

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11446, 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
P. O. BOX 944
HERMISTON, OR 97838

Findings of Fact

Background

1. On July 16, 2012, Stacey Wells on behalf of Westland Irrigation District, filed an application to temporarily change the place of use under Certificates 76715, 76799 and 79439 and for a period of one irrigation season. The Department assigned the application number T-11446.

2. The portion of the first primary right and its associated supplemental water right to be transferred is as follows:

Certificate: 76715 issued in the name of Westland Irrigation District

Use: Irrigation (IR) of 98.8 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.

Source: Umatilla River, a tributary of the Columbia River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	MEASURED DISTANCES
3 N	29 E	W.M.	21	SW NE	WESTLAND CANAL - NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21.

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 137-004-0080, you may 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.

Certificate: 79439, issued in the name of U. S. Bureau of Reclamation (Perfected under Permit S-7400)

Use: Supplemental Irrigation (IS) of 98.8 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	Q-Q	MEASURED DISTANCES
2 N	32 E	W.M.	34	NW SE	McKAY DAM
3 N	29 E	W.M.	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 (IR) and SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TAX LOT	CERTIFICATE(ACRES)		USER
						76715 (IR)	79439 (IS)	
3 N	28 E	W.M.	14	SW NW	4400	25.30	25.30	PRIOR
3 N	28 E	W.M.	14	SE NW	4400	33.50	33.50	PRIOR
3 N	28 E	W.M.	14	NE SW	4490	8.40	8.40	PRIOR
3 N	28 E	W.M.	14	SW SW	4400	11.00	11.00	PRIOR
3 N	28 E	W.M.	15	SE NE	4400	9.20	9.20	PRIOR
3 N	28 E	W.M.	15	NE SE	4400	1.40	1.40	PRIOR
3 N	28 E	W.M.	15	NW SE	4400	6.50	6.50	PRIOR
3 N	28 E	W.M.	15	SE SE	4400	3.50	3.50	PRIOR
TOTAL:						98.80	98.80	

3. Transfer Application T-11043 proposes to temporarily change the place of use of the rights to:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
TWP	RNG	MER	SEC	Q - Q	TAX LOT	CERTIFICATE(ACRES)		USER
						76715 (IR)	79439 (IS)	
3 N	28 E	W.M.	15	NE SE	4400	0.50	0.50	PRIOR
3 N	29 E	W.M.	18	SW SW	5800	7.60	7.60	PRIOR
3 N	29 E	W.M.	19	NE NW	6100	10.70	10.70	PRIOR
3 N	29 E	W.M.	19	NW NW	6100	42.00	42.00	PRIOR
3 N	29 E	W.M.	19	SW NW	6100	28.00	28.00	PRIOR
3 N	29 E	W.M.	19	SE NW	6100	10.00	10.00	PRIOR
TOTAL:						98.80	98.80	

4. The portion of the second right to be transferred is as follows:

Certificate: 76799, issued in the name of Westland Irrigation District (perfected under Permit S-27583)

Use: Irrigation (IR) of 1.0 acre

Priority Date: April 12, 1961

Rate & Duty: ONE-FORTIETH of one cubic foot per second and 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year

Source: Umatilla River and McKay Reservoir

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q-Q	MEASURED DISTANCES
2 N	32 E	W.M.	34	NW SE	McKAY DAM
3 N	29 E	W.M.	21	SW NE	WESTLAND CANAL - NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION							
TWP	RNG	MER	SEC	Q - Q	TAX LOT	ACRES	USER
3 N	28 E	W.M.	15	NE SE	4400	1.00	PRIOR

5. Transfer Application T-11043 proposes to temporarily change the place of use of the right to:

IRRIGATION							
TWP	RNG	MER	SEC	Q - Q	TAX LOT	ACRES	USER
3 N	29 E	W.M.	19	NE NW	6100	0.85	PRIOR
3 N	29 E	W.M.	19	NW NW	6100	0.15	PRIOR
TOTAL:						1.00	

6. The proposed place of use described in Findings of Fact #3 and #5 (above) contain existing water rights for primary irrigation. Pursuant to 690-385-3130, the applicant requested that the following portions of Water Right Certificates 76050 and 81784 on the “transferred to” place of use lands be diminished to supplemental irrigation during the 2012 irrigation season.

