

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING  
T-13745, Malheur County                                 )     A DISTRICT PERMANENT TRANSFER FOR  
  )     PLACE OF USE AND DIMINUTION

**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**

VALE OREGON IRRIGATION DISTRICT  
521 A ST WEST  
VALE, OR 97918

**Findings of Fact**

1. On June 22, 2021, VALE OREGON IRRIGATION DISTRICT (VOID) filed a district transfer application to permanently change the place of use under Certificates 76197, 76212, 74080 and 74081. The Department assigned the application number T-13745.
2. Notice of the District Permanent Transfer Application was published on July 6, 2021, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notices.
3. The U.S. Bureau of Reclamation was notified of the transfer application on July 6, 2021; no comments were received within 90 days of the notification.
4. On July 29, 2021, VOID modified the application to include water right Certificate 761212, and submitted corresponding superseding correcting maps.
5. The portion of the first right to be transferred is as follows:  
**Certificate:** 76197 in the name of VALE OREGON IRRIGATION DISTRICT ((confirmed by decree of the Circuit Court of the State of Oregon for Malheur County)  
**Use:** IRRIGATION of 4.96 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).

**Priority Dates:** 1883

**Limits/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 1.5 ACRE FEET per acre in any 30 day period prior to June 1<sup>st</sup> of each year, a diversion of 1.0 ACRE FOOT per acre in any 30 day period after June 1<sup>st</sup> of each year, or a total diversion of 3.0 ACRE FEET per acre during the irrigation season of each year, and at a rate not to exceed ONE-TWENTIETH of one cubic foot per second, or the equivalent, for each acre irrigation during the irrigation season of each year.

**Source:** WARM SPRINGS CREEK, a tributary of the MALHEUR RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
20 S	42 E	WM	5	NW NE	1.56	2901	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	2.70	800	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.70	900	NICHOLS	N/A
<b>Total:</b>					<b>4.96</b>			

6. Transfer Application T-13745 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
20 S	42 E	WM	5	NE NE	1.30	100	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	0.90	600	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	1.60	100	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.40	900	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.20	1000	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.04	900	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.52	1000	NICHOLS	N/A
<b>Total:</b>					<b>4.96</b>			

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

**Certificate:** 76212 in the name of VALE OREGON IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Malheur County)

**Use:** PRIMARY AND SUPPLEMENTAL IRRIGATION of 2.10 acres

**Priority Dates:** 1883 from MALHEUR RIVER for PRIMARY IRRIGATION; 1889 from MIDDLE FORK MALHEUR RIVER for SUPPLEMENTAL IRRIGATION

**Limits/Duty:** The amount of water to which this right is entitled, is limited to an amount actually beneficially used for said purposed and shall not exceed a total of 31.1 CUBIC FEET PER SECOND for IRRIGATION, if available at the authorized point of diversion, or the equivalent in case of rotation.

**Source:** MIDDLE FORK MALHEUR RIVER, a tributary of the MALHEUR RIVER, and the MALHEUR RIVER, a tributary of the SNAKE RIVER.

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE $\frac{3}{4}$ CORNER OF SECTION 31

**Authorized Place of Use:**

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
20 S	42 E	WM	5	NE NW	2.10	900	NICHOLS	N/A

8. Transfer Application T-13745 proposes to change the place of use to:

**Proposed Place of Use:**

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
19 S	42 E	WM	32	SE SW	0.60	600	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	1.50	600	NICHOLS	N/A
<b>Total:</b>					<b>2.10</b>			

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

**Certificate:** 74080 in the name of U.S. BUREAU OF RECLAMATION and VALE OREGON IRRIGATION DISTRICT (perfected under Permit S-7867)

**Use:** IRRIGATION of 0.90 acres and SUPPLEMENTAL IRRIGATION of 7.06 acres

**Priority Dates:** MAY 10, 1926 & JANUARY 11, 1927

**Limits/Duty:** One half of the stored water available each year from Warm Springs Reservoir (Permit No. R-457), which is to be released into the Malheur River and re-diverted therefrom through Vale Oregon Project main canal at a maximum rate of 600 CUBIC FEET PER SECOND.

All of the drainage water, seepage water, return flow, and waste water from the Vale Oregon Project, estimated to be 200 CUBIC FEET PER SECOND to be used in Warm Springs Irrigation District under contract between that District and the United States under which the Warm Springs District is to accept such return flow from the Vale Oregon Project and allow the United States, in return, an equivalent amount of stored water and natural flow from the Malheur River.

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 shall be limited to a diversion of not to exceed 4.5 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year.

**Source:** The MALHEUR RIVER, tributary to the SNAKE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31
23 S	37 E	W.M	8	SW SW	WARMSPRINGS DAM *should be NW SE

**Authorized Place of Use:**

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
19 S	42 E	WM	32	SW SW	0.90	900	NICHOLS	N/A

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
20 S	42 E	WM	5	NW NE	1.56	2901	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	2.70	800	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	2.80	900	NICHOLS	N/A
<b>Total:</b>					<b>7.06</b>			

10. Transfer Application T-13745 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
20 S	42 E	WM	5	NE NW	0.90	1000	NICHOLS	N/A

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
19 S	42 E	WM	32	SE SW	0.60	600	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	1.30	100	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	2.40	600	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	1.60	100	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.40	900	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.20	1000	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.04	900	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.52	1000	NICHOLS	N/A
<b>Total:</b>					<b>7.06</b>			

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

**Certificate:** 74081 in the name of U.S. BUREAU OF RECLAMATION and VALE OREGON IRRIGATION DISTRICT (perfected under Permit S-16707)

**Use:** SUPPLEMENTAL IRRIGATION of 7.96 acres

**Priority Dates:** DECEMBER 16, 1931 (stored water)  
NOVEMBER 29, 1945 (direct flow)

**Limits/Duty:** The amount of water used for supplemental 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 the equivalent for each acre irrigated during the irrigation season of each year.

