves Hudson Bay District Improvement Company’s petition and maps of water rights.
2. The Department shall cancel those certificates listed in Finding of Fact #2.
3. The Department shall issue new confirming water right certificates conforming to the approved petition for:
 - irrigation of 4,734.27 acres and
 - supplemental irrigation of 2,081.61 acres.
4. The Department shall issue remaining right certificates for the portion of the rights not altered by the petition for irrigation of 2,653.53 acres.
5. The Department shall issue new certificates that reflect those rights diminished or cancelled as described in Table 4.
6. For those layered water rights identified in Table 5, the Department shall designate the right with the senior priority date as primary irrigation and shall issue water right certificates that reflect this designation. Additionally, the Department shall designate the water right with the junior priority date for supplemental irrigation purposes and shall issue water right certificates that reflect this designation.
7. The Department shall issue confirming certificates for the following transfers:

| | | | | | | |
|--------|--------|--------|--------|--------|--------|--------|
| T-3887 | T-4297 | T-5325 | T-5517 | T-5938 | T-7643 | T-7927 |
| | T-7452 | T-7687 | T-7688 | T-8248 | | |
8. The water rights listed in Table 4 as “Cancelled Water Rights” are canceled.
9. The Department shall issue confirming certificates for the Permits S-43973, S-53662 and G-13979.
10. The Department shall issue new certificates retaining the appropriate conditions and limitations upon the rights, seasons of use, priority dates, and rate and duty limitations. The following table references the new certificates and those certificates modified by the reconsideration.

| Pre-Petition Water Right Certificate | Post-Petition Water Right Certificate (CF or diminishment*)/Certificate # following reconsideration | Water rights not altered by petition (RR) |
|---|--|--|
| 1751 | 83897 | --- |
| 2199 | 83899 | 83900 |
| 2431 | 83901/84153 | --- |
| 6712 | 83902/84155 | 83903/84154 |
| 10536 | 83904 | 83905 |
| 80949 | 83906 | 83907 |
| 12177 | 83908 | --- |
| 12262 | 83909/84156 | 83910 |
| 20800 | 83911 | 83912 |
| 24513 | 83913/84152 | 83914 |
| 20815 | 83915 | 83916 |
| 81806 | 83917/84162 | 83918/84163 |
| 80399, T3887, T4297, portion of T5325 | 83919 | 83960 |
| 80399, portion of T5325 | 83920/84157 | --- |
| 27126 | 83921 | --- |
| 28039 | 83922 | 83923 |
| 28730 | 83924 | 83989 |
| 28731 | 83925 | --- |
| 31113 | 83926 | 84009 |
| 79764 | 83927 | 83928 |
| 33368 | 83929 | --- |
| 33376 | 83930 | --- |
| 42046 | 83931 | 83932 |
| 49672 | 83933/84151 | 83934/85237 |
| 55027 | 83935 | 83936 |
| 55207 | 83937 | 83938 |
| 53477 | 83939 | --- |
| 60604 | 83940 | --- |
| 67205 | 83941 | --- |
| 68008 | 83942 | 83943 |
| 68009 | 83944 | 83945 |
| 68010 | 83946 | 83947 |
| 25 | 83948 | 83949 |
| 39 | 83950 | -- |
| 41 | 83951 | 83952 |
| 27021 | 83953 | --- |
| 50402 | 83954 | --- |
| Permit S-43973 | 83955/85239 | -- |
| Permit S-53662 | 83956 | --- |
| Permit G-13979 | 83957 | --- |
| 68011 | 83958 | 83959 |
| 46 | 83981* | 83980/85240 |
| 1721 | 83982* | -- |
| 1725 | 83984*/84150* | 83983/85395 |
| 1751 | 83898/85369* | --- |
| 5533 | 83985* | --- |
| 7619 | 83986* | --- |
| 20800 | 83987* | --- |
| 65975/T-7927 | 83988 | --- |
| 76996 | 84011 | --- |

| Pre-Petition Water Right Certificate | Post-Petition Water Right Certificate (CF or diminishment*)/Certificate # following reconsideration | Water rights not altered by petition (RR) |
|---|--|--|
| 76331/T-7643 | 84012 | --- |
| 76774 | 84013/84161 | 84014/84160 |
| 3878 | 84015 | 84016 |
| 49818 | 84017/84158 | 84018/84159 |
| 42341 | 84019 | 84020 |
| T8248 | --/85251 | --- |
| T7687 | --/85250 | --- |
| T7688 | --/82549 | --- |
| T7452 | --/85248 | --- |

Dated at Salem, Oregon this 4 day of March, 2009.



Phillip C. Ward, Director

Mailing date: MAR 06 2009