

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13388, Morrow County)	A DISTRICT TEMPORARY TRANSFER
)	

Authority

Oregon Revised Statute (ORS) 540.570 establishes the process in which a district may submit a request to temporarily transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

COLUMBIA IMPROVEMENT DISTRICT
PO BOX 47
BOARDMAN, OR 97818

Findings of Fact

1. On March 5, 2020, Columbia Improvement District (CID) filed a district transfer application to temporarily change the places of use within the boundaries of the irrigation district under Certificates 94871, 94873, and 94874. The Department assigned the application number T-13388.
2. Notice of the application for transfer was published on March 17, 2020, pursuant to ORS 540.570 and OAR 690-385-3400.
3. On March 16, 2020, timely joint comments were received via email from Animal Legal Defense Fund, Center for Biological Diversity, Center for Food Safety, Columbia Riverkeeper, Friends of Family Farmers, Food & Water Watch, and WaterWatch of Oregon. Online comments were filed by WaterWatch of Oregon on the same day. Both sets of comments stated that Transfer T-13388 should be denied because it would injure existing water rights and enlarge use of the surface water rights. The Department has considered all comments received.
4. The portion of the first right to be transferred is as follows:

Certificate: 94871 issued in the name of Connecticut General Life Insurance Company and First Interstate Bank of Oregon (perfected under Permit S-37150)

Use: IRRIGATION of 350.2 acres

Priority Dates: JULY 25, 1973

This is an order in 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 137-004-0080, you may 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.

Rate: 5.48 CUBIC FEET PER SECOND

Limit & Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, A TRIBUTARY OF THE PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION							
Twn	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	15	SW NW	500	7.5	Easterday Farms Dairy, LLC
3N	26E	WM	15	NW SW	500	7.2	Easterday Farms Dairy, LLC
3N	26E	WM	15	SW SW	500	9.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW NE	500	31.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE NE	500	36.8	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW NW	500	5.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE NW	500	34.6	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE SW	500	36.7	Easterday Farms Dairy, LLC
3N	26E	WM	16	NW SW	500	7.2	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW SW	500	6.2	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE SW	500	33.8	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE SE	500	33.8	Easterday Farms Dairy, LLC
3N	26E	WM	16	NW SE	500	31.3	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW SE	500	32.1	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE SE	500	38.0	Easterday Farms Dairy, LLC
Total						350.2	

5. Transfer Application T-13388 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twn	Rng	Mer	Sec	Q-Q	G-Lot	Tax Lot	Acres	Water User
3N	26E	WM	4	NE NE	2	401	18.4	Sage Hollow Ranch, LLC
3N	26E	WM	4	NW NE	2	401	17.7	Sage Hollow Ranch, LLC
3N	26E	WM	4	SW NE	1	401	30.0	Sage Hollow Ranch, LLC
3N	26E	WM	4	SE NE	1	401	32.7	Sage Hollow Ranch, LLC
3N	26E	WM	4	NE NW	2	401	37.2	Sage Hollow Ranch, LLC
3N	26E	WM	4	NW NW	2	401	33.6	Sage Hollow Ranch, LLC
3N	26E	WM	4	SW NW	1	401	35.6	Sage Hollow Ranch, LLC

TwN	Rng	Mer	Sec	Q-Q	G-Lot	Tax Lot	Acres	Water User
3N	26E	WM	4	SE NW	1	401	36.8	Sage Hollow Ranch, LLC
3N	26E	WM	4	NE SW		400	36.0	Sage Hollow Ranch, LLC
3N	26E	WM	4	NW SW		400	35.4	Sage Hollow Ranch, LLC
3N	26E	WM	4	SW SW		400	28.3	Sage Hollow Ranch, LLC
3N	26E	WM	4	NE SE		400	0.9	Sage Hollow Ranch, LLC
3N	26E	WM	4	NW SE		400	0.4	Sage Hollow Ranch, LLC
3N	26E	WM	4	SW SE		400	7.2	Sage Hollow Ranch, LLC
Total							350.2	

