

**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-9845, Umatilla County) **APPROVING A DISTRICT**
) **PERMANENT TRANSFER**

ORS 540.570 to 540.580 establishes the process in which a district may submit a request to 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 December 30, 2004, Westland Irrigation District filed a district transfer application to permanently change the place of use under Certificates 75121, 76050, 76051, 79439 and Permit 48450. The Department assigned the application number T-9845.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.

3. The portion of the first right to be transferred is as follows:

Certificate: 76050 issued in the name of Teel Irrigation District
Use: Irrigation
Priority Date: April 22, 1955
Rate & Duty: 1/40 cfs per acre irrigated and 4.5 acre-feet per acre per season
Source: Umatilla River, tributary of the Columbia River
Point of Diversion:

TWP		RNG		MER	SEC	QTR-QTR		LOCATION
3	N	29	E	W.M.	21	SW	NE	Westland Canal - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ 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.

Authorized Place of Use:

CERTIFICATE 76050 - IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR	TL	AC	USER	NOTICE#			
3	N	28	E	W.M	27	NE	SW	7403	31.10	L & L FARMS	2004- 03
3	N	28	E	W.M	27	NW	SW	7403	31.00	L & L FARMS	2004- 03
3	N	28	E	W.M	27	SW	SW	7403	32.00	L & L FARMS	2004- 03
3	N	28	E	W.M	27	SE	SW	7403	28.90	L & L FARMS	2004- 03
TOTAL:									123.00		

4. Application T-9845 proposes to change the place of use of the right to:

CERTIFICATE 76050 - IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR	TL	AC	USER	NOTICE#			
2	N	28	E	W.M	4	NW	SW	800	0.10	L & L FARMS	2004- 03
2	N	28	E	W.M	4	SW	SW	800	5.20	L & L FARMS	2004- 03
3	N	28	E	W.M	29	NE	SE	8105	30.00	L & L FARMS	2004- 03
3	N	28	E	W.M	29	NW	SE	8105	26.20	L & L FARMS	2004- 03
3	N	28	E	W.M	29	SW	SE	8105	29.30	L & L FARMS	2004- 03
3	N	28	E	W.M	29	SE	SE	8105	32.20	L & L FARMS	2004- 03
TOTAL:									123.00		

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

Certificate: 76051 issued in the name of Teel Irrigation District
Use: Irrigation
Priority Date: June 27, 1958
Rate & Duty: 1/40th cfs per acre irrigated and 4.5 acre-feet per acre per irrigation season
Source: Umatilla River, tributary of the Columbia River
Point of Diversion:

TWP	RNG	MER	SEC	QTR-QTR	LOCATION	
3	N	29	E	W.M.	21	SW NE Westland Canal - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21.

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Authorized Place of Use:

CERTIFICATE 76051 - IRRIGATION												
TWP	RNG	MER	SEC	QTR-QTR	TL	AC	USER	NOTICE#				
3	N	28	E	W.M	23	NE SW	7100	6.20	L & L FARMS	2004- 02		
3	N	28	E	W.M	29	NE NW	8100	28.70	EAGLE RANCH	2004- 04		
3	N	28	E	W.M	29	NW NW	8100	33.10	EAGLE RANCH	2004- 04		
3	N	28	E	W.M	29	SW NW	8100	33.10	EAGLE RANCH	2004- 04		
3	N	28	E	W.M	29	SE NW	8100	28.50	EAGLE RANCH	2004- 04		
3	N	28	E	W.M	29	NE SE	8105	30.00	L & L FARMS	2004- 02		
3	N	28	E	W.M	29	NW SE	8105	26.20	L & L FARMS	2004- 02		
3	N	28	E	W.M	29	SW SE	8105	29.30	L & L FARMS	2004- 02		
3	N	28	E	W.M	29	SE SE	8105	32.20	L & L FARMS	2004- 02		
3	N	28	E	W.M	30	NE NE	8100	0.20	EAGLE RANCH	2004- 04		
3	N	28	E	W.M	30	SE NE	8100	0.30	EAGLE RANCH	2004- 04		
TOTAL:								247.80				

