

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A DISTRICT
T-13883, Deschutes and Crook Counties)	PERMANENT TRANSFER FOR PLACE OF
)	USE AND PLACE OF USE CHANGE DUE TO
)	NON-USE

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.

Oregon Revised Statutes (ORS) 540.572 to 540.580 establish the process in which a district may submit a request to permanently transfer a water right within district boundaries whenever land within the legal boundaries of a district is no longer irrigated or susceptible of irrigation. Oregon Administrative Rules (OAR) 690-385-5000 to 690-385-5900 implement the statutes and provide the Department's procedures and criteria for evaluating district permanent transfer applications for non-use.

Applicant

CENTRAL OREGON IRRIGATION DISTRICT
1055 SW LAKE CT.
REDMOND, OR 97756

Findings of Fact

1. On November 3, 2020, Central Oregon Irrigation District (COID) sent by certified mail, notices advising twenty-three (23) water users that COID's records show that a portion or all of the user's water right had not been beneficially used for the previous four consecutive years, and furthermore, if the user does not use the water for a fifth consecutive year, the district may petition the Department for a transfer of water right due to non-use. All persons holding a recorded security interest in the appurtenant lands were also notified. The contents of the notices meet the requirements of ORS 540.572(2) and OAR 690-385-5100.
2. On October 5, 2021, COID sent by certified mail, notices to the same twenty-three (23) water users stating COID's intent to confiscate the water right appurtenant to their lands due to five consecutive years of non-use, and file a petition with the Department to transfer

This final order in a contested case and 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(2) 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.

the unused portions of the water right to other lands in the District. The notice also advised the water users of their opportunity to object in writing within a 30 day period that began October 5, 2021. All persons holding a recorded security interest in the affected lands were also notified. The contents of the notices meet the requirements of ORS 540.572(3)-(4) and OAR 690-385-5100.

3. COID did not submit to OWRD any written objections received by the district from any water user within 30 days of the notice described in Finding of Fact #2.
4. On December 28, 2021, COID sent by certified mail, notices to the water users of the district whose right of record is to be transferred and to those who are to receive the transferred right. The notice informed them that COID filed a petition with the Department to remove water rights due to five consecutive years of non-use. Copies of the permanent transfer application (petition) and maps submitted to the Department were included in the notice. The notice also informed the water users of their opportunity to submit to the Department, a protest consistent with OAR 690-385-5700 against approval of the permanent transfer. The contents of the notice meet the requirements of ORS 540.576 and OAR 690-385-5400. No protests were received within the 60 day protest period that began December 28, 2021.
5. On December 28, 2022, the Department received COID's district transfer application to permanently change the place of use under Certificates 94956 and 76714. The application includes lands to be evaluated under ORS 540.572 (11.91 acres) for non-use, and lands *not involved in a non-use process* (1.0 acres) to be evaluated under ORS 540.580. The Department assigned the application number T-13883.
6. Notice of the District Permanent Transfer Application was published on January 11, 2022, pursuant to ORS 540.580 and OAR 690-385-5500 with a 30-day comment period. No comments were filed in response to the notice.
7. The U.S. Bureau of Reclamation was notified of the transfer application on January 11, 2022, no comments were received within 90 days of the notification.
8. The portion of the first right to be transferred is as follows:
Certificate: 94956 in the name of CENTRAL OREGON IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County)
Use: IRRIGATION of 12.91 acres
Priority Dates: OCTOBER 31, 1900 and DECEMBER 2, 1907
Seasons of Use: Season 1: April 1 through April 30 & October 1 through October 31
Season 2: May 1 through May 14 & September 16 through September 30
Season 3: May 15 through September 15
Maximum Quantity (Rate) that can be applied to an acre:
Season 1: Limited to 1/80 cubic foot per second (cfs) per acre
Season 2: Limited to 1/60 cfs per acre
Season 3: Limited to 1/32.4 cfs per acre
Maximum Duty that can be applied to an acre:
Not to exceed 9.91 acre-feet (af) per acre per year.

The above listed rates and duty reflect allowance of a 45% transmission loss as determined by decree of the Circuit Court of Deschutes County, dated March 24, 1933. Those lands not served from the district main canal systems, but by direct pumping from the Deschutes River, are not allowed the 45% transmission loss.

