

BEFORE THE WATER RESOURCES DEPARTMENT
FOR THE
STATE OF OREGON

In the Matter of the Completion of a Change) DETERMINATION OF SATISFACTORY
in Place of Use Under Transfer Application) PROOF OF COMPLETION FOR A
T-11701 County) PERMANENT DISTRICT TRANSFER

Authority

Oregon Administrative Rule (OAR) 690-385-7400 describes the documentation the district must file with the Department in order to provide proof of use.

OAR 690-385-7600 provides in pertinent part that satisfactory proof shall be (a) a determination by the Department that application of water to beneficial use under the terms of the transfer final order was completed to the extent authorized, or (b) a determination by the Department that the application of water to a beneficial use under the terms of the transfer final order was completed to an extent less than authorized.

Oregon Revised Statute (ORS) 540.530(2)(a) and OAR 690-385-7600 authorize the Department to issue or modify a certificate of water right upon satisfactory proof of completion of the change or changes authorized by a final order approving a permanent district transfer.

Applicant

TUMALO IRRIGATION DISTRICT
64697 COOK AVE
BEND, OR 97701

Findings of Fact

1. On March 4, 2014, the Department approved Transfer Application T-11701 for primary irrigation under water right Certificates 74146¹ and 74147. This final order is recorded in Special Order Volume 91 at Pages 916-919. The final order established October 1, 2015, as the date for completion of the authorized changes in place of use.
2. On February 1, 2017, the Department signed a correcting final order which was mailed on

¹ Lands for primary irrigation under Certificate 74146 as a result of CW-9 were referenced as "Water right affected by Special Order Volume 64, Pages 157-158" in both the original transfer final order recorded at Special Order Volume 91 at Pages 916-919, and in the correcting final order recorded at Special Order Volume 103, Pages 887-893.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

February 9, 2017, to supplement the original final order described in Finding of Fact #1, above. The correcting order is recorded at Special Order Volume 103, Pages 887-893. It was issued to correct the omission of water rights for supplemental irrigation under Certificates 74147, 74148, 74149, and 76520 layered with the approved primary acreage.

3. On September 20, 2019, the Department signed a second correcting final order, which was mailed on September 23, 2019, to supplement both the original final order and the correcting final order described in Finding of Facts #1 and 2, above. The second correcting order is recorded at Special Order Volume 113, Pages 1248-1251. It was issued to correct the omission of the water right for supplemental irrigation under Certificate 74148 as affected by Special Order Volume 64, Pages 157-158 (place of use formerly described under Certificate 76106), layered with approved primary acreage and other supplemental acreages.
4. On February 25, 2016, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-11701 satisfying the requirements for providing proof of use under OAR 690-385-7400.
5. The Department reviewed the CBU and maps submitted by the applicant for Transfer Application T-11701.
6. The CBU did not contain a map of the point of diversion from the source. However, since the transfer involved the transfer of places of use only within an irrigation district and did not involve a change in the point of diversion, the existing maps on file with the Department are sufficient to identify the point of diversion from the source.
7. The proposed place of use for Certificate 74146 as approved the final order for Transfer Application T-11701, and as recorded in Special Order Volume 91, Pages 916-919 is shown in Table 1, below:

Table 1:

IRRIGATION									
Priority Date	Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
9/1/1900	16 S	11 E	WM	11	SW SE	2.00	800	Smithey & Edwards	13.002
6/1/1907	16 S	11 E	WM	14	NE NE	0.50	300	Mandel	13.006
5/27/1907	16 S	12 E	WM	08	SE NW	1.00	700	Fredrick & Mary C. Selleck Trust	13.001
8/5/1900	16 S	12 E	WM	08	SE NW	1.40	700	Fredrick & Mary C. Selleck Trust	13.001
9/1/1900	16 S	12 E	WM	08	SE NW	2.00*	700	Fredrick & Mary C. Selleck Trust	13.001
9/1/1900	16 S	12 E	WM	08	SW NW	0.60*	700	Fredrick & Mary C. Selleck Trust	13.001
5/27/1907	16 S	12 E	WM	08	SW NW	1.00	500	Fred	13.004
8/5/1900	17 S	11 E	WM	11	NE SE	0.41	1100	Rosenburg	13.003
5/27/1907	17 S	11 E	WM	11	NE SE	0.58	1100	Rosenburg	13.003
5/27/1907	17 S	11 E	WM	11	NE SE	0.20	1002	Shannon	13.005
8/5/1900	17 S	11 E	WM	11	NE SE	2.80	1002	Shannon	13.005
9/1/1900	17 S	11 E	WM	11	NE SE	0.10*	1002	Shannon	13.005
5/27/1907	17 S	11 E	WM	14	NE NE	0.22	11500	Julander	13.003
Total:						12.81			

*Lands for primary irrigation formerly under Certificate 76106

8. The proposed place of use for primary irrigation under for Certificate 74147 as approved the final order for Transfer Application T-11701, and as recorded in Special Order Volume 91, Pages 916-919 is shown in Table 2, below:

