

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

In the Matter of Transfer Application	)	CORRECTING SUPERSEDING
T-11958, Malheur County	)	FINAL ORDER APPROVING A
	)	DISTRICT PERMANENT TRANSFER
	)	AND PARTIAL CANCELLATION OF A
	)	WATER RIGHT

**Authority**

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.

ORS 540.621 directs the Commission to enter an order cancelling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

**Applicant**

OWYHEE IRRIGATION DISTRICT  
17 SOUTH FIRST ST.  
NYSSA, OR 97913

**Findings of Fact**

1. On January 2, 2015, Owyhee Irrigation District (OID) filed a district transfer application to permanently change the place of use under Certificate 75691. The Department assigned the application number T-11958.
2. Notice of the application for transfer was published on January 13, 2015, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On June 5, 2015, OID requested the cancellation of a layered (overlapping) portion of Certificate 75708.
4. This order is issued to supersede the Final Order recorded at Special Order Volume 96, Pages 254-257. This correcting order is necessary to correct a scrivener's errors in an acreage amount, range location and tax lot number, and to correct the cancelled place of use shown in Finding of Fact #10 of the original order. The corrected place of use is consistent with OID's request made on June 5, 2015. The corrections are in **bold**.

This is an 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.

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

**Certificate:** 75691 in the name of UNITED STATES OF AMERICA; BUREAU OF RECLAMATION (perfected under Permit S-8171)

**Use:** Primary Irrigation of **58.19** acres

**Priority Dates:** February 15, 1916 for stored water and August 19, 1924 for direct flow

**Duty/Limit:** The amount of water from direct flow of the Owyhee River used for irrigation shall be limited to 1/60<sup>th</sup> of one cubic foot per second (cfs) per acre, or its equivalent for each acre irrigated and shall be further limited to 3.0 acre-feet (AF) per acre for each acre irrigated during the irrigation season of each year. The amount of water from direct flow of the Owyhee River together with water stored in Owyhee Reservoir and with the amount secured under any other water right existing for the same lands, shall be limited to a diversion of not to exceed 6.7 af for each acre irrigated during the irrigation season of each year and shall conform to any reasonable rotation system as may be ordered by the proper state officer.

**Sources:** OWYHEE RIVER and water stored in OWYHEE RESERVOIR (constructed under Permit R-599), tributaries of the SNAKE RIVER

**Authorized Points of Diversion (POD):**

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
OWYHEE DAM	22 S	45 E	WM	20	NW SE	200 FEET SOUTH AND 2010 FEET WEST FROM THE COMMON CORNER OF SECTIONS 20 AND 21
GLORY HOLE SPILLWAY	22 S	45 E	WM	20	NW SE	200 FEET SOUTH AND 1680 FEET WEST FROM THE COMMON CORNER TO SECTIONS 20 AND 21
TUNNEL 1	22 S	45 E	WM	21	NW SW	495 FEET EAST AND 264 FEET SOUTH FROM THE COMMON CORNER TO SECTIONS 20 AND 21

**Authorized Places of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice#
20 S	45 E	WM	13	SW NE	1.20	300	Bennett, Norman	14-25600
20 S	45 E	WM	35	SW NE	2.45	300	Hatfield, Kenneth	14-17300
20 S	45 E	WM	35	SE NE	2.43	300	Hatfield, Kenneth	14-17300
20 S	45 E	WM	35	SE NE	1.06	500	Hatfield, Kenneth	14-17300
20 S	45 E	WM	35	SW SE	3.00	2800	Hatfield, Kenneth	14-17300
20 S	45 E	WM	36	NW SW	2.30	500	Bennett, Norman	14-25600
20 S	46 E	WM	3	SE NE	0.30	500	Froerer family	14-27300
20 S	46 E	WM	4	NW SW	2.97	300	Brown, Garrett	14-27404
20 S	46 E	WM	18	SW NE	2.10	300	Bennett, Norman	14-25600
20 S	46 E	WM	18	NW NW	3.22	300	Bennett, Norman	14-25600
20 S	46 E	WM	18	SW NW	4.05	300	Bennett, Norman	14-25600
20 S	46 E	WM	18	NE SW	4.30	300	Bennett, Norman	14-25600
20 S	46 E	WM	18	NW SW	2.76	300	Bennett, Norman	14-25600
20 S	46 E	WM	18	NW SW	0.70	400	Tullett, Todd	14-25900
20 S	46 E	WM	18	SE SW	0.80	700	Tullett, Todd	14-25900
20 S	46 E	WM	18	SE SE	1.52	600	Bennett, Norman	14-25600
20 S	46 E	WM	20	NW NE	1.63	200	Tullett, Todd	14-25900
20 S	46 E	WM	20	NE NW	3.42	200	Tullett, Todd	14-25900
20 S	46 E	WM	20	SE NW	0.68	200	Tullett, Todd	14-25900
20 S	46 E	WM	30	SE NW	1.49	400	Garner Trust	14-22700
20 S	<b>45E</b>	WM	35	SW SE	1.60	2800	Hatfield, Kenneth	14-17300
21 S	46 E	WM	5	SW SW	2.74	<b>700</b>	Cruickshank, Chad	14-4101

Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice#
21 S	46 E	WM	5	SE SW	6.00	700	Cruickshank, Chad	14-4101
21 S	46 E	WM	8	NW NW	1.77	700	Cruickshank, Chad	14-4101
17 S	47 E	WM	16	SE SW	0.30	1600	McClure, Robert	14-63705
17 S	47 E	WM	16	SW SW	3.00	500	Stirm, Joseph	14-66500
18 S	47 E	WM	5	SE NE	0.40	800	Yano, Sheryl	14-150400
<b>Total:</b>					<b>58.19</b>			

6. Transfer Application T-11958 proposes to change the places of use to:

**Proposed Places of Use:**

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	300	Bennett, Norman	14-25600
20S	46E	WM	18	NW SW	5.78	300	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
<b>Total:</b>					<b>58.19</b>			

7. 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.
8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed change in places of use will not result in enlargement of the rights.
10. The proposed change in places of use will not result in injury to other water rights.

**Partial Cancellation of a Water Right**

11. On June 5, 2015, OID requested the cancellation of a portion of Supplemental Irrigation under Certificate 75708. The portion to be cancelled is described as follows:

**Certificate:** 75708 in the name of OWYHEE IRRIGATION DISTRICT (perfected under Permit S-1786)

**Use:** Supplemental Irrigation of **0.40** Acres

**Priority Date:** July 8, 1913.

**Rate/Limit:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated each year.

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice#
18S	47E	WM	5	SE NE	0.40	800	Yano, Sheryl	14-150400

12. The portion of the water right as evidenced by Water Right Certificate 75708, which has been abandoned, is for supplemental irrigation on the lands described in Finding of Fact #11. The abandoned portion of the water right no longer authorizes water to be applied at the place of use described in Finding of Fact #11, but does not reduce the total quantity of water available.

**Conclusions of Law**

The proposed changes in place of use as proposed in Transfer Application T-11958 satisfy the requirements of ORS 540.574(3) and 540.580 and the abandoned portion of the right should be cancelled.

**Now, therefore, it is ORDERED:**

1. The Final Order recorded at Special Order Volume96, Pages 254-257, is withdrawn and of no further force or effect and is superseded by this order.
2. The water rights appurtenant to the land described in Finding of Fact #11 is cancelled.
3. The proposed change in place of use to the water rights evidenced by Certificate 75691 is approved.
4. 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 Certificate 75691, and any related decree.
5. Certificate 75708 shall be modified to reflect the cancellation of **0.40** acres, as described in Finding of Fact #11. However, the total quantity of water that can be diverted for supplemental irrigation shall remain unchanged.
6. The former places of use shall no longer be irrigated as part of these water rights.
7. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2016. A Claim of Beneficial Use shall be submitted to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
9. Certificates 75691 and 75708 are modified. The Department will issue superseding certificates describing the rights when it determines it is necessary for record keeping.

Dated at Salem, Oregon this 26 day of September 2017.

  
Dwight French, Water Right Services Administrator for  
THOMAS M. BYLER, DIRECTOR

Mailing Date: SEP 26 2017