6. Application T-9845 proposes to change the place of use of the right to:

CERTIFICATE 76051 - IRRIGATION												
TWP	RNG	MER	SEC	QTR-QTR	TL	AC	USER	NOTICE#				
3	N	28	E	W.M	23	NE SW	7100	6.20	L & L FARMS	2004- 04		
3	N	28	E	W.M	27	NE SW	7403	29.20	L & L FARMS	2004- 04		
3	N	28	E	W.M	27	NW SW	7403	27.60	L & L FARMS	2004- 04		
3	N	28	E	W.M	27	SW SW	7403	32.00	L & L FARMS	2004- 04		
3	N	28	E	W.M	27	SE SW	7403	28.90	L & L FARMS	2004- 04		
3	N	28	E	W.M	29	NE NW	8100	28.70	EAGLE RANCH	2004 - 02		
3	N	28	E	W.M	29	NW NW	8100	33.10	EAGLE RANCH	2004- 02		
3	N	28	E	W.M	29	SW NW	8100	33.10	EAGLE RANCH	2004- 02		
3	N	28	E	W.M	29	SE NW	8100	28.50	EAGLE RANCH	2004- 02		
3	N	28	E	W.M	30	NE NE	8100	0.20	EAGLE RANCH	2004- 02		
3	N	28	E	W.M	30	SE NE	8100	0.30	EAGLE RANCH	2004- 02		
TOTAL:								247.80				

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

Certificate: 75121 issued in the name of L & L Farms
Use: Irrigation and Supplemental Irrigation
Priority Date: April 19, 1979
Rate & Duty: 1/80th cfs per acre irrigated and 3.0 acre-feet per each acre irrigated during the irrigation season of each year
Source: Three Wells, within the Spikes Gulch River Basin
Points of Appropriation:

TWP	RNG	MER	SEC	QTR-QTR		LOCATION		
3	N	28	E	W.M.	23	SW	SE	Well 1 - 960 Feet North and 30 Feet East from the S¼ Corner of Section 23.
3	N	28	E	W.M.	26	NW	NE	Well 2 - 930 Feet South from the N¼ Corner of Section 26.
3	N	28	E	W.M.	23	NW	NW	Well 3 - 60 Feet South and 820 Feet East from the NW Corner of Section 23.

Authorized Place of Use:

CERTIFICATE 75121 – IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR		TL	AC	USER	NOTICE#		
3	N	28	E	W.M.	27	NE	SW	7403	3.10	L & L FARMS	2004- 03
TOTAL:								3.10			

CERTIFICATE 75121 – SUPPLEMENTAL IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR		TL	AC	USER	NOTICE#		
3	N	28	E	W.M.	27	NE	SW	7403	29.20	L & L FARMS	2004- 03
3	N	28	E	W.M.	27	NW	SW	7403	27.60	L & L FARMS	200 - 03
3	N	28	E	W.M.	27	SW	SW	7403	32.00	L & L FARMS	200 - 03
3	N	28	E	W.M.	27	SE	SW	7403	28.90	L & L FARMS	2004- 03
TOTAL:								117.70			

8. Application T-9845 proposes to change the place of use of the right to:

CERTIFICATE 75121 – IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR		TL	AC	USER	NOTICE#		
3	N	28	E	W.M.	23	NW	SW	7100	3.10	L & L FARMS	2004- 03
TOTAL:								3.10			

CERTIFICATE 75121 - SUPPLEMENTAL IRRIGATION											
TWP		RNG		MER	SEC	QTR-QTR		TL	AC	USER	NOTICE#
3	N	28	E	W.M	29	NE	SE	8105	30.00	L & L FARMS	2004- 03
3	N	28	E	W.M	29	NW	SE	8105	26.20	L & L FARMS	2004- 03
3	N	28	E	W.M	29	SW	SE	8105	29.30	L & L FARMS	2004- 03
3	N	28	E	W.M	29	SE	SE	8105	32.20	L & L FARMS	2004- 03
TOTAL:									117.70		

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

Certificate: 79439 issued in the name of U.S. Bureau of Reclamation
Use: Supplemental Irrigation
Priority Date: July 1, 1924
Rate & Duty: 1/80th cfs per acre irrigated
Source: McKay Reservoir, a tributary of McKay Creek
Point of Diversion:

TWP	RNG	MER	SEC	QTR-QTR	LOCATION		
2	N	32	E	W.M.	34	NW SE	McKay Dam – water released from the reservoir into McKay Creek and Umatilla River: Rediverted at Westland Canal - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21.

