

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10297, Jefferson County) **APPROVING A DISTRICT**
) **PERMANENT TRANSFER**

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
2024 NW BEECH STREET
MADRAS, OREGON 97741

Findings of Fact

Background

1. On January 12, 2007, North Unit Irrigation District filed a district transfer application to change the place of use under Certificates 72279, 72281 and 72283. The Department assigned the application number T-10297.
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
Use: Irrigation
Acres: 87.90
Priority Date: February 28, 1913
Rate & Duty: Maximum of 1/40 cfs per acre & 5.25 acre-feet per acre per year.
Source: Deschutes River, Wickiup and Haystack Reservoirs, tributary to 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	SURVEY COORDINATES
17 S	12 E	WM	29	SE NE	DESCHUTES RIVER: 1,700 FEET SOUTH AND 730 FEET WEST FROM NE CORNER OF SECTION 29
22 S	9 3	WM	7	SW NE	WICKIUP RESERVOIR
12 S	13 E	WM	27	SW NE	HAYSTACK RESERVOIR

Authorized Place of Use:

AUTHORIZED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT #
10 S	13 E	WM	18	NE NE	100	4.00	CAMPBELL	06-18
10 S	13 E	WM	24	NW NE	200	4.00	SIEGENHAGEN REV TRUST	06-17
10 S	14 E	WM	20	SW SW	400	1.80	YOUNG LIVE ESTATE	06-07
11 S	13 E	WM	1	SE NE	500	9.40	CARPENTER	06-11
11 S	13 E	WM	1	SE NE	1000	7.90	CASCADE NW ESTATES	06-21
11 S	13 E	WM	1	NE SE	1400	34.90	CASCADE NW ESTATES	06-21
11 S	13 E	WM	1	NW SE	300	1.40	NUID	06-09
11 S	13 E	WM	1	NW SE	400	0.60	NUID	06-09
11 S	13 E	WM	23	NW NE		4.10	ODOT	06-02
11 S	14 E	WM	6	SW NW	100	0.90	CASCADE NW ESTATES	06-16
12 S	12 E	WM	35	NE SE	400	0.70	ALLEY	06-19
12 S	13 E	WM	15	NE SE	700	0.80	BARRY	06-20
12 S	13 E	WM	17	NE SW	1800	17.40	FIELDCREST INVESTMENTS	06-06
TOTAL:						87.90		

4. Application T-10059 proposed to change the place of use to:

PROPOSED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT #
10 S	13 E	WM	24	NW NE	200	4.00	SIEGENHAGEN REV TRUST	06-18
10 S	13 E	WM	33	NE NE	100	22.60	CITY OF MADRAS	06-21
10 S	13 E	WM	33	NW NE	100	20.20	CITY OF MADRAS	06-21
10 S	13 E	WM	35	NE SW	100	4.00	CITY OF MADRAS	06-17
10 S	14 E	WM	20	NW NW	300	1.80	PIZZA & YOUNG	06-07
10 S	14 E	WM	29	SE SE	1000	0.90	KING	06-16
11 S	13 E	WM	23	NE NE	100	1.70	MILLER	06-02
11 S	13 E	WM	23	NW NE	100	2.40	MILLER	06-02
12 S	12 E	WM	2	NE SE	800	2.00	CLOUD	06-09
12 S	12 E	WM	35	NE SE	400	0.70	ALLEY	06-19
12 S	13 E	WM	2	SE SW	500	9.40	CARPENTER	06-11
12 S	13 E	WM	15	NE SW	700	0.80	BARRY	06-20

PROPOSED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT #
13 S	13 E	WM	32	SE NE	102	17.40	BAIN	06-06
TOTAL:						87.90		

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

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

Use: Irrigation

Acres: 83.90

Priority Date: September 18, 1968

Rate & Duty: Maximum of 1/40 cfs per acre and 4.0 acre-feet per acre per year.

Source: Crooked River, tributary to Deschutes River.

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

Authorized Place of Use:

AUTHORIZED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT#
10 S	14 E	WM	20	NE SW	400	3.20	YOUNG LIFE ESTATE	06-07
11 S	13 E	WM	1	SE NE	500	0.30	CARPENTER	06-11
11 S	13 E	WM	1	SE NE	1000	0.50	CASCADE NW ESTATES	06-21
11 S	13 E	WM	1	NE SE	1400	4.40	CASCADE NW ESTATES	06-21
11 S	14 E	WM	6	SW NW	201	0.20	SCHMIDT	06-22
12 S	12 E	WM	2	NE SE	800	0.60	CLOUD	06-08
12 S	13 E	WM	2	SE SW	500	6.70	CARPENTER	06-10
12 S	13 E	WM	2	SE SW	500	2.70	CARPENTER	06-12
13 S	13 E	WM	32	SE NE	102	5.00	BAIN	06-03
13 S	13 E	WM	32	SE NE	102	7.00	BAIN	06-04
13 S	13 E	WM	32	SE NE	102	5.40	BAIN	06-05
TOTAL:						36.00		

6. Application T-10059 proposes to change the place of use to:

PROPOSED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT#
10 S	13 E	WM	35	NE SW	100	0.50	CITY OF MADRAS	06-21
10 S	13 E	WM	35	NW SW	100	3.90	CITY OF MADRAS	06-21
10 S	13 E	WM	35	SE SW	100	0.50	CITY OF MADRAS	06-21
10 S	14 E	WM	20	SW NW	300	3.20	PIZZA & YOUNG	06-07
10 S	14 E	WM	21	SW NW	500	6.70	SMITH	06-10
11 S	13 E	WM	1	SE NE	500	0.30	CARPENTER	06-11
11 S	13 E	WM	1	SE NE	500	2.70	CARPENTER	06-12

