

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10609, Umatilla County) PERMANENT DISTRICT TRANSFER

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

MARION JACK IMPROVEMENT DISTRICT (MJID)
P.O. BOX 100
IRRIGON, OR 97844

Findings of Fact

Background

1. On April 28, 2008, Marion Jack Improvement District (MJID) filed an application to change the place of use under Certificates 81502 and water use Permit S-7400. The Department assigned the application number T-10609.
2. Notice of the application for transfer was published on May 6, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 29, 2012, the Department issued Certificate 87446, confirming transfer application T-9645 and supersedes Certificate 81502. Concurrently, the Department issued Certificate 87447 confirming a portion of Permit 7400 for supplemental irrigation for the MJID. These two certificates are the water rights involved in Transfer Application T-10609.
4. On May 30, 2008 and again on April 23, 2012, Terry Warhol, President of Marion Jack Improvement District amended the application and map to correctly describe the place of use to be included in Transfer Application T-10609.
5. The portion of the primary right and its layered supplemental water right to be transferred is as follows:

This is a final order in other than 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 137-004-0080 you may either 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.

Certificate: 87446 (perfected under Permit S-1540) in the name of MARION JACK IMPROVEMENT DISTRICT

Use: IRRIGATION of 2.41 ACRES

Priority Date: JANUARY 3, 1912

Rate: 0.03 CUBIC FOOT PER SECOND (cfs)

Limit: The amount used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cfs per acre

Source: McKAY CREEK, a tributary of the UMATILLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	32 E	WM	34	NW SE	580 FEET SOUTH AND 580 FEET EAST FROM THE CENTER OF SECTION 34

Certificate: 87447 (perfected under Permit S-7400) in the name of U.S. BUREAU OF RECLAMATION

Use: SUPPLEMENTAL IRRIGATION of 2.41 ACRES

Priority Date: JULY 1, 1924

Limit: The amount used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cfs (or its equivalent), provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed therein.

Source: McKAY RESERVOIR, constructed under Permit R-584, a tributary of McKay Creek

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	32 E	WM	34	NW SE	Measured distances no given on certificate; McKay Dam
2 N	32 E	WM	34	NW SE	580 FEET SOUTH AND 580 FEET EAST FROM THE CENTER OF SECTION 34

Authorized Place of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot#	ACRES		User
						Certificate 87446 (IR)	Certificate 87447 (IS)	
2 N	32 E	WM	27	SW SW	200	0.34	0.34	Stuvland
2 N	32 E	WM	27	SW SW	201	0.32	0.32	Cockburn
2 N	32 E	WM	27	SW SW	202	0.75	0.75	Patton
2 N	32 E	WM	27	SW SW	400	0.75	0.75	Schimmel
2 N	32 E	WM	34	NE NW	700	0.25	0.25	Capper
TOTAL:						2.41	2.41	

- Transfer Application T-10609 proposes to change the place of use for the above described rights to:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot#	ACRES		User
						Certificate 87746 (IR)	Certificate 87747 (IS)	
2 N	32 E	WM	27	SW SW	1700	0.14	0.14	The Park
2 N	32 E	WM	27	SE SW	1700	1.93	1.93	The Park
2 N	32 E	WM	27	SE SW	6100	0.17	0.17	Stanhope
2 N	32 E	WM	34	NW NE	300	0.17	0.17	Abmurin
TOTAL:						2.41	2.41	

7. Transfer Application T-10609 satisfies the criteria of ORS 540.580 and OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
8. The proposed change in place of use would not result in enlargement of the rights.
9. The proposed changes in place of use would not result in injury to other rights.

Conclusions of Law

The proposed change in place of use in Transfer Application T-10609 satisfies the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The proposed changes to the District's existing water right Certificates 87746 and 87747 are approved.
2. The right to the use of water use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in the District's water rights, related decree, and the Final Order approving T-10609.
3. The former places of use shall no longer be irrigated as part of these water rights.
4. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
5. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.
6. The proposed changes shall be completed on or before **October 1, 2013**. A Claim of Beneficial Use and Final Proof Map shall be submitted by Marion Jack Improvement District to the Department by October 1, 2014.

7. Certificate 87746 and 87747 are modified. The Department will issue superseding certificates describing the rights when it is determined that it is necessary for record keeping.

Dated at Salem, Oregon this 10 day of May, 2012.


Dwight French, Water Right Services Administrator for
PHILIP C. WARD, DIRECTOR