Source: The Deschutes River, tributary to the Columbia River

Authorized Points of Diversion:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	18 S	11 E	WM	13	SW NE	CENTRAL OREGON CANAL: 1520 FEET SOUTH AND 1535 FEET WEST FROM THE NE CORNER OF SECTION 13
11	17 S	12 E	WM	29	SE NE	COID NORTH CANAL: 850 FEET NORTH AND 630 FEET WEST FROM THE E1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	POD
14 S	13 E	WM	4	NE NW	0.37	100	PATRICK	11
14 S	13 E	WM	9	SE NW	0.14	801	FISHER	11
14 S	13 E	WM	13	SE NW	0.27	900	HERSCHBACH	11
14 S	13 E	WM	32	SE NW	0.18	607	VALLIE	11
* 14 S	13 E	WM	35	NW SW	0.10	1100	FRENCH	11
15 S	12 E	WM	1	SW SE	0.29	1900	FINLEY	11
15 S	12 E	WM	11	SE SE	0.89	1600	MEES	11
15 S	13 E	WM	4	SW NE	0.29	300	JACOBS / JACOBS	11
15 S	13 E	WM	18	NW SW	1.79	2400	BATS	11
16 S	12 E	WM	11	NE NE	0.14	1301RD	AYLOR	11
16 S	12 E	WM	11	NW SW	0.28	401	PETERSEN ROCK GARDEN INC	11
* 16 S	12 E	WM	12	SE NW	0.90	403	COID - QUITCLAIM	11
16 S	12 E	WM	27	NE SW	0.12	500	MILLAR	11
16 S	14 E	WM	20	NE SE	3.20	201	WATKINS / SELBY	1
17 S	12 E	WM	2	SW NE	0.12	407	SHIELDS	11
17 S	12 E	WM	15	SE NE	0.09	900	HARRISON	11
17 S	13 E	WM	20	SW SW	0.41	500	MARRON	1
17 S	13 E	WM	28	SE NW	0.39	1900	MORGAN	1
17 S	13 E	WM	28	SE SW	0.04	1101	MISNER / BERG	1
17 S	13 E	WM	31	NW SE	0.58	600	STROBEL	1
18 S	12 E	WM	2	NE NW	0.18	308	MARSDEN / MARSDEN	1
18 S	12 E	WM	2	SW SW	1.00	9200	MAGEE	1
18 S	13 E	WM	4	NW NE	0.18	900	STUART	1
18 S	13 E	WM	4	NE SW	0.35	606	ARMSTRONG	1
18 S	13 E	WM	12	NW NW	0.61	304	SCHRADER	1
Total					12.91			

* Lands totaling 1.0 acre not involved in transfer due to non-use

9. Transfer Application T-13883 proposes to change the Place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax	Water User	POD
13 S	13 E	WM	33	SW NE	3.52	200	PENELOPE	11
15 S	15 E	WM	5	NE NE	0.94	1301	ESTATE OF ALONZO LEIF GILBERTSON	1
16 S	12 E	WM	12	NW SW	1.35	501	BISHOP / BISHOP	11
16 S	14 E	WM	3	SW NW	6.00	505	HINTON	1
17 S	12 E	WM	14	SE NW	0.87	801	CUNNINGHAM / HENRIKSON	11
17 S	12 E	WM	14	SE NW	0.23	803	GASPER / GASPER	11
Total					12.91			

* Lands totaling 1.0 acre not involved in transfer due to non-use

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

Certificate: 76714 in the name of CENTRAL OREGON IRRIGATION DISTRICT (perfected under Permit S-23256)

Use: SUPPLEMENTAL IRRIGATION of 12.91 acres

Priority Date: February 28, 1913

Limit/Duty: Limited to 50,000 acre-feet of stored water only

Source: Crane Prairie Reservoir, constructed under Permit R-1687, a tributary of the Deschutes River

The water right evidenced by Certificate 76714 allows the use of up to 50,000 acre-feet of water stored in Crane Prairie Reservoir, a tributary of the Deschutes River, for supplemental irrigation. The diversion rate is not specified and use is limited to the total volume of stored water to make up any deficiency in supply of the live flow water right appurtenant to specified lands.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD Name
21 S	8 E	WM	17	NE NE	CRANE PRAIRIE RESERVOIR DAM

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
14 S	13 E	WM	4	NE NW	0.37	100	PATRICK
14 S	13 E	WM	9	SE NW	0.14	801	FISHER
14 S	13 E	WM	13	SE NW	0.27	900	HERSCHBACH
14 S	13 E	WM	32	SE NW	0.18	607	VALLIE
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16 S	12 E	WM	11	NE NE	0.14	1301RD	AYLOR
16 S	12 E	WM	11	NW SW	0.28	401	PETERSEN ROCK GARDEN INC
* 16 S	12 E	WM	12	SE NW	0.90	403	COID - QUITCLAIM

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
16 S	12 E	WM	27	NE SW	0.12	500	MILLAR
16 S	14 E	WM	20	NE SE	3.20	201	WATKINS / SELBY
17 S	12 E	WM	2	SW NE	0.12	407	SHIELDS
17 S	12 E	WM	15	SE NE	0.09	900	HARRISON
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Total					12.91		