Table 2:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	11	SW SE	0.31	800	Smithy & Edwards	13.002

9. The proposed place of use for supplemental irrigation under for Certificate 74147 as approved the final order for Transfer Application T-11701, and as recorded in Special Order Volume 103, Pages 887-893 is shown in Table 3, below:

Table 3:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	11	SW SE	2.00	800	Smithey & Edwards	13.002
16 S	11 E	WM	14	NE NE	0.50	300	Mandel	13.006
16 S	12 E	WM	08	SE NW	1.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	1.40	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	1.00	500	Fred	13.004
17 S	11 E	WM	11	NE SE	0.41	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.58	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.20	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	2.80	1002	Shannon	13.005
17 S	11 E	WM	14	NE NE	0.22	11500	Julander	13.003
Total:					10.11			

10. The proposed place of use for Certificate 74148 as approved the final order for Transfer Application T-11701, and as recorded in Volume 103, Pages 887-893 and Special Order Volume 113, Pages 1248-1251 is shown in Table 4, below:

Table 4:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	11	SW SE	0.31	800	Smithy & Edwards	13.002
16 S	11 E	WM	11	SW SE	2.00*	800	Smithey & Edwards	13.002
16 S	11 E	WM	14	NE NE	0.50	300	Mandel	13.006
16 S	12 E	WM	08	SE NW	1.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	1.40	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	2.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	0.60*	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	1.00	500	Fred	13.004
17 S	11 E	WM	11	NE SE	0.41	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.58	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.20	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	2.80	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	0.10*	1002	Shannon	13.005

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17 S	11 E	WM	14	NE NE	0.22	11500	Julander	13.003
Total:					13.12			

*Lands for supplemental irrigation formerly described under Certificate 76106

11. The proposed place of use for Certificate 74149 as approved the final order for Transfer Application T-11701, and as recorded in Volume 103, Pages 887-893 is shown in Table 5, below:

Table 5:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	11	SW SE	0.31	800	Smithy & Edwards	13.002
16 S	11 E	WM	11	SW SE	2.00	800	Smithey & Edwards	13.002
16 S	11 E	WM	14	NE NE	0.50	300	Mandel	13.006
16 S	12 E	WM	08	SE NW	1.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	1.40	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	2.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	0.60	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	1.00	500	Fred	13.004
17 S	11 E	WM	11	NE SE	0.41	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.58	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.20	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	2.80	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	0.10	1002	Shannon	13.005
17 S	11 E	WM	14	NE NE	0.22	11500	Julander	13.003
Total:					13.12			

12. The proposed place of use for Certificate 76520 as approved the final order for Transfer Application T-11701, and as recorded in Volume 103, Pages 887-893 is shown in Table 6, below:

Table 6:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
16 S	11 E	WM	11	SW SE	0.31	800	Smithy & Edwards	13.002
16 S	11 E	WM	11	SW SE	2.00	800	Smithey & Edwards	13.002
16 S	11 E	WM	14	NE NE	0.50	300	Mandel	13.006
16 S	12 E	WM	08	SE NW	1.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	1.40	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SE NW	2.00	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	0.60	700	Fredrick & Mary C. Selleck Trust	13.001
16 S	12 E	WM	08	SW NW	1.00	500	Fred	13.004
17 S	11 E	WM	11	NE SE	0.41	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.58	1100	Rosenburg	13.003
17 S	11 E	WM	11	NE SE	0.20	1002	Shannon	13.005
17 S	11 E	WM	11	NE SE	2.80	1002	Shannon	13.005

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
17 S	11 E	WM	11	NE SE	0.10	1002	Shannon	13.005
17 S	11 E	WM	14	NE NE	0.22	11500	Julander	13.003
Total:					13.12			

13. Based on the review of evidence submitted by the applicant, the Department finds that the application of water to beneficial use under the terms of the transfer final order for T-11701 was completed to the extent authorized in the transfer as described in Tables 1, 2, 3, 4, 5, and 6.

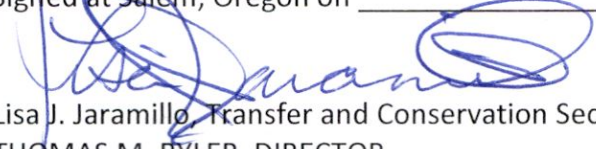
Conclusions of Law

1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.
2. Application of water to a beneficial use under the terms of the transfer final order has been made to the extent shown in Tables 1, 2, 3, 4, 5, and 6, above.
3. The applicant has demonstrated proof of completion under T-11701 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-11701 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

Water right Certificates 74146, 74147, 74148, 74149 and 76520 are modified as shown in Tables 1, 2, 3, 4, 5, and 6, above. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon on DEC 11 2019.


 Lisa J. Jaramillo, Transfer and Conservation Section Manager for
 THOMAS M. BYLER, DIRECTOR
 Oregon Water Resources Department

Mailing Date: DEC 12 2019