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

Certificate: 94873 issued in the name of BOARDMAN TREE FARM, LLC (perfected under Permit S-37150)

Use: IRRIGATION of 86.4 acres

Priority Date: JULY 25, 1973

Rate: 1.35 CUBIC FEET PER SECOND

Limit & Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited to ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, A TRIBUTARY OF THE PACIFIC OCEAN

Authorized Points of Diversion:

TwP	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION							
TwN	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	15	NW NW	500	2.4	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE NE	500	0.6	Easterday Farms Dairy, LLC
3N	26E	WM	16	NW NE	500	1.8	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW NE	500	5.4	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE NE	500	2.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE NW	500	0.8	Easterday Farms Dairy, LLC
3N	26E	WM	16	NW NW	500	2.3	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW NW	500	6.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE NW	500	5.2	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE SW	500	3.0	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW SW	500	1.6	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE SW	500	4.2	Easterday Farms Dairy, LLC
3N	26E	WM	16	NE SE	500	5.2	Easterday Farms Dairy, LLC

TwN	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	16	NW SE	500	7.4	Easterday Farms Dairy, LLC
3N	26E	WM	16	SW SE	500	6.5	Easterday Farms Dairy, LLC
3N	26E	WM	16	SE SE	500	1.2	Easterday Farms Dairy, LLC
3N	26E	WM	17	NE NE	500	1.5	Easterday Farms Dairy, LLC
3N	26E	WM	17	NW NE	500	1.0	Easterday Farms Dairy, LLC
3N	26E	WM	17	SW NE	500	2.0	Easterday Farms Dairy, LLC
3N	26E	WM	17	SE NE	500	2.4	Easterday Farms Dairy, LLC
3N	26E	WM	21	NE NE	500	4.4	Easterday Farms Dairy, LLC
3N	26E	WM	21	NE NE	1506		Canyon Farm II, LLC
3N	26E	WM	21	NWNE	500	6.4	Easterday Farms Dairy, LLC
3N	26E	WM	21	NW NE	1506		Canyon Farm II, LLC
3N	26E	WM	21	SW NE	1506	6.2	Canyon Farm II, LLC
3N	26E	WM	21	SE NE	1506	0.5	Canyon Farm II, LLC
3N	26E	WM	21	NE NW	1506	1.2	Canyon Farm II, LLC
3N	26E	WM	21	SE NW	1506	5.2	Canyon Farm II, LLC
Total						86.4	

7. Transfer Application T-13388 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION							
TwN	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	4	NE SE	400	1.3	Sage Hollow Ranch, LLC
3N	26E	WM	4	NW SE	400	23.6	Sage Hollow Ranch, LLC
3N	26E	WM	4	SW SE	400	27.4	Sage Hollow Ranch, LLC
3N	26E	WM	4	SE SE	400	34.1	Sage Hollow Ranch, LLC
Total						86.4	

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

Certificate: 94874 issued in the name of BOARDMAN TREE FARM, LLC (perfected under Permit S-37293)

