

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-10293, Washington County	)	A DISTRICT PERMANENT TRANSFER AND
	)	CANCELLATION OR PARTIAL
	)	CANCELLATION OF WATER RIGHTS, AND
	)	PARTIAL DIMINUTION OF WATER RIGHTS

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

OAR 690-385-6000 specifies when multiple primary water rights are on the same lands that only right will be considered primary and all other rights shall be diminished to supplemental water rights.

**Applicant**

TUALATIN VALLEY IRRIGATION DISTRICT  
2330 ELM STREET  
FOREST GROVE, OR. 97116

**Findings of Fact**

1. On December 21, 2006, Tualatin Valley Irrigation District (TVID) filed a district transfer application to change permanently the place of use under a perfected portion of water use under Permit S-35792. The perfected portion was confirmed by order of Determination of Satisfactory Proof signed on January 5, 2006, and mailed on January 6, 2006 (Special Order Volume 67, Pages 627-662). The Department assigned the transfer application number T-10293.

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.

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).

2. On August 11, 2015, Certificate 88122 was issued describe the portion of Permit S-35792 confirmed by the January 5, 2006, Determination of Satisfactory Proof.
3. On July 31, 2018, September 10, 2018, November 8, 9 and 15, 2018, and December 6, 2018, the applicant submitted amended and corrected maps for the proposed place of use. On December 14, 2018, the applicant submitted a new table for the authorized and proposed place of use. On March 27, 2019, the applicant submitted a final amendment to the application enabling one landowner cancelling a private water right layered with portions of this transfer to adjust the place of use of remaining TVID water under Certificate 88122 on property owned by the same owner.
4. Notice of the application for transfer was published on January 9, 2007, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.

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

**Certificate:** 88122 in the name of the U.S. Bureau of Reclamation  
(Perfected under Permit S-35792)

**Use:** IRRIGATION of 293.6 ACRES

**Priority Date:** FEBRUARY 20, 1963

**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-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated from direct flow, and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 as evidenced by Certificate 81149; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein and further limited to the use of stored water only on the lands described as supplemental irrigation.

**Source:** Scoggins Creek and Reservoir, and Gales Creek, tributaries to the Tualatin River; and the Tualatin River, a tributary of the Willamette River

**Authorized Point of Diversion:**

POD	Twp	Rng	Mer	Sec	Q-Q	Latitude and Longitude
SHPP	1 S	3 W	WM	8	SW SW	SPRINGHILL PUMPING PLANT- 45°29'32.73" N, -123° 5' 33.85"W

**Authorized Places of Use:**

IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres	TaxLot	Water User	Notice	
1 N	3 W	WM	32	SW NW		62	2.7	500	WOODFOLD MARCO INC	2006-105	
1 N	3 W	WM	32	SE NW		62	0.4	500	WOODFOLD MARCO INC	2006-105	
1 N	3 W	WM	32	NE SW		62	3.1	500	WOODFOLD MARCO INC	2006-105	
1 N	3 W	WM	32	NW SW		62	10.1	500	WOODFOLD MARCO INC	2006-105	
1 S	3 W	WM	14	SW SW			3.3	200	FURBY & JESSE FARMS LLC	2006-101	
1 S	3 W	WM	15	SE SE			4.7	200	FURBY & JESSE FARMS LLC	2006-101	
1 S	3 W	WM	16	NE SW			1.5	1000	FURBY & JESSE FARMS LLC	2006-102	
1 S	3 W	WM	16	SE SW			13.3	1000	FURBY & JESSE FARMS LLC	2006-102	
1 S	3 W	WM	16	NW SE			0.4	1101	FURBY & JESSE FARMS LLC	2006-102	

