

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

In the Matter of a Proposed Change            )     ORDER APPROVING A  
In Place of Use of Water Within an         )     TEMPORARY DISTRICT  
Irrigation District — TRANSFER 9894        )     TRANSFER

**FINDINGS OF FACT**

1. Pursuant to ORS 540.570, Westland Irrigation District, P. O. Box 944, Hermiston, Oregon, 97838, submitted an application to the Oregon Water Resources Department to temporarily change the place of use of water within the boundaries of the irrigation district. The application was received on March 18, 2005 and included the required fees.
2. The Department assigned the transfer application number T-9894.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated March 29, 2005. The application was noticed as a temporary transfer within irrigation district boundaries.
4. No timely comments were received in response to the published notice.
5. Westland Irrigation District applied to modify the following rights:
  - a) PRIMARY IRRIGATION  
**Certificate 76051:** issued in the name of Teel Irrigation District  
**Use:** Irrigation (Primary)  
**Priority Date:** June 27, 1958  
**Rate & Duty:** 1/40 cfs and 4.5 AF per acre irrigated  
**Source:** Umatilla River  
**Point of Diversion:** SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; North 76 Degrees 45 Minutes 56 Seconds East 2913.19 Feet from the West ¼ Corner of Section 21.

<p><b>NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW</b> This is an order 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.</p>
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b) SUPPLEMENTAL IRRIGATION

**Certificate 75126:** issued in the name of Todd M. Dimbat, Kelly L. Molash, Irrevocable Trusts, and Tony Amstad, Trustee, Echo OREGON

**Use:** Irrigation (Supplemental)

**Priority Date:** October 1, 1975

**Rate & Duty:** 1/80 cfs and 3.0 AF per acre irrigated

**Source:** Wells #1 & #3

**Point of Appropriation:** SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 16, T 3 N, R 29 E, W.M.; Well #1 – 850 feet North and 750 feet West from the S $\frac{1}{4}$  Corner, Section 16; Well #3– 350 feet North and 850 feet West from the S $\frac{1}{4}$  Corner, Section 16.

**Certificate 61534:** issued in the name of Travelers Insurance Company

**Use:** Irrigation (Supplemental)

**Priority Date:** March 30, 1976

**Rate & Duty:** 1/80 cfs and 3.0 AF per acre irrigated

**Source:** Brown Wells #1, 2, 3, & 4

**Points of Appropriation:**

Brown Well #1 - SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 20, T 3 N, R 29 E, W.M.; 80 feet North and 2500 feet West from the SE Corner of Section 20.

Brown Well # 2 - SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 30, T 3 N, R 29 E, W.M.; 610 feet North and 50 feet West from the SE Corner of Section 30.

Brown Well # 3 - SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 30, T 3 N, R 29 E, W.M.; 1400 feet South and 1310 feet West from the NE Corner of Section 30.

Brown Well # 4 - SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 19, T 3 N, R 29 E, W.M.; 140 feet North and 490 feet West from the Center of Section 19.

**Certificate 75128:** issued in the name of Jeff R. Urbach Irrevocable Trust and Wayne A. Amstad Irrevocable Trust

**Use:** Irrigation (Supplemental)

**Priority Date:** September 26, 1974

**Rate & Duty:** 1/80 cfs and 3.0 AF per acre irrigated

**Source:** Well (Brown's Well #2)

**Point of Appropriation:** SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 30, T 3 N, R 29 E, W.M.; 610 feet North and 50 feet West from the SE Corner of Section 30.