The portion of Certificate 76050 that shall be supplemental to Certificate 76715 is as follows:

THE PORTION OF CERTIFICATE 76050 DIMINISHED FROM IRRIGATION TO SUPPLEMENTAL IRRIGATION FOR 2012 IRRIGATION SEASON							
TWP	RNG	MER	SEC	Q - Q	TAX LOT	ACRES	USER
3 N	29 E	W.M.	18	SW SW	5800	7.60	PRIOR
3 N	29 E	W.M.	19	NE NW	6100	5.70	PRIOR
3 N	29 E	W.M.	19	NW NW	6100	41.20	PRIOR
3 N	29 E	W.M.	19	SW NW	6100	28.00	PRIOR
3 N	29 E	W.M.	19	SE NW	6100	10.00	PRIOR
TOTAL:						92.50	

The portion of Certificate 81784 that shall be supplemental to Certificate 76715 is as follows:

THE PORTION OF CERTIFICATE 81784 DIMINISHED FROM IRRIGATION (IR) TO SUPPLEMENTAL IRRIGATION (IS) FOR 2012 IRRIGATION SEASON							
TWP	RNG	MER	SEC	Q - Q	TAX LOT	ACRES	USER
3 N	29 E	W.M.	19	NE NW	6100	5.00	PRIOR
3 N	29 E	W.M.	19	NW NW	6100	0.80	PRIOR
TOTAL:						5.80	

The portion of Certificate 81784 that shall be supplemental to Certificate 76799 is as follows:

THE PORTION OF CERTIFICATE 81784 DIMINISHED FROM IRRIGATION (IR) TO SUPPLEMENTAL IRRIGATION (IS) FOR 2012 IRRIGATION SEASON							
TWP	RNG	MER	SEC	Q - Q	TAX LOT	ACRES	USER
3 N	29 E	W.M.	19	NE NW	6100	0.85	PRIOR
3 N	29 E	W.M.	19	NW NW	6100	0.15	PRIOR
TOTAL:						1.00	

7. Notice of the application for transfer was published on July 17, 2012, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
8. The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
9. Diversion structures, pumps, pipeline, and pivot sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed changes would not result in enlargement of the rights.
11. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.570(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

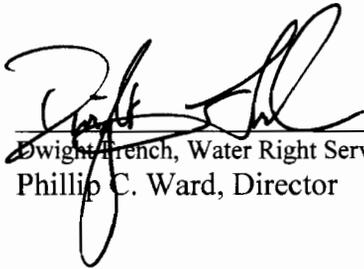
The temporary changes in place of use are consistent with the requirements of ORS 540.570 and OAR 690-385-3000.

Now, therefore, it is ORDERED:

1. The temporary changes proposed in Transfer Application T-11446 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2012 irrigation season.
3. The use shall revert to the authorized places of use at the end of the 2012 irrigation season.

4. 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, 76799 and 81784 and any related decree.
5. Pursuant to OAR 690-385-3130, the use of water fat the proposed place of use under Certificates 76050 and 81784, as described in Finding of Fact #6, is diminished to supplemental irrigation and is restricted to the total rate and duty prescribed by Certificates 76715 and 76799 and only may be used to make-up a deficiency of supply.
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 water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
8. 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.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The use of the remaining water rights described by Water Right Certificates 76715, 76799, 79439 and 81784 shall continue to be in accordance with the terms and conditions of the certificates.

Dated at Salem, Oregon this 21 day of August, 2012.



Dwight French, Water Right Services Administrator for
Phillip C. Ward, Director

Mailing Date: **AUG 31 2012**