

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-9943, Umatilla County) APPROVING A DISTRICT
) TEMPORARY TRANSFER

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

West Extension Irrigation District
P.O. Box 100
Irrigon, OR 97844

Findings of Fact

- 1) On June 6, 2005, West Extension Irrigation District filed a district transfer application to temporarily change the place of use of water within the boundaries of the irrigation district under Certificates 79926, 79928, 79929, 79938 and 79943. The Department assigned the application number T-9943.
- 2) The applicant amended the application and map on June 9, 2005, October 14, 2005 and November 23, 2005.
- 3) The Department published notice of receipt of the application in the Department's Weekly Notice dated June 28, 2005. The application was noticed as a temporary transfer within irrigation district boundaries.
- 4) No comments or timely protests were received in response to the published notice.
- 5) The following rights are proposed to be modified:
 - a) IRRIGATION
Certificate: 79926 issued in the name of U.S. Bureau of Reclamation
Use: Irrigation
Priority Date: March 28, 1909
Quantity: 1.24 cfs
Acres: 17.30

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.

Rate & Duty: 2.0 acre-feet per acre in any 30 day period and not to exceed 10.0 acre-feet per acre throughout the irrigation season

Source: Umatilla River, tributary to the Columbia River

Authorized Point of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
5 N	28 E	W.M.	28	SW SW	1100 feet North and 520 Feet East from SW Corner of Section 28

b) SUPPLEMENTAL IRRIGATION

Certificate: 79943 issued in the name of Hillview Dairy Inc.

Use: Supplemental Irrigation

Priority Date: March 30, 1966

Quantity: 0.04 cfs

Acres: 3.40

Rate & Duty: 1/80 cubic foot per second and 3.0 acre-feet per acre irrigated

Source: Tile Drain Line, tributary to the Columbia River

Point of Appropriation:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
4 N	25 E	W.M.	13	NE SW	810 feet South and 10 Feet East from NW Corner of Sec. 13

Certificate: 79938 issued in the name of Hillview Dairy Inc.

Use: Supplemental Irrigation

Priority Date: March 30, 1966

Quantity: 0.07 cfs

Acres: 5.20

Rate & Duty: 1/80 cubic foot per second and 3.0 acre-feet per acre irrigated

Source: Tile Drain Line, tributary to the Columbia River

Point of Appropriation:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
4 N	25 E	W.M.	13	NE SW	810 feet South and 10 Feet East from NW Corner of Sec. 13

Certificate: 79929 issued in the name of West Extension Irrigation District

Use: Supplemental Irrigation

Priority Date: September 12, 1968

Quantity: 0.06 cfs

Acres: 6.10

Rate & Duty: 1/40 cubic foot per second and 4.5 acre-feet per acre irrigated

Source: Columbia River, tributary to the Pacific Ocean

Points of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
5 N	28 E	W.M.	10	NW SE	2150' North and 3500' East from SW Corner of Section 10

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
5 N	28 E	W.M.	17	NW SW	1900' North and 150' East from SW Corner of Section 17

- 6) West Extension Irrigation District applied to temporarily change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

					Water Right Certificates			
					Irrigation (acres)	Supplemental Irrigation (acres)		
TWP	RNG	SEC	¼ ¼	Tax Lot	79926	79943	79938	79929
4N	25E	13	NW NW	301	6.10			6.10
4N	25E	13	NE SW	301	1.70		1.70	
4N	25E	13	NE SW	301	1.60	1.60		
4N	25E	13	NE SW	301	1.40			
4N	25E	13	SE SW	301	3.30		3.30	
4N	25E	13	SE SW	301	1.60	1.60		
4N	25E	13	NW SE	301	0.20	0.20		
4N	25E	13	NW SE	301	0.50			
4N	25E	13	SW SE	301	0.40		0.40	
4N	25E	13	SW SE	301	0.50			
TOTALS:					17.30	3.40	5.40	6.10

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 described by permit or certificate. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

					Water Right Certificates			
					Irrigation (acres)	Supplemental Irrigation (acres)		
TWP	RNG	SEC	¼ ¼	Tax Lot	79926	79943	79938	79929
4 N	25 E	13	SE NE	100	5.40		5.40	
4 N	25 E	13	SE NE	100	3.40	3.40		
4 N	25 E	13	SE NE	100	2.40			
4 N	25 E	13	NE NW	200	1.20			1.20
4 N	25 E	13	NW NW	200	0.20			0.20
4 N	25 E	13	NE SE	100	1.80			1.80
4 N	25 E	13	NW SE	100	2.90			2.90
TOTALS:					17.30	3.40	5.40	6.10

7) The following rights are also proposed to be modified:

a) IRRIGATION

Certificate: 79928 issued in the name of West Extension Irrigation District

Use: Irrigation

Quantity: 0.15 cfs

Acres: 5.80

Priority Date: September 12, 1968

Rate & Duty: One-Fortieth of one cubic foot per second per acre and not to exceed 4.5 acre-feet per acre throughout the irrigation season

