

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11231, Hood River County) DISTRICT TEMPORARY TRANSFER

Authority

ORS 540.570 establishes the process in which a district may submit a request to temporarily 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

EAST FORK IRRIGATION DISTRICT
P.O. BOX 162
ODELL, OR 97044

Findings of Fact

Background

1. On April 13, 2011, East Fork Irrigation District filed an application to temporarily change the places of use under Certificates 81340 and 80929 for a period of one year. The Department assigned the application number T-11231.

2. The portion of the FIRST right water right to be transferred are as follows:
 - Certificate:** 81340, issued in the name of East Fork Irrigation District (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County)
 - Use:** Irrigation of 13.1 acres
 - Priority Date:** November 25, 1895
 - Rate:** 0.16 cubic foot per second (or its equivalent)
 - Source:** East Fork Hood River, tributary to the Hood River

This is a final 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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION (IR)							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
1N	10E	WM	2	NE SW	1800	2.4	H. MICHAEL PESSL
2N	10E	WM	29	SE NW	107	10.7	CHANDRA RADIANCE
TOTAL:						13.1	

3. Transfer Application T-11231 proposes to TEMPORARILY change the place of use for the above described right to:

Proposed Places of Use:

IRRIGATION (IR)								
Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1N	10E	WM	1	NE NE	1	301	2.8	DOG RIVER ORCHARDS, LLC
1N	10E	WM	1	NW NE	2	301	0.1	DOG RIVER ORCHARDS, LLC
1N	10E	WM	1	SW NE	--	301	3.9	DOG RIVER ORCHARDS, LLC
1N	10E	WM	1	SE NE	--	301	3.4	DOG RIVER ORCHARDS, LLC
1N	10E	WM	1	NE NW	3	301	2.9	DOG RIVER ORCHARDS, LLC
TOTAL:							13.1	

4. The portion of the SECOND right water right to be transferred are as follows:

Certificate: 80929, issued in the name of East Fork Irrigation District (perfected under Permit 29617)

Use: Irrigation of 8.4 acres

Priority Date: MARCH 13, 1964

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year

Source: East Fork Hood River, tributary to the Hood River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1S	10E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION (IR)								
Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1N	10E	WM	2	SE SW	--	1800	8.4	H. MICHAEL PESSL
TOTAL:							8.4	

- Transfer Application T-11231 proposes to TEMPORARILY change the place of use for the above described right to:

IRRIGATION (IR)								
Twp	Rng	Mer	Sec	Q - Q	Gov't Lot	TL	Acres	User
1N	10E	WM	1	SW NE	--	301	0.8	DOG RIVER ORCHARDS, LLC
1N	10E	WM	1	SE NE	--	301	1.1	DOG RIVER ORCHARDS, LLC
1N	10E	WM	2	NE SE	--	2000	4.5	TRUMAN & MILDRED GOSS
1N	10E	WM	2	SE SE	--	2000	2.0	TRUMAN & MILDRED GOSS
TOTAL:							8.4	

- Notice of the application for transfer was published on April 19, 2011, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
- Water has been used within the last five years according to the terms and conditions of the rights and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- Diversion structure, district canals, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- The proposed changes would not result in enlargement of the rights.
- The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.570(6) if the Department later finds that the transfer is causing injury to any existing water right.
- The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.

Conclusions of Law

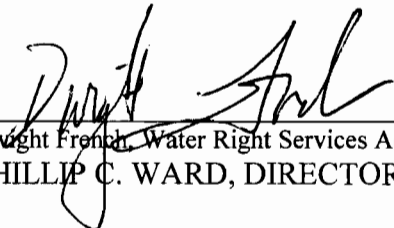
The temporary changes in place of use proposed in Transfer Application T-11231 are consistent with the requirements of ORS 540.570 and OAR 690-385-3000.

Now, therefore, it is ORDERED:

- The proposed, temporary changes to the water rights evidenced by Certificates 81340 and 80929 are approved.
- The temporary transfer is effective for the 2011 irrigation season.

3. The former places of use **shall not** be irrigated as part of these water rights during the 2011 irrigation season.
4. At the end of the 2011 irrigation season all use of water under this temporary transfer shall automatically revert to the terms and conditions of the original water right permit, certificates or adjudication as evidenced by a court decree.
5. 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 rights.
6. The use of water on both the lands from which the water right is transferred and at the new temporary place of use during the same irrigation season or calendar year is prohibited and may subject the district and landowner to civil penalties.
7. A subsequent application for permanent transfer of Certificates 81340 and 80929 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
8. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 81340 and 80929.
9. The use of the remaining water rights described by Certificates 81340 and 80929 shall continue to be in accordance with the terms and conditions of Certificates 81340 and 80929.
10. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
11. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 7 day of July 2011.



Dwight French, Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JUL 08 2011