**Source:** NORTH FORK MALHEUR RIVER, tributary to the MALHEUR RIVER, and BELUAH RESERVOIR (A.K.A AGENCY VALLEY RESERVOIR, Permit R-671).

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
19 S	37 E	WM	15	SW SE	AGENCY VALLEY DAM
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL: 1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
19 S	42 E	WM	32	SW SW	0.90	900	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	1.56	2901	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	2.70	800	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	2.80	900	NICHOLS	N/A
<b>Total:</b>					<b>7.96</b>			

12. Transfer Application T-13745 proposes to change the place of use to:

**Proposed Place of Use:**

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
19 S	42 E	WM	32	SE SW	0.60	600	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	1.30	100	NICHOLS	N/A
20 S	42 E	WM	5	NE NE	2.40	600	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	1.60	100	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.40	900	NICHOLS	N/A
20 S	42 E	WM	5	NW NE	0.20	1000	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	0.04	900	NICHOLS	N/A
20 S	42 E	WM	5	NE NW	1.42	1000	NICHOLS	N/A
<b>Total:</b>					<b>7.96</b>			

**Partial Diminution of Certificate 74271**

13. A portion of water right Certificate 74271 is appurtenant to a portion of the proposed place of use for primary irrigation under Certificates 76197 and 76212. Therefore, to avoid layering of two primary water rights for irrigation, a portion lands under Certificate 74271 will be diminished to supplemental irrigation as a result of this order.

14. On October 5, 2021, Robert O. Nichols and Karen Nichols, on behalf of themselves and as managers of Triple T Ventures, LLC, a Nevada limited liability company, owners of lands and to which a portion of Certificate 74271 is appurtenant, submitted an affidavit requesting a portion of Certificate 74271 be diminished from primary irrigation to supplemental irrigation. The portion to be diminished is described as follows:

**Certificate:** 74271 in the name of J. Pacific Livestock Company (confirmed by decree of the Circuit Court of the State of Oregon for Malheur County)

**Use:** IRRIGATION of 4.9 ACRES

**Priority Date:** MAY 10, 1884

**Rate:** The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.5 ACRE-FEET PER ACRE IN ANY 30 DAY PERIOD PRIOR TO JUNE 1, 1.0 ACRE-FOOT PER ACRE IN ANY 30 DAY PERIOD AFTER JUNE 1 OF EACH YEAR, OR 3.0 ACRE-FEET PER ACRE DURING ANY SEASON, DIVERTED AT A RATE NOT TO EXCEED 1/20 (ONE-TWENTIETH) OF CUBIC FOOT PER SECOND PER ACRE, or its equivalent in case of rotation, measured at the point of diversion from the source.

**Source:** MALHEUR RIVER, tributary of the SNAKE RIVER

**Place of Use to be diminished:**

DIMINUTION FROM PRIMARY IRRIGATION ON CERTIFICATE 74271							
Twp	Rng	Mer	Sec	Q-Q	G-Lots	Acres	Tax Lot
20 S	42 E	WM	5	NE NE	1	3.7	100
20 S	42 E	WM	5	NW NE	2	1.2	100
<b>Total</b>						<b>4.9</b>	

15. 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.
16. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
17. The water right is subject to transfer as defined in OAR 690-385-0100(17).
18. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
19. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
20. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

**Conclusions of Law**

1. The proposed changes in place of use as proposed in Transfer Application T-13745 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.
2. The water right for the use of water for primary irrigation on 4.9 acres, as described in Finding of Fact #14, is diminished to use for supplemental irrigation.

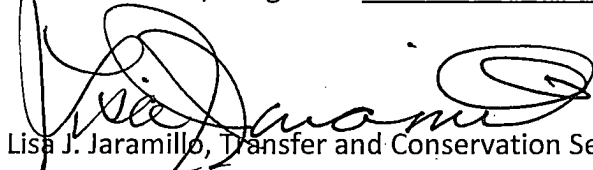
**It is ORDERED:**

1. The proposed changes in place of use to the water rights evidenced by Certificates 76197, 76212, 74080 and 74081 are approved.
2. The places of use from which the water rights are transferred off by Transfer T-13745 shall no longer be irrigated, and are cancelled from Certificates 76197, 76212, 74080 and 74081.

3. The right to the use of the water at the places of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificates 76197, 76212, 74080 and 74081.
4. The portion of the water right for the use of water for irrigation on 4.9 acres, as described by Certificate 74271, is diminished from a right for primary irrigation to a right for supplemental irrigation. The Department shall issue a new and superseding Certificate 96019 to describe the portion of the Certificate 74271 NOT modified, and 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, 2023**. A Claim of Beneficial Use shall be submitted by VOID 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 76197, 76212, 74080 and 74081 are modified. After satisfactory proof of completion has been determined by the Department, superseding water right certificates will be issued when the Department determines it is necessary for record keeping.

**OCT 18 2021**

Dated in Salem, Oregon on \_\_\_\_\_



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

Mailing Date: ~~\_\_\_\_\_~~ **OCT 19 2021**