

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

In the Matter of Transfer Application)
T-10748, Hood River County)
)
) FINAL ORDER APPROVING A
) DISTRICT PERMANENT TRANSFER
) AND PARTIAL CANCELLATION OF
) CERTAIN WATER RIGHTS

Authority

ORS 540.570 and 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

EAST FORK IRRIGATION DISTRICT
PO BOX 162
ODELL, OR 97044

Findings of Fact

Background

1. On December 11, 2008, East Fork Irrigation District filed a district transfer application to permanently change the place of use under Certificate 81340. The Department assigned the application number T-10748.
2. On February 6, 2009, the Department received an amendment to the application and map identifying 6.4 acres involved in Transfer Application T-10748.
3. The portion of the right to be transferred is as follows:

Certificate: 81340 in the name of East Fork Irrigation District

Use: Irrigation of 6.40 acres

Priority Date: November 25, 1895

Source: East Fork Hood River, a tributary of 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	Lot	Q - Q	Measured Distance
1 S	10 E	WM	4	1	NW SW	3750 Feet South and 430 Feet East from the NW Corner of Section 4

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Sec	Q - Q	TL	Acres	User	Notice #
2 N	10 E	22	SE SE	300	0.05	FREDDY & LINDSEY ENRIQUEZ	2008-01
2 N	10 E	22	SE SE	400	0.45	TIMOTHY & JANELL WINGRED	2008-01
2 N	10 E	24	SE NE	300	0.20	FRANK & LUELLA HERMAN	2008-01
2 N	10 E	25	SE NW	1302	2.10	MARLETTO GROUP, LLC	2008-01
2 N	10 E	25	NE SW	1009	1.00	HANEL DEVELOPMENT, LLC	2008-01
2 N	10 E	26	NE NW	407	1.70	HRV GROUP, INC.	2008-01
2 N	11 E	18	SE SW	2900	0.90	LAGE ORCHARDS, INC.	2008-01
Total:					6.40		

4. Transfer Application T-10748 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION							
Twp	Rng	Sec	Q - Q	TL	Acres	User	Notice #
2 N	11 E	7	NE NE	201	0.50	LEE JENKINS & LINDA KREMIN	2008-01
2 N	11 E	7	SW SW	2400	0.70	LA LA PROPERTIES, LLC.	2008-01
2 N	11 E	18	NW NE	100	1.20	LA LA PROPERTIES, LLC.	2008-01
2 N	11 E	18	SW NE	100	3.30	LA LA PROPERTIES, LLC.	2008-01
2 N	11 E	18	SE NW	1500	0.70	LAGE ORCHARDS, INC.	2008-01
Total:					6.40		

5. Notice of the application for transfer was published on December 23, 2008, pursuant to ORS 540.580 and OAR 690-385-3400. No comments were filed in response to the notice.
6. The water right is 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 right.
8. The proposed change in place of use will not result in injury to other water rights.
9. 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.

Partial Cancellation of Certain Water Rights

10. On April 30, 2009, Del Vanderhoff, President of Vanco Enterprises, Inc., owner of lands to which a portion of Certificate 1668 is appurtenant, submitted a voluntary cancellation

requesting partial cancellation of Certificate 1668. Certificate 1668 has been identified as an additional “layered” primary water right on a portion of the “FROM” lands.

The portion of the water right to be cancelled is described as follows:

Certificate: 1668 in the name of WILLIAM ASHLEY SUNDAY, c/o L.C. Heizer
(perfected under Permit S-2389)

Use: IRRIGATION of 1.0 ACRE

Priority Date: April 20, 1915

Amount: 0.0125 cubic foot per second (cfs)

Source: SHELLEY SPRINGS and CREEK, tributary of NEAL CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	10 E	WM	25	SE SW	South 1 Degree West, 470 Feet from the SE Corner of the NE¼ SW¼ of Section 25

Twp	Rng	Mer	Sec	Q - Q	TL#	Acres
2 N	10 E	WM	25	NE SW	1009	1.0

- On June 15, 2009, Jenni Lott and Brad Amer of Marletto Group, LLC., owners of lands to which a portion of Certificate 3846 is appurtenant, submitted a voluntary cancellation requesting partial cancellation of Certificate 3846. Certificate 3846 has been identified as an additional “layered” primary water right on a portion of the “FROM” lands.

The portion of the water right to be cancelled is described as follows:

Certificate: 3846 in the name of WILLIAM ASHLEY SUNDAY

Use: IRRIGATION of 4.7 ACRES, DOMESTIC and STOCK

Priority Date: March 1901

Amount: 0.056 cfs

Source: NEAL CREEK, tributary of HOOD RIVER

Twp	Rng	Mer	Sec	Q - Q	TL#	Acres
2 N	10 E	WM	25	SE NW	1302	4.6
2 N	10 E	WM	25	NE SW	1302	0.1
Total:						4.7


Conclusions of Law

The change in place of use as proposed in Transfer Application T-10748 satisfies the requirements of ORS 540.574(3) and 540.580 and the abandoned rights should be cancelled.

Now, therefore, it is ORDERED:

1. The proposed change to the District's water right evidenced by Certificate 81340 is approved. The portions of the rights described in Findings of Fact #10 and #11 that have been abandoned are cancelled.
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 Certificate 81340, any related decree and the Final Order approving T-10748.
3. The former places of use shall no longer be irrigated as part of this water right.
4. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2010.
7. A Claim of Beneficial Use (COBU) shall be submitted by East Fork Irrigation District to the Department by October 1, 2011.
8. Water right certificate 81340 is modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping. New certificates will be issued describing those portions of water right Certificates 1668 and 3846 not affected by the cancellation and this transfer.

Dated at Salem, Oregon this 18th day of August, 2009.


Phillip C. Ward, Director *PC*

Mailing Date: AUG 26 2009