

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

|                                       |   |                                    |
|---------------------------------------|---|------------------------------------|
| In the Matter of Transfer Application | ) | <b>F I N A L O R D E R</b>         |
| T-10251, Umatilla County              | ) | <b>APPROVING A DISTRICT</b>        |
|                                       | ) | <b>PERMANENT TRANSFER AND</b>      |
|                                       | ) | <b>DIMINUTION OF A WATER RIGHT</b> |

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 October 16, 2006, Westland Irrigation District filed a district transfer application, subsequently amended, to permanently change the place of use under Certificates 76050 and 75121 and diminish a portion of Certificate 81417 from irrigation to supplemental irrigation. The Department assigned the application number T-10251.
2. The applicant requested the transfer be processed concurrently with Transfer Application T-8418.
3. 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.

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 OR 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.

4. 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:** 1/40th cfs per acre irrigated not to exceed 4.5 acre-feet per acre per irrigation season  
**Source:** Umatilla River, tributary to Columbia River

**Authorized Point of Diversion:**

| TWP | RNG  | MER  | SEC | QTR-QTR | SURVEY COORDINATES  |  |  |
|-----|------|------|-----|---------|---|--|--|
| 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. |  |  |

**Authorized Place of Use:**

| IRRIGATION - CERTIFICATE 76050 |      |      |     |         |      |       |             |
|--------------------------------|------|------|-----|---------|------|-------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL   | AC    | USER        |
| 3 N                            | 28 E | W.M. | 27  | NE SE   | 7404 | 7.20  | L & L FARMS |
| 3 N                            | 28 E | W.M. | 27  | NW SE   | 7404 | 9.40  | L & L FARMS |
| 3 N                            | 28 E | W.M. | 27  | SW SE   | 7404 | 16.00 | L & L FARMS |
| 3 N                            | 28 E | W.M. | 27  | NW NE   | 7404 | 13.60 | L & L FARMS |
| TOTAL:                         |      |      |     |         |      | 46.20 |             |

Application T-10251 proposes to change the place of use to:

| IRRIGATION - CERTIFICATE 76050 |      |      |     |         |     |       |             |
|--------------------------------|------|------|-----|---------|-----|-------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL  | AC    | USER        |
| 2 N                            | 28 E | W.M. | 4   | NE SW   | 800 | 3.50  | L & L FARMS |
| 2 N                            | 28 E | W.M. | 4   | NW SW   | 800 | 0.10  | L & L FARMS |
| 2 N                            | 28 E | W.M. | 4   | SW SW   | 800 | 14.70 | L & L FARMS |
| 2 N                            | 28 E | W.M. | 4   | SE SW   | 800 | 27.90 | L & L FARMS |
| TOTAL:                         |      |      |     |         |     | 46.20 |             |

5. The portion of the second right to be transferred is as follows:  
**Certificate:** 75121, issued in the name of L & L Farms  
**Use:** Supplemental Irrigation  
**Priority Date:** April 19, 1979  
**Rate & Duty:** 1/80th cfs per acre irrigated not to exceed 3.0 acre-feet per acre per irrigation season  
**Source:** Wells 1, 2 and 3 in the Spikes Gulch River Basin

**Authorized Points of Appropriation:**

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

**Authorized Place of Use:**

| SUPPLEMENTAL IRRIGATION – CERTIFICATE 75121 |      |      |     |         |      |       |             |
|---|------|------|-----|---------|------|-------|-------------|
| TWP   | RNG  | MER  | SEC | QTR-QTR | TL   | AC    | USER        |
| 3 N   | 28 E | W.M. | 27  | NE SE   | 7404 | 7.20  | L & L FARMS |
| 3 N   | 28 E | W.M. | 27  | NW SE   | 7404 | 9.40  | L & L FARMS |
| 3 N   | 28 E | W.M. | 27  | SW SE   | 7404 | 16.00 | L & L FARMS |
| 3 N   | 28 E | W.M. | 27  | SE SE   | 7404 | 13.60 | L & L FARMS |
| TOTAL:                                      |      |      |     |         |      | 46.20 |             |

Application T-10251 proposes to change the place of use to:

| SUPPLEMENTAL IRRIGATION - CERTIFICATE 75121 |      |      |     |         |     |       |             |
|---|------|------|-----|---------|-----|-------|-------------|
| TWP   | RNG  | MER  | SEC | QTR-QTR | TL  | AC    | USER        |
| 2 N   | 28 E | W.M. | 4   | NE SW   | 800 | 3.50  | L & L FARMS |
| 2 N   | 28 E | W.M. | 4   | NW SW   | 800 | 0.10  | L & L FARMS |
| 2 N   | 28 E | W.M. | 4   | SW SW   | 800 | 14.70 | L & L FARMS |
| 2 N   | 28 E | W.M. | 4   | SE SW   | 800 | 27.90 | L & L FARMS |
| TOTAL:                                      |      |      |     |         |     | 46.20 |             |

