

**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-10107, 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 3, 2006, Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76715 and 79439. The District also provided an affidavit from the landowner on the “FROM” lands stating he will not use water under supplemental water right Certificates 76746, 76750 and 38388 during the course of the 2006 Irrigation Season. The Department assigned the application number T-10107.
2. Notice of the application for transfer was published pursuant to ORS 540.580 and OAR 690-385-3400. No comments were filed in response to the notice.
3. Pursuant to OAR 690-385-3130 the applicant applied to temporarily change the subject water rights to supplemental irrigation at the proposed place of use during the 2006 irrigation season. Certificate 79893 is the authorized irrigation water right at the proposed place of use of the subject water rights.
4. The portion of the water rights to be transferred are as follows:
Certificate: 76715 issued in the name of Westland Irrigation District
Use: Irrigation (IR)
Priority Date: March 14, 1903
Rate & Duty: One-eightieth of one cubic foot per second from March 1 to November 1 and subject to the limitations of paragraph 32 of the Umatilla River Decree
Source: Umatilla River, tributary to Columbia River

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 Point of Diversion:

TWP	RNG	MER	SEC	1/4 - 1/4	LOCATION
3 N	29 E	WM	21	SW NE	North 76° 45' 56" East 2913 ft. from the W¼ corner of Section 21

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

Use: Supplemental Irrigation (IS)

Priority Date: July 1, 1924

Rate & Duty: 1/80 cfs per acre irrigated

Source: McKay Reservoir, tributary to McKay Creek

Authorized Point of Diversion:

TWP	RNG	MER	SEC	1/4 - 1/4	LOCATION
3 N	29 E	WM	21	SW NE	McKay Dam, NW¼ SE¼, Section 34, T 2 N, R 32 E, W.M., water is run down natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal - North 76° 45' 56" East 2913 ft. from the W¼ corner of Section 21.

Authorized Places of Use:

CERTIFICATES 76715 (IR) and 79439 (IS)								
TWP	RNG	MER	SEC	1/4 - 1/4	TL	CERTIFICATE (ACRES)		USER
						76715	79439	
4 N	28 E	W.M	32	SW NE	5400	8.70	8.70	FRANK MUELLER
4 N	28 E	W.M	32	SE SW	5500	5.50	5.50	FRANK MUELLER
TOTAL:						14.20*	14.20*	

*NOTE: The District also provided an affidavit from landowner on the "FROM" lands stating he will not use water under supplemental water right Certificates 76746, 76750 and 38388 on these lands during the course of the 2006 Irrigation Season.

5. Application T-10107 proposes to TEMPORARILY change the place of use of the rights to:

CERTIFICATES 76715 (IR) and 79439 (IS)								
TWP	RNG	MER	SEC	1/4 - 1/4	TL	ACRES	USER	
4 N	28 E	W.M.	20	NE SW	100	14.20*	MARY NEWMAN	

*NOTE: The applicant has requested to diminish an existing water right Certificate 79893 on new place of use to supplemental irrigation for incoming primary District water right Certificate 76715 for the 2006 irrigation season.

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

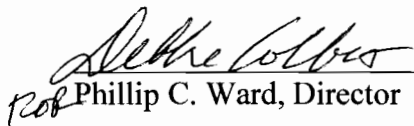
Conclusions of Law

The proposed TEMPORARY changes in application T-10107 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 76715 and 79439 are approved.
2. The temporary transfer is effective for the 2006 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 76715, 79439 and 79893 and any related decree.
4. Pursuant to OAR 690-385-3130, the use of water as a supplemental right under Certificate 79893 is restricted to the total rate and duty described by the primary District irrigation water right Certificate 76715, and may be used only to the extent of any supply deficiency for the primary water right at the proposed place of use. 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.
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. At the end of the 2006 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 27th day of April, 2006.


Phillip C. Ward, Director

Mailing Date MAY 0 8 2006