

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13311, Jackson County)	A DISTRICT PERMANENT TRANSFER FOR
)	PLACE OF USE AND PARTIAL DIMINUTION
		OF WATER RIGHT

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

TALENT IRRIGATION DISTRICT
PO BOX 467
TALENT, OR 97540

Findings of Fact

1. On December 16, 2019, Talent Irrigation District (TID) filed a district transfer application to permanently change the place of use under Certificates 79212 and 83727. The Department assigned the application number T-13311.
2. Notice of the District Permanent Transfer Application was published on December 24, 2019, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The U.S. Bureau of Reclamation was notified of the transfer application on January 21, 2020; no comments were received within 90 days of the notification.
4. On April 10, 2020, the Department received an amended map for the proposed place of use located in Township 38 South, Range 1 West, Section 24, NWSW, W.M..
5. The portion of the first right to be transferred is as follows:
Certificate: 79212, in the name of TALENT IRRIGATION DISTRICT (perfected under Permits S-1382, S-1383, and S-4537)
Use: PRIMARY IRRIGATION of 6.58 ACRES

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

Rate & Duty: The amount of water used for irrigation, together with the amount secured under any other prior right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) for each acre irrigated during the irrigation season of each year.

Authorized Source, Tributaries (Trib.), Priority Date, and Points of Diversion:

Source	Trib.	Priority Date	Twp	Rng	Mer	Sec	Q-Q	Measured Distances/Description
Emigrant Creek	Bear Creek	05/23/1912	39 S	2 E	WM	20	SE SE	POINT OF DIVERSION IS LOCATED AT THE TOE OF EMIGRANT DAM
McDonald Creek	Little Applegate River	08/20/1915	40 S	1 W	WM	10	SE SE	INTO MCDONALD CREEK CANAL; 700 FEET NORTH AND 300 FEET WEST FROM THE SE CORNER OF SECTION 10
Greeley Creek	Little Applegate River	08/20/1915	40 S	1 W	WM	3	NW SE	INTO MCDONALD CREEK CANAL; 2400 FEET NORTH AND 2300 FEET WEST FROM THE SE CORNER OF SECTION 3
Bear Creek	Rogue River	07/31/1915	38 S	1 E	WM	33	SE SW	OAK STREET DAM; 150 FEET NORTH AND 2020 FEET EAST FROM THE SW CORNER OF SECTION 33
Neil Creek	Bear Creek	07/31/1915	39 S	2 E	WM	30	SE SW	ASHLAND LATERAL; 600 FEET NORTH AND 1350 FEET EAST FROM THE SW CORNER OF SECTION 30
Ashland Creek	Bear Creek	07/31/1915	39 S	1 E	WM	4	NE NW	710 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 4
Emigrant Creek	Bear Creek	07/31/1915	40 S	2 E	WM	2	SW NE	ASHLAND LATERAL; 520 FEET NORTH AND 1900 FEET WEST FROM THE E1/4 CORNER OF SECTION 2
Wagner Creek	Bear Creek	07/31/1915	39 S	1 W	WM	2	SW SE	UPPER WEST LATERAL; 100 FEET NORTH AND 1800 FEET WEST FROM THE SE CORNER OF SECTION 2
Wagner Creek	Bear Creek	07/31/1915	38 S	1 W	WM	35	SE SW	WEST LATERAL; 600 FEET NORTH AND 3600 FEET WEST FROM THE SE CORNER OF SECTION 35
Anderson Creek	Bear Creek	07/31/1915	38 S	1 W	WM	33	NE SE	2100 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF SECTION 33
Anderson Creek	Bear Creek	07/31/1915	38 S	1 W	WM	34	NE NW	WEST LATERAL; 800 FEET SOUTH AND 2400 FEET EAST FROM THE NW CORNER OF SECTION 34
Anderson Creek	Bear Creek	07/31/1915	38 S	1 W	WM	27	NE NW	TALENT MIDDLE CANAL; 4000 FEET NORTH AND 2500 FEET EAST FROM THE SW CORNER OF SECTION 27
Coleman Creek	Bear Creek	09/06/1915	38 S	1 W	WM	20	SE NW	2100 FEET SOUTH AND 1500 FEET EAST FROM THE NW CORNER OF SECTION 20
Coleman Creek	Bear Creek	09/06/1915	38 S	1 W	WM	17	SE SE	TALENT MIDDLE CANAL; 900 FEET NORTH AND 1100 FEET WEST FROM THE SE CORNER OF SECTION 17
Kenutchen Creek (Knudsen Creek)	Bear Creek	09/06/1915	38 S	1 E	WM	18	SW NW	1450 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 18
Meyers Creek (Myers Creek)	Bear Creek	09/06/1915	38 S	1 E	WM	20	SE SE	700 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF SECTION 20