Authorized Place of Use:

CERTIFICATE 79439 - SUPPLEMENTAL IRRIGATION											
TWP		RNG		MER	SEC	QTR-QTR		TL	AC	USER	NOTICE#
3	N	28	E	W.M	29	NE	NW	8100	28.70	EAGLE RANCH	2004- 02
3	N	28	E	W.M	29	NW	NW	8100	33.10	EAGLE RANCH	2004- 02
3	N	28	E	W.M	29	SW	NW	8100	33.10	EAGLE RANCH	2004- 02
3	N	28	E	W.M	29	SE	NW	8100	28.50	EAGLE RANCH	2004- 02
3	N	28	E	W.M	30	NE	NE	8100	0.20	EAGLE RANCH	2004- 02
3	N	28	E	W.M	30	SE	NE	8100	0.30	EAGLE RANCH	2004- 02
TOTAL:									123.90		

10. Application T-9845 proposes to change the place of use of the right to:

CERTIFICATE 79439 – SUPPLEMENTAL IRRIGATION											
TWP	RNG		MER		SEC	QTR-QTR		TL	AC	USER	NOTICE#
3	N	28	E	W.M	23	NE	SW	7100	6.20	L & L FARMS	2004- 04
3	N	28	E	W.M	27	NE	SW	7403	29.20	L & L FARMS	2004- 04
3	N	28	E	W.M	27	NW	SW	7403	27.60	L & L FARMS	2004- 04
3	N	28	E	W.M	27	SW	SW	7403	32.00	L & L FARMS	2004- 04
3	N	28	E	W.M	27	SE	SW	7403	28.90	L & L FARMS	2004- 04
TOTAL:									123.90		

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

Permit: 48450 issued in the name of Chester J. Prior
Use: Irrigation and Supplemental Irrigation
 (for the beneficial use by irrigation, either for immediate crop growth or to raise soil moisture)
Priority Date: June 27, 1958
Rate & Duty: 1/40th cfs per acre irrigated and 4.5 acre-feet per each acre irrigated during the irrigation season of each year; further limited to a diversion not to exceed 1.5 acre-feet per each acre irrigated during the period from November 15 to the last day of February of each year. Supplemental irrigation may 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 prescribed limitations.
Source: Umatilla River, tributary of the Columbia River
Point of Diversion:

TWP	RNG		MER		SEC	QTR-QTR		LOCATION			
3	N	29	E	W.M.	21	SW	NE	South 55 Degrees 48 Minutes West 3237.3 feet from the NE Corner of Section 21.			

Authorized Place of Use:

PERMIT 48450 – IRRIGATION & SUPPLEMENTAL IRRIGATION											
TWP	RNG		MER		SEC	QTR-QTR		TL	AC	USER	NOTICE#
3	N	28	E	W.M	29	NE	NW	8100	28.70	EAGLE RANCH	2004- 04
3	N	28	E	W.M	29	NW	NW	8100	33.10	EAGLE RANCH	2004- 04
3	N	28	E	W.M	29	SW	NW	8100	33.10	EAGLE RANCH	2004- 04

PERMIT 48450 – IRRIGATION & SUPPLEMENTAL IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR		TL	AC	USER		NOTICE#	
3	N	28	E	W.M	29	SE	NW	8100	28.50	EAGLE RANCH	2004- 04
3	N	28	E	W.M	30	NE	NE	8100	0.20	EAGLE RANCH	2004- 04
3	N	28	E	W.M	30	SE	NE	8100	0.30	EAGLE RANCH	2004- 04
TOTAL:									123.90		

12. Application T-9845 proposes to change the place of use of the right to:

PERMIT 48450 – IRRIGATION & SUPPLEMENTAL IRRIGATION											
TWP	RNG	MER	SEC	QTR-QTR		TL	AC	USER		NOTICE#	
3	N	28	E	W.M	23	NE	SW	7100	6.20	L & L FARMS	2004- 04
3	N	28	E	W.M	27	NE	SW	7403	29.20	L & L FARMS	2004- 04
3	N	28	E	W.M	27	NW	SW	7403	27.60	L & L FARMS	2004- 04
3	N	28	E	W.M	27	SW	SW	7403	32.00	L & L FARMS	2004- 04
3	N	28	E	W.M	27	SE	SW	7403	28.90	L & L FARMS	2004- 04
TOTAL:									123.90		

13. The district permanent 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.

14. The water right is subject to transfer as defined in OAR 690-385-0100(17).

15. The proposed changes in place of use would not result in enlargement of the right.

16. The proposed changes in place of use would not result in injury to other water rights.

Conclusions of Law

The proposed changes in place of use in application T- 9845 satisfy the requirements of ORS 540.574(3) and 540.580 .

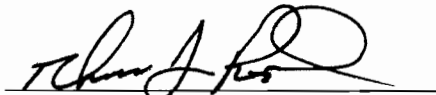
Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 75121, 76050, 76051, 79439 and Permit 48450 are approved.
2. 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 75121, 76050, 76051, 79439 and Permit 48450 and any related decree.

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3. The former place of use shall no longer be irrigated as part of this water right.
4. The proposed changes shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2007.
6. The Department shall issue a water right certificate on a determination that it is necessary to produce certificates describing the water rights.

Dated at Salem, Oregon this 25th day of April, 2005.


for Phillip C. Ward, Director