

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11326, Umatilla County) PERMANENT DISTRICT 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

HERMISTON IRRIGATION DISTRICT
366 E. HURLBURT AVE.
HERMISTON, OR 97838

Findings of Fact

Background

1. On December 12, 2011, Hermiston Irrigation District filed an application to change the place of use under their vested right for irrigation within the boundaries of the irrigation district. The Department assigned the application number T-11326.
2. On April 27, 2012, the Department received an amended application and new maps from Hermiston Irrigation District.
3. The portion of the right to be transferred is as follows:
Water Right: Decree of the Circuit Court of the State of Oregon for Umatilla County, of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242, as modified herein and issued in the name of Hermiston Irrigation District.
Use: Primary and Supplemental Irrigation of 45.35 acres
Priority Date: February 25, 1904, for use of natural flow of the Umatilla River through the Maxwell Canal for primary irrigation and September 6, 1905 for supplemental irrigation from water stored in Cold Springs Reservoir. The waters may be used jointly and interchangeably upon the lands described by the decree.

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 137-004-0080 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.

Rate & Duty: For those lands comprised of loam or fine sand or fine textured soil the amount of water diverted for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 ACRE-FEET for each acre irrigated each year. For those lands comprised of coarse sand or loose gravel subsoil or loose coarse texture soil the amount of water diverted 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) and 6.0 ACRE-FEET for each acre irrigated each year.

Source: UMATILLA RIVER and COLD SPRINGS RESERVOIR, tributary of the COLUMBIA RIVER

Authorized Points of Diversion:

| Twp | Rng | Mer | Sec | Q - Q | Measured Distances |
|-----|-----|-----|-----|-------|-----------------------------------|
| 4N | 28E | WM | 28 | NW SW | Maxwell Canal |
| 4N | 29E | WM | 3 | SE NW | "A" Line Canal / Cold Springs Dam |

Authorized Place of Use:

| PRIMARY & SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-----------------------------------|------|-----|-------|-----------|--------------|----------------------------|--------------|----------|
| Twp | Rng | Sec | Q - Q | Tax Lot # | Acres | User | Duty/(ac-ft) | Notice # |
| 4 N | 28 E | 15 | SE NE | 100 | 5.60 | Burns Properties LLC | 3.0 | 2010-01 |
| 4 N | 28 E | 15 | SE NE | 100 | 4.24 | Burns Properties LLC | 6.0 | 2010-01 |
| 4 N | 28 E | 10 | SW SE | 600 | 5.70 | Umatilla Co. School Dist. | 3.0 | 2010-03 |
| 4 N | 28 E | 10 | SW SE | 600 | 2.70 | Umatilla Co. School Dist. | 6.0 | 2010-03 |
| 5 N | 28 E | 15 | SW NW | 103 | 8.60 | Nielson and Buck | 3.0 | 2011-01 |
| 5 N | 28 E | 15 | NW SW | 102 | 12.00 | Nielson and Buck | 3.0 | 2011-01 |
| 4 N | 28 E | 9 | NE SE | 9500 | 0.31 | Trinidad Alvarez, Sr. | 6.0 | 2011-01 |
| 4 N | 28 E | 12 | SE SW | 802 | 0.50 | Nancylynn Joynes | 3.0 | 2011-01 |
| 5 N | 28 E | 27 | NE NE | 602 | 5.70 | A&K Industrial Development | 6.0 | 2011-02 |
| TOTAL: | | | | | 45.35 | | | |

4. Transfer Application T-11326 proposes to change the place of use of the above described right to:

| PRIMARY & SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-----------------------------------|------|-----|-------|-----------|-------|-----------------------------|--------------|----------|
| Twp | Rng | Sec | Q - Q | Tax Lot # | Acres | User | Duty/(ac-ft) | Notice # |
| 5 N | 28 E | 33 | SE NE | 600 | 4.00 | Steve & Gale Whetsler | 3.0 | 2010-01 |
| 5 N | 28 E | 34 | NW NW | 603 | 1.50 | Derek & Darbie Whitbread | 6.0 | 2010-01 |
| 5 N | 28 E | 34 | SE NW | 604 | 1.50 | Derek & Darbie Whitbread | 6.0 | 2010-01 |
| 4 N | 28 E | 15 | SE SE | 1500 | 1.60 | Thomas & Cheryl Altenberger | 3.0 | 2010-01 |
| 4 N | 28 E | 15 | SE SE | 1700 | 1.24 | Thomas & Cheryl Altenberger | 6.0 | 2010-01 |
| 4 N | 28 E | 10 | SW SE | 600 | 5.70 | Umatilla Co. School Dist. | 3.0 | 2010-03 |
| 4 N | 28 E | 10 | SW SE | 600 | 2.70 | Umatilla Co. School Dist. | 6.0 | 2010-03 |
| 5 N | 28 E | 26 | SE SE | 100 | 0.31 | Poverty Acres, Inc. | 6.0 | 2011-01 |
| 5 N | 28 E | 26 | SE SE | 100 | 7.18 | Poverty Acres, Inc. | 3.0 | 2011-01 |

| PRIMARY & SUPPLEMENTAL IRRIGATION | | | | | | | | |
|-----------------------------------|------|----|-------|-----|--------------|----------------------------|-----|---------|
| 5 N | 28 E | 26 | SW SE | 200 | 13.92 | W. Bryan & Lou Wolfe | 3.0 | 2011-01 |
| 5 N | 28 E | 27 | NW NE | 609 | 5.00 | A&K Industrial Development | 6.0 | 2011-02 |
| 5 N | 28 E | 27 | NW NE | 610 | 0.70 | A&K Industrial Development | 6.0 | 2011-02 |
| Total: | | | | | 45.35 | | | |

4. Notice of the application for transfer was published on December 20, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The district transfer application satisfies the criteria of ORS 540.580 and OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
6. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
7. The proposed change in place of use would not result in enlargement of the rights.
8. The proposed change in place of use would not result in injury to other rights.

Conclusions of Law

The proposed change in place of use in Transfer Application T-11326 satisfies the requirements of ORS 540.574(3) and 540.580. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

Now, therefore, it is ORDERED:

1. The proposed change in place of use to the District's vested water right evidenced by Decree of the Circuit Court of the State of Oregon for Umatilla County, of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242 is approved.
2. The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in the District's water rights, related decree, and the Final Order approving T-11326.
3. The former places of use shall no longer be irrigated as part of this water right.
4. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
5. The proposed change shall be completed on or before **October 1, 2013**. A Claim of Beneficial Use and Final Proof Map shall be submitted by Hermiston Irrigation District to the Department by October 1, 2014.
6. The District's vested water right evidenced by Decree of the Circuit Court of the State of Oregon for Umatilla County, of record at Salem, in the Order Record of the Water Resources Director, in Volume 3, at Page 242 is modified. The Department will issue a

superseding Certificate describing the right when it is determined that it is necessary for record keeping.

Dated at Salem, Oregon this 1 day of June, 2012.


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

Mailing date: JUN 07 2012