

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

In the Matter of Transfer Application)
T-12237, Malheur County)
CORRECTING SUPERSEDING FINAL
ORDER APPROVING A DISTRICT
PERMANENT TRANSFER

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.

Applicant

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

Findings of Fact

1. On January 4, 2016, Owyhee Irrigation District (OID) filed a district transfer application to permanently change the place of use under Certificates 75691, 75712, **75688, 75689**, and 75708. The Department assigned the application number T-12237.
2. Notice of the application for transfer was published on January 12, 2016, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. On February 2, 2016, the applicant provided additional information and clarified the authorized and proposed places of use both authorized and proposed.
4. On February 23, 2016, notice of the application for Transfer was published for Transfer Application T-12237 this publication included Certificate 75688. No comments were filed in response to this notice.
5. This order is issued to supersede the Final Order recorded at Special Order Volume 98, Pages 1077-1083. This correcting order is necessary to add certificate numbers that should have been included in certain portions of the order, and to correct the inadvertent omission of additionally layered supplemental irrigation rights. The transfer of both primary irrigation and supplemental irrigation was approved in the Final Order recorded at Special Order Volume 98, Pages 1077-1083 for identical places of use also layered with the omitted supplemental rights.
6. The corrections in Findings of Facts 1, 11, 12, 13 and 14 appear 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.

7. The portion of the first 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 91.78 acres and Supplemental Irrigation of 7.42 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 1/60th 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	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:

PRIMARY IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
20 S	46 E	WM	8	SW SW	1.41	102	Hartley
21 S	46 E	WM	12	NW NW	0.73	300	Johnston
17 S	47 E	WM	19	SW NW	31.30	900	Seubert Excavators
17 S	47 E	WM	19	SE SW	10.00	1600	Seubert Excavators
17 S	47 E	WM	19	SW SE	19.90	1600	Seubert Excavators
17 S	47 E	WM	30	SE NE	5.00	100	White
20 S	46 E	WM	8	NW SW	1.37	102	Hartley
20 S	46 E	WM	5	SW SW	1.53	800	Grant 4 D Farms
20 S	46 E	WM	8	NW NW	0.63	300	Grant 4 D Farms
20 S	46 E	WM	8	SW NW	1.17	300	Grant 4 D Farms
20 S	46 E	WM	8	SE NW	2.32	300	Grant 4 D Farms
18 S	46 E	WM	27	SW SW	0.64	700	Bishop
18 S	47 E	WM	17	NE NE	1.00	3802	Amdor
18 S	47 E	WM	4	NW NW	1.70	1602	Poole
17 S	47 E	WM	17	SW NE	0.74	100	Dixon
18 S	46 E	WM	27	SW NE	3.73	801	Edison
18 S	46 E	WM	27	NE SW	2.82	801	Edison

PRIMARY IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
18 S	46 E	WM	27	SW NE	2.37	802	Ingram
20 S	46 E	WM	11	NW NE	1.00	200	Kurtz
16 S	47 E	WM	20	NE NE	1.03	7600	Unruh
16 S	47 E	WM	20	NW NE	1.39	7600	Unruh
Total:					91.78		

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	3.78	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	0.49	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	2.92	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.23	300	Hammelman	15-125100B
Total:					7.42			

8. Transfer Application T-12237 proposes to change the places of use to:

Proposed Places of Use:

PRIMARY IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
21 S	46 E	WM	12	NW NW	0.73	300	Johnston
20 S	46 E	WM	8	NW SW	0.74	102	Hartley
20 S	46 E	WM	8	SW SW	7.04	1102	Hartley
20 S	46 E	WM	5	SW SW	0.37	800	Grant 4D Farms
20 S	46 E	WM	5	SE SW	0.80	800	Grant 4D Farms
20 S	46 E	WM	8	NE NW	4.48	300	Grant 4D Farms
18 S	46 E	WM	27	SW SW	0.78	700	Bishop
21 S	46 E	WM	5	SE SW	12.05	700	Cruickshank
21 S	46 E	WM	5	SW SW	9.14	700	Cruickshank
21 S	46 E	WM	8	NW NW	5.79	700	Cruickshank
18 S	47 E	WM	4	SW NW	4.00	400	Poole
19 S	46 E	WM	15	NW SE	0.76	3700	Kesler
17 S	47 E	WM	17	NW NE	0.74	100	Dixon
17 S	47 E	WM	30	NW NE	0.58	901	White
18 S	46 E	WM	27	SW NE	4.25	801	Edison
18 S	46 E	WM	27	NE SW	2.63	801	Edison
18 S	46 E	WM	27	NW SE	3.41	801	Edison
20 S	46 E	WM	11	NE NE	4.63	200	Kurtz
16 S	47 E	WM	20	NE NE	3.51	7600	Unruh
16 S	47 E	WM	20	NW NE	4.85	7600	Unruh
16 S	47 E	WM	20	SE NE	1.35	7600	Unruh
16 S	47 E	WM	20	NE NW	0.32	7600	Unruh
16 S	47 E	WM	20	SW NE	0.09	7600	Unruh
20 S	46 E	WM	18	NE NW	4.97	300	Bennett
20 S	46 E	WM	18	NW NW	4.46	300	Bennett
20 S	46 E	WM	18	NW SE	9.31	600	Bennett
Total:					91.78		