IRRIGATION											
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres	TaxLot	Water User	Notice	
1 S	3 W	WM	16	SW SE			4.8	1101	FURBY & JESSE FARMS LLC	2006-102	
1 S	3 W	WM	18	NW NE		53	1.1	301	JOINT WATER COMMISSION	2006-100	
1 S	3 W	WM	18	SW NE		53	10.0	301	JOINT WATER COMMISSION	2006-100	
1 S	3 W	WM	18	SE NE		53	23.4	301	JOINT WATER COMMISSION	2006-100	
1 S	3 W	WM	18	NE SE		53	9.0	301	JOINT WATER COMMISSION	2006-100	
1 S	3 W	WM	18	NW SE		53	0.9	301	JOINT WATER COMMISSION	2006-100	
1 S	4 W	WM	11	SE NE		40	2.6	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	11	NE SW		40	9.4	1700	HEIKES	2006-107	
1 S	4 W	WM	11	NE SW	4	40	2.1	1700	HEIKES	2006-107	
1 S	4 W	WM	11	NE SE		40	28.7	1700	HEIKES	2006-107	
1 S	4 W	WM	11	NE SE		40	3.3	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	11	NW SE		40	28.5	1700	HEIKES	2006-107	
1 S	4 W	WM	11	NW SE		40	5.0	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	11	SW SE		40	1.9	1700	HEIKES	2006-107	
1 S	4 W	WM	11	SE SE		40	3.1	1700	HEIKES	2006-107	
1 S	4 W	WM	12	SW NW		40	1.9	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	12	NE SW		40	0.1	1700	HEIKES	2006-107	
1 S	4 W	WM	12	NW SW		40	28.0	1700	HEIKES	2006-107	
1 S	4 W	WM	12	NW SW		40	2.2	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	12	SW SW		40	3.0	1700	HEIKES	2006-107	
1 S	4 W	WM	12	SW SW		40	5.5	1700	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	12	SE SW		40	0.1	1700	HEIKES	2006-107	
1 S	4 W	WM	13	NE NW		42	11.1	2201	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	13	NW NW		42	8.9	2201	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	13	SW NW		42	5.5	2201	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	13	SW NW		42	10.3	2300	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	13	SE NW		42	5.0	2201	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	13	NW SW		42	12.5	2300	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	14	NE NE		42	2.7	301	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	14	NW NE	2		6.7	301	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	14	NW NE		42	9.6	301	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	14	SE NE		42	6.9	2300	MONTINORE RANCH LLC	N/A	
1 S	4 W	WM	14	NE SE		42	0.3	2300	MONTINORE RANCH LLC	N/A	
<b>Total:</b>							<b>293.6</b>				

6. Transfer Application T-10293 proposes to change the places of use to:

**Proposed Places of Use:**

IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	GLo	DLC	Acres	TaxLot	Water User	Notice
1 N	3 W	WM	4	SW SE		37	10.9	900	HEIKES	2006-107
1 N	3 W	WM	4	SW SE		37	3.6	1000	HEIKES	2006-107
1 N	3 W	WM	4	SESE		37	0.2	1000	HEIKES	2006-107
1 N	3 W	WM	4	SE SE		41	1.5	1000	HEIKES	2006-107
1 N	3 W	WM	9	NE NE		41	12.3	1000	HEIKES	2006-107
1 N	3 W	WM	9	NW NE		37	1.7	900	HEIKES	2006-107
1 N	3 W	WM	9	NW NE		37	2.2	1000	HEIKES	2006-107
1 N	3 W	WM	9	NW NE	1		1.2	1000	HEIKES	2006-107
1 N	3 W	WM	9	NW NE	1		8.6	100	HEIKES	2006-107
1 N	3 W	WM	9	NW NE		41	2.4	1000	HEIKES	2006-107

