

**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-10612, 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 April 25, 2008, Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76051, 75126, 61534, 75128 and 79439. The Department assigned the application number T-10612.
2. 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.
3. The portion of the right and its supplemental water rights to be transferred are as follows:
Certificate: 76051, issued in the name of Teel Irrigation District (Perfected under Permit 25924)
Use: Irrigation of 119.2 acres
Priority Date: June 27, 1958
Rate & Duty: ONE-FORTIETH of one cubic foot per second (cfs), 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 | 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 |

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.

Certificate: 75126, Todd M. Dimbat, Kelly L. Molash, Irrevocable Trusts, and Tony Amstad, Trustee (Perfected under Permit G-6339)
Use: Supplemental Irrigation of 17.4 acres
Priority Date: October 1, 1975
Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (cfs) and 3.0 acre-feet per acre irrigated
Source: Wells #1 & #3 in the Umatilla River Basin
Points of Appropriation:

| Twp | Rng | Mer | Sec | Q - Q | Survey Coordinates |
|-----|------|-----|-----|-------|---|
| 3 N | 29 E | WM | 16 | SE SW | Well #1 – 850 feet North and 750 feet West from the S¼ Corner of Section 16 |
| 3 N | 29 E | WM | 16 | SE SW | Well #3 – 350 feet North and 850 feet West from the S¼ Corner of Section 16 |

Certificate: 61534, in the name of Travelers Insurance Company
Use: Supplemental Irrigation of 100.0 acres
Priority Date: March 30, 1976
Rate & Duty: ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre irrigated
Source: Brown Wells #1, 2, 3, & 4 in the Umatilla River Basin
Points of Appropriation:

| Twp | Rng | Mer | Sec | Q - Q | Survey Coordinates |
|-----|------|-----|-----|-------|---|
| 3 N | 29 E | WM | 20 | SW SE | Brown Well #1 – 80 feet North and 2500 feet West from the SE Corner of Section 20 |
| 3 N | 29 E | WM | 30 | SE SE | Brown Well #2 – 610 feet North and 50 feet West from the SE Corner of Section 30 |
| 3 N | 29 E | WM | 30 | SE NE | Brown Well #3 – 1400 feet South and 1310 feet West from the NE Corner of Section 30 |
| 3 N | 29 E | WM | 19 | SE NW | Brown Well #4 – 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 (Perfected under Permit G-6010)
Use: Supplemental Irrigation of 19.2 acres
Priority Date: September 26, 1974
Rate & Duty: ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre irrigated
Source: Brown Well #2 in the Umatilla River Basin
Point of Appropriation:

| Twp | Rng | Mer | Sec | Q - Q | Survey Coordinates |
|-----|------|-----|-----|-------|--|
| 3 N | 29 E | WM | 30 | SE SE | BROWN WELL #2 – 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 (Perfected under permit 7400)
Use: Supplemental Irrigation of 67.6 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) | | | | | | | | | | | |
|--|-----|-----|-----|-------|------|--------------------------|-------------|-------------------|-------------|-------------|--------|
| | | | | | | Water Right Certificates | | | | | |
| | | | | | | Primary (IR) | | Supplemental (IS) | | | |
| Twp | Rng | Mer | Sec | Q - Q | TL | 76051 | 75126 | 61534 | 75128 | 79439 | USER |
| 3N | 29E | WM | 20 | NW NE | 6106 | 5.2 | 5.2 | 5.2 | -- | -- | AMSTAD |
| 3N | 29E | WM | 20 | SW NE | 6106 | 7.6 | 7.6 | 7.6 | -- | -- | AMSTAD |
| 3N | 29E | WM | 20 | SE NE | 6106 | 4.3 | 4.3 | 4.3 | -- | 4.3 | AMSTAD |
| 3N | 29E | WM | 20 | SE SW | 6103 | 11.1 | -- | 11.1 | -- | -- | AMSTAD |
| 3N | 29E | WM | 20 | NE SE | 6106 | 0.1 | -- | 0.1 | -- | 0.1 | AMSTAD |
| 3N | 29E | WM | 20 | NW SE | 6106 | 0.5 | -- | 0.5 | -- | -- | AMSTAD |
| 3N | 29E | WM | 20 | SE SE | 6106 | 4.5 | -- | 4.5 | -- | 4.5 | AMSTAD |
| 3N | 29E | WM | 21 | SW NW | 6106 | 0.3 | 0.3 | 0.3 | -- | 0.3 | AMSTAD |
| 3N | 29E | WM | 21 | NW SW | 6106 | 1.2 | -- | 1.2 | -- | 1.2 | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 23.8 | -- | 23.8 | -- | 23.8 | AMSTAD |
| 3N | 29E | WM | 21 | SE SW | 6106 | 6.3 | -- | 6.3 | -- | 6.3 | AMSTAD |
| 3N | 29E | WM | 28 | NE NW | 6106 | 2.0 | -- | 2.0 | -- | 2.0 | AMSTAD |
| 3N | 29E | WM | 29 | NW NW | 6106 | 22.1 | -- | 22.1 | -- | 22.1 | AMSTAD |
| 3N | 29E | WM | 29 | NE NE | 6106 | 2.4 | -- | 2.4 | -- | 2.4 | AMSTAD |
| 3N | 29E | WM | 29 | NE NW | 6104 | 8.0 | -- | 8.0 | -- | -- | AMSTAD |
| 3N | 29E | WM | 29 | SW NW | 6104 | 0.6 | -- | 0.6 | -- | 0.6 | AMSTAD |
| 3N | 29E | WM | 29 | SW SW | 6104 | 9.6 | -- | -- | 9.6 | -- | AMSTAD |
| 3N | 29E | WM | 30 | SE SE | 6104 | 9.6 | -- | -- | 9.6 | -- | AMSTAD |
| TOTALS: | | | | | | 119.2 | 17.4 | 100.0 | 19.2 | 67.6 | |

