

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10348, Umatilla County) APPROVING A DISTRICT
) TEMPORARY TRANSFER

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
P.O. BOX 944
HERMISTON, OR 97838

Findings of Fact

1. On March 19, 2007, Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76717, 76799, 76050, 76051, 79439, 75121, 75124, and 83083. The Department assigned the application number T-10348.
2. On May 7, 2007, the applicant submitted a new amended map and application to better describe the authorized place of use.
3. Notice of the application for transfer was published pursuant to ORS 540.570 and OAR 690-385-4400. No comments were filed in response to the notice.
4. Westland Irrigation District specified water use under existing 1.2 acres of Certificate 76051 will become supplemental irrigation for the incoming District right, Certificate 83083, and existing 5.9 acres of Certificate 76051 will become supplemental irrigation for an incoming right, Certificate 76263 during the course of the 2007 Irrigation Season, and are fully described in Findings of Fact #8 and #9.
5. The portion of the first right to be transferred is as follows:
Certificate: 76717, issued in the name of Westland Irrigation District
Use: Irrigation (IR) of 69.2 acres
Priority Date: July 1907
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.

<p>This is a final order in other than 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 either 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.</p>

Source: Umatilla River, a tributary of the Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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

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

Use: Supplemental Irrigation (IS) of 69.2 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	SURVEY COORDINATES
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
						76717 (IR)	79439 (IS)	
3 N	28 E	WM	23	NE NW	7100	30.2	30.2	L & L FARMS
3 N	28 E	WM	23	NW NW	7100	29.0	29.0	L & L FARMS
3 N	28 E	WM	23	SW NW	7100	4.8	4.8	L & L FARMS
3 N	28 E	WM	23	SE NW	7100	5.2	5.2	L & L FARMS
TOTAL:						69.2	69.2	

Application T-10348 proposes to TEMPORARILY change the place of use for the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76717 (IR)	79439 (IS)	
2 N	28 E	WM	4	SW NE	800	0.4	0.4	L & L FARMS
2 N	28 E	WM	4	SE NE	800	0.5	0.5	L & L FARMS
2 N	28 E	WM	4	NE SE	800	33.5	33.5	L & L FARMS
2 N	28 E	WM	4	NW SE	800	33.0	33.0	L & L FARMS
2 N	28 E	WM	4	SW SE	800	1.8	1.8	L & L FARMS
TOTAL:						69.2	69.2	

6. The portion of the second right to be transferred is as follows:

Certificate: 76799, issued in the name of Westland Irrigation District (perfected under Permit 27583)

Use: Irrigation (IR) of 10.6 acres

Priority Date: April 12, 1961

Rate & Duty: One-fortieth of one cubic foot per second and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Umatilla River and McKay Reservoir, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
2 N	32 E	WM	34	NW SE	McKay Dam
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.

Authorized Place of Use:

IRRIGATION (IR)							
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER
3 N	28 E	WM	23	SE NW	7100	10.6	L & L FARMS

Application T-10348 proposes to TEMPORARILY change the place of use for the above described right to:

CERTIFICATE 76799 - IRRIGATION (IR)							
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER
2 N	28 E	WM	4	SW SE	800	10.6	L & L FARMS

7. The portion of the third right to be transferred is as follows:

Certificate: 76051, issued in the name of Teel Irrigation District (perfected under Permit 25924)

Use: Irrigation (IR) of 44.8 acres

Priority Date: June 27, 1958

Rate & Duty: One-fortieth of one cubic foot per second and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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 the Bureau of Reclamation (perfected under Permit 7400)

Use: Supplemental Irrigation (IR) of 44.8 acres

Priority Date: July 1, 1924

Rate & Duty: limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, provided further that the right lowed 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, 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	SURVEY COORDINATES
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) & SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76051 (IR)	79439 (IS)	
3 N	28 E	WM	23	SW NW	7100	29.6	29.6	L & L FARMS
3 N	28 E	WM	23	SE NW	7100	15.2	15.2	L & L FARMS
TOTAL:						44.8	44.8	

Application T-10348 proposes to TEMPORARILY change the place of use for the above described rights to:

IRRIGATION (IR) & SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76051 (IR)	79439 (IS)	
2 N	28 E	WM	4	SW SE	800	16.1	16.1	L & L FARMS
2 N	28 E	WM	4	SE SE	800	28.7	28.7	L & L FARMS
TOTAL:						44.8	44.8	

7. The portion of the fourth right to be transferred is as follows:

Certificate: 76051, issued in the name of Teel Irrigation District (perfected under Permit 25924)

Use: Irrigation (IR) of 5.9 acres

Priority Date: June 27, 1958

Rate & Duty: One-fortieth of one cubic foot per second and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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.

