

BEFORE THE WATER RESOURCES DEPARTMENT

STATE OF OREGON

COUNTY OF DESCHUTES

In the Matter of a Proposed Change)	ORDER
In Place of Use of Water Within an)	APPROVING A PERMANENT
Irrigation District — TRANSFER 9636)	DISTRICT TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.580, ARNOLD IRRIGATION DISTRICT, 407 NE Third, PO BOX 9220, Bend, OR, 97708, petitioned the Oregon Water Resources Department to permanently change the place of use of water within the boundaries of the irrigation district. The petition was received on January 29, 2003, and included the required fees.
2. The Department assigned the petition transfer application number T-9636.
3. The Department published notice of receipt of the petition in the Department’s Weekly Notice dated February 24, 2004. The petition was noticed as a transfer within irrigation district boundaries.
4. No comments or timely protests were received in response to the published notice.
5. Arnold Irrigation District petitioned to modify the following rights:

A. IRRIGATION

Certificate 74197: issued in the name of Arnold Irrigation District

Use: Irrigation

Source: Deschutes R.

Priority Date: February 1, 1905; April 25, 1905

Rate & Duty: Limited to not more than the rate specified by source and a total diversion not to exceed 125.0 cfs from all sources. Maximum of 15.42 acre feet for each acre irrigated during the irrigation season of each year.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order other than a 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order

B. IRRIGATION

Certificate 76714: issued in the name of Central Oregon Irrigation District

Use: Supplemental Irrigation

Source: Crane Prairie Reservoir

Priority Date: February 28, 1913

Rate & Duty: Limited to not more than the rate specified by source and a total diversion not to exceed 125.0 cfs from all sources. Maximum of 15.42 acre feet for each acre irrigated during the irrigation season of each year.

- Arnold Irrigation District petitioned to permanently change the place of use for irrigation authorized by Certificate 74197 from the location identified in Table 1 to the location listed in Table 2.

TABLE 1. AUTHORIZED PLACE OF USE - IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	NOT#		
18	S	11	E	WM	24	NE	SE	181124D007800	0.500	T-2002-001
18	S	11	E	WM	25	NE	NW	181125B001900	0.200	T-2002-001
18	S	12	E	WM	8	SW	NE	181208AB00403	0.500	T-2002-002
18	S	13	E	WM	8	SE	SE	1813080001000	5.500	T-2002-003
18	S	12	E	WM	8	SE	NW	181208B001614	0.250	T-2002-004
18	S	12	E	WM	8	NE	SW	181208B001614	0.250	T-2002-004
18	S	11	E	WM	23	NE	SE	181123D004100	0.750	T-2002-004
18	S	11	E	WM	25	NE	NW	181125B007000	0.380	T-2002-004
18	S	11	E	WM	25	NE	NW	1811250006900	0.370	T-2002-004
18	S	12	E	WM	9	SW	NW	181209BC00800	3.800	T-2002-005
18	S	12	E	WM	8	NE	SW	181208C001601	0.500	T-2002-005
18	S	12	E	WM	19	NE	SW	181219C014200	0.900	T-2002-005
18	S	12	E	WM	19	NE	SW	181219C014200	0.100	T-2002-005
18	S	11	E	WM	24	SE	NW	1811240002800	2.000	T-2002-006
18	S	12	E	WM	17	SE	NW	1812170002200	6.300	T-2002-007
18	S	11	E	WM	24	NW	SE	181124D012900	0.600	T-2002-007
18	S	12	E	WM	8	NW	SW	181208C001605	0.300	T-2002-008
18	S	11	E	WM	26	NW	NE	181126B000400	0.500	T-2002-008
18	S	11	E	WM	25	NW	NW	181125B002600	0.400	T-2002-008
18	S	12	E	WM	8	SE	NW	181208BD04300	0.300	T-2002-011
18	S	12	E	WM	9	NE	SW	181209C000300	3.000	T-2002-011
18	S	12	E	WM	9	NE	SW	181209C000100	8.500	T-2002-011
18	S	12	E	WM	9	NE	SW	181209CA02500	0.500	T-2002-011
18	S	12	E	WM	16	NE	NW	181216B000500	2.500	T-2002-011
18	S	12	E	WM	13	NE	NW	1812130000400	0.340	T-2002-011
18	S	12	E	WM	13	NE	NW	1812130000400	0.060	T-2002-011
18	S	12	E	WM	21	SE	SW	181221D000600	0.200	T-2002-011
18	S	12	E	WM	21	SE	SW	181221D000600	0.010	T-2002-011
18	S	12	E	WM	21	SW	SE	181221D000600	5.050	T-2002-011
18	S	11	E	WM	13	NE	SW	1811130002300	0.620	T-2002-012
18	S	11	E	WM	13	NW	SE	1811130002400	0.060	T-2002-012
18	S	11	E	WM	13	NW	SE	1811130002400	8.000	T-2002-012
									53.24	