Source: Umatilla River, tributary to the Columbia River

Authorized Point of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
5 N	28 E	W.M.	28	SW SW	1100' North and 520' East from SW Corner of Section 28

b) SUPPLEMENTAL IRRIGATION

Certificate: 79929 issued in the name of West Extension Irrigation District

Use: Supplemental Irrigation

Quantity: 0.06 cfs

Acres: 5.80

Priority Date: September 12, 1968

Rate & Duty: One-Fortieth of one cubic foot per second per acre and not to exceed 4.5 acre-feet per acre throughout the irrigation season

Source: Columbia River, tributary to the Pacific Ocean

Authorized Points of Diversion:

Township	Range	Meridian	Sec	¼ ¼	Survey Coordinates
5 N	28 E	W.M.	17	NW SW	1900 feet North and 150 Feet East from SW Corner of Section 17
5 N	28 E	W.M.	10	NW SE	2150 feet North and 3500 Feet East from SW Corner of Section 10

8) West Extension Irrigation District applied to temporarily change the place of use from the locations identified in Table 3 to the locations listed in Table 4.

TABLE 3. - "FROM" LANDS						
					Water Right Certificates	
					Irrigation (acres)	Supplemental Irrigation (acres)
TWP	RNG	SEC	¼ ¼	Tax Lot	79928	79929
4 N	25 E	12	SW SW	200	0.20	0.20
4 N	25 E	12	SE SW	200	0.20	0.20
4 N	25 E	13	NW NE	200	0.20	0.20
4 N	25 E	13	NE NW	200	5.00	5.00
4 N	25 E	13	NW NW	200	0.20	0.20
TOTALS					5.80	5.80

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 described by permit or certificate. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

TABLE 4. - "TO" LANDS						
					Water Right Certificates	
					Irrigation (acres)	Supplemental Irrigation (acres)
TWP	RNG	SEC	¼ ¼	Tax Lot	79928	79929
4 N	25 E	13	SE NE	100	5.80	5.80
TOTALS					5.80	5.80

- 9) Pursuant to ORS 540.574 and ORS 540.570, in reviewing the application submitted by West Extension Irrigation District, the Department has determined the following:
- a) The application contains the information required under ORS 540.574(3).
 - b) The application meets the requirements of ORS 540.570.
 - c) The application contains maps which are satisfactory to the Department and which the District certified as being accurate.
 - d) The application 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 use authorized by the water right subject to transfer will not change; and
 - g) The proposed change in place of use will not result in injury to other water rights.
- 10) The applicant has filed a statement that the right under Permit G-13419 existing on the "TO" lands will be used during the 2006 Irrigation Season for supplemental irrigation only.

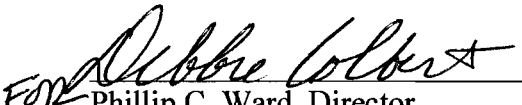
Conclusions of Law

- 1. The application submitted by West Extension Irrigation District proposing temporary changes in place of use within district boundaries includes the information, and satisfies the criteria, required by ORS 540.574(3).
- 2. The proposed transfer complies with the requirements of ORS 540.570.
- 3. The Director shall not consider the use of Permit G-13419 as a supplemental water right during the 2006 Irrigation Season as proof toward perfection of the water right and any claim as beneficial use under the terms and conditions of the permit at time of completion date.
- 4. The Director should approve the transfer because the application satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury to other water rights.

Now, therefore, it is ORDERED:

1. The proposed temporary changes to the water rights evidenced by Water Right Certificates 79926, 79928, 79938, 79943 and 79929 may be made for the 2006 irrigation season provided the following conditions are met by the water user:
 - a) The FROM lands shall receive no water under the rights involved with this transfer for the 2006 irrigation season.
 - b) The use of water under the rights involved with this transfer on both the TO and FROM lands during the 2006 irrigation season or calendar year is prohibited and may subject both the district and landowner to civil penalties.
 - c) All restrictions and limitations contained in the subject rights shall apply to the TO lands.
 - d) The use of groundwater under Permit G-13419 may only be made at such times as needed to make up a deficiency in supply of the existing primary right, either when water is not available through the West Extension Irrigation District's delivery of 1909 Umatilla River water or regulation by the Watermaster ceasing the District's appropriation of this primary right.
 - e) Pursuant to 540.570(5), the Department may further condition or revoke this temporary transfer, to the extent necessary to avoid injury, at any time the department finds the transfer is causing injury to an existing water right.
 - f) The Department requires the water user to install and maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water discharged into West Extension Irrigation Canal. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
2. Pursuant to 540.570(6), upon expiration of the 2006 irrigation season, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication proceeding under ORS chapter 539 as evidenced by a court decree.

Dated at Salem, Oregon this 7th day of February, 2006.


Phillip C. Ward, Director

Mailing Date: FEB 16 2006