Source	Trib.	Priority Date	Twp	Rng	Mer	Sec	Q-Q	Measured Distances/Description
Butler Creek	Bear Creek	09/06/1915	38 S	1 E	WM	28	SE NW	2500 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 28
Keene Creek and Keene Creek Reservoir (Hyatt Reservoir)	Jenny Creek	05/23/1912	--	--	--	--	--	SOURCES ARE TRIBUTARIES OF JENNY CREEK IN THE KLAMATH RIVER BASIN. LIMITED TO 100 CFS
Keene Creek	Jenny Creek	09/06/1915	39 S	3 E	WM	16	SE SE	HYATT RESERVOIR; 15 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 16
Keene Creek	Jenny Creek	09/06/1915	39 S	3 E	WM	20	SE SE	REDIVERSION-LITTLE HYATT POOL DIVERSION; 800 FEET NORTH AND 750 FEET WEST FROM THE SE CORNER OF SECTION 20
Keene Creek	Jenny Creek	09/06/1915	39 S	3 E	WM	33	SW SW	REDIVERSION AT KEENE CREEK DIVERSION DAM (beginning point of Green Springs Tunnel); 1200 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 33
Emigrant Reservoir	Emigrant Creek	01/27/1920	39 S	2 E	WM	20	SE SE	POINT OF DIVERSION IS LOCATED AT THE TOE OF EMIGRANT DAM

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres	Taxlot	Water User	Notice
38 S	1 E	WM	27	NW NW			3.50	300	ELK HAVEN LLC	18-5
38 S	1 E	WM	27	SW NW			0.80	300	ELK HAVEN LLC	18-5
38 S	1 E	WM	28	SE NE			0.70	300	ELK HAVEN LLC	18-5
38 S	1 W	WM	2	SE NE			0.42	200	MCQUEEN TRUST	18-7
38 S	1 W	WM	2	NE SE			0.08	200	MCQUEEN TRUST	18-7
38 S	1 W	WM	10	NW NE	3		0.93	100	ARROWHEAD RANCH HOLDING	18-2
39 S	2 E	WM	19	SE NW		41	0.15	504	TRAYNOR TRUST	19-1
TOTAL							6.58			

6. Transfer Application T-13311 proposes to change the place of use to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres	Taxlot	Water User	Notice
38 S	1 E	WM	27	SW NW			5.00	304	ELK HAVEN LLC	18-5
38 S	2 W	WM	2	SE NW		40	0.50	2300	HANCOCK	18-7
39 S	2 E	WM	19	NE SW		41	0.15	504	TRAYNOR TRUST	19-1
39 S	2 E	WM	34	NE SW			0.93	700	BUCKHORN HILL LLC	18-2
TOTAL							6.58			

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

Certificate: 83727 in the name of U. S. Bureau of Reclamation (perfected under Permit S-25915)

Use: PRIMARY IRRIGATION OF 13.85 ACRES and SUPPLEMENTAL IRRIGATION of 6.58 ACRES

Rate & Duty: The amount of water used 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 4.5 acre-feet for each acre irrigated during the irrigation season of each year, PROVIDED that the combined uses of water under permits 25915 and 25916, and all certificates issued in respect thereto, shall not exceed the maximum rate listed for each source above, at any one point in time.