**Certificate 79439:** issued in the name of U.S. Bureau of Reclamation

**Use:** Irrigation (Supplemental)

**Priority Date:** July 1, 1924

**Rate & Duty:** 1/80 cfs

**Source:** McKay Reservoir

**Point of Diversion:** McKay Dam - NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 34, T 2 N, R 32 E, W.M.

6. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

TABLE 1 - FROM LANDS									
					Water Right Certificates				
					Primary	Supplemental			
TWP	RNG	SEC	¼ ¼	TL	76051	75126	61534	75128	79439
3N	29E	20	NW NE	6106	5.00	5.00	5.00		
3N	29E	20	SW NE	6106	10.00	10.00	10.00		
3N	29E	20	SE NE	6106	4.00	4.00	4.00		4.00
3N	29E	20	SE SW	6103	11.10		11.10		
3N	29E	20	NE SE	6106	0.10		0.10		0.10
3N	29E	20	NW SE	6106	0.50		0.50		
3N	29E	20	SE SE	6106	4.50		4.50		4.50
3N	29E	21	SW NW	6106	0.30	0.30	0.30		0.30
3N	29E	21	NW SW	6106	1.20		1.20		1.20
3N	29E	21	SW SW	6106	23.80		23.80		23.80
3N	29E	21	SE SW	6106	3.80		3.80		3.80
3N	29E	28	NE NW	6106	2.00		2.00		2.00
3N	29E	28	NW NW	6106	22.10		22.10		22.10
3N	29E	29	NE NE	6106	2.40		2.40		2.40
3N	29E	29	NE NW	6104	8.00		8.00		
3N	29E	29	SW NW	6104	0.60		0.60		0.60
3N	29E	29	SW SW	6104	9.60			9.60	
3N	29E	30	SE SE	6104	9.60			9.60	
TOTALS					118.60	19.30	99.40	19.20	64.80

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

TABLE 2 - TO LANDS									
					Water Right Certificates				
					Primary	Supplemental			
TWP	RNG	SEC	¼ ¼	TL	76051	75126	61534	75128	79439
3N	28E	24	NE NW	7200	29.90		29.90		29.90
3N	28E	24	NW NW	7200	30.60		30.60		30.60
3N	29E	20	SE SE	6106	4.50		4.50		
3N	29E	21	SW SW	6106	9.20		9.20		
3N	29E	21	SW SW	6106	5.00	5.00	5.00		
3N	29E	21	SW SW	6106	0.80			0.80	
3N	29E	21	SW SW	6106	8.50	8.50	8.50		2.10
3N	29E	21	SE SW	6106	0.20	0.20	0.20		0.20
3N	29E	21	SE SW	6106	3.60	3.60	3.60		

3N	29E	28	NE NW	6106	1.20	1.20	1.20		1.20
3N	29E	28	NE NW	6106	0.80			0.80	
3N	29E	28	NW NW	6106	17.60			17.60	
3N	29E	28	NW NW	6106	0.80	0.80	0.80		0.80
3N	29E	28	NW NW	6106	3.50		3.50		
3N	29E	29	NE NE	6106	2.40		2.40		
TOTALS					118.60	19.30	99.40	19.20	64.80

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the permit. The use shall conform to any reasonable rotation system ordered by the proper state officer.

7. Watermaster Tony Justus has commented requesting the use of water described above from wells that is conveyed through the Westland Canal, be measured where the water enters the Canal and measured out as well.
8. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the application submitted by Westland Irrigation District, the Department has determined the following:
  - a) The application contains the information required under ORS 540.574(3).
  - b) The application meets the requirements of ORS 540.570.
  - c) The application contains maps which are satisfactory to the Department and which the District certified as being accurate.
  - d) The application includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
  - e) The District notified each affected landowner that the Department may at any time, to the extent necessary to avoid injury to an existing water right:
    - A) Condition the temporary transfer to mitigate injury; or
    - B) Reject or revoke the temporary transfer.
  - f) The lands from which the water right would be moved by the proposed transfer will not continue to receive water under the water right.
  - g) The use authorized by the water right subject to transfer will not change; and
  - h) The proposed change in place of use will not result in injury or enlargement to an existing water right.

#### CONCLUSIONS OF LAW

1. The application submitted by Westland Irrigation District proposing a temporary change in place of use within district boundaries included the information, and satisfied the criteria, required by ORS 540.574(3).

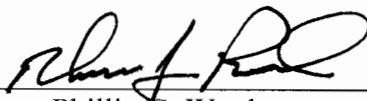
2. The proposed transfer complies with the requirements of ORS 540.570.
3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury or enlargement to existing water rights.

ORDER

It is hereby ORDERED :

1. The temporary transfer of place of use is approved.
2. The temporary transfer is effective for the 2005 irrigation season.
3. At the end of the 2005 irrigation season, all uses of water under the temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.
4. The use of water described above from wells that is conveyed through the Westland Canal, shall be measured where the water enters the Canal and measured out of the canal at the withdrawal point(s).
5. The approval of this temporary transfer may be conditioned, rejected 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 former place of use shall no longer be irrigated as a part of this water right. The use of water on 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. Except as modified herein, all other conditions and limitations of the water rights remain in effect.

WITNESS the signature of the Water Resources Director affixed April 15, 2005.

  
Phillip C. Ward