

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11222, 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 (Double M Ranch)
PO BOX 944
HERMISTON, OR 97838

Findings of Fact

Background

1. On April 7, 2011, Stacey Wells, on behalf of Westland Irrigation District filed an application to temporarily change the place of use under Certificates 76715, 79439 and 82441 for a period of one year. The Department assigned the application number T-11222.
2. The portion of the FIRST primary right and its layered supplemental water right to be transferred is as follows:

Certificate: 76715 issued in the name of WESTLAND IRRIGATION DISTRICT

Use: Irrigation (IR) of 15.7 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	WM	21	SW NE	WESTLAND I.D. CANAL - NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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 15.7 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, (constructed under Permit R-564) a tributary of McKay Creek. Water is run down the natural channels of McKay Creek and the Umatilla River and is rediverted at Westland Irrigation District Canal.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	32 E	WM	34	NW SE	McKAY DAM
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	Q - Q	Tax Lot	CERTIFICATE (ACRES)		User
						76715 (IR)	79439 (IS)	
3 N	29 E	WM	18	NW NW	5300	10.7	10.7	DOUBLE M RANCH, INC.
3 N	29 E	WM	18	SW NW	5300	5.0	5.0	DOUBLE M RANCH, INC.
Total:						15.7	15.7	

3. Transfer Application T-11222 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	29 E	WM	18	NW NW	5300	14.0	14.0	DOUBLE M RANCH, INC.
3 N	29 E	WM	18	SW NW	5300	1.7	1.7	DOUBLE M RANCH, INC.
Total:						15.7	15.7	

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

Certificate: 82441, issued in the name of DOUBLE M RANCH, INC. (perfected under Permit G-10222)

Use: Irrigation (IR) of 32.6 acres

Priority Date: January 10, 1983

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second and 3.0 ACRE-FEET for each acre irrigated during the irrigation season of each year

Source: Well #1 and Well #2, within the UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	28 E	WM	13	NW NE	WELL#1 - 270 FEET SOUTH AND 2540 FEET WEST FROM THE NE CORNER OF SECTION 13

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	29 E	WM	18	SW NW	WELL#2 - 1450 FEET SOUTH AND 3160 FEET WEST FROM THE N¼ CORNER OF SECTION 18

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User
3 N	29 E	WM	18	NW NW	5300	32.6	DOUBLE M RANCH, INC.

5. Transfer Application T-11222 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	WM	18	NW NW	5300	32.6	DOUBLE M RANCH

6. Notice of the application for transfer was published on April 19, 2011, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
7. 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.
8. Diversion structures, pumps, pipeline, and pivot sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
9. The proposed changes would not result in enlargement of the rights.
10. 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.
11. Approximately 67% of the "TO" lands acres involved in this transfer are from ground water Certificate 82441 and the remaining 33% are Westland primary surface water Certificate 76715 (with supplemental water right Certificate 79439).
12. The District has stated in the application and have agreed to accomplish the following:
- i) The water from Well #2 authorized under Certificate 82441 will be pumped into the Westland canal at Pump 6E (as identified on the transfer map), conveyed down the Westland canal and re-diverted at Pump 7A (also identified on the transfer map)
 - ii) In order to address Finding of Fact #11, the water user and the District shall monitor the flow meters to verify that approximately 67% of the water delivered on the "TO" lands at meter #08-03539-06 is equal to the amount of water that is pumped into Westland canal at Pump 6E from Well #2 (meter # 95-740-6), in as close to real time as possible.

- iii) Water from Well #1 will only be applied to the Certificate 82441 acres on the "TO" land when Westland Irrigation District's primary surface water Certificate 76715 and supplemental Certificate 79439 are no longer available.
- iv) The 17.2 acres from Certificate 82441 (in the SW¼ NW¼ of Section 18) not involved with this temporary transfer will not receive water during the 2011 irrigation season when Westland Irrigation District's surface water primary Certificate 76715 and supplemental Certificate 79439 are available.

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-11222 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2011 irrigation season.
3. 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 and 82441 and any related decree.
4. 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.
5. The use shall revert to the authorized places of use at the end of the 2011 irrigation season.
6. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
7. The water user and the District shall monitor the flow meters to verify that approximately 67% of the water delivered on the "TO" lands at meter #08-03539-06 is equal to the amount of water that is pumped into Westland canal at pump 6E from Well #2 (meter # 95-740-6), in as close to real time as possible.
8. Water from Well #1 will only be applied to the Certificate 82441 acres on the "TO" lands when Westland Irrigation District's primary surface water right Certificate 76715 and supplemental Certificate 79439 are no longer available.
9. The 17.2 acres from Certificate 82441 (in the SW¼ NW¼, Section 18) not involved with this temporary transfer will not receive water in 2011 when Westland Irrigation District's surface water primary Certificate 76715 and supplemental Certificate 79439 are available.

10. A subsequent application for permanent transfer of Certificates 76715, 79439 and 82441 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Divisions 380 and/or 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
11. 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.
12. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 76715, 79439 and 82441.
13. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
14. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
15. The use of the remaining water rights described by Certificates 76715, 79439 and 82441 shall continue to be in accordance with the terms and conditions of Certificates 76715, 79439 and 82441.

Dated at Salem, Oregon this 9 day of June, 2011.


Dwight French, Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JUN 10 2011