

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A DISTRICT
T-13957, Hood River County)	PERMANENT TRANSFER FOR PLACE OF
)	USE AND CANCELLATION AND PARTIAL
)	CANCELLATIONS OF WATER RIGHT
)	CERTIFICATES

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

EAST FORK IRRIGATION DISTRICT
PO BOX 162
ODELL, OR 97044

Findings of Fact

1. On March 24, 2022, East Fork Irrigation District (EFID) filed a district transfer application to permanently change the places of use under Certificates 92000 as modified by CW-93, 80928, and 80929. The Department assigned the application number T-13957.
2. Notice of the District Permanent Transfer Application was published on April 5, 2022, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The portion of the first right to be transferred is as follows:
Certificate: 92000 in the name of EAST FORK IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County)
Use: IRRIGATION of 25.40 acres
Priority Date: NOVEMBER 25, 1895
Rate / Duty: ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year.
Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

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.

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).

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
1 N	10 E	WM	2	NE NE	2.55	300	AKIN	2021-01
1 N	10 E	WM	15	SE NW	0.45	900	FOLEY	2021-01
2 N	10 E	WM	13	NW SE	1.60	900	BICKFORD / VAN HORN	2021-01
2 N	10 E	WM	14	NE SE	0.55	3600	GILKERSON	2021-01
2 N	10 E	WM	21	NE NE	0.65	800	BICKLE	2021-01
2 N	10 E	WM	21	NE SW	0.30	2900	SHEIRBON	2021-01
2 N	10 E	WM	22	SW NE	0.10	702	GRAVES	2021-01
2 N	10 E	WM	22	SW NE	0.20	1600	MARVICK / CISMONTANE INC	2021-01
2 N	10 E	WM	22	SW SE	0.60	1400	BIBIAN	2021-01
2 N	10 E	WM	22	SE SE	0.65	1400	EASTMAN	2021-01
2 N	10 E	WM	23	SW SW	1.05	2100	GUISTO	2021-01
2 N	10 E	WM	26	SW NE	2.35	900	MACIAS / MARQUEZ	2021-01
2 N	10 E	WM	26	NE NW	0.40	101	SAKAMOTO	2021-01
2 N	10 E	WM	26	NW NW	0.10	1029	FARWIG	2021-01
2 N	10 E	WM	27	NW NE	0.50	3109	KELLEY	2021-01
2 N	10 E	WM	27	NW NE	0.25	3400	TONI STUART, TRUSTEE	2021-01
2 N	10 E	WM	27	NW NW	0.10	4000	BUCKLEY	2021-01
2 N	10 E	WM	27	NW NW	0.45	4101	BUCKLEY	2021-01
2 N	10 E	WM	27	NW SW	0.50	6300	DUNN	2021-01
2 N	10 E	WM	28	NE NE	1.25	2000	SHEIRBON	2021-01
2 N	10 E	WM	28	NW NE	0.70	2000	SHEIRBON	2021-01
2 N	10 E	WM	35	NW NE	0.15	702	GULLEN / RIVERA	2021-01
2 N	10 E	WM	35	SW NW	0.50	1901	COHN	2021-01
2 N	10 E	WM	35	SE NW	0.30	2000	TUMURA ORCHARDS INC	2021-01
2 N	10 E	WM	35	NE SW	1.30	2100	YASUI INC	2021-01
2 N	10 E	WM	36	SE NW	1.05	1900	DOWNER / MUIR	2021-01
2 N	10 E	WM	36	SW SW	1.90	2700	BUCK / ESTATE OF ROBERT	2021-01
2 N	10 E	WM	36	SE SE	1.50	802	DUNN	2021-01
2 N	11 E	WM	18	NE NW	0.25	700	LAGE / LALA PROPERTIES	2021-01
2 N	11 E	WM	19	SW NE	0.20	601	GALVAN	2021-01
2 N	11 E	WM	19	SE SW	2.10	3200	ROBERTSON	2021-01
2 N	11 E	WM	30	NE NW	0.85	3200	ROBERTSON	2021-01
Total:					25.40			

4. Transfer Application T-13957 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
1 N	10 E	WM	2	NW SW	2.10*	1806	WY'EAST VINEYARDS LTD	2021-01
1 N	10 E	WM	2	SW SW	2.75	1806	WY'EAST VINEYARDS LTD	2021-01

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
1 N	10 E	WM	2	NE SE	4.50	2000	MCNERNEY	2021-01
1 N	10 E	WM	2	SE SE	2.00	2000	MCNERNEY	2021-01
1 N	10 E	WM	15	NW SE	0.20	2602	RUSSELL	2021-01
2 N	10 E	WM	20	SW SE	1.10	2202	GUISTO	2021-01
2 N	10 E	WM	23	SW SW	2.00	2100	GUISTO	2021-01
2 N	10 E	WM	25	SW SE	3.30	4100	CASTANEDA	2021-01
2 N	10 E	WM	26	NW NW	0.15	700	FIRST BAPTIST OF ODELL	2021-01
2 N	10 E	WM	28	NW NE	3.00	2000	SHEIRBON	2021-01
2 N	10 E	WM	34	SE NW	4.00	1700	HARDIN	2021-01
2 N	10 E	WM	35	NE NW	0.30	1200	TAMURA ORCHARDS INC	2021-01
Total:					25.40			

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

Certificate: 80928 in the name of EAST FORK IRRIGATION DISTRICT (perfected under Permit S-30825)

Use: IRRIGATION of 2.5 acres

Priority Date: AUGUST 13, 1965

Rate / Duty: ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year.

Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
2 N	10 E	WM	23	SW SW	2.50	2100	GUISTO	2021-01

6. Transfer Application T-13957 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
1 N	10 E	WM	2	NW SW	2.00	1806	WY'EAST VINEYARDS	2021-01
1 N	10 E	WM	22	NW NE	0.50	204	MILLER / NEIL	2021-01
Total:					2.50			

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

Certificate: 80929 in the name of EAST FORK IRRIGATION DISTRICT (perfected under Permit S-29617)

Use: IRRIGATION of 4.35 acres

Priority Date: MARCH 13, 1964

Rate / Duty: ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year.

Source: EAST FORK HOOD RIVER, tributary to HOOD RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
1 S	10 E	WM	4	NW SW	1	3750 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
2 N	10 E	WM	33	NE SE	0.50	1000	BOHINCE	2021-01
2 N	10 E	WM	33	NE SE	0.45	1001	BOHINCE	2021-01
2 N	10 E	WM	35	NW NW	0.10	1700	DAVIS	2021-01
2 N	11 E	WM	6	NW NE	3.30	600	NEWMAN	2021-01
Total:					4.35			

8. Transfer Application T-13957 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
1 N	10 E	WM	2	NW SW	0.30	1806	WY'EAST VINEYARDS	2021-01
2 N	10 E	WM	20	SE SE	0.55	22002	GUISTO	2021-01
2 N	10 E	WM	34	SW NW	2.50	1600	THE NEVILLE FAMILY	2021-01
2 N	10 E	WM	34	SE NW	1.00	1700	HARDIN	2021-01
Total:					4.35			

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

Cancellation of Water Right Certificate

15. On October 3, 2022, Mark and Lori Robertson, the owners of lands to which a portion of Certificate 92000 is appurtenant, submitted a voluntary cancellation affidavit meeting the requirements of ORS 540.621. The affiants identified a “layered” supplemental water right on the “FROM” lands under Certificate 92000 and do not intend to transfer this water right with the primary water right. An affidavit was submitted requesting the entire cancellation for the water right described as follows:

Certificate: 7524 in the name of R.W. Perry (perfected under Permit S-7642)

Use: IRRIGATION of 10.0 acres

Rate: 0.13 CUBIC FOOT PER SECOND

Priority Date: AUGUST 19, 1926

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 in case of rotation.

Source: SEEPAGE FROM IRRIGATION ABOVE, a tributary of NEALE CREEK

Place of Use to be cancelled:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
2 N	11 E	WM	19	SESW	10.0	3200	ROBERTSON	2021-01

Partial Cancellations of Water Rights

16. On October 3, 2022, Robert Kendal Marvick, on behalf Cismontane Inc., the owner of lands to which a portion of Certificate 92000 is appurtenant, submitted a voluntary cancellation affidavit meeting the requirements of ORS 540.621. The affiant identified a “layered” supplemental water right on the “FROM” lands under Certificate 92000 and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation as described as follows:

Certificate: 5433 in the names of Frank M. Cox and Martha N. Cox (perfected under Permit S-4748)

Use: SUPPLEMENTAL IRRIGATION of 0.20 acres

Rate: 0.002 CUBIC FOOT PER SECOND

Priority Date: AUGUST 20, 1920

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 in case of rotation.

Source: AN UNNAMMED STREAM, tributary to ODELL CREEK

Place of Use to be cancelled:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
2 N	10 E	WM	22	SW NE	0.2	1600	MARVICK / CISMONTANE	2021-01

17. On October 3, 2022, Madeline Perry, the owner of lands to which a portion of Certificate 92000 is appurtenant, submitted a voluntary cancellation affidavit meeting the requirements of ORS 540.621. The affiant identified a “layered” supplemental water right on the “FROM” lands under Certificate 92000 and does not intend to transfer this water right with the primary water right. An affidavit was submitted requesting a partial cancellation as described as follows:

Certificate: 15039 in the names of R.H. Weber (confirmed by decree of the Circuit Court of the State of Oregon for Hood River County)

Use: SUPPLEMENTAL IRRIGATION of 0.25 acres

Rate: 0.003 CUBIC FOOT PER SECOND

Priority Date: 1875

Limit / Duty: The amount of water is limited on an amount actually beneficially used and shall not exceed ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.

Source: ODELL CREEK, tributary to the HOOD RIVER

Place of Use to be cancelled:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
2 N	10 E	WM	27	SW NE	0.25	3400	TONI STUART, TRUSTEE	2021-01

Conclusions of Law


The proposed changes in place of use as proposed in Transfer Application T-13957 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500. The abandoned water right Certificate 7524 should be cancelled. The abandoned portions of Certificates 5433 and 15039 should be cancelled.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 92000, 80928, and 80929 are approved.
2. The places of use from which the water rights are transferred off by Transfer T-13957 shall no longer be irrigated, and are cancelled from Certificates 92000, 80928, and 80929.
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 92000, 80928, and 80929 and any related decree.
4. The water right as evidenced by Certificate 7524 as requested to be canceled is canceled.
5. The portions of the water rights as evidenced by Certificates 5433 and 15039 as requested to be canceled are canceled. New certificates will be issued describing the portions of the rights not modified by this Final Order.
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, 2024**. A Claim of Beneficial Use shall be submitted by EFID 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 92000, 80928, and 80929 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 **OCT 19 2022**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

Mailing Date: **OCT 20 2022**