# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDE	R
T-10835, Jefferson County	)	APPROVING A DISTRICT	
	)	PERMANENT TRANSFER	

# **Authority**

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**

NORTH UNIT IRRIGATION DISTRICT (NUID) 2024 NW BEECH ST. MADRAS, OR 97741

# **Findings of Fact**

# Background

- 1. On March 30, 2009, North Unit Irrigation District (NUID) filed a district transfer application to change the place of use under Certificates 72279, 72281 and 72283. The Department assigned the application number T-10835.
- 2. 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.
- 3. The portion of the first right to be transferred is as follows:

Certificate: 72279, issued in the name of North Unit Irrigation District (perfected under

Permit S-23196) Use: Irrigation Acres: 22.6

Priority Date: February 28, 1913

Rate & Duty: Maximum of 1/40 cfs per acre (or its equivalent) and 5.25 acre-feet per acre

during the irrigation season of each year.

Source: Deschutes River, Wickiup and Haystack Reservoirs, tributaries to the Columbia

River

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 137-004-080 and OAR 690-01-005 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 Points of Diversion:**

TWP	RNG	MER	SEC	Q-Q	MEASURED DISTANCES
17 S	12 E	W.M.	29	SE NE	DESCHUTES RIVER: 1700 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 29
22 S	9 E	W.M.	7	SW NE	WICKIUP RESERVOIR
12 S	13 E	W.M.	27	SW NE	HAYSTACK RESERVOIR

#### **Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	NOTICE #
11 S	13 E	W.M.	21	SE SE	16.9	800	CHERRY CREEK INVESTORS LLC	09-08-21
11 S	13 E	W.M.	22	SW SW	2.9	1402	NUID	09-08-01-B2
11 S	13 E	W.M.	22	SW SW	2.8	1402	NUID	09-08-01-C
				TOTAL:	22.6			

# 4. Transfer Application T-10835 proposed to change the place of use to:

TWP	RNG	MER	SEC	Q-Q	ACRES	Tax Lot	USER	NOTICE #
10 S	13 E	W.M.	19	SW NE	16.9	502	BEAMER	09-08-21
11 S	13 E	W.M.	14	SE NW	2.8	1900	KB MANAGEMENT LLC	09-08-01-C
12 S	12 E	W.M.	25	SW NE	2.6	100	HOLLINGER	09-08-01-B2
12 S	12 E	W.M.	25	SE NE	0.3	100	HOLLINGER	09-08-01-B2
				TOTAL:	22.6			

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

Certificate: 72283, issued in the name of North Unit Irrigation District (perfected under

Permit S-33954) **Use:** Irrigation **Acres:** 70.3

Priority Date: September 18, 1968

Rate & Duty: Maximum of 1/40 cfs per acre and 4.0 acre-feet per acre during the irrigation

season of each year.

Source: Crooked River, tributary to the Deschutes River.

#### **Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q-Q	MEASURED DISTANCES
14 S	13 E	W.M.	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W1/4 CORNER OF SECTION 13

#### **Authorized Place of Use:**

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	NOTICE#
9 S	14 E	W.M.	18	NE SW	5.4	1100	VIBBERT & VIBBERT	09-08-08
9 S	14 E	W.M.	18	NE SW	7.8	4000	VIBBERT, VIBBERT & POTAMPA	09-08-09
9 S	14 E	W.M.	18	SE SW	5.0	1100	VIBBERT & VIBBERT	09-08-08
9 S	14 E	W.M.	18	SE SW	7.2	4000	VIBBERT, VIBBERT & POTAMPA	09-08-09
9 S	14 E	W.M.	19	NW NE	5.7	4100	VIBBERT & NELSON	09-08-10
9 S	14 E	W.M.	19	SW NE	6.7	4100	VIBBERT & NELSON	09-08-10