Authorized Place of Use:

IRRIGATION (IR)							
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER
3 N	28 E	WM	23	SE NW	7100	*5.9	L & L FARMS

* Note: Application T-10348 proposes to TEMPORARILY diminish 5.9 acres of primary irrigation (Certificate 76051) to supplemental irrigation for incoming Certificate 76263 being transferred in under associated transfer application T-10349 (L & L Farms, c/o Robert Levy) for the 2007 irrigation season:

TO BE DIMINISHED TO INCOMING CERT# 76263 (T-10349)							
TWP	RNG	MER	SEC	Q - Q	TL	ACRES	USER
3 N	28 E	WM	23	SE NW	7100	5.9	L & L FARMS

8. The portion of the fifth right to be transferred is as follows:

Certificate: 76051, issued in the name of Teel Irrigation District (perfected under permit 25924)

Use: Irrigation (IR) of 124.6 acres

Priority Date: June 27, 1958

Rate & Duty: One-fortieth of one cubic foot per second and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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: 75124, issued in the name L & L Farms (perfected under Permit G-6936)

Use: Supplemental Irrigation (IS) of 124.6 acres

Priority Date: July 19, 1976

Rate & Duty: 1/80 cfs per acre and 3.0 acre-feet for each acre irrigated during the irrigation season of each year, limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: Well 2, within the Spikes Gulch River Basin

Authorized Point of Appropriation:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
3 N	28 E	WM	26	NW NE	Well 2 - 930 feet South from the N¼ corner of Section 26

Certificate: 83083, issued in the name of Tony Amstad and L & L Farms/Robert Levy (perfected under Permit 48968)

Use: Supplemental Irrigation (IR) of 124.6 acres

Priority Date: August 10, 1981

Rate & Duty: One-fortieth of one cubic foot per second and 1.5 acre-feet for each acre irrigated during the period November 15 to last day of February of each year.

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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.

Authorized Places of Use:

IRRIGATION (IR) & SUPPLEMENTAL IRRIGATION (IS)									
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)			USER
						76051 (IR)	75124 (IS)	83083 (IS)	
3 N	28 E	WM	33	NE NE	8105	31.3	31.3	31.3	L & L FARMS
3 N	28 E	WM	33	NW NE	8105	31.3	31.3	31.3	L & L FARMS
3 N	28 E	WM	33	SW NE	8105	31.0	31.0	31.0	L & L FARMS
3 N	28 E	WM	33	SE NE	8105	29.8	29.8	29.8	L & L FARMS
3 N	28 E	WM	33	SE NE	8105	*1.2	*1.2	*1.2	L & L FARMS
TOTAL:						124.6	124.6	124.6	

Application T-10348 proposes to TEMPORARILY change the place of use for the above described rights to:

IRRIGATION (IR) & SUPPLEMENTAL IRRIGATION (IS)									
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)			USER
						76051 (IR)	75124 (IS)	83083 (IS)	
3 N	28 E	WM	27	NE SW	7403	29.2	29.2	29.2	*** L & L FARMS
3 N	28 E	WM	27	NW SW	7403	27.6	27.6	27.6	*** L & L FARMS
3 N	28 E	WM	27	SW SW	7403	32.0	32.0	32.0	*** L & L FARMS
3 N	28 E	WM	27	SE SW	7403	28.9	28.9	28.9	*** L & L FARMS
3 N	28 E	WM	32	SE NW	8105	**5.7	**5.7	**5.7	*** L & L FARMS
3 N	28 E	WM	33	SE NE	8105	*1.2	*1.2	*1.2	L & L FARMS
TOTAL:						124.6	124.6	124.6	

* Note: Application T-10348 proposes to TEMPORARILY diminish the existing 1.2 acres (Certificate 76051 and 75124) within the SE¼ NE¼ from primary irrigation to supplemental irrigation for incoming 1.2 acres under Certificate 76051. In addition, existing water right for supplemental irrigation on this 1.2 acres under Certificate 83083 will not be used this 2007 season.

** Note: Westland Irrigation District states that the existing 5.7 acres under Certificate 83083 within the SE¼ NW¼ will not be used this 2007 season.

*** Note: Westland Irrigation District states that the existing Certificates 76051 and 79439 will not be used or transferred on these lands during this 2007 season.

9. The portion of the sixth right to be transferred is as follows:

Certificate: 83083, issued in the name of Tony Amstad and L & L Farms/Robert Levy (perfected under Permit S-48968)

Use: Irrigation (IR) of 245.0 acres

Priority Date: August 10, 1981

Rate & Duty: One-fortieth of one cubic foot per second and 1.5 acre-feet for each acre irrigated during the period November 15 to last day of February of each year.

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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.

Authorized Place of Use:

IRRIGATION (IR)							
TWP	RNG	MER	SEC	Q - Q	TL	Acres	USER
2 N	28 E	WM	4	SW NE	800	0.4	L & L FARMS
2 N	28 E	WM	4	SE NE	800	0.5	L & L FARMS
2 N	28 E	WM	4	NE SE	800	33.5	L & L FARMS
2 N	28 E	WM	4	NW SE	800	33.0	L & L FARMS
2 N	28 E	WM	4	SW SE	800	28.5	L & L FARMS
2 N	28 E	WM	4	SE SE	800	28.7	L & L FARMS
3 N	28 E	WM	32	NE NW	8105	31.0	L & L FARMS
3 N	28 E	WM	32	NW NW	8105	31.7	L & L FARMS
3 N	28 E	WM	32	SW NW	8105	31.9	L & L FARMS
3 N	28 E	WM	32	SE NW	8105	25.8	L & L FARMS
TOTAL:						245.0	

