

**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-10098, Crook 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

OCHOCO IRRIGATION DISTRICT
1001 NW DEER ST,
PRINEVILLE, OREGON 97754

Findings of Fact

1. On February 17, 2006 Ochoco Irrigation District filed a district transfer application to permanently change the place of use under Certificates 68394 and 68395. The Department assigned the application number T-10098.
2. On October 27, 2006 Certificates 68394 and 68395 were superseded by Certificates 82246 and 82247, respectively.
3. 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.
4. On March 29, 2007, the application was amended to include supplemental irrigation water rights appurtenant to certain lands and omitted information.
5. The portion of the first right to be transferred is as follows:
Certificate: 82246, issued in the name of Ochoco Irrigation District
Use: Irrigation (IR)
Priority Date: August 10, 1917
Rate & Duty: Maximum of 1/80 cfs per acre & 4.0 acre-feet per acre per year.
Source: Ochoco, Mckay, Dry, Lytle and Johnson Creeks, and all waste and return water flowing in all unnamed waterways and Ochoco Reservoir.

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 Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	POD#	SURVEY COORDINATES
15 S	17 E	W.M.	5	SW NW	1	OCHOCO FEED CANAL - 500 FEET NORTH AND 250 FEET EAST FROM THE W¼ CORNER OF SECTION 5

Authorized Place of Use:

AUTHORIZED PLACE OF USE – CERTIFICATE 82246 (IR)								
TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
14 S	16 E	WM	29	NE SW	205	8.00	OCHOCO IRR. DIST.	2-05-1 to 4 2-05-7
14 S	16 E	WM	29	SE SW	100, 1700	13.00	OCHOCO IRR. DIST.	2-05-1 to 4 2-05-7
14 S	16 E	WM	29	SE SW	1700	11.60	OCHOCO IRR. DIST.	1-05-2 to 5
15 S	16 E	WM	4	SE NE	2500	7.10	BRIAN BARNEY	1-05-012
15 S	17 E	WM	6	SE NE	700	4.00	OCHOCO IRR. DIST.	2-05-5 2-05-6
15 S	17 E	WM	6	SE NW	700	1.50	OCHOCO IRR. DIST.	1-05-1
TOTAL:						45.20		

5. Application T-10098 proposed to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 82246 (IR)								
TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
14 S	15 E	WM	10	NW NW	400	3.10	FLEGEL	2-05-7
14 S	15 E	WM	10	SW NW	400	9.50	FLEGEL	2-05-7 2-05-4
14 S	15 E	WM	10	NW SW	400	2.60	FLEGEL	2-05-7
14 S	15 E	WM	12	NE NE	600	4.60	HOWARD	1-05-4
14 S	15 E	WM	23	SW NE	103, 105	4.60	BURK	1-05-3
14 S	15 E	WM	24	SW SW	2400	0.40	THOMPSON	1-05-5
14 S	16 E	WM	1	SW NW	904	2.00	SHIELDS	2-05-6
14 S	16 E	WM	7	NE SW	121	0.50	SEABER	2-05-1
14 S	16 E	WM	7	SE SW	121	0.50	SEABER	2-05-1
14 S	16 E	WM	7	NW SE	100	2.50	SEABER	2-05-1
14 S	16 E	WM	34	NE SW	800	1.50	FRASER	1-05-1
14 S	16 E	WM	20	SW SE	800	2.00	TWISS	1-05-2
14 S	16 E	WM	27	SE SE	1900	2.00	GRAHAM	2-05-5
14 S	16 E	WM	30	NE NE	3500	1.30	HARGRAVE	2-05-2
14 S	16 E	WM	30	NE NE	3520	1.00	YOUNG	2-05-3
15 S	16 E	WM	35	SE NW	200	0.50	ELDERHURST STOCK FARM	1-05-012
15 S	16 E	WM	35	NE SW	200	6.60	ELDERHURST STOCK FARM	1-05-012
TOTAL:						45.20		

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

Certificate: 82247, issued in the name of U. S. Bureau of Reclamation

Use: Supplemental Irrigation (IS)

Priority Date: April 8, 1914

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

Source: Crooked River and Prineville Reservoir, tributary to Deschutes River.