TABLE 2. PROPOSED PLACE OF USE - IRRIGATION

TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	NOT#	
18	S	12	E	WM	8	SE SE	181208D003200	0.700	T-2002-001
18	S	12	E	WM	22	NW NW	1812220000400	0.500	T-2002-002
18	S	13	E	WM	17	NW NE	1813170000203	5.500	T-2002-003
18	S	13	E	WM	18	SE SW	1813180001000	2.000	T-2002-004
18	S	12	E	WM	19	NE SW	181219C014200	2.200	T-2002-005
18	S	12	E	WM	19	SE SW	181219C014200	3.100	T-2002-005
18	S	11	E	WM	24	SE NW	1811240002801	2.000	T-2002-006
18	S	11	E	WM	24	NW SE	181124D012900	6.900	T-2002-007
18	S	13	E	WM	18	SE NE	1813180000200	1.200	T-2002-008
18	S	12	E	WM	13	NE NW	1812130000400	3.400	T-2002-011
18	S	12	E	WM	24	NW NE	1812240000200	1.170	T-2002-011
18	S	12	E	WM	24	NE NE	1812240000200	0.190	T-2002-011
18	S	13	E	WM	19	NE NE	1813190000105	10.000	T-2002-011
18	S	13	E	WM	19	SW NE	1813190000100	5.000	T-2002-011
18	S	13	E	WM	19	SE NE	1813190000105	0.700	T-2002-011
18	S	11	E	WM	13	NE SW	181113C001300	5.520	T-2002-012
18	S	11	E	WM	13	SE SW	181113C001300	3.160	T-2002-012
								53.24	

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the certificate. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

- Arnold Irrigation District petitioned to permanently change the place of use for supplemental irrigation authorized by Certificate 76714 from the location identified in Table 3 to the location listed in Table 4.

TABLE 3. AUTHORIZED PLACE OF USE – SUPPLEMENTAL IRRIGATION

TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	NOT#	
18	S	11	E	WM	24	NE SE	181124D007800	0.500	T-2002-001
18	S	11	E	WM	25	NE NW	181125B001900	0.200	T-2002-001
18	S	12	E	WM	8	SW NE	181208AB00403	0.500	T-2002-002
18	S	13	E	WM	8	SE SE	1813080001000	5.500	T-2002-003
18	S	12	E	WM	8	SE NW	181208B001614	0.250	T-2002-004
18	S	12	E	WM	8	NE SW	181208B001614	0.250	T-2002-004
18	S	11	E	WM	23	NE SE	181123D004100	0.750	T-2002-004
18	S	11	E	WM	25	NE NW	181125B007000	0.380	T-2002-004
18	S	11	E	WM	25	NE NW	1811250006900	0.370	T-2002-004
18	S	12	E	WM	9	SW NW	181209BC00800	3.800	T-2002-005
18	S	12	E	WM	8	NE SW	181208C001601	0.500	T-2002-005
18	S	12	E	WM	19	NE SW	181219C014200	0.900	T-2002-005
18	S	12	E	WM	19	NE SW	181219C014200	0.100	T-2002-005
18	S	11	E	WM	24	SE NW	1811240002800	2.000	T-2002-006
18	S	12	E	WM	17	SE NW	1812170002200	6.300	T-2002-007
18	S	11	E	WM	24	NW SE	181124D012900	0.600	T-2002-007
18	S	12	E	WM	8	NW SW	181208C001605	0.300	T-2002-008
18	S	11	E	WM	26	NW NE	181126B000400	0.500	T-2002-008
18	S	11	E	WM	25	NW NW	181125B002600	0.400	T-2002-008