Application T-10348 proposes to TEMPORARILY change the place of use for the above described right to:

CERTIFICATE 83083 (IR)							
TWP	RNG	MER	SEC	Q - Q	TL	Acres	USER
3 N	28 E	WM	27	NE NW	7403	28.4	L & L FARMS
3 N	28 E	WM	27	NW NW	7403	30.4	L & L FARMS
3 N	28 E	WM	27	SW NW	7403	30.4	L & L FARMS
3 N	28 E	WM	27	SE NW	7403	31.2	L & L FARMS
3 N	28 E	WM	33	NE NE	8105	31.3	L & L FARMS
3 N	28 E	WM	33	NW NE	8105	31.3	L & L FARMS
3 N	28 E	WM	33	SW NE	8105	31.0	L & L FARMS
3 N	28 E	WM	33	SE NE	8105	31.0	L & L FARMS
TOTAL:						245.0	

10. The portion of the seventh right to be transferred is as follows:

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

Use: Irrigation (IR) of 120.4 acres

Priority Date: April 22, 1955

Rate & Duty: One-fortieth of one cubic foot per second and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Umatilla River, tributary to Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
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: 75121, issued in the name of L & L Farms (perfected under Permit G-8570)

Use: Supplemental Irrigation (IR) of 120.4 acres

Priority Date: April 19, 1979

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and shall be further limited to a diversion of not to exceed 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 herein.

Source: Well #1, Well #2, Well #3, within the Spikes Gulch River Basin

Authorized Points of Appropriation:

TWP	RNG	MER	SEC	Q - Q	SURVEY COORDINATES
3 N	28 E	WM	23	SW SE	WELL #1 -- 960 Feet North and 30 Feet East from the S¼ Corner of Section 23
3 N	28 E	WM	26	NW NE	WELL #2 -- 930 Feet South from the N¼ Corner of Section 26
3 N	28 E	WM	23	NW NW	WELL #3 -- 60 Feet South and 820 Feet East from the NW Corner of Section 23

Authorized Places of Use:

IRRIGATION (IR) & SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76050 (IR)	75121 (IS)	
3 N	28 E	WM	27	NE NW	7403	28.4	28.4	L & L FARMS
3 N	28 E	WM	27	NW NW	7403	30.4	30.4	L & L FARMS
3 N	28 E	WM	27	SW NW	7403	30.4	30.4	L & L FARMS
3 N	28 E	WM	27	SE NW	7403	31.2	31.2	L & L FARMS
TOTAL:						120.4	120.4	

Application T-10151 proposes to TEMPORARILY change the place of use of the above described rights to:

CERTIFICATES 76050 (IR) and 75121 (IS)								
TWP	RNG	MER	SEC	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76050 (IR)	75121 (IS)	
3 N	28 E	WM	32	NE NW	8105	31.0	31.0	L & L FARMS
3 N	28 E	WM	32	NW NW	8105	31.7	31.7	L & L FARMS
3 N	28 E	WM	32	SW NW	8105	31.9	31.9	L & L FARMS
3 N	28 E	WM	32	SE NW	8105	25.8	25.8	L & L FARMS
TOTAL:						120.4	120.4	

11. The district temporary transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
12. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
13. The proposed change in place of use would not result in enlargement of the rights.
14. The proposed change in place of use would not result in injury to other rights.

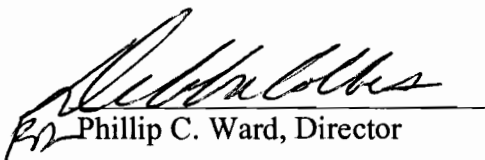
Conclusions of Law

1. The proposed changes in place of use in Transfer Application T-10348 satisfies the requirements of ORS 540.574(3) and 540.570.
2. The portions of the rights described in Findings of Fact #7 and #8 will be diminished to supplemental irrigation during the 2007 irrigation season.
3. This transfer will be processed simultaneously with T-10349 (L & L Farms c/o Robert Levy).

Now, therefore, it is ORDERED:

1. The proposed change in Place of Use to the water rights evidenced by Certificates 76717, 76799, 76050, 76051, 75121, 75124, 79439 and 83083 are approved.
2. The temporary transfer is effective for the 2007 irrigation season.
3. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 76717, 76799, 76050, 76051, 75121, 75124, 79439 and 83083 and any related decree.
4. Pursuant to OAR 690-385-3130, the use of water for supplemental irrigation at the proposed place of use under Certificate 83083, as described in Findings of Fact #8, is restricted to the total rate and duty described by the existing primary irrigation water rights, Certificate 76051 and 83083, and may only be used to make up a deficiency of supply.
5. 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.
6. 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.
7. At the end of the 2007 irrigation season all uses of water under this temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

Dated at Salem, Oregon this 31st day of May, 2007.


Phillip C. Ward, Director

JUN 04 2007

Mailing Date: _____