

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

COUNTY OF UMATILLA

In the Matter of a Proposed Change) ORDER APPROVING
 In Place of Use of Water Within an) A PERMANENT
 Irrigation District — TRANSFER 9843) DISTRICT TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.580, WESTLAND IRRIGATION DISTRICT, P.O. Box 944, Hermiston, OR, 97838, petitioned the Oregon Water Resources Department to permanently change the place of use of water within the boundaries of the irrigation district. The petition was received on December 30, 2004, and included the required fees.
2. The Department assigned the petition transfer application number T-9843.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated January 11, 2005. The petition was noticed as a transfer within irrigation district boundaries.
4. No comments or timely protests were received in response to the published notice.
5. The following rights are proposed to be modified:
 - a) **Certificate 76799:** issued in the name of Westland Irrigation District
Use: Irrigation (Primary)
Priority Date: April 12, 1961
Rate & Duty: 1/40 cfs per acre irrigated and 4.5 acre-feet per acre per season
Source: Umatilla River and McKay Reservoir, 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. McKay Dam, NW¼ SE¼, Section 34, T 2 N, R 32 E, W.M.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must 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.

Westland Irrigation District petitioned to permanently change the place of use of primary irrigation, diverted through the Westland Canal, appurtenant to 3.9 acres under Certificate 76799. The petition proposed to change the place of use from the location identified in Table 1 to the location listed in Table 2.

TABLE 1. AUTHORIZED PLACE OF USE UNDER CERTIFICATE 76799.												
TWP	RNG	MER	SEC	QTR-QTR		TL	USE	AC	APPLICANT		NOT#	
4	N	28	E	W.M.	31	SE	NE	5702	IR(P)	3.90	WESTERN HAY	2004 - 01
TOTAL								3.90 acres				

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. PROPOSED CHANGE IN PLACE OF USE													
TWP	RNG	MER	SEC	QTR-QTR		TL	USE	AC	CERT#	RECIPIENT		NOT#	
3	N	27	E	W.M.	2	NE	SE	1700	IR(P)	3.90	76799	CRAIG PARKS	2004-01
TOTAL								3.90 acres					

b) PRIMARY IRRIGATION

Certificate 76717: issued in the name of Westland Irrigation District

Use: Irrigation (Primary)

Priority Date: July 1907

Rate & Duty: 1/80th cfs per acre irrigated from March 1 to November 1 and subject to limitations of paragraph 32 of the Umatilla River Decree

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.					

c) SUPPLEMENTAL IRRIGATION

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

Use: Irrigation (Supplemental)

Priority Date: July 1, 1924

Rate & Duty: 1/80th cfs per acre irrigated

Source: McKay Reservoir, a tributary of McKay Creek

Point of Diversion: McKay Dam - NW ¼ SE ¼, Section 34, T 2 N, R 32 E, W.M.; water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal: SW ¼ NE ¼, 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.

Westland Irrigation District petitioned to permanently change the place of use of primary and supplemental irrigation, diverted through the Westland Canal, appurtenant to 0.3 acres under Certificates 76717 and 79439. The petition proposed to change the place of use from the location identified in Table 3 to the location listed in Table 4.

TABLE 3.													
AUTHORIZED PLACE OF USE UNDER CERTIFICATES 76717 & 79439													
TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	APPLICANT	NOT#	
4	N	28	E	W.M	31	SW	SW	6900	IR(P) IR(S)	0.30	VAZZA/LOHMAN	2004 - 01	
TOTAL									0.30 acres				

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 4. PROPOSED CHANGE IN PLACE OF USE													
TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	CERT#	RECIPIENT	NOT#
3	N	27	E	W.M.	2	NE	SE	1700	IR(P) IR(S)	0.30	76717 79439	CRAIG PARKS	2004-01
TOTAL									0.30 acres				

d) PRIMARY IRRIGATION

Certificate 76799: issued in the name of Westland Irrigation District

Use: Irrigation (Primary)

Priority Date: April 12, 1961

Rate & Duty: 1/40th cfs per acre irrigated and 4.5 acre-feet per acre per irrigation season

Source: Umatilla River and McKay Reservoir, tributary of the Columbia River

Points 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. McKay Dam, NW¼ SE¼, Section 34, T 2 N, R 32 E, W.M.			

e) SUPPLEMENTAL IRRIGATION

Permit 53063: issued in the name of J.R. Simplot Co., Food Division

Use: Irrigation (Supplemental)

Priority Date: May 8, 1992

Rate & Duty: 1/40th cfs per acre irrigated and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: Plant process water and storage reservoir, tributaries of Columbia River

Point of Diversion: POD #1 - SE¼ SW¼, Section 27, T 4 N, R 28 E, W.M.; 150 Feet North and 710 Feet West from the S¼ Corner, Section 27; POD #2 - SE¼ SE¼, Section 5, T 3 N, R 28 E, W.M.; 550 Feet North and 1300 Feet West from SE Corner, Section 5

Westland Irrigation District petitioned to permanently change the place of use of primary and supplemental irrigation, diverted through the Westland Canal, appurtenant to 2.8 acres under Certificates 76799 and 53063. The petition proposed to change the place of use from the location identified in Table 5 to the location listed in Table 6.