IRRIGATION										
Twp	Rng	Mer	Sec	Q-Q	GLo	DLC	Acres	TaxLot	Water User	Notice
1 N	3 W	WM	10	SE SW		45	3.3	700	KEN BUELT	2006-105
1 N	3 W	WM	10	SW SE		45	9.0	700	KEN BUELT	2006-105
1 N	3 W	WM	15	NW NE		45	3.8	700	KEN BUELT	2006-105
1 N	3 W	WM	15	NE NW		45	0.2	700	KEN BUELT	2006-105
1 S	3 W	WM	12	SW SE			0.7	1200	MARY JESSE TRUST	2006-103
1 S	3 W	WM	12	SE SE			7.3	1200	MARY JESSE TRUST	2006-103
1 S	3 W	WM	14	SW NE		57	6.2	500	FURBY & JESSE FARMS	2006-102
1 S	3 W	WM	14	NE SW		57	1.4	500	FURBY & JESSE FARMS	2006-102
1 S	3 W	WM	14	NW SE		57	12.4	500	FURBY & JESSE FARMS	2006-102
1 S	3 W	WM	16	NE SE			33.9	800	J & A PROPERTIES LLC	2006-107
1 S	3 W	WM	16	NW SE			26.4	800	J & A PROPERTIES LLC	2006-107
1 S	4 W	WM	11	SE NE		40	2.0	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	11	NE SW		40	0.7	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	11	NE SE		40	15.0	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	11	NW SE		40	19.3	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	11	SE SE		40	1.8	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	12	SW NW		40	6.2	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	12	NW SW		40	36.3	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	12	SW SW		40	17.2	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	12	SE SW		40	1.5	1700	MONTINORE RANCH LLC	N/A
1 S	4 W	WM	33	NE NE		50	9.2	300	HALLY HAWORTH	2006-100
1 S	4 W	WM	33	NE NE		50	9.6	400	HALLY HAWORTH	2006-100
1 S	4 W	WM	33	NW NE		50	0.2	400	HALLY HAWORTH	2006-100
1 S	4 W	WM	33	SW NE		50	1.3	400	HALLY HAWORTH	2006-100
1 S	4 W	WM	33	SE NE		50	9.7	300	HALLY HAWORTH	2006-100
1 S	4 W	WM	33	SE NE		50	14.4	400	HALLY HAWORTH	2006-100
<b>Total:</b>							<b>293.6</b>			

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 OAR 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 places 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.

**Cancellation and Partial Cancellation of Certain Water Rights**

Portions of water right Certificate 88122 involved in Transfer T-10293 are appurtenant to identical lands also authorized under other water rights of record.

13. On February 7, 2019, the Department received an affidavit from Alan M. Jesse on behalf of the Furby & Jesse Farms, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 41379. The affiant identified a “layered” water right on the “FROM” lands as identified in Finding of Fact #5, and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation of Certificate 41379 as described below:

**Certificate:** 41379 in the name of Donald C. Jesse (perfected under Permit G-3494)  
**Use:** IRRIGATION of 20.0 ACRES  
**Priority Date:** OCTOBER 4, 1966  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL within the TUALATIN RIVER BASIN

**Authorized Place of Use to be Cancelled:**

THE PORTION OF CERTIFICATE 41379 TO BE CANCELLED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	SE SW	1000	14.8
1 S	3 W	WM	16	SW SE	1101	5.2
<b>Total:</b>						<b>20.0</b>

14. Certificate 41379 is a deficient water right; it authorizes a rate of water that is less than the full rate allowed at 1/80<sup>th</sup> cubic foot per second (cfs) per acre. The total rate of water on the certificate (1.22 cfs) divided by the number of remaining acres (113.9 ac) after partial cancellation of Certificate 41379 as described in Findings of Fact 10 above, does not exceed the authorized limit of 1/80<sup>th</sup> cfs per acre. Therefore, the cancellation of 20.0 acres can be allowed without reducing any rate of water.

