

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

In the Matter of the Completion of a Change)
in Place of Use Under Transfer Application)
T-11958, Malheur County) DETERMINATION OF
SATISFACTORY PROOF OF
COMPLETION FOR A PERMANENT
DISTRICT TRANSFER

Authority

Oregon Administrative Rule (OAR) 690-385-7400 describes the documentation the district must file with the Department in order to provide proof of use.

OAR 690-385-7600 provides in pertinent part that satisfactory proof shall be (a) a determination by the Department that application of water to beneficial use under the terms of the transfer final order was completed to the extent authorized, or (b) a determination by the Department that the application of water to a beneficial use under the terms of the transfer final order was completed to an extent less than authorized.

Oregon Revised Statute (ORS) 540.530(2)(a) and OAR 690-385-7600 authorize the Department to issue or modify a certificate of water right upon satisfactory proof of completion of the change or changes authorized by a final order approving a permanent district transfer.

Applicant

OWHYHEE IRRIGATION DISTRICT
17 SOUTH FIRST ST
NYSSA, OR 97913

Findings of Fact

1. On June 17, 2015, the Department signed a final order, which was mailed on June 19, 2015, and recorded in Special Order Volume 96, Pages 254-257, approving Transfer Application T-11958 involving Certificate 75691. The final order established October 1, 2016, as the date for completion of the authorized changes in place of use.
2. On September 21, 2017, the Department signed a correcting superseding a final order, which was mailed on September 26, 2017, and recorded in Special Order Volume 105, Pages 798-802, to correct scriveners' errors in the final order recorded in Special Order Volume 96, Pages 254-257.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

3. On January 10, 2017, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-11958 satisfying the requirements for proof of use under OAR 690-385-7400.
4. On November 7, 2013, the Department received a superseding map and site report for one the parcels to a scrivener's error.
5. The Department reviewed the CBU and maps submitted by the applicant for Transfer Application T-11958.
6. The CBU did not contain a map of the point of diversion from the source. However, since the transfer involved the transfer of places of use only within an irrigation district and did not involve a change in the point of diversion, the existing maps on file with the Department are sufficient to identify the point of diversion from the source.
7. The proposed place of use for Certificate 75691 as approved in the correcting superseding a final order for Transfer Application T-11958, and as recorded in Special Order Volume 105, Pages 798-802 is shown in Table 1, below:

Table 1:

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice#
20S	45E	WM	13	SW NE	2.36	300	Bennett, Norman	14-25600
20S	45E	WM	13	NW SE	10.23	300	Bennett, Norman	14-25600
20S	45E	WM	13	SW SE	1.57	300	Bennett, Norman	14-25600
20S	45E	WM	35	SW NE	1.00	300	Hatfield, Kenneth	14-17300
20S	45E	WM	35	SE NE	3.06	300	Hatfield, Kenneth	14-17300
20S	45E	WM	35	NE SE	4.31	300	Hatfield, Kenneth	14-17300
20S	45E	WM	35	NW SE	2.17	300	Hatfield, Kenneth	14-17300
20S	45E	WM	36	SW SW	0.96	500	Bennett, Norman	14-25600
20S	45E	WM	36	SW SW	0.30	500	Bennett, Norman	14-25600
20S	45E	WM	36	SW SW	0.40	500	Bennett, Norman	14-25600
20S	46E	WM	3	SE NE	0.30	500	Froerer Family	14-27300
20S	46E	WM	4	SW NW	0.29	300	Brown, Garrett	14-27404
20S	46E	WM	4	NW SW	2.68	300	Brown, Garrett	14-27404
20S	46E	WM	18	SW NW	0.55	400 ¹	Bennett, Norman	14-25600
20S	46E	WM	18	NW SW	5.78	400 ¹	Bennett, Norman	14-25600
20S	46E	WM	20	NE NW	7.23	200	Tullett, Todd	14-25900
20S	46E	WM	30	NW SW	1.49	900	Garner Trust	14-22700
21S	46E	WM	5	SW SW	9.18	700	Cruickshank, Chad	14-4101
21S	46E	WM	5	SE SW	0.20	700	Cruickshank, Chad	14-4101
21S	46E	WM	8	NW NW	1.13	700	Cruickshank, Chad	14-4101
17S	47E	WM	16	NE SW	0.70	1000	Stirm, Joseph	14-66500
17S	47E	WM	16	NW SW	2.30	1000	Stirm, Joseph	14-66500
Total:					58.19			

¹ This tax lot was incorrectly listed as 300 in the Final Order recorded in Special Order Volume 105, Pages 798-802. The correct tax lot for this parcel is 400.

8. Based on the review of evidence submitted by the applicant, the Department finds that the application of water to beneficial use under the terms of the transfer final order for T-11958 was completed to the extent authorized in the transfer as described in Table 1.

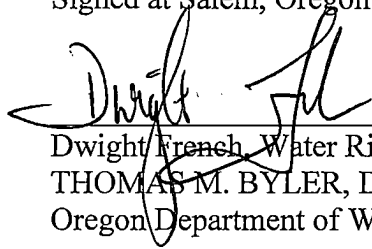
Conclusions of Law

1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.
2. Application of water to a beneficial use under the terms of the transfer final order has been made to the extent shown in Table1, above.
3. The applicant has demonstrated proof of completion under T-11958 to the satisfaction of the Department.
4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-11958 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

1. Water right Certificates 75691 is modified as shown in Table 1, above. The Department will issue a superseding certificate describing this right when it determines it is necessary for record keeping.

Signed at Salem, Oregon on NOV 15 2018



Dwight French
Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing date: NOV 16 2018