

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10844, 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 (Chester Prior)
Attn – STACEY WELLS
PO BOX 944
HERMISTON, OR 97838

Findings of Fact

Background

1. On April 9, 2009, Westland Irrigation District filed an application to temporarily change the place of use and points of appropriation (necessary to facilitate the change in place of use) under Certificates 76050, 75127 and 81815 for a period of one year. The Department assigned the application number T-10844.
2. Westland Irrigation District specified water use for primary irrigation under Certificate 76050 on the “TO” lands will be diminished to supplemental irrigation under the existing primary water rights during the course of the 2009 Irrigation Season, and is fully described in Findings of Fact #4.
3. The portion of the primary right and its layered supplemental water rights to be transferred are as follows:

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

Certificate: 76050, issued in the name of Teel Irrigation District (perfected under Permit S-25920)

Use: Irrigation of 248.9 acres

Priority Date: April 22, 1955

Rate & Duty: ONE-FORTIETH of one cubic foot per second (or its equivalent) and 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: Umatilla River, a tributary of the Columbia River

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: 75127, issued in the name of Chester and Rosalie Prior (perfected under Permit G-6069)

Use: Supplemental Irrigation of 248.9 acres

Priority Date: September 5, 1974

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year., 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: PRIOR WELLS #4, #7 and #8, within the Umatilla River Basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Change in POA	Measured Distances
2 N	28 E	WM	1	SE NW	RETAIN	WELL #4 - 2640 Feet South and 630 Feet West from the N¼ Corner of Section 1
2 N	28 E	WM	2	SE NW	DELETE	WELL #7 - 2500 Feet South and 2580 Feet East from the NW Corner of Section 2
2 N	28 E	WM	2	NE SE	RETAIN	WELL #8 - 2800 Feet South and 500 Feet West from the NE Corner of Section 2

Certificate: 81815, issued in the name of Chester Prior, Eagle Ranch (perfected under Permit S-48450)

Use: Supplemental Irrigation of 248.9 acres

Priority Date: August 3, 1981

Rate & Duty: use may be allowed anytime between November 15 and June 15 of each year that water can be put to beneficial use by irrigation, either for immediate crop growth or for forecast requirements to raise the soil moisture to field capacity in the soil profile to be utilized by plant growth in the subsequent growing season. The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 1.5 acre-feet for each acre irrigated during

the period from NOVEMBER 15 TO THE LAST DAY OF FEBRUARY OF EACH YEAR, provided further that the right allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed 4.5 ACRE- FEET FOR EACH ACRE IRRIGATED IN ANY ONE YEAR, provided further, that the part declared herein be for supplemental irrigation, the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in the ground water supply provided the total quantity diverted from all sources of supply does not exceed the limitation allowed herein. The use of water during the period November 15 to the last day February of each year shall not establish priority of right as against future appropriations for beneficial uses or storage for such beneficial uses, other than similar rights for irrigation from November 15 to the last day of February.

Source: Umatilla River, a tributary of the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
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	CERTIFICATE (ACRES)			User
					76050 (IR)	75127(IS)	81815 (IS)	
2 N	28 E	WM	1	NE SW	37.1	37.1	37.1	CHESTER PRIOR
2 N	28 E	WM	1	NW SW	31.0	31.0	31.0	CHESTER PRIOR
2 N	28 E	WM	1	SW SW	28.8	28.8	28.8	CHESTER PRIOR
2 N	28 E	WM	1	SE SW	31.2	31.2	31.2	CHESTER PRIOR
2 N	28 E	WM	2	SE NE	13.7	13.7	13.7	CHESTER PRIOR
2 N	28 E	WM	2	NE SE	19.1	19.1	19.1	CHESTER PRIOR
2 N	28 E	WM	2	NW SE	30.0	30.0	30.0	CHESTER PRIOR
2 N	28 E	WM	2	SW SE	35.2	35.2	35.2	CHESTER PRIOR
2 N	28 E	WM	2	SE SE	22.8	22.8	22.8	CHESTER PRIOR
TOTALS:					248.9	248.9	248.9	

4. Pursuant to 690-385-3130, the applicant requested that the portion of water right Certificate 76050(IR) in the table above be diminished to supplemental irrigation on the "TO" lands to the existing District water right Certificate 76050 during the 2009 irrigation season and is described in Findings of Fact #5.
5. Transfer Application T-10844 proposes to transfer the above described rights as follows:

Proposed Places of Use:

SUPPLEMENTAL IRRIGATION (IS)									
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)			User
						76050*	75127	81815	
3 N	28 E	WM	16	NE NW	3101	29.7	29.7	29.7	CHESTER PRIOR
3 N	28 E	WM	16	NW NW	3101	32.2	32.2	32.2	CHESTER PRIOR
3 N	28 E	WM	16	SW NW	3101	33.5	33.5	33.5	CHESTER PRIOR
3 N	28 E	WM	16	SE NW	3101	29.4	29.4	29.4	CHESTER PRIOR
3 N	28 E	WM	21	NE SE	6800	29.9	29.9	29.9	CHESTER PRIOR
3 N	28 E	WM	21	NW SE	6900	30.6	30.6	30.6	CHESTER PRIOR
3 N	28 E	WM	21	SW SE	6800	32.4	32.4	32.4	CHESTER PRIOR
3 N	28 E	WM	21	SE SE	6800	31.2	31.2	31.2	CHESTER PRIOR
TOTALS:						248.9	248.9	248.9	

* **NOTE:** The applicant has requested to diminish the above described Certificate 76050 at the new proposed place of use to supplemental irrigation to existing primary water right Certificate 76050 during the 2009 irrigation season.

- Transfer Application T-10844 also proposes to temporarily change the point of appropriation from Prior Well #7 under Certificate 75127 (0.91 cfs to be used in any combination) on the proposed "TO" lands to two wells located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	28 E	WM	1	SE NW	PRIOR WELL #4 – 2640 Feet South and 630 Feet West from the N¼ Corner of Section 1
2 N	28 E	WM	2	NE SE	PRIOR WELL #8 – 2800 Feet South and 500 Feet West from the NE Corner of Section 2

- Notice of the application for transfer was published on April 28, 2009, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
- Water has been used within the last five years according to the terms and conditions of the rights and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- Diversion structures, pumps, pipeline, and pivot sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- The water rights are subject to transfer as defined in OAR 690-385-0100(17).
- The proposed changes would not result in enlargement of the rights.
- 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.

13. The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-2000, and includes a map meeting the requirements of OAR 690-385-2200.

Conclusions of Law

The temporary changes in place of use proposed in Transfer Application T-10844 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 76050, 75127 and 81815 are approved
2. The temporary transfer is effective for the 2009 irrigation season.
3. Pursuant to OAR 690-385-3130, the use of water for supplemental irrigation at the proposed place of use under Certificates 76050, 75127 and 81815 as described in Findings of Fact #5, is restricted to the total rate and duty described by Certificate 76050 and may be used only to make up a deficiency of supply.
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. The use of water on both the lands from which the water right is transferred and at the new temporary place of use during the same irrigation season or calendar year is prohibited and may subject the district and landowner to civil penalties.
7. A subsequent application for permanent transfer of Certificates 76050, 75127 and 81815 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.
8. 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 76050, 75127 and 81815.

9. The use of the remaining water rights described by Certificates 76050, 75127 and 81815 shall continue to be in accordance with the terms and conditions of Certificates 76050, 75127 and 81815.
10. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
11. 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 *PCW*

Mailing Date: JUN 22 2009