15. On January 11, 2019, the Department received an affidavit from Alan M. Jesse on behalf of the Furby & Jesse Farms, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 89649. The affiant identified a “layered” water right on the “FROM” lands as identified in Finding of Fact #5, and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation of Certificate 89649 as described below:

**Certificate:** 89649 in the name of Alan M. Jesse & James R. Furby (perfected under Permit S-53411)  
**Use:** PRIMARY AND SUPPLEMENTAL IRRIGATION of 20.0 ACRES  
**Priority Date:** APRIL 14, 1997

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands is limited to 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** DON JESSE RESERVOIR (Permit R-12479), tributary of the TUALATIN RIVER

**Authorized Place of Use to be Cancelled:**

THE PORTION OF CERTIFICATE 89649 TO BE CANCELLED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	SE SW	1000	14.8
1 S	3 W	WM	16	SW SE	1101	5.2
<b>Total:</b>						<b>20.0</b>

16. On January 11, 2019, the Department received an affidavit from Alan M. Jesse on behalf of J & A Jesse Properties, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 89649. The affiant identified a “layered” water right on the “FROM” lands as identified in Finding of Fact #5, and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation of Certificate 89649 as described below:

**Certificate:** 89649 in the name of Alan M. Jesse & James R. Furby (perfected under Permit S-53411)

**Use:** PRIMARY AND SUPPLEMENTAL IRRIGATION of 2.6 ACRES

**Priority Date:** APRIL 14, 1997

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands is limited to 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** DON JESSE RESERVOIR (Permit R-12479), tributary of the TUALATIN RIVER

**Authorized Place of Use to be Cancelled:**

THE PORTION OF CERTIFICATE 89649 TO BE CANCELLED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	NE SE	800	2.6

17. Certificate 89649 is a deficient water right; it authorizes a volume of water that is less than the full volume allowed at 2.5 acre-feet per acre. The total volume of water on the certificate (167.1 acre-feet) divided by the number of remaining acres (222.8 ac) after partial cancellation of Certificate 89649 as described in Findings of Fact 13 and 14, above, does not exceed the authorized duty of 2.5 acre-feet per acre. Therefore, the cancellation of 22.6 acres can be allowed without reducing any volume of water.

18. On January 11, 2019, the Department received an affidavit from Alan M. Jesse on behalf of J & A Jesse Properties, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 58069. The affiant identified a “layered” water right on the “FROM” lands as identified in Finding of Fact #5, and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation of Certificate 58069 as described below:

**Certificate:** 58069 in the name of Donald C. Jesse (perfected under Permit G-7800)  
**Priority Date:** JUNE 27, 1977  
**Use:** IRRIGATION of 2.6 ACRES  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL within the TUALATIN RIVER BASIN

**Authorized Place of Use to be Cancelled:**

THE PORTION OF CERTIFICATE 89649 TO BE CANCELLED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	NE SE	800	2.6

19. Certificate 58069 is a deficient water right; it authorizes a rate of water that is less than the full rate allowed at 1/80<sup>th</sup> cfs per acre. The total rate of water on the certificate (0.56 cfs) divided by the number of remaining acres (73.9 ac) after partial cancellation of Certificate 58069 as described in Findings of Fact 16 above, does not exceed the authorized limit of 1/80<sup>th</sup> cfs per acre. Therefore, the cancellation of 2.6 acres can be allowed without reducing any rate of water.
20. On March 28, 2019, the Department received an affidavit from A. Jane and Leo Graham on behalf of the Montinore Ranch, LLC, stating it is the owner of the lands and the appurtenant water right as evidenced by water right Certificate 39008. A portion of this certificate is a "layered" water right with "FROM" lands as identified in Finding of Fact #5. The affiant does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting cancellation of the entire Certificate 39008.