Use: IRRIGATION of 66.4 acres

Priority Date: FEBRUARY 7, 1974

Rate: 1.09 CUBIC FEET PER SECOND

Limit & Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, A TRIBUTARY OF THE PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION							
Twn	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	15	NE NW	1506	1.1	Canyon Farm II, LLC
3N	26E	WM	15	SW NW	500	6.6	Easterday Farms Dairy, LLC
3N	26E	WM	15	SW NW	1506		Canyon Farm II, LLC
3N	26E	WM	15	SE NW	1506	4.1	Canyon Farm II, LLC
3N	26E	WM	15	NE SW	1506	2.4	Canyon Farm II, LLC
3N	26E	WM	15	NW SW	500	6.7	Easterday Farms Dairy, LLC
3N	26E	WM	15	SW SW	500	7.3	Easterday Farms Dairy, LLC
3N	26E	WM	15	SW SW	1506		Canyon Farm II, LLC
3N	26E	WM	15	SE SW	1506	6.0	Canyon Farm II, LLC
3N	26E	WM	15	SW SE	1506	2.7	Canyon Farm II, LLC
3N	26E	WM	22	NW NE	1506	2.9	Canyon Farm II, LLC
3N	26E	WM	22	SW NE	1506	3.0	Canyon Farm II, LLC
3N	26E	WM	22	NE NW	1506	3.2	Canyon Farm II, LLC
3N	26E	WM	22	NW NW	500	4.8	Easterday Farms Dairy, LLC
3N	26E	WM	22	NW NW	1506		Canyon Farm II, LLC
3N	26E	WM	22	SW NW	1506	7.0	Canyon Farm II, LLC
3N	26E	WM	22	SE NW	1506	5.0	Canyon Farm II, LLC
3N	26E	WM	22	NW SE	1506	3.6	Canyon Farm II, LLC
Total						66.4	

9. Transfer Application T-13388 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION							
Twn	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User
3N	26E	WM	4	SW SW	400	7.0	Sage Hollow Ranch, LLC
3N	26E	WM	4	SE SW	400	36.8	Sage Hollow Ranch, LLC
3N	26E	WM	4	NE SE	400	22.6	Sage Hollow Ranch, LLC
Total						66.4	

10. The district temporary transfer application satisfies the criteria of ORS 540.570 and OAR 690-385-3000, contains the information required under OAR 690-385-3200, and includes a map meeting the requirements of OAR 690-385-3300.

11. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

12. The water rights are subject to transfer as defined in OAR 690-385-0100(17).

13. Diversion structures, district canals, pumps, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
14. Certificates 49726, 49727, 55316, and 55317 are appurtenant to some of the land upon which the proposed place of use as described in Findings of Fact 5, 7, and 9 under Temporary Transfer T-13388 is to be used. The applicant has submitted a signed statement ["Forbearance of Water Use"] that irrigation will not occur under Certificates 49726, 49727, 55316, and 55317 during the term of this temporary transfer.
15. As a condition of this Transfer T-13388, Certificates 49726, 49727, 55316, and 55317 shall not be used for irrigation during the term of this temporary transfer.
16. The watermaster review dated April 6, 2020, indicates the proposed changes in place of use, as conditioned, will not result in enlargement of the rights as defined in OAR 690-385-0100(6) nor result in injury to other water rights as defined in OAR 690-385-0100(4).
17. All other applicable requirements for district temporary water right transfers are met.

Conclusions of Law

1. The proposed change in place of use, as conditioned, will not result in enlargement of the rights as defined in OAR 690-385-0100(6).
2. The proposed change in place of use, as conditioned will not result in injury to other water rights as defined in OAR 690-385-0100(4).
3. The temporary change in place of use proposed in Temporary Transfer Application T-13388, as conditioned above, is consistent with the requirements of ORS 540.570 and OAR 690-385-3500.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use proposed in Transfer Application T-13388, as conditioned, are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2020 irrigation season.
3. The use shall revert to the authorized place of use after the 2020 irrigation season.
4. Any application for permanent transfer of Certificates 94871, 94873, and 94874 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Divisions 380 or 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
5. The water rights evidenced by Certificates 49726, 49727, 55316 and 55317 shall not be used for irrigation during the term of this temporary transfer.

6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture of Certificates 94871, 94873, and 94874, under ORS 540.610.
7. Use of water on lands from which the right is transferred and in the new temporary location during the same irrigation season or calendar year is prohibited and may subject the district and the landowner to civil penalties.
8. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
9. The use of water under this temporary transfer may be conditioned or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.
10. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 94871, 94873, and 94874.
11. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
12. The use of the remaining water rights described by Certificates 94871, 94873, and 94874 not involved in this transfer shall continue to be in accordance with the terms and conditions of Certificates 94871, 94873, and 94874.

Signed at Salem, Oregon this APR 29 2020.



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

Mailing Date: APR 30 2020