PROPOSED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT#
11 S	13 E	WM	13	SE NW	402	5.40	BEEBEE	06-05
11 S	13 E	WM	14	NE SE	101	0.20	KELLER	06-22
12 S	13 E	WM	6	SE NW	201	0.60	MILLER	06-08
12 S	13 E	WM	31	NW NW	900	5.00	GUNNELL	06-03
13 S	13 E	WM	28	SW NW	400	7.00	CAMPBELL	06-04
TOTAL:						36.00		

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

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

Use: Supplemental Irrigation

Acres: 87.90

Priority Date: June 23, 1955

Rate & Duty: Maximum of 1/40 cfs per acre, and 4.0 acre-feet per acre per year.

Source: Crooked River, tributary to Deschutes River.

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

Authorized Place of Use:

AUTHORIZED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT#
10 S	13 E	WM	18	NE NE	100	4.00	CAMPBELL	06-18
10 S	14 E	WM	20	SW SW	400	1.80	YOUNG LIVE ESTATE	06-07
11 S	13 E	WM	1	SE NE	500	9.40	CARPENTER	06-11
11 S	13 E	WM	1	SE NE	1000	7.90	CASCADE NW ESTATES	06-21
11 S	13 E	WM	1	NE SE	1400	34.90	CASCADE NW ESTATES	06-21
11 S	13 E	WM	1	NW SE	300	1.40	NUID	06-09
11 S	13 E	WM	1	NW SE	400	0.60	NUID	06-09
11 S	13 E	WM	23	NW NE		4.10	ODOT	06-02
11 S	14 E	WM	6	SW NW	100	0.90	CASCADE NW ESTATES	06-16
12 S	12 E	WM	35	NE SE	400	0.70	ALLEY	06-19
12 S	13 E	WM	15	NE SE	700	0.80	BARRY	06-20
12 S	13 E	WM	17	NE SW	1800	17.40	FIELDCREST INVESTMENTS	06-06
TOTAL:						83.90		

8. Application T-10059 proposes to change the place of use to:

PROPOSED PLACE OF USE								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	NOT #
10 S	13 E	WM	24	NW NE	200	4.00	SIEGENHAGEN REV TRUST	06-18
10 S	13 E	WM	33	NE NE	100	22.60	CITY OF MADRAS	06-21
10 S	13 E	WM	33	NW NE	100	20.20	CITY OF MADRAS	06-21
10 S	14 E	WM	20	NW NW	300	1.80	PIZZA & YOUNG	06-07
10 S	14 E	WM	29	SE SE	1000	0.90	KING	06-16
11 S	13 E	WM	23	NE NE	100	1.70	MILLER	06-02
11 S	13 E	WM	23	NW NE	100	2.40	MILLER	06-02
12 S	12 E	WM	2	NE SE	800	2.00	CLOUD	06-09
12 S	12 E	WM	35	NE SE	400	0.70	ALLEY	06-19
12 S	13 E	WM	2	SE SW	500	9.40	CARPENTER	06-11
12 S	13 E	WM	15	NE SW	700	0.80	BARRY	06-20
13 S	13 E	WM	32	SE NE	102	17.40	BAIN	06-06
TOTAL:						83.90		

Portion of Water Use Permit Not to be Perfected

9. North Unit Irrigation District identified that the owner of lands to which a portion of Water Use Permit S-47284 is appurtenant will not perfect the following described portion of the water use permit due to the proposed place of use for Certificate 82283 under Notice of District Permanent Transfer (NOT #) 06-22:

Permit: S-47284, issued in the name of North Unit Irrigation District

Use: Irrigation

Acres: 0.20

Priority Date: October 21, 1982

Rate & Duty: Maximum of 1/40 cfs per acre & 4.0 acre-feet per acre per year.

Source: Crooked River, tributary to Deschutes River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	SURVEY COORDINATES
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2,790 FEET EAST FROM THE W¼ CORNER OF SECTION 13

Authorized Place of Use:

PLACE OF USE NOT TO BE PERFECTED – WATER USE PERMIT 47284								
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER	
11 S	13 E	WM	14	NE SE	101	0.20	KELLER	

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
14. The application was not filed prior to the end of the calendar year in which the changes occur as required under ORS 540.580(2). However, the District had notified the Department of the proposed 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 application 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.

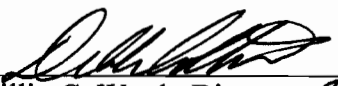
Conclusions of Law

The proposed changes in place of use in Transfer Application T-10059 satisfy the requirements of ORS 540.574(3) and 540.580, with the exception that the application was not received prior to the end of the calendar year in which a change in place of use occurs as required under ORS 540.580(2). See *Finding of Fact #13*.

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, 2009.
5. The portion of Water Use Permit S-47284 described in *Finding of Fact #9* shall not be perfected under the terms and conditions of the water use permit.
6. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2010.
7. Certificates 72279, 72281 and 72283 are modified. The Department will issue a superseding certificate on a determination that it is necessary to produce a certificate describing the right.

Dated at Salem, Oregon this 13th day of November, 2008.


Phillip C. Ward, Director *PCW*

Mailing Date: NOV 18 2008