

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

In the Matter of Transfer Application                     )  
T-10359, Umatilla County                                     )  
   )     SUPERSEDING FINAL ORDER  
   )     APPROVING A 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**

1. On April 4, 2007, Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76050, 75127 and 81815. The Department assigned the application number T-10359.
2. On May 31, 2007, the Department issued a final order approving a change in place of use as proposed in Transfer Application T-10359, recorded at Special Order Volume 72, pages 233 to 237.
3. Shortly following issuance of the final order described in Finding #2, the Department recognized the need to modify Application T-10359. The application modification is needed to include Well #7 under Certificate 75127 in order to temporarily change the point of appropriation from Well #7 to Wells #4 and #8 and to allow the amount of water authorized under the certificate for Well #7 (1.8 cfs) to be used in any combination from Wells #4 and #8 at the proposed place of use.
4. The modification to Application T-10359, described in Finding #3, does not require additional public notice.

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

This is an 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 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.

5. Pursuant to OAR 137-004-0080(5), the period in which the Department may, on its own initiative, reconsider a final order has not yet closed.
6. On June 20, 2007, the Department reconsidered the order approving Application T-10359 (Special Order Volume 72, pages 233 to 237) and concluded that the order should be superseded and reissued as described in Finding #7 below.
7. The portions of the rights to be transferred are as follows:

**Certificate:** 76050, issued in the name of Teel Irrigation District (perfected under Permit 25920)

**Use:** Irrigation (IR) of 496.3 acres

**Priority Date:** April 22, 1955

**Rate & Duty:** ONE-FORTIETH of one cubic foot per second (or its equivalent) and 4.5 acre-feet 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	QTR-QTR	SURVEY COORDINATES
3 N	29 E	WM	21	SW NE	WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 Feet from the W¼ Corner of Section 21

**Certificate:** 75127, issued in the name of Chester and Rosalie Prior (perfected under Permit G-6069)

**Use:** Supplemental Irrigation (IS) of 496.3 acres

**Priority Date:** September 5, 1974

**Quantity:** 6.21 Cubic Feet Per Second, being 1.8 cfs from Well #7, 1.8 cfs from Well #8, and 2.61 cfs from Well#4

**Rate & Duty:** ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year, 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:** Prior Wells #4, #7 and #8, within the Umatilla River Basin.

**Authorized Points of Appropriation:**

TWP	RNG	MER	SEC	QTR-QTR	SURVEY COORDINATES
2 N	28 E	WM	1	SE NW	PRIOR WELL #4 – 2640 Feet South and 630 Feet West from the N¼ Corner of Section 1
2 N	28 E	WM	2	SE NW	PRIOR WELL #7 – 2500 Feet South and 2580 Feet East from the NW Corner of Section 2
2 N	28 E	WM	2	NE SE	PRIOR WELL #8 – 2800 Feet South and 500 Feet West from the NE Corner of Section 2

**Certificate:** 81815, issued in the name of Chester Prior, Eagle Ranch (perfected under Permit 48450)

**Use:** Supplemental Irrigation (IS) of 496.3 acres

**Priority Date:** August 3, 1981

**Rate & Duty:** ONE-FORTIETH of one cubic foot per second (or its equivalent) and 1.5 acre-feet for each acre irrigated during the period from November 15 to the last day of February of each year, provided further that the right allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed 4.5 acre-feet for each acre irrigated in any one year, provided further, that the part declared herein be for supplemental irrigation, the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in the ground water supply provided the total quantity diverted from all sources of supply does not exceed the limitation allowed herein. The use of water during the period November 15 to the last day February of each year shall not establish priority of right as against future appropriations for beneficial uses or storage for such beneficial uses, other than similar rights for irrigation from November 15 to the last day of February

**Source:** Umatilla River, a tributary of the Columbia River

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	QTR-QTR	SURVEY COORDINATES
3 N	29 E	WM	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	QTR-QTR	TL	CERTIFICATE (ACRES)			USER
						76050 (IR)	75127(IS)	81815 (IS)	
2 N	28 E	WM	1	SW NW	200	25.5	25.5	25.5	CHESTER PRIOR
2 N	28 E	WM	1	NE SW	200	37.1	37.1	37.1	CHESTER PRIOR
2 N	28 E	WM	1	NW SW	200	31.0	31.0	31.0	CHESTER PRIOR
2 N	28 E	WM	1	SW SW	200	28.8	28.8	28.8	CHESTER PRIOR
2 N	28 E	WM	1	SE SW	200	31.2	31.2	31.2	CHESTER PRIOR
2 N	28 E	WM	2	NE NE	300	8.2	8.2	8.2	CHESTER PRIOR
2 N	28 E	WM	2	NW NE	300	36.7	36.7	36.7	CHESTER PRIOR
2 N	28 E	WM	2	SW NE	300	38.2	38.2	38.2	CHESTER PRIOR
2 N	28 E	WM	2	SE NE	300	29.2	29.2	29.2	CHESTER PRIOR
2 N	28 E	WM	2	NE NW	300	33.3	33.3	33.3	CHESTER PRIOR
2 N	28 E	WM	2	NW NW	300	32.2	32.2	32.2	CHESTER PRIOR
2 N	28 E	WM	2	SW NW	300	27.8	27.8	27.8	CHESTER PRIOR
2 N	28 E	WM	2	SE NW	300	30.0	30.0	30.0	CHESTER PRIOR
2 N	28 E	WM	2	NE SE	500	19.1	19.1	19.1	CHESTER PRIOR
2 N	28 E	WM	2	NW SE	500	30.0	30.0	30.0	CHESTER PRIOR
2 N	28 E	WM	2	SW SE	500	35.2	35.2	35.2	CHESTER PRIOR
2 N	28 E	WM	2	SE SE	500	22.8	22.8	22.8	CHESTER PRIOR
TOTAL:						496.3	496.3	496.3	

