

**BEFORE THE WATER RESOURCES DIRECTOR OF OREGON**

**UMATILLA COUNTY**

**PROPOSED AND FINAL ORDER DENYING A PROTEST AGAINST APPROVAL  
OF TEMPORARY TRANSFER APPLICATION 7991**

On April 27, 1998, Temporary Transfer Application 7991, in the name of Elkhorn Resources, LLC, was filed. On April 28, 1998, a protest against the approval of Temporary Transfer Application 7991 was filed by La Rae Poe, Albert and Sheila Corpus, Robert and Jacque McGuire, Bud and Doris Wallain, Ron and Delma Heiple, Kenneth and Mary Reade, and Roger Webb.

The Protestants allege that their water rights would be injured because there is insufficient water available in the canal and an additional water user would further injure their water rights.

West Extension Irrigation District has provided information that the main canal has a capacity of over 50 cfs in the area of the proposed Elkhorn Resources pump. The District also says the water required for the existing water users is up to 10 cfs. The District says they have the capacity and ability to deliver water to the proposed pump without injury to the existing users.

The Watermaster inspected the canal in the vicinity of the proposed temporary transfer. The Watermaster saw nothing that would contradict the District's information that the canal has sufficient capacity to deliver the additional water under this temporary transfer.

ORS 540.523 provides:

"(2) Notwithstanding the notice and waiting requirements under ORS 540.520, the department shall approve by order a request for a temporary transfer under this section if the department determines that the temporary transfer will not injure any existing water right."

"(5) The department may revoke a prior approval of the temporary transfer at any time if the department finds that the transfer is causing injury to any existing water right."

"(9) In issuing an order under subsection (2) of this section, the department shall include any condition necessary to protect other water rights."

The department, having reviewed the information currently before it, determined that the change proposed by Temporary Transfer Application 7991 will not cause injury to existing water rights.

The request in the protest against approval of the temporary transfer application is denied. Temporary Transfer Application 7991 may be approved, with conditions to protect other water rights or to revoke the temporary transfer if it is found to cause injury to other water rights.

A hearing may be held on this matter. If any Protestant wants a hearing, a written request for a hearing must be filed with the Department. The request for hearing must state the grounds for disagreement with this order and must be received by the Department within 30 days of the date of this order.

Failure to request a hearing within 30 days of the date of this order shall waive the right to hearing under ORS Chapter 183. If no request for hearing is received within 30 days of the date of this order, or on failure to appear at a hearing where one has been set, the existing agency file will be designated as the record in this case and Order will become final.

WITNESS the signature of the Water Resources Director, affixed MAY 05 1998.

  
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for Martha O. Pagel, Director