Authorized Source, Tributaries, and Points of Diversion:

Source	Tributary	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Emigrant Creek and Emigrant Reservoir	Bear Creek	39 S	2 E	WM	20	SE SE	The point of diversion is located at the outlet of Emigrant Reservoir.
South Fork Little Butte Creek	Little Butte Creek	37 S	4 E	WM	16	SE SE	1240 FEET NORTH AND 1100 FEET WEST FROM THE SE 1/4 CORNER OF SECTION 16
Conde Creek	South Fork Little Butte Creek	38 S	3 E	WM	9	SW SW	1320 FEET NORTH AND 600 FEET EAST FROM THE SW CORNER OF SECTION 9
Dead Indian Creek	South Fork Little Butte Creek	38 S	3 E	WM	15	SE SW	1310 FEET NORTH AND 1100 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 15
Daley Creek	South Fork Little Butte Creek	37 S	4 E	WM	34	SW SE	750 FEET NORTH AND 480 FEET EAST FROM THE SOUTH 1/4 CORNER OF SECTION 34
Beaver Dam Creek	South Fork Little Butte Creek	38 S	4 E	WM	4	NE SW	2000 FEET NORTH AND 1800 FEET EAST FROM THE SW CORNER OF SECTION 4
Pole Bridge Creek	South Fork Little Butte Creek	37 S	4 E	WM	28	SE NW	1380 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 28
Deadwood Creek	South Fork Little Butte Creek S	38 S	4 E	WM	6	NE SE	Not specified on certificate.
Keene Creek and Keene Creek Reservoir	Jenny Creek	39 S	3 E	WM	16	SE SE	HYATT RESERVOIR; 15 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 16
Keene Creek and Keene Creek Reservoir	Jenny Creek	39 S	3 E	WM	20	SE SE	REDIVERSION AT LITTLE HYATT POOL DIVERSION; 800 FEET NORTH AND 750 FEET WEST FROM THE SE CORNER OF SECTION 20
Keene Creek and Keene Creek Reservoir	Jenny Creek	39 S	3 E	WM	33	SW SW	KEENE CREEK DIVERSION DAM (beginning of Green Springs Tunnel); 1200 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 33
Grizzly Creek and Howard Prairie Reservoir	Jenny Creek	38 S	4 E	WM	32	E1/2 of SW1/4	Not specified on certificate
Soda Creek	Grizzly Creek	39 S	4 E	WM	8	SW NW	2200 FEET SOUTH AND 60 FEET EAST FROM THE NW CORNER OF SECTION 8
Little Beaver Creek	Jenny Creek	39 S	4 E	WM	19	SE SW	600 FEET NORTH AND 1930 FEET EAST FROM THE SW CORNER OF SECTION 19

Authorized Place of Use:

PRIMARY IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	Glot	DLC	Acres	Taxlot	Water User	Notice
37 S	1 W	WM	26	SW SE			6.68	104	MAHAR/DUKE QUAIL RUN LLC	19-1
37 S	1 W	WM	27	SE SE			3.07	1202	CRYSTAL SPRINGS JVG	18-2
38 S	1 W	WM	3	NE NW	9		3.00	400	HAYA ENTERPRISE	18-6
39 S	2 E	WM	19	SE NW	41		1.10	504	TRAYNOR TRUST	19-1
TOTAL							13.85			

