

**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-9846, Jefferson County) **APPROVING A DISTRICT**
) **PERMANENT 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

NORTH UNIT IRRIGATION DISTRICT
2024 NW BEECH STREET
MADRAS, OREGON 97741

Findings of Fact

1. On January 3, 2005, 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-9846.
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
Priority Date: February 28, 1913
Rate & Duty: Maximum of 1/40 cfs per acre & 5.25 acre-feet per acre per year.
Source: Deschutes River, Wickiup and Haystack Reservoirs, tributary to Columbia River

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:

AUTHORIZED PLACE OF USE – CERTIFICATE 72279											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	13	E	W.M.	35	SW	SE	102	0.10	SIGMUND	04-07
11	S	13	E	W.M.	1	SE	SE	1610	2.50	BEAN FOUNDATION	04-06
11	S	13	E	W.M.	15	NW	SW	400	14.50	WISE	04-04
11	S	13	E	W.M.	15	NE	SW	400	5.50	WISE	04-04
11	S	13	E	W.M.	27	SE	NE	105	5.50	ZOOK TRUST	04-08
11	S	13	E	W.M.	27	NE	SE	105	0.10	ZOOK TRUST	04-08
12	S	13	E	W.M.	17	NE	SW	1804	10.40	CULVER PROPERTIES	04-01
TOTAL:								38.60			

4. Application T-9846 proposed to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 72279											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	13	E	W.M.	35	NE	SW	100	0.10	CITY OF MADRAS	04-07
10	S	14	E	W.M.	30	SE	NW	300	2.50	SIMMONS TRUST	04-06
11	S	13	E	W.M.	15	NE	NW	201	18.40	WISE	04-04
11	S	13	E	W.M.	15	SE	NW	201	1.60	WISE	04-04
12	S	13	E	W.M.	4	NW	NW	200	0.20	COLEMAN RANCH	04-01
12	S	13	E	W.M.	9	NW	SW	1500	3.20	COLEMAN RANCH	04-01
12	S	13	E	W.M.	9	SW	SW	1500	3.20	COLEMAN RANCH	04-01
12	S	13	E	W.M.	21	SE	NW	200	1.60	COLEMAN RANCH	04-01
12	S	13	E	W.M.	21	NE	SW	200	2.20	COLEMAN RANCH	04-01
12	S	13	E	W.M.	23	SW	NW	201	5.60	ZOOK TRUST	04-08
TOTAL:								38.60			

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

Priority Date: September 18, 1968

Rate & Duty: Maximum of 1/40 cfs per acre and 4.0 acre-feet per acre per year.

Source: Crooked River, tributary to Deschutes River.

Authorized Place of Use:

AUTHORIZED PLACE OF USE – CERTIFICATE 72283											
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	14	E	W.M.	30	SE	NW	300	2.50	SIMMONS TRUST	04-05
11	S	13	E	W.M.	15	NE	NW	201	18.40	WISE	04-04
11	S	13	E	W.M.	15	SE	NW	201	1.60	WISE	04-04
12	S	13	E	W.M.	9	NW	SW	1500	3.20	COLEMAN RANCH	04-02
12	S	13	E	W.M.	9	SW	SW	1500	3.20	COLEMAN RANCH	04-02
TOTAL:								28.90			

6. Application T-9846 proposes to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 72283												
TWP	RNG		MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	14	E	W.M.	30	NW	SE	300	2.50	SIMMONS TRUST		04-05
11	S	13	E	W.M.	15	NW	SW	400	14.50	WISE		04-04
11	S	13	E	W.M.	15	NE	SW	400	5.50	WISE		04-04
12	S	13	E	W.M.	9	NW	SW	1500	6.40	COLEMAN RANCH		04-02
TOTAL:								28.90				

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

Priority Date: June 23, 1955

Rate & Duty: Maximum of 1/40 cfs per acre, and 4.0 acre-feet per acre per year.

Source: Crooked River, tributary to Deschutes River.

Authorized Place of Use:

AUTHORIZED PLACE OF USE – CERTIFICATE 72281												
TWP	RNG		MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	13	E	W.M.	35	SW	SE	102	0.10	SIGMUND		04-07
11	S	13	E	W.M.	1	SE	SE	1610	2.50	BEAN FOUNDATION		04-06
11	S	13	E	W.M.	15	NE	SW	400	14.50	WISE		04-04
11	S	13	E	W.M.	15	NE	SW	400	5.50	WISE		04-04
11	S	13	E	W.M.	27	SE	NE	105	5.50	ZOOK TRUST		04-08
11	S	13	E	W.M.	27	NE	SE	105	0.10	ZOOK TRUST		04-08
12	S	13	E	W.M.	17	NE	SW	1804	10.40	CULVER PROPERTIES		04-01
TOTAL:								38.60				

8. Application T-9846 proposes to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 72281												
TWP	RNG		MER	SEC	1/4	1/4	TL	ACRES	USER		NOT#	
10	S	13	E	W.M.	35	NE	SW	100	0.10	CITY OF MADRAS		04-07
10	S	14	E	W.M.	30	SE	NW	300	2.50	SIMMONS TRUST		04-06
11	S	13	E	W.M.	15	NE	NW	201	18.40	WISE		04-04
11	S	13	E	W.M.	15	SE	NW	201	1.60	WISE		04-04
12	S	13	E	W.M.	4	NW	NW	200	0.20	COLEMAN RANCH		04-01
12	S	13	E	W.M.	9	NW	SW	1500	3.20	COLEMAN RANCH		04-01
12	S	13	E	W.M.	9	SW	SW	1500	3.20	COLEMAN RANCH		04-01
12	S	13	E	W.M.	21	SE	NW	200	1.60	COLEMAN RANCH		04-01
12	S	13	E	W.M.	21	NE	SW	200	2.20	COLEMAN RANCH		04-01
12	S	13	E	W.M.	23	SW	NW	201	5.60	ZOOK TRUST		04-08
TOTAL:								38.60				

9. 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.
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
13. 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). However, the District had notified the Department of the proposed 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 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-9846 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 #13.*

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, 2006.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2007.

6. The Department shall issue a water right certificate on a determination that it is necessary to produce a certificate describing the water right.

Dated at Salem, Oregon this 20th day of July, 2005.


For Phillip C. Ward, Director