

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10346, Umatilla County) DISTRICT TEMPORARY TRANSFER

Authority

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
Attn- STACEY WELLS
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 76715 and 79439. The Department assigned the application number T-10346.
2. Notice of the application for transfer was published on April 3, 2007, pursuant to ORS 540.570 and OAR 690-385-4400. No comments were filed in response to the notice.
3. Westland Irrigation District specified water use under existing 16.2 acres of Certificate 79893 will become supplemental irrigation for the incoming District right, Certificate 76715, during the course of the 2007 Irrigation Season, and is fully described in Finding of Fact #7.
4. The portion of the first right to be transferred are as follows:
Certificate: 76715, issued in the name of Westland Irrigation District
Use: Irrigation (IR) of 16.2 acres
Priority Date: March 14, 1903
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.

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.

Source: Umatilla River, a tributary of the Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	QTR-QTR	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 S-7400)

Use: Supplemental Irrigation of 16.2 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	QTR-QTR	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 AND SUPPLEMENTAL IRRIGATION								
TWP	RNG	MER	SEC	QTR-QTR	TL	CERTIFICATE (ACRES)		USER
						76715	79439	
4 N	28 E	WM	32	SE SW	5400	5.5	5.5	FRANK MUELLER
4 N	28 E	WM	32	SW NE	5500	10.7	10.7	FRANK MUELLER

5. Transfer Application T-10346 proposes to TEMPORARILY change the place of use for the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	QTR-QTR	TL	CERTIFICATE (ACRES)		USER
						76715 (IR)	79439 (IS)	
4 N	28 E	WM	20	NE SW	100	16.2	16.2	MARY NEWMAN

6. On March 19, 2007, Stacey Wells, authorized representative for Westland Irrigation District, on behalf of the landowner, submitted an "Affidavit of Non-Use During Temporary Transfer" indicating there were three water rights (Certificate 38388, 76750 and 76746) for supplemental irrigation appurtenant to certain "FROM" lands. The affidavit indicated that these rights, described in the following tables, would not be exercised during the 2007 irrigation season.

Certificates 38388 and 76750 - Portions not to be used during 2007 Irrigation Season						
Twp	Rng	Mer	Sec	Qtr - Qtr	TL	Acres
4 N	28 E	WM	32	SW NE	5500	10.7

Certificate 76746 - Portion not to be used during 2007 Irrigation Season						
Twp	Rng	Mer	Sec	Qtr - Qtr	TL	Acres
4 N	28 E	WM	32	SE SW	5400	5.5

Diminishment of a certain Water Right during the 2007 Irrigation Season

- On April 19, 2007, Stacey Wells, authorized representative for Westland Irrigation District, stated that 16.2 acres, evidenced by Certificate 79893, are appurtenant to certain "TO" lands and requested this appurtenant water right be diminished from primary irrigation to supplemental irrigation for the duration of the temporary transfer. This land is described in the following table:

Certificate 79893 – Diminish to Supplemental Irrigation						
Twp	Rng	Mer	Sec	Qtr - Qtr	TL	Acres
4 N	28 E	WM	20	NE SW	100	16.2

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

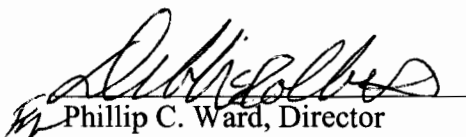
Conclusions of Law

- The proposed change in place of use in Transfer Application T-10346 satisfies the requirements of ORS 540.574(3) and 540.570.
- The portions of the rights described in Findings of Fact #6 will not be used during the 2007 irrigation season.
- The portions of the right described in Findings of Fact #7 will be diminished to supplemental irrigation during the 2007 irrigation season.

Now, therefore, it is ORDERED:

1. The proposed changes to the water rights evidenced by Certificates 76715, 79439 and 79893 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 76715, 79439, 79893 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 79893, as described in Findings of Fact #6, is restricted to the total rate and duty described by Certificate 76715, and may be used only to make up a deficiency of supply.
5. The use of water for supplemental irrigation under portions of Certificates 38388, 76746 and 76750, as described in Findings of Fact #6, will not be used during the 2007 irrigation season..
6. 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.
7. 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.
8. 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 27 day of September, 2007.


Phillip C. Ward, Director

Mailing Date: OCT 01 2007