

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

In the Matter of the Completion of a Change) DETERMINATION OF SATISFACTORY PROOF
in Place of Use Under Transfer Application) OF COMPLETION FOR A PERMANENT
T-13341, Deschutes County) DISTRICT TRANSFER
)
) LOSS OF RIGHT and NOTICE of LOSS

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION DUE TO LOSS OF RIGHT

The district and affected water user have a period of 60 days from the date this DETERMINATION OF SATISFACTORY PROOF OF COMPLETION was sent within which to request the Department reconsider the contents of this order of DETERMINATION OF SATISFACTORY PROOF OF COMPLETION. If no request for reconsideration is received within the 60-day period, the Department may issue or modify the water right certificate pursuant to ORS 540.530(2)(a) and OAR 690-385-7600 consistent with the terms of this DETERMINATION OF SATISFACTORY PROOF OF COMPLETION.

Authority

Oregon Administrative Rule (OAR) 690-385-7400 describes the documentation the district must file with the Department in order to provide proof of use.

OAR 690-385-7600 provides in pertinent part that satisfactory proof shall be (a) a determination by the Department that application of water to beneficial use under the terms of the transfer final order was completed to the extent authorized, or (b) a determination by the Department that the application of water to a beneficial use under the terms of the transfer final order was completed to an extent less than authorized.

OAR 690-385-7100(2) provides that any part of a transferred water use that is not used beneficially under the terms of the transfer final order, or within any extension of time allowed for completion, is deemed lost and constitutes a loss of water right.

Oregon Revised Statute (ORS) 540.530(2)(a) and OAR 690-385-7600 authorize the Department to issue or modify a certificate of water right upon satisfactory proof of completion of the change or changes authorized by a final order approving a permanent district transfer.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

Applicant

CENTRAL OREGON IRRIGATION DISTRICT
 1055 SW LAKE COURT
 REDMOND, OR 97756

Findings of Fact

1. On May 5, 2020, the Department signed a final order, which was mailed on May 7, 2020, and recorded in Special Order Volume 116, Pages 650-658, approving Transfer Application T-13341 involving Certificates 94956 and 76714. The final order established October 1, 2021, as the date for completion of the authorized changes in place of use.
2. On October 26, 2021, the Department signed a final order, which was mailed on October 27, 2021, and recorded in Special Order Volume 121, Pages 886-887, extending the completion date of the authorized change in place of use to October 1, 2023.
3. On October 13, 2022, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-13341 satisfying the requirements for providing proof of use under OAR 690-385-7400.
4. The Department reviewed the CBU and map(s) submitted by the applicant for Transfer Application T-13341.
5. The CBU did not contain a map of the point of diversion from the source. However, since the transfer involved the transfer of places of use only within an irrigation district and did not involve a change in the point of diversion, the existing maps on file with the Department are sufficient to identify the point of diversion from the source.
6. The proposed place of use for Certificates 94956 for primary irrigation and 76714 for supplemental irrigation as approved the final order for Transfer Application T-13341, and as recorded in Special Order Volume 116, Pages 650-658, is shown in Table 1, below:

Table 1:

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	POD
14 S	13 E	WM	8	SW NW	4.14	403	BUTTERFIELD	11
14 S	13 E	WM	8	SW NW	3.01	403	BUTTERFIELD	11
14 S	13 E	WM	15	NW NE	1.58	300	DUNN	11
14 S	13 E	WM	15	NW NE	0.32	300	DUNN	11
14 S	13 E	WM	15	SW NE	0.43	300	DUNN	11
14 S	13 E	WM	15	SW NE	3.57	300	DUNN	11
14 S	13 E	WM	20	NW NW	0.96	801	AABY	11
14 S	13 E	WM	20	NW NW	0.54	801	AABY	11
14 S	13 E	WM	24	NW SE	0.60	1103	CAMPBELL	11

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	POD
14 S	13 E	WM	24	NW SE	3.00	1103	CAMPBELL	11
14 S	13 E	WM	25	SE NW	0.80	800	FARNSWORTH	11
14 S	13 E	WM	25	SE NW	1.10	800	FARNSWORTH	11
14 S	13 E	WM	34	SW NE	1.30	201	BATTY	11
16 S	14 E	WM	16	NE NW	1.50	101	ENGLAND	1
16 S	14 E	WM	16	NW NW	7.75	101	ENGLAND	1
16 S	14 E	WM	16	SW NW	6.97	101	ENGLAND	1
16 S	14 E	WM	16	SE NW	0.15	101	ENGLAND	1
Total					37.72			

Loss of Right Determined

- Information in the CBU indicates a portion of the transfer for Certificates 94956 and 76714 was completed to an extent less than authorized in the transfer. The portion of the proposed place of use in Transfer T-13341 not perfected and therefore not confirmed in this order is described in Table 3, below.

