

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11003, Jefferson County) DISTRICT PERMANENT TRANSFER

Authority

ORS 540.570 to 540.580 establishes the process in which a district may submit a request to transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department’s procedures and criteria for evaluating district transfer applications.

Applicant

NORTH UNIT IRRIGATION DISTRICT
2024 NW BEECH ST.
MADRAS, OR 97741

Findings of Fact

Background

1. On January 4, 2010, North Unit Irrigation District filed a district transfer application to change the place of use under Certificates 72279, 72281 and 72283. The Department assigned the application number T-11003.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The portion of the first right to be transferred is as follows:

Certificate: 72279, issued in the name of North Unit Irrigation District

Use: Irrigation of 8.5 acres

Priority Date: February 28, 1913

Rate & Duty: Maximum of 1/40 cubic foot per second (cfs) per acre and 5.25 acre-feet per acre during the irrigation season of each year and is further subject of eh terms and conditions of the State Engineer’s Orders dated January 20, 1955 and February 4, 1955.

Source: Deschutes River, Wickiup and Haystack Reservoirs, tributary to Columbia River

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q – Q	Measured Distances
17 S	12 E	WM	29	SE NE	DESCHUTES RIVER: 1,700 FEET SOUTH AND 730 FEET WEST FROM NE CORNER OF SECTION 29
22 S	9 3	WM	7	SW NE	WICKIUP RESERVOIR
12 S	13 E	WM	27	SW NE	HAYSTACK RESERVOIR

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	5	NW SW	0.8	900	WILLIAMS	09-05
10 S	14 E	WM	31	NE NE	1.0	100	WILLIAMS	09-07-A
11 S	13 E	WM	22	SW SW	0.5	1400	TEENY	09-01-A
11 S	13 E	WM	22	SW SW	0.1	1401	TEENY	09-01-A
11 S	13 E	WM	22	SW SW	1.3	1400	NUID	09-01-B
11 S	13 E	WM	22	SW SW	1.3	1401	NUID	09-01-B
11 S	13 E	WM	27	SE NE	2.1	104	WILBUR-ELLIS	09-14
12 S	13 E	WM	15	NE SE	0.4	801	SCHULZ	09-09
12 S	13 E	WM	15	SW SE	0.2	800	GILBERTSON	09-10
12 S	13 E	WM	15	SE SE	0.3	800	GILBERTSON	09-10
12 S	13 E	WM	16	SE SW	0.1	--	ODOT	09-18
12 S	13 E	WM	16	SE SW	0.4	700	DRAKE	09-19
Total:					8.5			

4. Transfer Application T-10059 proposed to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	5	NW SW	0.8	900	WILLIAMS	09-05
10 S	14 E	WM	31	NE NE	1.0	101	WILLIAMS	09-07-A
11 S	13 E	WM	27	NW SE	1.8	107	6T LIVING TRUST	09-14
11 S	13 E	WM	27	SW SE	0.3	107	6 T LIVING TRUST	09-14
11 S	13 E	WM	34	NE NW	0.6	900	JOHNSON	09-01-A
11 S	13 E	WM	34	NE NW	2.6	900	JOHNSON	09-01-B
12 S	13 E	WM	4	NE SE	0.4	800	HAGMAN	09-19
12 S	13 E	WM	6	NE NE	0.1	100	HAGMAN	09-18
12 S	13 E	WM	15	NE SE	0.4	800	GILBERTSON	09-09
12 S	13 E	WM	15	NW SE	0.1	800	GILBERTSON	09-10
12 S	13 E	WM	15	NE SE	0.4	800	GILBERTON	09-10
Total:					8.5			

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

Certificate: 72283, issued in the name of North Unit Irrigation District

Use: Irrigation of 9.4 acres

Priority Date: September 18, 1968

Rate & Duty: Maximum of 1/40 cfs per acre and 4.0 acre-feet per acre during the irrigation season of each year and is further subject of he terms and conditions of a stipulation between the North Unit Irrigation District and the Oregon State Game Commission which has been recorded in the Miscellaneous Records of the Water Resources Director.

Source: Crooked River, tributary to Deschutes River.

