

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

In the Matter of Transfer Application            )    FINAL ORDER  
T-11643, Hood River County                    )    APPROVING CHANGES IN  
  )    CHARACTER OF USE AND PLACE OF  
  )    USE

**Authority**

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

East Fork Irrigation District  
PO Box 162  
Odell OR 97044

**Findings of Fact**

1. On August 1, 2013, John Buckley of East Fork Irrigation District filed an application to change the character of use and place of use under portions of Certificates 80928, 81340 and 84803. The Department assigned the application number T-11643.
2. Notice of the application for transfer was published on August 6, 2013 pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 10, 2014, the applicant amended the application to delete a portion of the proposed “TO” lands because the landowners could not secure a change in the Local Land Use zoning ordinance to allow industrial use. The district submitted a new amended map as well to reflect to better describe the place of use and proposed “TO” lands.
4. On June 16, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11643 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 15, 2014, for the applicant to respond. The requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.

5. On August 20, 2014, the Department revised the draft Preliminary Determination to include conditions to prevent enlargement of the rights involved and e-mailed a copy to the applicant and agent. A copy of the revised draft was e-mailed to the applicant. No response was received from the applicant or agent.
6. On September 10, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11643 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 16, 2014, and in the Hood River News newspaper on September 17 and 24, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 80928 in the name of EAST FORK IRRIGATION DISTRICT (perfected under Permit S-30825)

**Use:** IRRIGATION OF 4.0 ACRES

**Priority Date:** AUGUST 13, 1965

**Rate:** 0.05 CUBIC FOOT PER SECOND (CFS)

**Limit/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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** EAST FORK HOOD RIVER, a tributary of HOOD RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	10 E	WM	4	NW SW	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	10 E	WM	11	NW SW	1301	4.0

8. Certificate 80928 sets an annual duty (total volume diverted) of 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The annual duty (total volume diverted) of water for 4.0 acres of equivalent irrigation use would be 12.0 acre-feet (4.0 acres x 3.0 acre-feet per acre).

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

**Certificate:** 81340 in the name of EAST FORK IRRIGATION DISTRICT (decree of the Circuit Court of the State of Oregon for Hood River County)  
**Use:** IRRIGATION OF 4.2 ACRES  
**Priority Date:** NOVEMBER 25, 1895  
**Rate:** 0.05 CUBIC FOOT PER SECOND (CFS)  
**Source:** EAST FORK HOOD RIVER, a tributary of HOOD RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	G Lot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
2 N	10 E	WM	12	NW SE	400	0.50
2 N	10 E	WM	13	NW SE	900	0.75
2 N	10 E	WM	25	SE NW	1301	2.15
2 N	10 E	WM	26	NE NW	2100	0.20
2 N	10 E	WM	26	SE NW	311	0.10
2 N	10 E	WM	36	SE SE	802	0.50
TOTAL						4.20

10. The Hood River decree sets an annual duty (total volume diverted) of 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The annual duty (total volume diverted) of water for 4.2 acres of equivalent irrigation use would be 12.6 acre-feet (4.2 acres x 3.0 acre-feet per acre).

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

**Certificate:** 84803 in the name of EAST FORK IRRIGATION DISTRICT (perfected under Permit S-43395)  
**Use:** IRRIGATION of 8.7 ACRES  
**Priority Dates:** AUGUST 8, 1977 FOR 0.10 CUBIC FOOT PER SECOND (CFS) AND AUGUST 3, 1978 FOR 0.01 CFS  
**Rate:** 0.11 CUBIC FOOT PER SECOND (CFS)  
**Limit/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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** EAST FORK HOOD RIVER, a tributary of HOOD RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	10 E	WM	4	NW SW	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 N	10 E	WM	10	NE SE	200	4.10
1 N	10 E	WM	10	NE SE	300	4.50
1 N	10 E	WM	29	NW SW	510	0.10
TOTAL						8.70

12. Certificate 84803 sets an annual duty (total volume diverted) of 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The annual duty (total volume diverted) of water for 8.7 acres of equivalent irrigation use would be 26.1 acre-feet (8.7 acres x 3.0 acre-feet per acre).
13. Transfer Application T-11643 proposes to change the character of use to Industrial Use for the three water rights described above. The applicant has agreed to the Industrial Use being limited to the irrigation season of April 15 to October 1 of each year.
14. Transfer Application T-11643 also proposes to change the place of use of the above described rights to:

INDUSTRIAL USE					
Twp	Rng	Mer	Sec	Q-Q	Tax Lot
1 N	10 E	WM	10	SE NE	1000, 1100
1 N	10 E	WM	11	NW NW	300
1 N	10 E	WM	11	SW NW	400, 500, 601, 1200
1 N	10 E	WM	11	NW SW	1302

***Transfer Review Criteria [OAR 690-380-4010(2)]***

15. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. A diversion structure, ditches, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11643.
17. The proposed changes would not result in enlargement of the rights, provided the rates of diversion and total volumes diverted for industrial use under each right during the time period of April 15 to October 1 of each year, do not exceed:

Certificate	Maximum Rate (cfs)	Maximum Total Volume diverted (acre-feet)
80928	0.05	12.0
81340	0.05	12.6
84803	0.11	26.1

18. The proposed changes, as conditioned, would not result in injury to other water rights.

## Conclusions of Law


The changes in character of use and place of use proposed in Transfer Application T-11643 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The changes in character of use and place of use proposed in Transfer Application T-11626 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 80928, 81340 and 84803 and any related decree.
3. Water right certificates 80928, 81340 and 84803 are modified. The Department will issue superseding certificates, in the name of East Fork Irrigation District, describing the rights when it determines that it is necessary for record keeping.
4. The quantity of water allowed for industrial use under the right described by Certificate 80928 shall not exceed a rate of diversion of 0.05 cubic foot per second (cfs) and a maximum total annual volume of water diverted of 12.0 acre-feet (af) during the time period April 15 to October 1 of each year.
5. The quantity of water allowed for industrial use under the right described by Certificate 81340 shall not exceed a rate of diversion of 0.05 cubic foot per second (cfs) and a maximum total annual volume of water diverted of 12.6 acre-feet (af) during the time period April 15 to October 1 of each year.
6. The quantity of water allowed for industrial use under the right described by Certificate 84803, shall not exceed a rate of diversion of 0.10 cubic foot per second (cfs) with a priority date of August 8, 1977 and 0.01 cfs with a priority date of August 3, 1978, and a maximum total annual volume of water diverted of 26.1 acre-feet (af) during the time period April 15 to October 1 of each year.
7. The former places of use of the transferred rights shall no longer receive water under the rights.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the District to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

Dated at Salem, Oregon this 29 day of October, 2014.

  
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Dwight French, Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing Date: OCT 31 2014