TWP	RNG	MER	SEC	Q-Q	ACRES	Tax Lot	USER	NOTICE#
9 S	14 E	W.M.	19	NE NW	7.7	4000	VIBBERT, VIBBERT & POTAMPA	09-08-09
9 S	14 E	W.M.	19	SE NW	7.1	4000	VIBBERT, VIBBERT & POTAMPA	09-08-09
9 S	14 E	W.M.	19	NW SE	8.0	4400	VIBBERT & VIBBERT	09-08-08
9 S	14 E	W.M.	19	SW SE	1.2	4400	VIBBERT & VIBBERT	09-08-08
9 S	14 E	W.M.	30	NE SW	5.1	500	VIBBERT & VIBBERT	09-08-08
12 S	12 E	W.M.	25	SW NE	2.6	100	HOLLINGER	09-08-01-B1
12 S	12 E	W.M.	25	SE NE	0.8	100	HOLLINGER	09-08-01-B1
				TOTAL:	70.3			<u> </u>

# 6. Application T-10835 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q-Q	ACRES	Tax Lot	USER	NOTICE #
9 S	14 E	W.M.	18	NW SE	24.7	1100	VIBBERT & VIBBERT	09-08-08
9 S	14 E	W.M.	18	NW SE	10.4	1100	VIBBERT & VIBBERT	09-08-10
9 S	14 E	W.M.	18	SW SE	29.8	1100	VIBBERT & VIBBERT	09-08-09
9 S	14 E	W.M.	18	SW SE	2.0	1100	VIBBERT & VIBBERT	09-08-10
12 S	12 E	W.M.	25	SW NE	1.8	100	HOLLINGER	09-08-01-B1
12 S	12 E	W.M.	25	SE NE	1.6	100	HOLLINGER	09-08-01-B1
		•		TOTAL:	70.3			

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

Certificate: 72281, issued in the name of North Unit Irrigation District (perfected under

Permit S-25921)

Use: Supplemental Irrigation

**Acres: 22.6** 

Priority Date: June 23, 1955

Rate & Duty: Maximum of 1/40 cfs per acre, and 4.0 acre-feet per acre during the irrigation

season of each year.

Source: Crooked River, tributary to Deschutes River.

## **Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q – Q	MEASURED DISTANCES
14 S	13 E	W.M.	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W1/4 CORNER OF SECTION 13

#### **Authorized Place of Use:**

TWP	RNG	MER	SEC	Q-Q	ACRES	Tax Lot	USER	NOTICE #
11 S	13 E	W.M.	21	SE SE	16.9	800	CHERRY CREEK INVESTORS LLC	09-08-21
11 S	13 E	W.M.	22	SW SW	2.9	1402	NUID	09-08-01-B2
11 S	13 E	W.M.	22	SW SW	2.8	1402	NUID	09-08-01-C
				TOTAL	22.6			

8. Transfer Application T-10835 proposes to change the place of use to:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	NOTICE #
10 S	13 E	W.M.	19	SW NE	16.9	502	BEAMER	09-08-21
11 S	13 E	W.M.	14	SE NW	2.8	1900	KB MANAGEMENT LLC	09-08-01-C
12 S	12 E	W.M.	25	SW NE	2.6	100	HOLLINGER	09-08-01-B2
12 S	12 E	W.M.	25	SE NE	0.3	100	HOLLINGER	09-08-01-B2
				TOTAL	22.6			

## Transfer Review Criteria (OAR 690-385-5000)

- 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.

#### **Conclusions of Law**

The proposed changes in place of use as proposed in Transfer Application T-10835 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 72279, 72281 and 72283 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 72279, 72281 and 72283 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, 2010.

Dated at Salem, Oregon this 24<sup>th</sup> day of April, 2009.

- 5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2011.
- Certificates 72279, 72281 and 72283 are modified. The Department will issue a superseding certificate on a determination that it is necessary for recordkeeping.

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Phillip C. Ward, Director	Mailing Date	APR 2.9 2009	
Phillip C. ward, Director	Mailing Date:	, , , ,	