# BEFORE THE WATER RESOURCES DEPARTMENT FOR THE STATE OF OREGON

In the Matter of the Completion of a Change	)	DETERMINATION OF
in Place of Use Under Transfer Application	)	SATISFACTORY PROOF
T-11935, Hood River County	)	SATISTACION I PROOF

## **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.

Oregon Revised Statue (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.

## **Applicant**

FARMERS IRRIGATION DISTRICT 1985 COUNTY CLUB RD HOOD RIVER

## **Findings of Fact**

- 1. On April 24, 2015, the Department issued a final order, recorded in Special Order Volume 95, Pages 953-964, approving Transfer Application T-11935.
- 2. On August 3, 2017 the Department signed a superseding final order to correct various errors. This order was mailed on August 8, 2017, and recorded in Special Order Volume 105, Pages 505-517, approving Transfer Application T-11935 involving Certificates 74299, 74302, 74306, 76230, 85974, 85975, 85976, 74334, 74335, and 74368. The final order established October 1, 2016, as the date for completion of the authorized changes in place of use.

#### 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.

- 3. On October 11, 2016, the Department received a Claim of Beneficial Use (CBU) and associated maps from the applicant for Transfer Application T-11935.
- 4. On July 31, 2017 the applicant submitted minor corrections to the CBU thereby satisfying the requirements for proof of use under OAR 690-385-7400.
- 5. The Department reviewed the CBU and map(s) submitted by the applicant for Transfer Application T-11935.
- 6. 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.
- 7. The proposed place of use for Certificate 74299 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 1:

				SUI	PPLEME	NTAL IR	RRIGATION	
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	9	NE SW	4900	0.30	ANNALA	_
2 N	10 E	WM	9	NW SW	3100	0.10	KINOSHITA	-
2 N	10 E	WM	10	NW SW	1400	0.20	HARDMAN	7410
2 N	10 E	WM	17	SE SE	4300	0.40	WY'EAST ORCHARD LLC	7443
					Total	1.00		

8. The proposed place of use for Certificate 74302 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 2:

	SUPPLEMENTAL IRRIGATION											
Twp	Twp Rng Mer Sec Q-Q Tax lot Acres Water User DINN#											
2 N												

9. The proposed place of use for Certificate 74306 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 3:

					IRRIGA	TION		
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	1	SE NW	1100	0.25	NICKELSEN ORCHARDS INC	7397
2 N	10 E	WM	1	SE NW	3800	0.05	NICKELSEN ORCHARDS INC	-
2 N	10 E	WM	3	NW SE	300	0.10	BENTZ	-
2 N	10 E	WM	11	NE SE	300	0.65	RED BARN ORCHARDS	7399
2 N	10 E	WM	11	NE SE	1000	0.15	RED BARN ORCHARDS	7400
2 N	10 E	WM	11	SE SE	300	0.25	RED BARN ORCHARDS	7401
2 N	10 E	WM	12	NWSW	300	0.75	RED BARN ORCHARDS	7404

					IRRIGA	TION		
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	12	NW SW	2600	0.35	RED BARN ORCHARDS	7405
2 N	10 E	WM	10	NE NW	100	1.40	GLORY ORCHARDS	-
2 N	10 E	WM	10	SE NW	100	0.05	GLORY ORCHARDS	7395
2 N	10 E	WM	14	NW SW	2008	0.55	BECK	7301
3 N	10 E	WM	34	NW NE	1400	0.50	BREWER	7387
3 N	10 E	WM	34	NW SW	702	0.25	VAGLIENTI	
					Total	5.30		

10. The proposed place of use for Certificate 76230 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 4:

	IRRIGATION										
Twp											
2 N	2 N 10 F WM 5 SESW 301 0.20 HOOD RIVER CHERRY CO1 7										

This is different from the water user (Fowler) that was listed in the transfer final order. It has been updated here to reflect the change as shown in the CBU.