TABLE 3. AUTHORIZED PLACE OF USE – SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	NOT#		
18	S	12	E	WM	8	SE	NW	181208BD04300	0.300	T-2002-011
18	S	12	E	WM	9	NE	SW	181209C000300	3.000	T-2002-011
18	S	12	E	WM	9	NE	SW	181209C000100	8.500	T-2002-011
18	S	12	E	WM	9	NE	SW	181209CA02500	0.500	T-2002-011
18	S	12	E	WM	16	NE	NW	181216B000500	2.500	T-2002-011
18	S	12	E	WM	13	NE	NW	1812130000400	0.340	T-2002-011
18	S	12	E	WM	13	NE	NW	1812130000400	0.060	T-2002-011
18	S	12	E	WM	21	SE	SW	181221D000600	0.200	T-2002-011
18	S	12	E	WM	21	SE	SW	181221D000600	0.010	T-2002-011
18	S	12	E	WM	21	SW	SE	181221D000600	5.050	T-2002-011
18	S	11	E	WM	13	NE	SW	1811130002300	0.620	T-2002-012
18	S	11	E	WM	13	NW	SE	1811130002400	0.060	T-2002-012
18	S	11	E	WM	13	NW	SE	1811130002400	8.000	T-2002-012
									53.24	

TABLE 4. PROPOSED PLACE OF USE – SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	1/4	1/4	TL	ACRES	NOT#		
18	S	12	E	WM	8	SE	SE	181208D003200	0.700	T-2002-001
18	S	12	E	WM	22	NW	NW	1812220000400	0.500	T-2002-002
18	S	13	E	WM	17	NW	NE	1813170000203	5.500	T-2002-003
18	S	13	E	WM	18	SE	SW	1813180001000	2.000	T-2002-004
18	S	12	E	WM	19	NE	SW	181219C014200	2.200	T-2002-005
18	S	12	E	WM	19	SE	SW	181219C014200	3.100	T-2002-005
18	S	11	E	WM	24	SE	NW	1811240002801	2.000	T-2002-006
18	S	11	E	WM	24	NW	SE	181124D012900	6.900	T-2002-007
18	S	13	E	WM	18	SE	NE	1813180000200	1.200	T-2002-008
18	S	12	E	WM	13	NE	NW	1812130000400	3.400	T-2002-011
18	S	12	E	WM	24	NW	NE	1812240000200	1.170	T-2002-011
18	S	12	E	WM	24	NE	NE	1812240000200	0.190	T-2002-011
18	S	13	E	WM	19	NE	NE	1813190000105	10.000	T-2002-011
18	S	13	E	WM	19	SW	NE	1813190000100	5.000	T-2002-011
18	S	13	E	WM	19	SE	NE	1813190000105	0.700	T-2002-011
18	S	11	E	WM	13	NE	SW	181113C001300	5.520	T-2002-012
18	S	11	E	WM	13	SE	SW	181113C001300	3.160	T-2002-012
									53.24	

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the permit. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

8. Pursuant to ORS 540.574 and ORS 540.580, in reviewing the petition submitted by Arnold Irrigation District, the Department has determined the following:
 - a) The petition contains the information required under ORS 540.574(3).
 - b) The petition meets the requirements of ORS 540.580.
 - c) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.

- d) The petition includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
 - e) The rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to transfer.
 - f) The lands from which the water right would be moved by the proposed transfer will not continue to receive water under the water right.
 - g) The use authorized by the water right subject to transfer will not change; and
 - h) The proposed change in place of use will not result in injury to other water rights.
9. The District failed to file the petition prior to the end of the calendar year in which the changes were made or prior to any delivery of water as required under ORS 540.580(2). However, the District had notified the Department of the petitioned changes prior to obtaining approval for the 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 petition 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

1. The petition submitted by Arnold Irrigation District proposing permanent changes in place of use within district boundaries included the information, and satisfied the criteria, required by ORS 540.574(3).
2. The proposed transfer complies with the requirements of ORS 540.580; with the exception that the petition was not received prior to the end of the calendar year in which the change occurs as required under ORS 540.580(2). *See Findings of Fact #9.*
3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.580 resulting in no injury to other water rights.

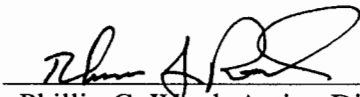
ORDER

It is hereby ORDERED :

1. The proposed changes to the water rights evidenced by Certificate 74197 and Certificate 76714 may be made provided the following conditions are met by the water user:
 - a. The proposed changes shall be completed on or before October 1, 2005.
 - b. The former places of use shall no longer be irrigated as a part of this water right.

- c. The Claim of Beneficial Use, showing the changes approved by this order have been completed, must be submitted by Arnold Irrigation District on or before October 1, 2006.
2. Except as modified herein, all other conditions and limitations of the water rights remain in effect.
3. When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of the right not modified by this or any other order.

Issued: JUNE 14, 2004



For Phillip C. Ward, Acting Director