4. Application T-10612 proposes to TEMPORARILY change the place of use for the above described rights to:

| PROPOSED "TO" LANDS | | | | | | | | | | | |
|---------------------|-----|-----|-----|-------|------|--------------------------|-------|-------------------|-------|-------|--------------|
| | | | | | | Water Right Certificates | | | | | |
| | | | | | | Primary (IR) | | Supplemental (IS) | | | |
| Twp | Rng | Mer | Sec | Q - Q | TL | 76051 | 75126 | 61534 | 75128 | 79439 | USER |
| 3N | 28E | WM | 24 | NE NW | 7200 | 29.9 | -- | 29.9 | -- | 29.9 | CORREA RANCH |
| 3N | 28E | WM | 24 | NW NW | 7200 | 30.6 | -- | 30.6 | -- | 30.6 | CORREA RANCH |
| 3N | 29E | WM | 20 | SE SE | 6106 | 4.5 | -- | 4.5 | -- | -- | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 8.9 | -- | 8.9 | -- | -- | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 2.8 | 2.8 | 2.8 | -- | -- | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 2.5 | -- | 2.5 | -- | 2.5 | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 2.4 | 2.4 | 2.4 | -- | 2.4 | AMSTAD |

| | | | | | | | | | | | |
|----------------|-----|----|----|-------|------|--------------|-------------|--------------|-------------|-------------|--------|
| 3N | 29E | WM | 21 | SW SW | 6106 | 6.4 | 6.4 | 6.4 | -- | -- | AMSTAD |
| 3N | 29E | WM | 21 | SW SW | 6106 | 0.8 | -- | -- | 0.8 | -- | AMSTAD |
| 3N | 29E | WM | 21 | SE SW | 6106 | 0.2 | 0.2 | 0.2 | -- | 0.2 | AMSTAD |
| 3N | 29E | WM | 21 | SE SW | 6106 | 3.6 | 3.6 | 3.6 | -- | -- | AMSTAD |
| 3N | 29E | WM | 28 | NE NW | 6106 | 1.2 | 1.2 | 1.2 | -- | 1.2 | AMSTAD |
| 3N | 29E | WM | 28 | NE NW | 6106 | 0.8 | -- | -- | 0.8 | -- | AMSTAD |
| 3N | 29E | WM | 28 | NW NW | 6106 | 17.6 | -- | -- | 17.6 | -- | AMSTAD |
| 3N | 29E | WM | 28 | NW NW | 6106 | 0.8 | 0.8 | 0.8 | -- | 0.8 | AMSTAD |
| 3N | 29E | WM | 28 | NW NW | 6106 | 3.8 | -- | 3.8 | -- | -- | AMSTAD |
| 3N | 29E | WM | 29 | NE NE | 6106 | 2.4 | -- | 2.4 | -- | -- | AMSTAD |
| TOTALS: | | | | | | 119.2 | 17.4 | 100.0 | 19.2 | 67.6 | |

5. 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.
6. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
7. The proposed change in place of use would not result in enlargement of the rights.
8. The proposed changes in place of use would not result in injury to other rights.

Conclusions of Law

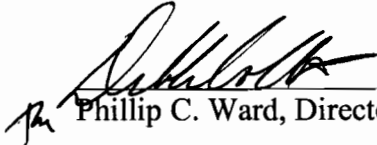
1. The proposed changes in place of use in Transfer Application T-10612 satisfy the requirements of ORS 540.574(3) and 540.570.

Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 76051, 75126, 61534, 75128 and 79439 are approved.
2. The temporary transfer is effective for the 2008 irrigation season.
3. The former places of use shall not be irrigated as part of these water rights during the 2008 irrigation season.
4. 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 76051, 75126, 61534, 75128 and 79439 and any related decree.
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 2008 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.
8. The District shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 25th day of June, 2008.


Phillip C. Ward, Director

Mailing Date: JUN 27 2008