8. Application T-10359 proposes to TEMPORARILY change the place of use for the above described rights and diminish the lands under Certificate 76050 from primary irrigation to supplemental irrigation to:

SUPPLEMENTAL IRRIGATION (IS)									
TWP	RNG	MER	SEC	QTR-QTR	TL	CERTIFICATE (ACRES)			USER
						76050 (IS)*	75127 (IS)	81815 (IS)	
3 N	28 E	WM	20	NE SE	6700	31.9	31.9	31.9	CHESTER PRIOR
3 N	28 E	WM	20	NW SE	6700	31.3	31.3	31.3	CHESTER PRIOR
3 N	28 E	WM	20	SW SE	6700	32.7	32.7	32.7	CHESTER PRIOR
3 N	28 E	WM	20	SE SE	6700	32.2	32.2	32.2	CHESTER PRIOR
3 N	28 E	WM	21	NE SE	6800	29.9	29.9	29.9	CHESTER PRIOR
3 N	28 E	WM	21	NW SE	6900	30.6	30.6	30.6	CHESTER PRIOR
3 N	28 E	WM	21	SW SE	6800	32.4	32.4	32.4	CHESTER PRIOR
3 N	28 E	WM	21	SE SE	6800	31.2	31.2	31.2	CHESTER PRIOR
3 N	28 E	WM	29	NE NE	8100	30.7	30.7	30.7	CHESTER PRIOR
3 N	28 E	WM	29	NW NE	8100	29.9	29.9	29.9	CHESTER PRIOR
3 N	28 E	WM	29	SW NE	8100	29.6	29.6	29.6	CHESTER PRIOR
3 N	28 E	WM	29	SE NE	8100	30.0	30.0	30.0	CHESTER PRIOR
3 N	28 E	WM	29	NE NW	8100	28.7	28.7	28.7	CHESTER PRIOR
3 N	28 E	WM	29	NW NW	8100	33.1	33.1	33.1	CHESTER PRIOR
3 N	28 E	WM	29	SW NW	8100	33.1	33.1	33.1	CHESTER PRIOR
3 N	28 E	WM	29	SE NW	8100	28.5	28.5	28.5	CHESTER PRIOR
3 N	28 E	WM	30	NE NE	8100	0.2	0.2	0.2	CHESTER PRIOR
3 N	28 E	WM	30	SE NE	8100	0.3	0.3	0.3	CHESTER PRIOR
TOTAL:						496.3	496.3	496.3	

\* NOTE: The applicant has requested to diminish the above described Certificate 76050 (496.3 acres) at the new proposed place of use to supplemental irrigation to existing primary water right Certificates 76050, 76717, 76799 and 76051.

9. Application T-10359 also proposes to TEMPORARILY change the point of appropriation from Well #7 (1.8 cfs) to two wells located as follows:

TWP	RNG	MER	SEC	QTR-QTR	SURVEY COORDINATES
2 N	28 E	WM	1	SE NW	PRIOR WELL #4 – 2640 Feet South and 630 Feet West from the N¼ Corner of Section 1
2 N	28 E	WM	2	NE SE	PRIOR WELL #8 – 2800 Feet South and 500 Feet West from the NE Corner of Section 2

10. The use of water under Certificate 75127 for the 2007 irrigation season is subject to the order dated August 28, 2006, recorded at Special Order Volume 69, page 687, approving an allocation of groundwater within the Stage Gulch Critical Groundwater Area.

11. The diminishment and proposed use of water for supplemental irrigation under Certificate 76050 on the proposed lands together with the same existing water right Certificate 76050 on these "TO" lands is limited to an appropriation of no more than the allowable rate and duty per each acre as described within the certificate during the 2007 season.
12. The district temporary 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.
13. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
14. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. Pumps and a pipeline system sufficient to use the full amount of water allowed under the existing rights are present.
16. The proposed changes would not result in enlargement of the rights.
17. The proposed changes would not result in injury to other water rights.

#### **Conclusions of Law**

The temporary changes in point of appropriation and place of use proposed in Application T-10359 satisfy the requirements of ORS 540.574(3) and 540.570.

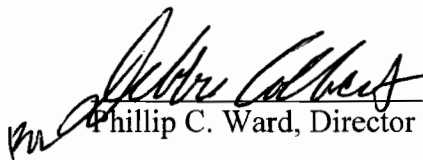
The use of water under Certificate 76050 is restricted to the limitations contained in the certificate as described in Findings of Fact #11.

#### **Now, therefore, it is ORDERED:**

1. The final order entered at Special Order Volume 72, pages 233 through 237 is void and of no further force or effect.
2. The proposed changes in point of appropriation and place of use proposed in Application T-10359 are approved.
3. The appropriation of water from Wells #4 & #8 is limited to 6.21 cfs and may be used in any combination for the 2007 irrigation season.
4. The temporary transfer is effective for the 2007 irrigation season.
5. 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 76050, 75127 and 81815 and any related decree.

6. Certificate 76050 is diminished to supplemental irrigation for the 2007 irrigation season, as described in Finding of Fact #8, and, along with the other water rights for supplemental irrigation being transferred, may be used only to make up a deficiency of supply for Certificates 76050, 76051, 76799, and 76717.
7. Water for the new wells shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. 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.
9. 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.
10. At the end of the 2007 irrigation season all uses of water under this temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

Dated at Salem, Oregon this 22<sup>nd</sup> day of June 2007.

  
Phillip C. Ward, Director

Mailing date: 6-25-07