**Certificate:** 39008 in the name of Leo G. Graham (perfected under Permit S-31262)  
**Use:** IRRIGATION of 304.5 ACRE  
**Priority Date:** JUNE 27, 1966  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit No. R-4736.  
**Source:** DILLEY CREEK AND RESERVOIR (constructed under Permit R-4736), tributaries of the TUALATIN RIVER

**The Diminution of Certain Water Rights**

21. Certain proposed place of use parcels under Certificate 88122 will become appurtenant to portions of primary irrigation right Certificates 23123, 58069, 89649, 19820, 19862, and 23578. Therefore, to avoid layering of two primary water rights for irrigation, portions of lands under these six certificates will be diminished to supplemental irrigation as a result of this order.
22. On January 11, 2019, the Department received an affidavit from Alan Jesse as co-trustee, on behalf of the Mary C. Jesse Revocable Trust, stating the trust is the owner of the lands and the appurtenant water right as evidenced by water right Certificate 23123. The affiant has requested the water right for primary irrigation as described below be diminished to supplemental irrigation.

**Certificate:** 23123 in the name of Donald C. and Jean Jesse (perfected under Permit S-23242)  
**Use:** IRRIGATION of 24.8 ACRES  
**Priority Date:** SEPTEMBER 15, 1954  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** TUALATIN RIVER, tributary of the WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
1 S	2 W	WM	7	SW SW

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	12	SE SE	1200	24.8

23. On January 11, 2019, the Department received an affidavit from Alan Jesse on behalf of J & A Jesse Properties, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 58069. The affiant has requested the water right for primary irrigation as described below, be diminished to supplemental irrigation.

**Certificate:** 58069 in the name of Donald C. Jesse (perfected under Permit G-7800)  
**Use:** IRRIGATION of 60.3 ACRES  
**Priority Date:** JUNE 27, 1977  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL within the TUALATIN RIVER BASIN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	16	SW NE	170 FEET NORTH AND 410 FEET EAST FROM THE CENTER ¼ CORNER OF SECTION 16

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	NE SE	800	33.9
1 S	3 W	WM	16	NW SE	800	26.4
<b>TOTAL</b>						<b>60.3</b>

24. On February 7, 2019, the Department received an affidavit from Alan M. Jesse on behalf of J & A Jesse Properties, LLC, stating they are the owner of the lands and the appurtenant water right as evidenced by water right Certificate 89649. The affiant has requested the water right for primary irrigation as described below, be diminished to supplemental irrigation.

**Certificate:** 89649 in the name of Alan M. Jesse & James R. Furby (perfected under Permit S-53411)

**Use:** IRRIGATION of 60.3 ACRES

**Priority Date:** APRIL 14, 1997

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands is limited to 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** DON JESSE RESERVOIR (Permit R-12479), tributary of the TUALATIN RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	16	SW NE	POD #1: 1546 FEET SOUTH AND 1956 FEET WEST FROM THE NE CORNER OF SECTION 16
1 S	3 W	WM	16	SW NE	POD #2: 2399 FEET SOUTH AND 2418 FEET WEST FROM THE NE CORNER OF SECTION 16

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
1 S	3 W	WM	16	NE SE	800	33.9
1 S	3 W	WM	16	NW SE	800	26.4
<b>TOTAL</b>						<b>60.3</b>

25. On January 11, 2019, the Department received an affidavit from Dwayne E. Heikes, trustee of the Dwayne E. Heikes Trust, stating the trust is the owner of the lands and the appurtenant water right as evidenced by water right Certificate 19820. The affiant has

requested the water right for primary irrigation as described below, be diminished to supplemental irrigation.

**Certificate:** 19820 in the name of Everett L. Heikes (perfected under Permit S-13404)

**Use:** IRRIGATION of 19.6 ACRES

**Priority Date:** December 19, 1938

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** EAST FORK DAIRY CREEK, tributary of the TUALATIN RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
1 N	3 W	WM	4	SE SW	37
1 N	3 W	WM	4	SW SE	37

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
1 N	3 W	WM	4	SW SE	37	900	13.4
1 N	3 W	WM	4	SW SE	41	1000	1.1
1 N	3 W	WM	9	NW NE	41	1000	1.9
1 N	3 W	WM	9	NW NE	37	900	3.2
<b>TOTAL</b>							<b>19.6</b>

26. On January 11, 2019, the Department received an affidavit from Dwayne E. Heikes, trustee of the Dwayne E. Heikes Trust, stating the trust is the owner of the lands and the appurtenant water right as evidenced by water right Certificate 19862. The affiant has requested the water right for primary irrigation as described below, be diminished to supplemental irrigation.

