

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

In the Matter of Transfer Application ) **F I N A L O R D E R**  
T-10616, Hood River County ) APPROVING A DISTRICT  
 ) TEMPORARY TRANSFER

ORS 540.570 establishes the process in which a district may submit a request to temporarily 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**

EAST FORK IRRIGATION DISTRICT  
P.O. BOX 162  
ODELL, OR 97044

**Findings of Fact**

1. On May 1, 2008, East Fork Irrigation District filed a district transfer application to temporarily change the place of use under portions of Certificates 81340 and 80929. The Department assigned the application number T-10616.
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:** 81340, issued in the name of East Fork Irrigation District  
(confirmed by decree of the Circuit Court of the State of Oregon for Hood River County, recorded in the Order Record of the Water Resources Director, in Vol. 17, page 333)

**Use:** Irrigation (IR) of 2.4 acres

**Priority Date:** November 25, 1895

**Rate:** 0.03 cubic foot per second (cfs)

**Source:** East Fork Hood River, a tributary of Hood River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Lot	Survey Coordinates
1 S	10 E	WM	4	NW SW	1	3750 feet South and 430 feet East from the NW Corner of Section 4

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.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1 N	10 E	WM	2	NE SW	11	1800	2.4	H. MICHAEL PESSL

4. Application T-10616 proposes to TEMPORARILY change the place of use for the above described right to:

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1 N	10 E	WM	1	SW NE	7	301	2.4	DOG RIVER ORCHARDS, LLC.

5. In conjunction with application T-10616, East Fork Irrigation District submitted an affidavit that states a portion of the proposed place of use has an appurtenant existing irrigation right under Permit 43395 issued in the name of East Fork Irrigation District. The affidavit states the District will not perfect this portion of the right evidenced by Permit 43395 and the right will not be used during the term of this temporary transfer. The affected right is as follows:

Irrigation Under Permit 43395 Portion not to be proved up on and will not used during 2008 Irrigation Season							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	
1 N	10 E	WM	1	SW NE	301	0.70	

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

**Certificate:** 80929, issued in the name of East Fork Irrigation District (perfected under Permit 29617)

**Use:** Irrigation (IR) of 8.4 acres

**Priority Date:** March 13, 1964

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (cfs) and 3.0 acre-feet per each acre irrigated

**Source:** East Fork Hood River, a tributary of Hood River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	Survey Coordinates
1 S	10 E	WM	4	NW SW	1	3750 feet South and 430 feet East from the NW Corner of Section 4

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1 N	10 E	WM	2	SE SW	14	1800	8.4	H. MICHAEL PESSL

7. Application T-10616 proposes to TEMPORARILY change the place of use for the above described right to:

**Proposed Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1 N	10 E	WM	1	SW NE	7	301	0.7	DOG RIVER ORCHARDS, LLC.
1 N	10 E	WM	1	SE NE	8	301	1.2	DOG RIVER ORCHARDS, LLC.

Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1 N	10 E	WM	2	NE SE	9	2000	4.5	TRUMAN & MILDRED GOSS
1 N	10 E	WM	2	SE SE	16	2000	2.0	TRUMAN & MILDRED GOSS
<b>TOTAL:</b>							<b>8.4</b>	

8. In conjunction with application T-10616, East Fork Irrigation District submitted an affidavit that states a portion of the proposed place of use has an appurtenant existing irrigation right under Permit 43395 issued in the name of East Fork Irrigation District. The affidavit states the District will not perfect this portion of the right evidenced by Permit 43395 and the right will not be used during the term of this temporary transfer. The affected right is as follows:

<b>Primary Irrigation Under Permit 43395 Portion not to be proved up on and/or will not used during 2008 Irrigation Season</b>						
Twp	Rng	Mer	Sec	Q - Q	TL	Acres
1 N	10 E	WM	2	NE SE	2000	5.5

***Transfer Review Criteria (OAR 690-385-3500)***

9. The district temporary 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.
10. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
11. The proposed change in place of use would not result in enlargement of the rights.
12. The proposed change in place of use would not result in injury to other water rights.

**Conclusions of Law**

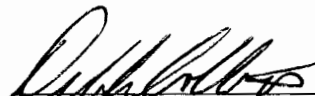
The change in place of use proposed in application T-10372 satisfies the requirements of ORS 540.574(3) and 540.570.

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

1. The proposed temporary change in place of use to the water rights evidenced by Certificates 81340 and 80929 is approved.
2. The temporary transfer is effective for the 2008 irrigation season.
3. The right to the 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 Water Right Certificates 81340 and 80929 and any related decree.
4. 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.

5. The use of water under Permit 43395 at the proposed places of use ("TO" lands) shall not be used during the 2008 irrigation season, and the beneficial use of water under the right evidenced by Permit 43395 shall not be perfected on the proposed places of use described in Findings of Fact #5 and #8.
6. 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.
7. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
8. The use of the remainder of the water rights not affected by this transfer under Certificates 81340 and 80929 shall continue to be in accordance with the terms and conditions of Certificates 81340 and 80929.
9. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
10. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
11. At the end of the 2008 irrigation season all use of water under this temporary transfer reverts automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

Dated at Salem, Oregon this 14<sup>th</sup> day of July, 2008.

  
Phillip C. Ward, Director

Mailing Date: JUL 25 2008