

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10834, Umatilla County) DISTRICT TEMPORARY TRANSFER

Authority

ORS 540.570 establishes the process in which a district may submit a request to temporarily transfer a water right within district boundaries. OAR Chapter 690, Division 385 implements the statutes and provides the Department’s procedures and criteria for evaluating district transfer applications.

Applicant

WESTLAND IRRIGATION DISTRICT
Attn – STACEY WELLS
PO BOX 944
HERMISTON, OR 97838

Findings of Fact

Background

1. On March 26, 2009, Westland Irrigation District filed an application to temporarily change the place of use under Certificates 76715, 79439 and 82441 for a period of one year. The Department assigned the application number T-10834.
2. The portion of the first primary right and its layered supplemental water right to be transferred is as follows:

Certificate: 76715 issued in the name of Westland Irrigation District (confirmed by the Umatilla River decree)

Use: Irrigation of 15.7 acres

Priority Date: March 14, 1903

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) from MARCH 1 to NOVEMBER 1 and subject to the limitations of Paragraph 32 of the Umatilla River decree for each acre irrigated during the irrigation season of each year.

Source: Umatilla River, a tributary of the Columbia River

This final order 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 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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	29 E	WM	21	SW NE	Westland I.D. Canal - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the W¼ corner of Section 21.

Certificate: 79439, issued in the name of U.S. Bureau of Reclamation (Perfected under Permit S-7400)

Use: SUPPLEMENTAL IRRIGATION of 15.7 acres

Priority Date: July 1, 1924

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second, provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed therein.

Source: McKay Reservoir, a tributary of McKay Creek. Water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	32 E	WM	34	NW SE	McKAY DAM
3 N	29 E	WM	21	SW NE	WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 Feet from the W¼ Corner of Section 21

Authorized Places of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		User
						76715 (IR)	79439 (IS)	
3 N	29 E	WM	18	NW NW	5600	10.7	10.7	DOUBLE M RANCH
3 N	29 E	WM	18	SW NW	7500	5.0	5.0	DOUBLE M RANCH
TOTAL:						15.7	15.7	

3. Transfer Application T-10834 proposes to TEMPORARILY change the place of use of the rights to:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE(ACRES)		User
						76715 (IR)	79439 (IS)	
3 N	29 E	WM	18	NW NW	5600	14.0	14.0	DOUBLE M RANCH
3 N	29 E	WM	18	SW NW	7500	1.7	1.7	DOUBLE M RANCH
TOTAL:						15.7	15.7	

4. The portion of the SECOND right to be transferred is as follows:

Certificate: 82441, issued in the name of Double M Ranch, Inc. (perfected under Permit G-10222)

Use: Irrigation (IR) of 32.6 acres

Priority Date: January 10, 1983

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: Well #1 and Well #2, within Umatilla River Basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	13	NW NE	WELL#1 - 270 Feet South and 2540 Feet West From the NE Corner of Section 13
3 N	29 E	WM	18	SW NW	WELL#2 - 1450 Feet South and 3160 Feet West From the N¼ Corner of Section 18

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	18	NW NW	5600	32.6	DOUBLE M RANCH

5. Application T-10834 proposes to TEMPORARILY change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	TL	Acres	User
3 N	29 E	WM	18	NW NW	5600	32.6	DOUBLE M RANCH

6. Notice of the application for transfer was published on April 21, 2009, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
7. The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
8. Diversion structures, pumps, pipeline, and pivot sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
9. The proposed changes would not result in enlargement of the rights.
10. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.570(6) if the Department later finds that the transfer is causing injury to any existing water right.

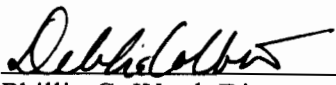
Conclusions of Law

1. The temporary changes in Place of Use are consistent with the requirements of ORS 540.570 and OAR 690-385-3000.

Now, therefore, it is ORDERED:

1. The proposed, temporary changes to the water rights evidenced by Certificates 76715, 79439 and 82441 are approved.
2. The temporary transfer is effective for the 2009 irrigation season.
3. The former places of use **shall not** be irrigated as part of these water rights during the 2009 irrigation season.
4. At the end of the 2009 irrigation season all use of water under this temporary transfer shall automatically revert to the terms and conditions of the original water right permit, certificates or adjudication as evidenced by a court decree.
5. The use of water under this temporary transfer may be conditioned or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.
6. A subsequent application for permanent transfer of Certificates 76715, 79439 and 82441 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
7. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 76715, 79439 and 82441.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water rights described by Certificates 76715, 79439 and 82441 shall continue to be in accordance with the terms and conditions of Certificates 76715, 79439 and 82441.
10. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 16th day of June, 2009.


Phillip C. Ward, Director *PC*

Mailing date JUN 22 2009