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	POD#	SURVEY COORDINATES
15 S	15 E	W.M.	36	SW SE	2	60 FEET NORTH AND 1940 FEET WEST FROM THE SE CORNER OF SECTION 36

Authorized Place of Use:

AUTHORIZED PLACE OF USE – CERTIFICATE 82247 (IS)								
TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
14 S	16 E	WM	29	NE SW	205	8.00	OCHOCO IRR. DIST.	2-05-1 to 4 2-05-7
14 S	16 E	WM	29	SE SW	100, 1700	13.00	OCHOCO IRR. DIST.	2-05-1 to 4 2-05-7
14 S	16 E	WM	29	SE SW	1700	11.60	OCHOCO IRR. DIST.	1-05-2 to 5
TOTAL:						32.60		

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

PROPOSED PLACE OF USE – CERTIFICATE 82247 (IS)								
TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
14 S	15 E	WM	10	NW NW	400	3.10	FLEGEL	2-05-7
14 S	15 E	WM	10	SW NW	400	9.50	FLEGEL	2-05-7 2-05-4
14 S	15 E	WM	10	NW SW	400	2.60	FLEGEL	2-05-7
14 S	15 E	WM	12	NE NE	600	4.60	HOWARD	1-05-4
14 S	15 E	WM	23	SW NE	103, 105	4.60	BURK	1-05-3
14 S	15 E	WM	24	SW SW	2400	0.40	THOMPSON	1-05-5
14 S	16 E	WM	7	NE SW	121	0.50	SEABER	2-05-1
14 S	16 E	WM	7	SE SW	121	0.50	SEABER	2-05-1
14 S	16 E	WM	7	NW SE	100	2.50	SEABER	2-05-1
14 S	16 E	WM	20	SW SE	800	2.00	TWISS	1-05-2
14 S	16 E	WM	30	NE NE	3500	1.30	HARGRAVE	2-05-2
14 S	16 E	WM	30	NE NE	3520	1.00	YOUNG	2-05-3
TOTAL:						32.60		

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

Certificate: 82249, issued in the name of Ochoco Irrigation District

Use: Supplemental Irrigation (IS)

Priority Date: 1869

Rate & Duty: Maximum of 1/77 cfs per acre & 4.0 acre-feet per acre per year.

Source: Ochoco Creek

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	POD#	SURVEY COORDINATES
15 S	17 E	W.M.	5	SW NW	1	OCHOCO FEED CANAL - 500 FEET NORTH AND 250 FEET EAST FROM THE W¼ CORNER OF SECTION 5

Authorized Place of Use:

AUTHORIZED PLACE OF USE – CERTIFICATE 82249 (IS)									
PRIORITY	TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
1869	15 S	16 E	WM	4	SE NE	2500	7.10	BRIAN BARNEY	1-05-12
5/19/1911	15 S	17 E	WM	6	SE NE	700	0.60	OCHOCO IRR. DIST.	1-05-1
TOTAL:							7.70		

9. Application T-10098 proposed to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 82249 (IS)									
PRIORITY	TWP	RNG	MER	SEC	Q-Q	TL	ACRES	USER	NOT#
5/19/1911	14 S	16 E	WM	34	NE SW	800	0.60	FRASER	1-05-1
1869	15 S	16 E	WM	35	SE NW	200	0.50	ELDERHURST STOCK FARM	1-05-12
1869	15 S	16 E	WM	35	NE SW	200	6.60	ELDERHURST STOCK FARM	1-05-12
TOTAL:							7.70		

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 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 delayed filing the application, based upon consultation with the Department, pending anticipated completion of the District's ORS 541.329 petition to map district water rights. 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. Although the filing date of the application represents a failure to comply with statutory criteria, the late filing was made in consultation with the Department and 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-10098 satisfy the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 82246, 82247 and 82449 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 82246, 82247 and 82449 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, 2008.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2009.
6. Certificates 82246, 82247 and 82249 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 6th day of April, 2007.


for Phillip C. Ward, Director

Mailing Date: 4-9-07