11. The proposed place of use for Certificate 85974 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 5:

					IR	RIGATI	ON	
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	5	SE SW	301	1.30	HOOD RIVER CHERRY CO 1	7406
2 N	10 E	WM	9	NE SW	4900	0.30	ANNALA	-
2 N	10 E	WM	9	NW SW	3100	0.10	KINOSHITA	-
2 N	10 E	WM	10	NW SW	1400	0.20	HARDMAN	7409
2 N	10 E	WM	17	SE SE	4300	0.40	WY`EAST ORCHARD LLC	7442
					Total	2.30		

This is different from the water user (Fowler) that was listed in the transfer final order. It has been updated here to reflect the change as shown in the CBU.

12. The proposed place of use for Certificate 85975 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 6:

	IRRIGATION											
Twp	Twp Rng Mer Sec   Q-Q   Tax lot   Acres   Water User   DINN#											
2 N	10 E	WM	17	NE SW	2500	0.05	WIMMERS	_				

				SUF	PPLEME	NTAL I	RRIGATION	
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	5	SE SW	301	1.30	HOOD RIVER CHERRY CO	7407
2 N	10 E	WM	9	NE SW	4900	0.30	ANNALA	-
2 N	10 E	WM	9	NW SW	3100	0.10	KINOSHITA	-
2 N	10 E	WM	10	NW SW	1400	0.20	HARDMAN	7411
2 N	10 E	WM	17	SE SE	4300	0.40	WY`EAST ORCHARD LLC	7445
					Total	2.30		

Total 2.30 This is different from the water user (Fowler) that was listed in the transfer final order. It has been updated here to reflect the change as shown in the CBU.

13. The proposed place of use for Certificate 85976 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 7:

				SUF	PPLEME	NTAL IR	RIGATION	
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	DINN#
2 N	10 E	WM	9	NE SW	4900	0.30	ANNALA	-
2 N	10 E	WM	9	NW SW	3100	0.10	KINOSHITA	-
2 N	10 E	WM	10	NW SW	1400	0.20	HARDMAN	7412
2 N	10 E	WM	17	SE SE	4300	0.40	WY`EAST ORCHARD LLC	7446
					Total:	1.00	1000-000	

14. The proposed place of use for Certificate 74334 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 8:

	SUPPLEMENTAL IRRIGATION											
Twp Rng Mer Sec Q-Q Tax lot Acres Water User DINN#												
2 N	10 E	WM	12	NW SW	300	0.40	RED BARN ORCHARDS	-				

15. The proposed place of use for Certificate 74335 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 9:

	SUPPLEMENTAL IRRIGATION											
Twp	Twp Rng Mer Sec Q-Q Tax lot Acres Water User DINN#											
2 N	10 E	WM	11	NE SE	300	0.59	RED BARN ORCHARDS	-				

16. The proposed place of use for Certificate 74368 as approved the final order for Transfer Application T-11935, and as recorded in Special Order Volume 105, Pages 505-517 is shown in the table below:

Table 10:

SUPPLEMENTAL IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User		
2 N	10 E	WM	1	SE NW	3800	0.25	NICKELSEN ORCHARDS INC		

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres	Water User	
2 N	10 E	WM	1	SE NW	3800	0.05	NICKELSEN ORCHARDS INC	
					Total:	0.30		

17. Based on the review of evidence submitted by the applicant, the department finds that the application of water to beneficial use under the terms of the transfer final order for T-11935 was completed to the extent authorized in the transfer as described in Tables 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, 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 made to the extent shown in Tables 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, above.
- 3. The applicant has demonstrated proof of completion under T-11935 to the satisfaction of the Department.
- 4. The Department is authorized to issue or modify certificates of water rights involved in transfer T-11935 consistent with this determination of satisfactory proof of completion.

## Now, therefore, it is ORDERED:

- 1. Water right Certificates 74334, 74335, and 74368 are modified as shown in Tables 8, 9, and 10, above. No new certificates will be issued describing the modifications of these rights because the place of use changes occur within the same quarter-quarters.
- 2. Water right Certificates 74299, 74302, 74306, 76230, 85974, 85975, and 85976 are modified are modified as shown in Tables 1, 2, 3, 4, 5, 6, and 7, above. The Department will issue superseding certificates describing these rights when it determines it is necessary for record keeping.

Signed a	at Salem,	Oregon	this	13	day	of	October	2017.	

Dwight French, Water Right Services Administrator for

THOMA\$ M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing date: OCT 1 9 2017