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	31	NE NE	0.6	101	WILLIAMS	09-07-B
11 S	13 E	WM	11	SW SE	3.8	700	DVWD	09-17
11 S	13 E	WM	14	NW SW	0.4	501	COPELAND	09-15
11 S	13 E	WM	14	NW SW	0.5	501	COPELAND	09-16
11 S	13 E	WM	25	SW SW	3.2	300	ERLANDSEN	09-06
12 S	13 E	WM	15	SE NE	0.3	301	SCHULZ	09-09
12 S	13 E	WM	16	SE SW	0.6	--	ODOT	09-18
Total					9.4			

6. Transfer Application T-10059 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	5	SW SW	3.2	1100	YOUNG PROP.	09-06
10 S	14 E	WM	8	NW NW	0.6	300	YOUNG PROP	09-07-B
11 S	13 E	WM	27	SW SE	0.4	108	6T LIVING TRUST	09-15
11 S	13 E	WM	27	SW SE	0.5	1401	TOWERY	09-16
12 S	12 E	WM	25	SW NE	3.8	100	HOLLINGER	09-17
12 S	13 E	WM	6	NE NE	0.6	100	HAGMAN	09-18
12 S	13 E	WM	15	SE SE	0.3	800	GILBERTSON	09-09
Total:					9.4			

7. The portion of the third right to be transferred is as follows:

Certificate: 72281, issued in the name of North Unit Irrigation District

Use: Supplemental Irrigation of 8.5 acres

Priority Date: June 23, 1955

Rate & Duty: Maximum of 1/40 cfs per acre, and 4.0 acre-feet per acre during the irrigation season of each year.

Source: Crooked River, tributary to Deschutes River.

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W ¹ / ₄ CORNER OF SECTION 13

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	5	NW SW	0.8	900	WILLIAMS	09-05
10 S	14 E	WM	31	NE NE	1.0	100	WILLIAMS	09-07-A
11 S	13 E	WM	22	SW SW	0.5	1400	TEENY	09-01-A
11 S	13 E	WM	22	SW SW	0.1	1401	TEENY	09-01-A
11 S	13 E	WM	22	SW SW	1.3	1400	NUID	09-01-B
11 S	13 E	WM	22	SW SW	1.3	1401	NUID	09-01-B
11 S	13 E	WM	27	SE NE	2.1	104	WIBLUR-ELLIS	09-14
12 S	13 E	WM	15	NE SE	0.4	801	SCHULZ	09-09
12 S	13 E	WM	15	SW SE	0.2	800	GILBERTSON	09-10
12 S	13 E	WM	15	SE SE	0.3	800	GILBERTSON	09-10
12 S	13 E	WM	16	SE SW	0.1	--	ODOT	09-18
12 S	13 E	WM	16	SE SW	0.4	700	DRAKE	09-19
Total:					8.5			

8. Transfer Application T-10059 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	TL	USER	NOTICE #
10 S	14 E	WM	5	NW SW	0.8	900	WILLIAMS	09-05
10 S	14 E	WM	31	NE NE	1.0	101	WILLIAMS	09-07-A
11 S	13 E	WM	27	NW SE	1.8	107	6T LIVING TRUST	09-14
11 S	13 E	WM	27	SW SE	0.3	107	6T LIVING TRUST	09-14
11 S	13 E	WM	34	NE NW	0.6	900	JOHNSON	09-01-A
11 S	13 E	WM	34	NE NW	2.6	900	JOHNSON	09-01-B
12 S	13 E	WM	4	NE SE	0.4	800	HAGMAN	09-19
12 S	13 E	WM	6	NE NE	0.1	100	HAGMAN	09-18
12 S	13 E	WM	15	NE SE	0.4	800	GILBERTSON	09-09
12 S	13 E	WM	15	NW SE	0.1	800	GILBERTSON	09-10
12 S	13 E	WM	15	NE SE	0.4	800	GILBERTSON	09-10
Total:					8.5			

Transfer Review Criteria (OAR 690-385-5000)

10. The district permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
11. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
12. The proposed change in place of use would not result in enlargement of the rights.
13. The proposed change in place of use would not result in injury to other water rights.
14. The District had notified the Department of the proposed changes in accordance with ORS 540.580(3). However, the application was not filed prior to the end of the calendar year in which the changes occur as required under ORS 540.580(2). The Department's review of the noticed changes found they caused no injury and thus, 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 application 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

The proposed changes in place of use in Transfer Application T-11003 satisfy the requirements of ORS 540.574(3) and 540.580, with the exception that the application was not received prior to the end of the calendar year in which a change in place of use occurs as required under ORS 540.580(2). *See Finding of Fact #14.*

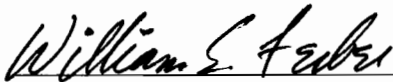
Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 72279, 72281 and 72283 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 72279, 72281

and 72283 and any related decree.

3. The former place of use shall no longer be irrigated as part of this water right.
4. The proposed change shall be completed on or before October 1, 2011.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2012.
7. Certificates 72279, 72281 and 72283 are modified. The Department will issue a superseding certificate on a determination that it is necessary for recordkeeping.

Dated at Salem, Oregon this 26th day of February, 2010.


for Phillip C. Ward, Director

Mailing Date: MAR 05 2010