* Lands totaling 1.0 acre not involved in transfer due to non-use

11. Transfer Application T-13883 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax	Water User
13 S	13 E	WM	33	SW NE	3.52	200	PENELOPE
15 S	15 E	WM	5	NE NE	0.94	1301	ESTATE OF ALONZO LEIF GILBERTSON
16 S	12 E	WM	12	NW SW	1.35	501	BISHOP / BISHOP
16 S	14 E	WM	3	SW NW	6.00	505	HINTON
17 S	12 E	WM	14	SE NW	0.87	801	CUNNINGHAM / HENRIKSON
17 S	12 E	WM	14	SE NW	0.23	803	GASPER / GASPER
Total					12.91		

* Lands totaling 1.0 acre not involved in transfer due to non-use

Transfer Review Criteria for Lands Subject to Non-Use (11.91 acres) Transferred under ORS 540.572-540.580; OAR 690-358-5000 through 690-385-5800

12. COID is managed by a full-time manager. *ORS 540.572(1)(a) and OAR 690-385-5000(1).*
13. COID is implementing an approved water conservation plan. *ORS 540.572(1)(b) and OAR 690-385-5000(2).*
14. Transfer T-13883 involves the use of water on lands located within the boundaries of COID. *ORS 540.572(1) and OAR 690-385-5000(3).*
15. COID determined the users had not made beneficial use of water for four successive years as shown in Findings of Facts #1. *OAR 690-385-5000(4).*
16. Based on the evidence contained in the letters and required notices, water was not put to beneficial use during the 2017, 2018, 2019, 2020, and 2021 irrigation seasons on the authorized lands designated in Finding of Facts #8 and #10, above, as lands involved in the

transfer due to non-use. *OR 690-385-5000(4)*. These authorized places of use are “no longer irrigated” as defined in *ORS 540.572(7)*.

17. The district provided notice to the users of their intent to transfer and provided opportunity to resolve the matter in the manner described by *ORS 540.272* and *OAR 690-385-5400* and *690-385-5600*. *OAR 690-385-5000(5)*. [See *Findings of Facts 1-4*.]
18. COID filed Transfer Application T-13883 prior to the end of the fifth year of non-use as required by *OAR 690-385-5600(5)*.
19. Transfer application T-13883 meets the application standards of *ORS 540.574* and *OAR 690-385-5200*.
20. The maps meet the standards of *ORS 540.574(1)* and *OAR 690-385-5300*.
21. The water rights are subject to transfer as defined in *OAR 690-385-0100(17)*. *OAR 690-385-5600(1)*.
22. The proposed change in place of use will not result in enlargement of the rights as defined in *OAR 690-385-0100(4)*. *OAR 690-385-5600(2)*.
23. The proposed change in place of use will not result in injury to other water rights as defined in *OAR 690-385-0100(6)*. *OAR 690-385-5600(3)*.

Transfer Review Criteria for Lands (1.0 acres) Transferred under ORS 540.580 and OAR 690-385-4000.

24. The Department finds that the portion of the district permanent transfer application 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*.
25. The Department finds that the proposed district permanent transfer meets all the criteria set forth in *ORS 540.580* and *OAR 690-385-4000*.
26. The proposed change in places of use will not result in enlargement of the right as defined in *OAR 690-385-0100(4)*.
27. The proposed change in place of use will not result in injury to other water rights as defined in *OAR 690-385-0100(6)*.
28. Any other applicable requirements for district permanent water right transfers are met as required in *OAR 690-385-4500*.

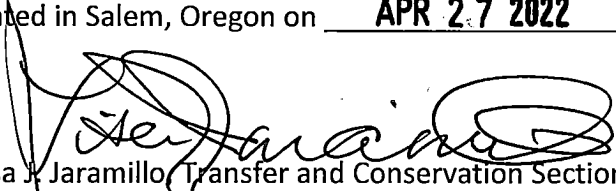
Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13883 satisfy the requirements of *ORS 540.572* to *540.580*, *OAR 690-385-4500*, *OAR 693-385-5000*, and *690-385-5600*.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 94956 and 76714 are approved.
2. The places of use from which the water rights are transferred off by Transfer T-13883 shall no longer be irrigated and are cancelled from Certificates 94956 and 76714.
3. The right to the use of the water at the place of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificates 94956 and 76714, and any related decree.
4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
5. 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 COID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
6. Water right certificates 94956 and 76714 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.

Dated in Salem, Oregon on APR 27 2022


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

Mailing Date: APR 28 2022