

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13344, Malheur County)	A DISTRICT PERMANENT TRANSFER FOR
)	PLACE OF USE AND PARTIAL
)	CANCELLATION OF A 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

OWYHEE IRRIGATION DISTRICT
17 SOUTH FIRST STREET
NYSSA, OR 97913

Findings of Fact

1. On January 3, 2020, Owyhee Irrigation District (OID) filed a completed district transfer application to permanently change the place of use under Certificate 75691. The Department assigned the application number T-13344.
2. On February 24, 2020, OID submitted a revised map. On May 27, 2020, OID amended their application by requesting the cancellation of a portion of Certificate 75708 for supplemental irrigation which is layered with primary irrigation on certain authorized places of use subject to this transfer. In addition, 0.1 acre was withdrawn from the transfer and a new place of use table was submitted to describe the revisions.
3. Notice of the District Permanent Transfer Application was published on January 14, 2020, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
4. The U.S. Bureau of Reclamation was notified of the transfer application on January 14, 2020; no comments were received within 90 days of the notification.

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).

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

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

Use: IRRIGATION of 180.3 acres

Priority Date: FEBRUARY 15, 1916 for stored water and AUGUST 19, 1924 for direct flow

Rate / Duty: 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 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 acre-feet 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: The OWYHEE RIVER and water stored in OWYHEE RESERVOIR (constructed under Permit R-599), tributaries of the SNAKE RIVER

Authorized Points of Diversion:

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

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	20	NW SE	2.5	7400	HUNTER	19-72700
16 S	47 E	WM	28	NE NE	35.7	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	NW NE	1.0	300	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	NW NE	23.6	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SW NE	35.9	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SE NE	35.6	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SW SE	1.0	1100	TURPEN	19-71102
16 S	47 E	WM	29	SE SE	1.5	13600	BR FARMS	19-71200
17 S	47 E	WM	16	SE SW	6.0	1700	FOLLBAUM	19-15407
17 S	47 E	WM	20	NW SW	2.5	600	ROGERS	19-60600
17 S	47 E	WM	31	NE NW	1.1	1200	BAUER	19-59204
18 S	47 E	WM	17	NW NE	0.8	1400	LEININGER	19-149300
19 S	46 E	WM	27	SE SE	0.6	900	BEATY	19-35802
19 S	46 E	WM	28	NW NW	2.7	5400	MAUTZ	19-29300
19 S	46 E	WM	28	NE SW	3.4	5400	MAUTZ	19-29300
19 S	46 E	WM	28	NW SE	14.4	5400	MAUTZ	19-29300

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
20 S	45 E	WM	13	SE SW	2.4	700	MAY	19-21600
20 S	46 E	WM	14	SE SW	7.4	900	BROWN	19-27900
20 S	46 E	WM	14	SW SE	2.0	900	BROWN	19-27900
20 S	46 E	WM	26	SW NW	0.2	600	WILLIAMS	19-15402
Total					180.3			

6. Transfer Application T-13344 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
16 S	47 E	WM	20	NW SE	2.5	7400	HUNTER	19-72700
16 S	47 E	WM	28	NE NE	31.7	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	NW NE	24.7	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SW NE	38.3	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SE NE	37.1	100	MORNING LIGHT FARMS	19-68801
16 S	47 E	WM	28	SW SE	1.0	1100	TURPEN	19-71102
16 S	47 E	WM	29	NE SW	2.4	13800	BR FARMS	19-71200
16 S	47 E	WM	29	SE SW	1.2	13800	BR FARMS	19-71200
17 S	47 E	WM	19	NE SE	2.5	600	ROGER	19-60600
19 S	46 E	WM	14	SW NE	3.5	500	KESLER	19-36200
19 S	46 E	WM	28	SW NW	1.0	5400	MAUTZ	19-29300
19 S	46 E	WM	28	SE NW	9.9	5400	MAUTZ	19-29300
19 S	46 E	WM	28	NE SW	9.6	5400	MAUTZ	19-29300
20 S	45 E	WM	13	SE SW	2.4	700	MAY	19-21600
20 S	46 E	WM	23	NE NE	5.8	400	BROWN	19-27900
20 S	46 E	WM	23	NW NE	6.7	400	BROWN	19-27900
Total:					180.3			

7. 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.
8. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
9. The water right is subject to transfer as defined in OAR 690-385-0100(17).
10. The proposed change in place of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
11. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
12. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Partial Cancellation Water Right

13. The portion of the right to be partially canceled is as follows:

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

Use: SUPPLEMENTAL IRRIGATION of 0.8 acres

Priority Date: JULY 8, 1913

Rate: 0.01 Cubic Foot per Second

Limit / Duty: The amount 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)

Source: The SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
20 S	47 E	WM	18	NE SW	3	DUNAWAY PUMPING PLANT; River Mile 394.2

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
18 S	47 E	WM	17	NW NE	0.8	1400	LEININGER	19-149300

14. The portion of the water right as evidenced by Water Right Certificate 75708 which has been abandoned is for supplemental irrigation on certain lands described in Finding of Fact #7. Water use is no longer authorized on the abandoned portion of the Certificate 75708 at the place of use described in Finding of Fact #13, above. The total quantity of water available under Certificate 75708 is reduced by 0.01 cubic foot per second.

Regarding Certificate 75689 for Supplemental Irrigation; Forfeiture for Non-use

15. As stated in OAR 690-385-0100(15) “[a] supplemental water right is an additional appropriation of water to make up a deficiency in supply from an existing water right. A supplemental water right is used in conjunction with a primary right.” Certificate 75689 has been used in conjunction with primary irrigation under Certificate 75691 on certain lands described in Finding of Fact #5. Once transfer T-13344 is approved by this Final Order, in absence of a primary underlying water right, the lands listed below in Finding of Fact #16 will be subject to forfeiture and cancellation proceedings under ORS 540.610 if not used for five consecutive years.

16. The portion of the Certificate 75689 for supplemental irrigation used in conjunction with Certificate 75691 for primary irrigation involved in Transfer T-12553.

Certificate: 75689 in the name of the UNITED STATES OF AMERICA; BUREAU OF RECLAMATION (perfected under Permit S-24285)

Use: SUPPLEMENTAL IRRIGATION of 0.8 acres

Priority Date: OCTOBER 1, 1951

Rate: 0.02 CUBIC FOOT PER SECOND

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: The SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	G-Lot	Measured Distances
20 S	47 E	WM	18	NE SW	3	DUNAWAY PUMPING PLANT; River Mile 394.2

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
18 S	47 E	WM	17	NW NE	0.8	1400	LEININGER	19-149300

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13344 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the abandoned portion of Certificate 75708 should be cancelled.

Now, therefore, it is ORDERED:

1. The portion of Certificate 75708 appurtenant to the lands described in Finding of Fact #16 is cancelled.
2. Certificate 75708 shall be modified to reflect the cancellation of 0.9 acres, as described in Findings of Fact #13 and #14.
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 not modified in this order and is subject to all other conditions and limitations contained in Certificates 75691 and 75708.
5. The place of use from which the water right is removed by T-13344 shall no longer be irrigated under the transferred right.
6. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
7. 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 OID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

8. Water right Certificates 75691 and 75708, 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.

Dated in Salem, Oregon on JUL 23 2020



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

Mailing Date: JUL 24 2020