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

**Certificate:** 75121, issued in the name of L & L Farms

**Use:** Irrigation

**Priority Date:** April 19, 1979

**Rate & Duty:** 1/80th cfs per acre irrigated not to exceed 3.0 acre-feet per acre per irrigation season

**Source:** Wells 1, 2 and 3 in the Spikes Gulch River Basin

**Authorized Points of Appropriation:**

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

**Authorized Place of Use:**

| IRRIGATION - CERTIFICATE 75121 |      |      |     |         |      |      |             |
|--------------------------------|------|------|-----|---------|------|------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL   | AC   | USER        |
| 3 N                            | 28 E | W.M. | 26  | NW NW   | 7400 | 1.80 | L & L FARMS |
| 3 N                            | 28 E | W.M. | 26  | NW SW   | 7400 | 1.00 | L & L FARMS |
| 3 N                            | 28 E | W.M. | 27  | NE SE   | 7404 | 0.70 | L & L FARMS |
| 3 N                            | 28 E | W.M. | 27  | SE SE   | 7404 | 2.00 | L & L FARMS |
| TOTAL:                         |      |      |     |         |      | 5.50 |             |

Application T-10251 proposes to change the place of use to:

| IRRIGATION - CERTIFICATE 75121 |      |      |     |         |     |      |             |
|--------------------------------|------|------|-----|---------|-----|------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL  | AC   | USER        |
| 2 N                            | 28 E | W.M. | 4   | NE SW   | 800 | 5.50 | L & L FARMS |
| TOTAL:                         |      |      |     |         |     | 5.50 |             |

7. The portion of the fourth right to be modified by the transfer and diminished from irrigation to supplemental irrigation is as follows:

**Certificate:** 81417, issued in the name of Tony Amstad and  
L & L Farms – Robert Levy

**Use:** Irrigation

**Priority Date:** August 10, 1981

**Rate & Duty:** 1/40th cfs per acre irrigated not to exceed 1.5 acre-feet per acre irrigated between November 15 and the last day of February. Together with the amount secured under any other right the duty shall not exceed 4.5 acre-feet in any one year. To conserve ground water, the supplemental irrigation portion of this right may be exercised when water is available from the ground water supply provided the total quantity diverted from all sources does not exceed the limitations of the right.

**Source:** Umatilla River, tributary to Columbia River

**Authorized Point of Diversion:**

| TWP | RNG  | MER  | SEC | QTR-QTR | SURVEY COORDINATES  |
|-----|------|------|-----|---------|---|
| 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. |

**Authorized Place of Use:**

| IRRIGATION - CERTIFICATE 81417 |      |      |     |         |     |      |             |
|--------------------------------|------|------|-----|---------|-----|------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL  | AC   | USER        |
| 2 N                            | 28 E | W.M. | 4   | NE SW   | 800 | 5.50 | L & L FARMS |
| TOTAL:                         |      |      |     |         |     | 5.50 |             |

Application T-10251 proposes to diminish the right from irrigation to supplemental irrigation at the following location:

| IRRIGATION - CERTIFICATE 81417 |      |      |     |         |     |      |             |
|--------------------------------|------|------|-----|---------|-----|------|-------------|
| TWP                            | RNG  | MER  | SEC | QTR-QTR | TL  | AC   | USER        |
| 2 N                            | 28 E | W.M. | 4   | NE SW   | 800 | 5.50 | L & L FARMS |
| TOTAL:                         |      |      |     |         |     | 5.50 |             |

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

**Conclusions of Law**


The proposed changes in place of use in Transfer Application T-10251 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 76050, 75121 and 81417 are approved.
2. The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 76050, 75121 and 81417 and any related decree.
3. The former places of use shall no longer be irrigated as part of these water rights.
4. The water right evidenced by Certificate 81417 is diminished from irrigation to supplemental irrigation as described in *Finding of Fact #7*.
5. The proposed changes shall be completed on or before October 1, 2008.

6. A Claim of Beneficial Use and Final Proof Map shall be submitted by the applicant to the Department by October 1, 2009.
7. Certificates 76050 and 75121 are modified. The Department will issue a superseding certificate describing the rights when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 19<sup>th</sup> day of January, 2007.

  
Phillip C. Ward, Director

Mailing Date: JAN 22 2007