**Certificate:** 19862 in the name of Everett L. Heikes (perfected under Permit S-17410)

**Use:** IRRIGATION of 13.3 ACRES

**Priority Date:** October 30, 1946

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** EAST FORK DAIRY CREEK, tributary of the TUALATIN RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
1 N	3 W	WM	4	SE SW	37
1 N	3 W	WM	4	NE SE	37

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental							
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot	Acres
1 N	3 W	WM	4	SE SE	41	1000	1.7
1 N	3 W	WM	9	NE NE	41	1000	10.1
1 N	3 W	WM	9	NW NE	41	1000	1.5
<b>TOTAL</b>							<b>13.3</b>

27. On January 11, 2019, the Department received an affidavit from Gumercindo Gonzalez, Jr., and on January 31, 2019, received an affidavit from Blanca Gonzalez, stating they are the owners of the lands and the appurtenant water right as evidenced by water right Certificate 23578. The affiants have requested the water right for primary irrigation as described below, be diminished to supplemental irrigation.

**Certificate:** 23578 in the name of Merton Sahnaw (perfected under Permit S-21026)

**Use:** IRRIGATION of 8.6 ACRES

**Priority Date:** December 21, 1951

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** EAST DAIRY CREEK, tributary of the TUALATIN RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Lot	Q-Q
1 N	3 W	WM	9	2	NE NW

**Authorized Place of Use to be Diminished:**

Lands Diminished from Primary to Supplemental						
Twp	Rng	Mer	Sec	Lot	Q-Q	Acres
1 N	3 W	WM	9	1	NW NE	8.6

**Conclusions of Law**

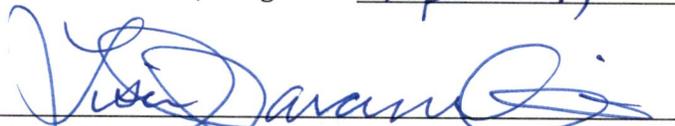
1. The proposed changes in place of use as proposed in Transfer Application T-10293 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the abandoned portions of the rights should be cancelled.

2. The portions of water right certificates for the use of water for primary irrigation as described in Findings of Fact #21, #22, #23, #24, #25, #26, and #27 are diminished to use for supplemental irrigation.

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

1. The proposed changes in place of use to the water right evidenced by Certificate 88122 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use not modified by this order and is subject to all other conditions and limitations contained in Certificate 88122.
3. The proposed changes in place of use as proposed in Transfer Application T-10293 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500.
4. The place of use from which the water right is removed by T-10293 shall no longer be irrigated under the transferred rights.
5. The district shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The portions of the water rights as evidenced by Certificates 41379, 89649, and 58069 as requested to be canceled, are canceled. The portions of the water rights as evidenced by Certificates 23123, 58069, 89649, 19820, 19862, 23578, as requested to be diminished from rights for primary irrigation to rights for supplemental irrigation are hereby diminished. Certificates 41379, 89649, 58069, 23123, 19820, 19862, and 23578 are hereby cancelled. New certificates will be issued to describe the portions of these rights NOT modified by this Final Order. Certificate 39008 is hereby cancelled in its entirety.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. A Claim of Beneficial Use shall be submitted by TVID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
8. Water right Certificate 88122 is modified. After satisfactory proof of completion has been determined by the Department, a superseding right certificate will be issued when the Department determines it is necessary for record keeping.

Dated at Salem, Oregon on April 4, 2019.



Lisa J. Jaramillo  
Transfer and Conservation Section Manager, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

APR 05 2019

Mailing Date: \_\_\_\_\_