

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-11939 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 February 17, 2016, the Department approved Transfer Application T-11939 for primary irrigation under water right Certificates 74146¹ and 74147. This final order is recorded in Special Order Volume 98 at Pages 750-753. The final order established October 1, 2017, as the date for completion of the authorized changes in place of use.

¹ Lands for primary irrigation under Certificate 74146 as a result of CW-9 were referenced as "76106" or "Water right affected by Special Order Volume 64, Pages 157-158" in the original transfer final order recorded at Special Order Volume 98 at Pages 750-753, and in the correcting final order recorded at Special Order Volume 103, Pages 933-938.

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.

2. On February 14, 2017, the Department signed a correcting final order which was mailed on February 17, 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 933-938. 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 1235-1238. 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 April 3, 2017, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-11939 satisfying the requirements for providing proof of use under OAR 690-385-7400. On May 25, 2017, the Department received a correcting map for one of the parcels.
5. The Department reviewed the CBU and maps submitted by the applicant for Transfer Application T-11939.
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-11939, and as recorded in Special Order Volume 98, Pages 750-753 is shown in Table 1, below:

Table 1:

IRRIGATION									
Priority Date	Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Owner Name	Notice
8/5/1900	16 S	11 E	WM	33	NE SE	0.50	1200	Coats Trust	N14.004
9/1900	16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
9/1900	16 S	11E	WM	33	NE SE	0.08*	1100	Coats Trust	N14.004
9/1900	16 S	11E	WM	33	NE SE	0.02*	1200	Coats Trust	N14.004
9/1900	16 S	11E	WM	33	NE SE	4.40*	1300	Coats Trust	N14.004
9/1900	16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
9/1900	16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:						25.50			

*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-11939, and as recorded in Special Order Volume 98, Pages 750-753 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	26	SE NW	3.00	204	Levin	N14.001

9. The proposed place of use for supplemental irrigation under for Certificate 74147 as approved the final order for Transfer Application T-11939, and as recorded in Special Order Volume 103, Pages 933-938 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	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Coats Trust	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:					21.00			

10. The proposed place of use for Certificate 74148 as approved the final order for Transfer Application T-11939, and as recorded in Volume 103, Pages 933-938 and Special Order Volume 113, 1235-1238 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	26	SE NW	3.00	204	Levin	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.08*	1100	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.02*	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	4.40*	1300	Coats Trust	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:					28.50			

*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-11939, and as recorded in Volume 103, Pages 933-938 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	26	SE NW	3.00	204	Levin	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.08	1100	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.02	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	4.40	1300	Coats Trust	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:					28.50			

12. The proposed place of use for Certificate 76520 as approved the final order for Transfer Application T-11939, and as recorded in Volume 103, Pages 933-938 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	26	SE NW	3.00	204	Levin	N14.001
16 S	11 E	WM	26	SE NW	15.00	204	Levin	N14.001
16 S	11 E	WM	33	NE SE	0.50	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.08	1100	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	0.02	1200	Coats Trust	N14.004
16 S	11E	WM	33	NE SE	4.40	1300	Coats Trust	N14.004
16 S	12 E	WM	17	SE NW	1.20	800	Freeland	N14.003
16 S	12 E	WM	17	SE NW	4.30	800	Freeland	N14.003
Total:					28.50			

13. In the above tables, **bolded** owner names have been updated to reflect ownership changes as shown in the CBU.
14. 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-11939 was completed to the extent authorized in the transfer as described in Tables 1, 2, 3, 4, 5, and 6.

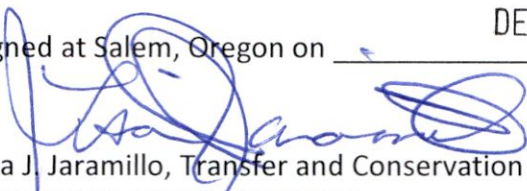
Conclusions of Law

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-11939 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-11939 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 10 2019.


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

Mailing Date: DEC 11 2019