SUPPLEMENTAL IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	Glot	DLC	Acres	Taxlot	Water User	Notice
38 S	1 E	WM	27	NW NW			3.50	300	ELK HAVEN LLC	18-5
38 S	1 E	WM	27	SW NW			0.80	300	ELK HAVEN LLC	18-5
38 S	1 E	WM	28	SE NE			0.70	300	ELK HAVEN LLC	18-5
38 S	1 W	WM	2	SE NE			0.42	200	MCQUEEN TRUST	18-7
38 S	1 W	WM	2	NE SE			0.08	200	MCQUEEN TRUST	18-7
38 S	1 W	WM	10	NW NE	3		0.93	100	ARROWHEAD RANCH HOLDING	18-2
39 S	2 E	WM	19	SE NW		41	0.15	504	TRAYNOR TRUST	19-1
TOTAL							6.58			

8. Transfer Application T-13311 proposes to change the place of use to:

Proposed Place of Use:

PRIMARY IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	Glot	DLC	Acres	Taxlot	Water User	Notice
38 S	1 W	WM	24	NW SW	4		3.00	200	JARAMILLO	18-6
39 S	2 E	WM	19	SE NW		41	0.80	504	TRAYNOR TRUST	19-1
39 S	2 E	WM	19	NE SW		41	6.98	504	TRAYNOR TRUST	19-1
39 S	2 E	WM	34	NE SW			1.07	700	BUCKHORN HILL LLC	18-2
39 S	2 E	WM	34	NW SW			2.00	800	BUCKHORN HILL LLC	18-2
TOTAL							13.85			

SUPPLEMENTAL IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	Glot	DLC	Acres	Taxlot	Water User	Notice
38 S	1 E	WM	27	SW NW			5.00	304	ELK HAVEN LLC	18-5
38 S	2 W	WM	2	SE NW		40	0.50	2300	HANCOCK	18-7
39 S	2 E	WM	19	NE SW		41	0.15	504	TRAYNOR TRUST	19-1
39 S	2 E	WM	34	NE SW			0.93	700	BUCKHORN HILL LLC	18-2
TOTAL							6.58			

9. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.

10. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.

11. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
12. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
13. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Partial Diminution of Certificate 37488

14. A portion of water right Certificate 37488 is appurtenant to a portion of the proposed place of use under Certificate 83727. Therefore, to avoid layering of two primary water rights for irrigation, a portion lands under Certificate 37488 will be diminished to supplemental irrigation as a result of this order.
15. On March 9, 2020, Kerri L. Traynor, Trustee of the Kerri L. Traynor Trust, U.T.A.D., August 13, 2010, owner of lands to which a portion of Certificate 37488 is appurtenant, submitted an affidavit requesting a portion of Certificate 37488 be diminished from primary irrigation to supplemental irrigation. The portion to be diminished is described as follows:

Certificate: 37488 in the name of J. W. McDonough (confirmed by decree of the Circuit Court of the State of Oregon for Jackson County)

Use: IRRIGATION of 5.88 ACRE

Priority Date: 1854

Rate: 0.072 CUBIC FOOT PER SECOND

Source: NEIL CREEK, tributary of BEAR CREEK

Place of Use to be diminished:

DIMINUTION FROM PRIMARY IRRIGATION ON CERTIFICATE 37488							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot
39 S	2 E	WM	19	NE SW	41	5.88	504

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13311 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the portion of the right requested to be diminished from primary to supplemental irrigation should be diminished.


Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 79212 and 83727 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use not modified by this order and is subject to all other conditions and limitations contained in Certificates 79212 and 83727, and any related decree.
3. The place of use from which the water right is removed by T-13311 shall no longer be irrigated under the transferred right.

4. The portion of the water right for the use of 0.072 cfs for irrigation on 5.88 acres, as described by Certificate 37488, is diminished from a right for primary irrigation to a right for supplemental irrigation. The Department shall issue a new and superseding certificate to describe the partial diminution of the right.
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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. A Claim of Beneficial Use shall be submitted by TID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
7. Water right Certificates 79212 and 83727 are modified. After satisfactory proof of completion has been determined by the Department, superseding confirming-remaining water right certificates will be issued when the Department determines it is necessary for record keeping.

MAY 14 2020

Dated in Salem, Oregon on _____


Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: ~~_____~~ MAY 15 2020