

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

In the Matter of Exchange Application) **PROPOSED ORDER DENYING**
T-10030, Deschutes and Jefferson Counties) **EXCHANGE APPLICATION**

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

ORS 540.533 establishes the process in which a water right holder may apply for permission to use stored, surface or ground water from another source in exchange for supplying replacement water in an equal amount to satisfy prior appropriations from the other source.

Applicant

THREE SISTERS IRRIGATION DISTRICT
PO BOX 2230
SISTERS, OR 97759

Agent

DESCHUTES RIVER CONSERVANCY
PO BOX 1560
BEND, OR 97709

Findings of Fact

Background

1. On December 2, 2005, THREE SISTERS IRRIGATION DISTRICT filed an application to exchange a flow augmentation groundwater right (application G-16558) for a surface water right (Certificate #74135). The Department assigned the application number T-10030.
2. Notice of the application for exchange was published on March 14, 2006, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. ORS 540.533(1) establishes the criteria for applying for an exchange, as follows:.

Any person holding a water right established by court decree, a water right certificate or a water right for which proof of beneficial use has been approved by the Water Resources Director or Water Resources Commission or any person applying for or holding a permit issued under ORS 537.211 for use of water for an instream purpose


Pursuant to OAR 690-380-2260(5), the applicant or any persons who submitted timely comments may request an opportunity for hearing within 30 days of the date of this Proposed Order.

4. The flow augmentation groundwater right proposed to be exchanged in the T-10030 application is not a water right subject to transfer. It is only a water right permit application; it is not a permit, and therefore, does not meet the criteria established under ORS 540.533.
5. The exchange application is incomplete because groundwater application G-16558 is not a water right subject to transfer or exchange.
6. Because Exchange Application T-10030 is incomplete, notice required under OAR 690-380-2260(2)(b) has not been published.

Determination and Proposed Action:

The exchange proposed in Application T-10030 appears not to be consistent with the requirements of ORS 540.533, 537.705, and 540.505 to 540.580 and OAR 690-380-5000. The flow augmentation groundwater application G-16558 is not a water right subject to transfer. Exchange Application T-10030 will be denied unless the exchange application is withdrawn or modified so as to meet the completeness requirements or as an outcome of a hearing held under OAR 690-380-2260(5).

Dated at Salem, Oregon this 22 day of February 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR

This Proposed Order was prepared by Teri Hranac. If you have any questions about the information in this document you may reach me at 503-986-0881 or teri.k.hranac@wrд.state.or.us.