TABLE 5. AUTHORIZED PLACE OF USE UNDER CERTIFICATE 76799 & Permit 53063												
TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	APPLICANT	NOT#
3	N	28	E	W.M.	5	SE	NE	2100	IR(P) IR(S)	2.80	OREGON HEREFORD	2004 - 09
TOTAL									2.80 acres			

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 6. PROPOSED CHANGE IN PLACE OF USE													
TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	CERT#	RECIPIENT	NOT#
3	N	28	E	W.M.	5	NE	SE	2100	IR(P) IR(S)	2.80	76799 p 53063	DOUG BENNETT	2004-09
TOTAL									2.80 acres				

f) PRIMARY IRRIGATION

Certificate 76717: issued in the name of Westland Irrigation District

Use: Irrigation (Primary)

Priority Date: July 1907

Rate & Duty: 1/80th cfs per acre irrigated from March 1 to November 1 and subject to limitations of paragraph 32 of the Umatilla River Decree

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.

g) SUPPLEMENTAL IRRIGATION

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

Use: Irrigation (Supplemental)

Priority Date: July 1, 1924

Rate & Duty: 1/80th cfs per acre irrigated

Source: McKay Reservoir, a tributary of McKay Creek

Point of Diversion: McKay Dam - NW¼ SE¼, Section 34, T 2 N, R 32 E, W.; water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal: 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.

Westland Irrigation District petitioned to permanently change the place of use of primary and supplemental irrigation, diverted through the Westland Canal, appurtenant to 2.2 acres under Certificates 76717 and 79439. The petition proposed to change the place of use from the location identified in Table 7 to the location listed in Table 8.

TWP	RNG	MER	SEC	QTR-QTR	TL	USE	AC	APPLICANT	NOT#	
4	N	28	E	W.M.	20	NW SW	300	IR(P) IR(S)	2.20	DESBRISAY, GEO
TOTAL							2.20 acres			

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 4. PROPOSED CHANGE IN PLACE OF USE													
TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	CERT#	RECIPIENT	NOT#
4	N	28	E	W.M.	20	NW	SW	301	IR(P) IR(S)	2.20	76717 79439	DESBRISAY, GEO	
TOTAL									2.20 acres				

6. Pursuant to ORS 540.574 and ORS 540.580, in reviewing the petition submitted by Westland Irrigation District, the Department has determined the following:
 - a) The petition contains the information required under ORS 540.574(3).
 - b) The petition meets the requirements of ORS 540.580.
 - c) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.
 - d) The petition 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 rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to 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 to other water rights.

7. The petition was filed prior to the end of the calendar year or prior to any delivery of water as required under ORS 540.580(2).

CONCLUSIONS OF LAW

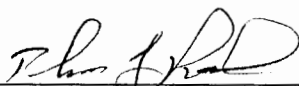
1. The petition submitted by Westland Irrigation District proposing permanent changes in place of use within district boundaries included the information, and satisfied the criteria, required by ORS 540.574(3).
2. The proposed transfer complies with the requirements of ORS 540.580.
3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.580 resulting in no injury to other water rights.

ORDER

It is hereby ORDERED:

1. The proposed changes to the water right certificates 76799, 76717, 79439 and Permit 53063 may be made provided the following conditions are met by the water user:
 - a. The proposed changes shall be completed on or before October 1, 2006.
 - b. The former places of use shall no longer be irrigated as a part of this water right.
 - c. Proof, to the satisfaction of the Director, that the changes approved by this order have been completed must be submitted by Westland Irrigation District, on or before October 1, 2007.
2. Except as modified herein, all other conditions and limitations of these permitted rights remain in effect.
3. When the Director determines that it is necessary, or to facilitate records keeping, a new certificate will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of Certificate 76799, 76717 and 79439 NOT modified by this or any other order.

WITNESS the signature of the Water Resources Director affixed FEBRUARY 24, 2005.



for Phillip C. Ward, Director