

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

**COUNTY OF UMATILLA**

In the Matter of a Proposed Change            )     ORDER APPROVING A PERMANENT  
In Place of Use of Water Within an         )     DISTRICT TRANSFER AND PARTIAL  
Irrigation District — TRANSFER 9717        )     CANCELLATION OF A WATER RIGHT

**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 May 10, 2004, and included the required fees.
2. The Department assigned the petition transfer application number T-9717.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated May 24, 2004. 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. Westland Irrigation District petitioned to modify the following right:

**Certificate 76799:** issued in the name of Westland Irrigation District

**Use:** Irrigation

**Source:** Umatilla River and McKay Reservoir, tributary to the Columbia River

**Priority Date:** April 12, 1961

**Rate & Duty:** Limited to 35.12 cubic feet per second (cfs), and not more than 1/40 of one cfs from direct flow and 4.5 acre-feet for each acre irrigated during the irrigation season from direct flow and storage.

Westland Irrigation District petitioned to permanently change the place of use of primary irrigation, diverted through the district's water delivery system appurtenant to 44.3 acres

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is a final order in other than a 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

under Certificate 76799. The petition proposed to change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

TABLE 1. AUTHORIZED PLACE OF USE UNDER WATER RIGHT CERTIFICATE 76799 - IRRIGATION											
TWP	RNG	MER	SEC	1/4	1/4	TL	AC	DUTY (AF)	LANDOWNER		
4	N	28	E	W.M.	29	SW	NW	3900	3.10	4.5	JOHN BETZ
4	N	28	E	W.M.	29	SW	SW	3800	0.60	4.5	JOHN BETZ
4	N	28	E	W.M.	29	SE	SW	3800	8.60	4.5	JOHN BETZ
4	N	28	E	W.M.	29	NE	SE	3800	0.50	4.5	JOHN BETZ
4	N	28	E	W.M.	29	NW	SE	3800 & 3900	7.80	4.5	JOHN BETZ
4	N	28	E	W.M.	29	SW	SE	3800	6.30	4.5	JOHN BETZ
4	N	28	E	W.M.	30	SE	NE	3800	1.50	4.5	JOHN BETZ
4	N	28	E	W.M.	30	NE	SE	3800	6.20	4.5	JOHN BETZ
4	N	28	E	W.M.	30	SE	SE	3800	6.10	4.5	JOHN BETZ
4	N	28	E	W.M.	32	NW	NE	4200	1.30	4.5	JOHN BETZ
4	N	28	E	W.M.	32	NW	NW	5706	1.20	4.5	JARI BOETTCHER
4	N	28	E	W.M.	32	SW	NW	5706	0.70	4.5	JARI BOETTCHER
4	N	28	E	W.M.	32	SW	SW	5800	0.40	4.5	JARI BOETTCHER
TOTAL								<b>44.30</b>			

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 water right Certificate 76799. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

TABLE 2. PROPOSED PLACE OF USE UNDER WATER RIGHT CERTIFICATE 76799 - IRRIGATION											
TWP	RNG	MER	SEC	1/4	1/4	TL	AC	DUTY (AF)	LANDOWNER		
4	N	28	E	W.M.	31	SE	SE	5800	31.00	4.5	JARI BOETTCHER
4	N	28	E	W.M.	32	NW	SW	5800	10.50	4.5	JARI BOETTCHER
4	N	28	E	W.M.	32	SW	SW	5800	2.80	4.5	JARI BOETTCHER
TOTAL								<b>44.30</b>			

6. A temporary change in place of use for the 2001 through 2005 irrigation seasons was authorized for the same lands proposed by this transfer under the final order approving Temporary Transfer T-8747. This transfer proposes to make permanent those temporary changes.
7. On June 14, 2004, the Department received an affidavit from John Betz, owner of lands to which a portion of the right evidenced by Certificate 76742 is appurtenant, requesting cancellation of a portion of the right.

The abandoned water right is a portion of the right described by Certificate 76742, State Record of Water Right Certificates with a date of priority of November 13, 1967. The abandoned water right is for the use of 0.31 cubic foot per second from a well within the Umatilla River Basin for supplemental irrigation of 24.5 acres.

A description of the place of use of the abandoned portion is as follows:

TWP		RNG		MER	SEC	1/4	1/4	TL	AC
4	N	28	E	W.M.	29	SE	SW	3800	8.60
4	N	28	E	W.M.	29	NE	SE	3800	0.50
4	N	28	E	W.M.	29	NW	SE	3800 & 3900	7.80
4	N	28	E	W.M.	29	SW	SE	3800	6.30
4	N	28	E	W.M.	32	NW	NE	3800	1.30
TOTAL									<b>24.50</b>

8. 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.
9. 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 a permanent change 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.
4. ORS 540.621 authorizes the Water Resources Commission to cancel a water right whenever the owner of a perfected and developed water right certifies under oath that the water right has been abandoned and the owner requests cancellation of the right.

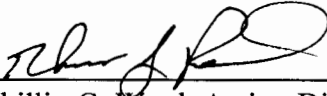
## ORDER

It is hereby ORDERED :

1. Temporary Transfer T-8747 is rescinded. This order makes permanent the changes authorized by T-8747.
2. The portion of the water right evidenced by Certificate 76742 described in *Findings of Fact #8* is canceled. The Department shall issue Certificate 80812, a new and superseding certificate, that describes the remainder of the right not modified by this order canceling a portion of Certificate 76742.
3. The proposed change to the water right evidenced by water right Certificate 76799 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, 2005.
  - 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, 2006.
4. Except as modified herein, all other conditions and limitations of the water right remain in effect.

5. When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of the right not modified by this or any other order.

WITNESS the signature of the Water Resources Director affixed July 7, 2004.

  
\_\_\_\_\_  
Phillip C. Ward, Acting Director