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	4.52	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	1.10	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	0.62	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW NE	0.40	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.78	300	Hammelman	15-125100B
Total:					7.42			

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

Certificate: 75712 in the name of OWYHEE IRRIGATION DISTRICT (perfected under Permit S-1243)
Use: IRRIGATION of 7.42 ACRES
Priority Date: FEBRUARY 10, 1912
Limit/Duty: This right is limited an amount actually needed for beneficial use and shall not exceed 25.9 cubic feet per second or its equivalent in case of rotation, measured at the point of diversion from the source.
Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Measured Distances
17 S	47 E	WM	2	SE NE	6	DEAD OX PUMPS 2630 FEET SOUTH AND 2050 FEET EAST FROM THE N1/4 CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	3.78	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	0.49	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	2.92	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.23	300	Hammelman	15-125100B
Total:					7.42			

10. Transfer Application T-12237 proposes to change the places of use to:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	34	NE NE	4.52	100	Hammelman	15-125100A
16 S	47 E	WM	34	SE NE	1.10	100	Hammelman	15-125100A/B
16 S	47 E	WM	34	SW NE	0.62	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW NE	0.40	300	Hammelman	15-125100A/B
16 S	47 E	WM	34	NW SE	0.78	300	Hammelman	15-125100B
Total:					7.42			

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

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

Use: SUPPLEMENTAL IRRIGATION of **2.70** ACRES

Priority Date: JULY 8, 1913

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, or its equivalent for each acre irrigated each year.

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Measured Distances
20 S	47 E	WM	18	NE SW	3	DUNAWAY PUMPING PLANT

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Gov't Lot	Water User
18 S	47 E	WM	4	NW NW	1.70	1602	4	Poole
18 S	47 E	WM	17	NE NE	1.00	3802		Amador
Total					2.70			

12. Transfer Application T-12237 proposes to change the places of use to:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
18 S	47 E	WM	4	SW NW	2.70	400	Poole

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

Certificate: 75689 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-24285)

Use: SUPPLEMENTAL IRRIGATION of **2.70** ACRES

Priority Date: OCTOBER 1, 1951

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 ONE-FORTIETH of one cubic foot per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 6.7 acre-feet for each acre irrigated during the irrigation season of each year.

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Measured Distances
20 S	47 E	WM	18	NE SW	3	DUNAWAY PUMPING PLANT

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Gov't Lot	Water User
18 S	47 E	WM	4	NW NW	1.70	1602	4	Poole
18 S	47 E	WM	17	NE NE	1.00	3802		Amador
Total					2.70			

14. Transfer Application T-12237 proposes to change the places of use to:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
18 S	47 E	WM	4	SW NW	2.70	400	Poole

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

Certificate: 75688 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-24286)
Use: SUPPLEMENTAL IRRIGATION of 7.42 ACRES
Priority Date: OCTOBER 1, 1951
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 ONE-FORTIETH 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 6.7 acre-feet for each acre irrigated during the irrigation season of each year.
Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	47 E	WM	2	SE NE	DEAD OX PUMPING PLANT

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
16 S	47 E	WM	34	NE NE	100	3.78
16 S	47 E	WM	34	SW NE	300	2.92
16 S	47 E	WM	34	SE NE	100	0.49
16 S	47 E	WM	34	NW SE	300	0.23
Total:						7.42

16. Transfer Application T-12237 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
16 S	47 E	WM	34	NE NE	100	4.52
16 S	47 E	WM	34	SE NE	100	1.10
16 S	47 E	WM	34	SW NE	300	0.62
16 S	47 E	WM	34	NW NE	300	0.40
16 S	47 E	WM	34	NW SE	300	0.78
Total:						7.42

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

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-12237 satisfy the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The Final Order recorded at Special Order Volume 98, Pages 1077-1083, is withdrawn and of no further force or effect and is superseded by this order.
2. The proposed change in place of use to the water rights evidenced by Certificates 75691, 75712, 75708, **75688** and 75689 are approved.
3. 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 75691, 75712, 75708, **75688**, 75689, and any related decree.
4. The former places of use shall no longer be irrigated as part of these water rights.
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, 2017. 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.
7. Certificates 75691, 75712, 75708, **75688** and 75689 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 21 day of September 2017.


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

SEP 26 2017

Mailing Date: _____