Table 3:

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	POD #
14 S	13 E	WM	15	NW NE	1.10	300	DUNN	11
14 S	13 E	WM	15	SW NE	2.40	300	DUNN	11
TOTAL					3.50			

- Pursuant to OAR 690-385-4580, issuance of a final order approving a permanent change in place of use terminates the right to use water at the previously authorized place of use. Thus, failure to make proof in a CBU on a proposed place of use results in loss of an equivalent portion of the right that was completed to an extent less than authorized in the transfer.
- The equivalent portion of the water right evidenced by Certificate 94956 lost for failure to fully prove up on the use of water from the Deschutes River for irrigation on the place of use described in Table 3 is 3.50 acres. Certificate 94956 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed, the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the points of diversion (POD), the portion of the right not proved up on would be limited as described in the table below. The quantities of water for irrigation of 3.50 acres by which Certificate 94956, at POD #11, shall be reduced upon issuance of this order are shown in the table below.

PRIORITY DATE	SEASON 1	SEASON 2	SEASON 3	DUTY
	April 1 – April 30 and Oct. 1 – Oct. 31	May 1 – May 14 and Sept. 15 – Sept. 30	May 15 – Sept. 14	33.01 Ac-Ft
October 31, 1900	0.040 cfs	0.054 cfs	0.053 cfs	
December 2, 1907			0.021 cfs	

10. The equivalent portion of the water right evidenced by Certificate 76714 lost for failure to fully prove up on the use of water from storage for supplemental irrigation on the place of use described in Table 3 is 3.50 acres. However, the total quantity of water available for supplemental irrigation shall not be reduced.

Summary Findings of Fact

11. Based on information in the CBU and on the final proof maps, beneficial use under T-13341 has been demonstrated for the place of use for Certificates 94956 and 76714 as shown in Table 4, below:

Table 4:

PRIMARY and SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	POD
14 S	13 E	WM	8	SW NW	4.14	403	BUTTERFIELD	11
14 S	13 E	WM	8	SW NW	3.01	403	BUTTERFIELD	11
14 S	13 E	WM	15	NW NE	0.80	300	DUNN	11
14 S	13 E	WM	15	SW NE	1.60	300	DUNN	11
14 S	13 E	WM	20	NW NW	0.96	801	AABY	11
14 S	13 E	WM	20	NW NW	0.54	801	AABY	11
14 S	13 E	WM	24	NW SE	0.60	1103	CAMPBELL	11
14 S	13 E	WM	24	NW SE	3.00	1103	CAMPBELL	11
14 S	13 E	WM	25	SE NW	0.80	800	FARNSWORTH	11
14 S	13 E	WM	25	SE NW	1.10	800	FARNSWORTH	11
14 S	13 E	WM	34	SW NE	1.30	201	BATTY	11
16 S	14 E	WM	16	NE NW	1.50	101	ENGLAND	1
16 S	14 E	WM	16	NW NW	7.75	101	ENGLAND	1
16 S	14 E	WM	16	SW NW	6.97	101	ENGLAND	1
16 S	14 E	WM	16	SE NW	0.15	101	ENGLAND	1
Total					34.22			

12. Based on the review of evidence submitted by the applicant, the Department finds the application of water to a beneficial use under the terms of the transfer final order for T-13341 was completed to an extent less than authorized in the transfer. The Department finds that beneficial use was made to the extent shown in Table 4, above.

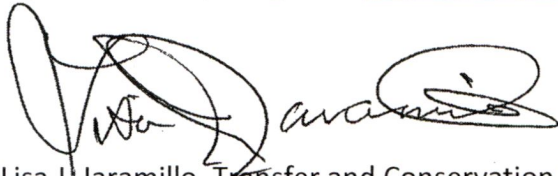
Conclusions of Law

1. The Applicant has submitted proof of use pursuant to OAR 690-385-7400.
2. Application of water to a beneficial use under the terms of the transfer final order has been completed to an extent less than authorized in the transfer, but made to the extent shown in Table 4, above.
3. The portions of the rights not perfected, as described in Finding of Facts #7, 8, 9, and 10, are lost.
4. The applicant has demonstrated proof of completion under T-13341, except for the portion identified in Conclusion of Law #3, to the satisfaction of the Department.
5. The Department is authorized to issue or modify certificates of water rights involved in Transfer T-13341 consistent with this determination of satisfactory proof of completion.

Now, therefore, it is ORDERED:

1. Water right Certificates 94956 and 76714 are modified as described in Table 4. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon on MAR 21 2023.



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

Mailing Date: MAR 22 2023