

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

In the Matter of a Proposed Change) ORDER
 In Place of Use of Water Within an) APPROVING A DISTRICT
 Irrigation District — TRANSFER 9895) TEMPORARY TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.570, WESTLAND IRRIGATION DISTRICT, PO Box 944, Hermiston, OR, 97838, petitioned the Oregon Water Resources Department to temporarily change the place of use of water within the boundaries of the irrigation district. The petition was originally received on March 18, 2005, and included the required fees.
2. The Department assigned the petition transfer application number T-9895.
3. The Department published notice of receipt of the petition in the Department’s Weekly Notice dated March 29, 2005. The petition 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) PRIMARY IRRIGATION

Certificate 76050: issued in the name of Teel Irrigation District

Use: Irrigation

Priority Date: April 22, 1955

Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated

Source: Umatilla River, tributary to the Columbia River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West ¼ Corner of Section 21.

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.

b) SUPPLEMENTAL IRRIGATION

Certificate 75127: issued in the name of Chester & Rosalie Prior

Use: Supplemental Irrigation

Priority Date: September 5, 1974

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: Prior Wells 4 & 8

Point of Appropriation: Prior Well # 4 - SE¼ NW¼, Section 1, T 2 N, R 28 E, W.M.;
2640 feet South and 630 feet West from the N¼ Corner of Section 1.

Prior Well # 8 - NE¼ SE¼, Section 2, T 2 N, R 28 E, W.M.; 2800 feet South and 500
feet West from the NE Corner of Section 2.

Permit 48450: issued in the name of Chester J. Prior

Use: Supplemental Irrigation

Priority Date: August 3, 1981

Rate & Duty: 1/40 cfs and 1.5 acre-feet during the period November 15 to end of
February, not to exceed 4.5 acre-feet in any one year

Source: Umatilla River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; South 55 Degrees 48
Minutes West, 3237.3 Feet from the NE Corner of Section 21.

6. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

7.

TABLE 1 - "FROM" LANDS							
					Water Right Certificates		
					Irrigation (acres)	Supplemental Irrigation (acres)	
TWP	RNG	SEC	¼ ¼	Tax Lot	76050	75127	Permit 48450
2N	28E	1	SW NW	200	27.8	27.8	27.8
2N	28E	1	NE SW	200	37.1	37.1	37.1
2N	28E	1	NW SW	200	31.0	31.0	31.0
2N	28E	1	SW SW	200	28.8	28.8	28.8
2N	28E	1	SE SW	200	31.2	31.2	31.2
2N	28E	2	NE NE	300	8.2	8.2	8.2
2N	28E	2	NWNE	300	36.7	36.7	36.7
2N	28E	2	SW NE	300	38.2	38.2	38.2
2N	28E	2	SE NE	300	29.2	29.2	29.2
2N	28E	2	NE NW	300	33.3	33.3	33.3
2N	28E	2	NW NW	300	32.2	32.2	32.2
2N	28E	2	SW NW	300	27.8	27.8	27.8
2N	28E	2	SE NW	300	30.0	30.0	30.0
2N	28E	2	NE SE	500	19.1	19.1	19.1
2N	28E	2	NW SE	500	30.0	30.0	30.0
2N	28E	2	SW SE	500	35.2	35.2	35.2
2N	28E	2	SE SE	500	22.8	22.8	22.8
TOTALS					498.6	498.6	498.6

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 2 - "TO" LANDS							
					Water Right Certificates		
					Irrigation (acres)	Supplemental Irrigation (acres)	
TWP	RNG	SEC	¼ ¼	Tax Lot	76050	75127	Permit 48450
3N	28E	9	NE SW	3000	28.0	28.0	28.0
3N	28E	9	NW SW	2900	29.8	29.8	29.8
3N	28E	9	SW SW	3100	35.9	35.9	35.9
3N	28E	9	SE SW	3100	31.6	31.6	31.6
3N	28E	16	NE SW	3100	29.6	29.6	29.6
3N	28E	16	NW SW	3100	32.2	32.2	32.2
3N	28E	16	SW SW	3100	34.0	34.0	34.0
3N	28E	16	SE SW	3100	29.0	29.0	29.0
3N	28E	16	NE SE	4600	31.1	31.1	31.1
3N	28E	16	NW SE	4700	30.9	30.9	30.9
3N	28E	16	SW SE	4700	32.2	32.2	32.2
3N	28E	16	SE SE	4600	30.0	30.0	30.0
3N	28E	17	SE SE	4800	0.2	0.2	0.2
3N	28E	21	NE SE	6800	29.9	29.9	29.9
3N	28E	21	NW SE	6900	30.6	30.6	30.6
3N	28E	21	SW SE	6800	32.4	32.4	32.4
3N	28E	21	SE SE	6800	31.2	31.2	31.2
TOTALS					498.6	498.6	498.6

7. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the petition submitted by Westland Irrigation District, the Department has determined the following:
 - a) The petition contains the information required under ORS 540.574(3).
 - b) The petition meets the requirements of ORS 540.570.
 - c) The petition 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.

8. The applicant has made the statement that certain rights existing on the "TO" lands during the 2005 Irrigation season will become supplemental to the incoming District rights proposed in this transfer. They are described as Certificate 76050, District right for primary irrigation

from the Umatilla River, and Certificate 79439 for supplemental irrigation from McKay Reservoir.

CONCLUSIONS OF LAW

1. The petition submitted by Westland 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 should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury to other water rights.

ORDER

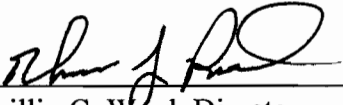
It is hereby ORDERED :

1. The proposed temporary changes to the water rights evidenced by Water Right Certificates 76050, 75127, 79439 and Permit 48450 may be made for the 2005 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 2005 irrigation season.
 - b) The use of water under the rights involved with this transfer on both the TO and FROM lands during the 2005 irrigation season or calendar year is prohibited and may subject both the district and landowner to civil penalties.
 - c) Certificate 76050, District right for primary irrigation from the Umatilla River, and Certificate 79439 for supplemental irrigation from McKay Reservoir, both existing on the TO lands described in Table 2, will become supplemental to the incoming District rights proposed in this transfer for the 2005 irrigation season.
 - d) All restrictions and limitations contained in the subject rights shall apply to the TO lands.
 - 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 Westland 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 2005 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 26th day of May, 2005.



Phillip C. Ward, Director