

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

In the Matter of Transfer Application            ) **F I N A L   O R D E R**  
T-10597, Umatilla County                        )    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 16, 2008, 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-10597.
2. Westland Irrigation District specified water for primary irrigation use under Certificate 76050 on the “TO” lands will be diminished to supplemental irrigation under the existing primary water rights in existence during the course of the 2008 Irrigation Season, and is fully described in Findings of Fact #4.
3. The portion of the primary right and it’s supplemental water rights to be transferred are as follows:  
**Certificate:** 76050, issued in the name of Teel Irrigation District  
**Use:** Irrigation (IR) of 503.5 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

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.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	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 503.5 acres

**Priority Date:** September 5, 1974

**Quantity:** 6.29 Cubic Feet Per Second, being 1.82 cfs from each of Wells #7 and #8 and 2.65 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	Q - Q	Change in POA	Survey Coordinates
2 N	28 E	WM	1	SE NW	RETAIN	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	DELETE	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	RETAIN	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

**Use:** Supplemental Irrigation (IS) of 503.5 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	Q - Q	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	Q - Q	TL	CERTIFICATE (ACRES)			User
						76050 (IR)	75127 (IS)	81815 (IS)	
2 N	28 E	WM	1	NW NW	200	3.10	3.10	3.10	CHESTER PRIOR
2 N	28 E	WM	1	SW NW	200	29.6	29.6	29.6	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
<b>TOTAL:</b>						<b>503.5</b>	<b>503.5</b>	<b>503.5</b>	

4. Application T-10597 proposes to TEMPORARILY diminish the lands under Certificate 76050 from primary irrigation to supplemental irrigation and change the place of use for the above described rights to:

PROPOSED TEMPORARY PLACE OF USE									
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)			User
						76050 (IS)*	75127 (IS)	81815 (IS)	
3 N	28 E	WM	9	NE SW	3000	28.0	28.0	28.0	CHESTER PRIOR
3 N	28 E	WM	9	NW SW	2900	29.8	29.8	29.8	CHESTER PRIOR
3 N	28 E	WM	9	SW SW	3100	35.9	35.9	35.9	CHESTER PRIOR
3 N	28 E	WM	9	SE SW	3100	31.6	31.6	31.6	CHESTER PRIOR

PROPOSED TEMPORARY PLACE OF USE									
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)			User
						76050 (IS)*	75127 (IS)	81815 (IS)	
3 N	28 E	WM	9	NE SE	2900	31.1	31.1	31.1	CHESTER PRIOR
3 N	28 E	WM	9	NW SE	2900	33.4	33.4	33.4	CHESTER PRIOR
3 N	28 E	WM	9	SW SE	2900	35.3	35.3	35.3	CHESTER PRIOR
3 N	28 E	WM	9	SE SE	2900	30.6	30.6	30.6	CHESTER PRIOR
3 N	28 E	WM	10	NE SW	2900	29.1	29.1	29.1	CHESTER PRIOR
3 N	28 E	WM	10	NW SW	2900	32.5	32.5	32.5	CHESTER PRIOR
3 N	28 E	WM	10	SW SW	2900	32.4	32.4	32.4	CHESTER PRIOR
3 N	28 E	WM	10	SE SW	2900	28.4	28.4	28.4	CHESTER PRIOR
3 N	28 E	WM	15	NE SW	4501	31.2	31.2	31.2	CHESTER PRIOR
3 N	28 E	WM	15	NW SW	4501	32.4	32.4	32.4	CHESTER PRIOR
3 N	28 E	WM	15	SW SW	4501	30.6	30.6	30.6	CHESTER PRIOR
3 N	28 E	WM	15	SE SW	4501	31.2	31.2	31.2	CHESTER PRIOR
<b>TOTAL:</b>						<b>503.5</b>	<b>503.5</b>	<b>503.5</b>	

\* **NOTE:** The applicant has requested to diminish the above described Certificate 76050 (503.5 acres) at the new proposed place of use to supplemental irrigation to existing primary water right Certificates 76715, 76717, 76050, 76723 and 76799 during the 2008 irrigation season.

- Application T-10597 also proposes to TEMPORARILY change the point of appropriation from Prior Well #7 under Certificate 75127 (1.82 cfs to be used in any combination) on the proposed "TO" lands to two wells located as follows:

Twp	Rng	Mer	Sec	Q - Q	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

- Notice of the application for temporary transfer was published on April 29, 2008, pursuant to ORS 540.570 and OAR 690-385-4400. No comments were filed in response to the notice.
- The diminishment and proposed use of water for supplemental irrigation under Certificate 76050 on the proposed "TO" lands together with the same existing water right Certificates 76715, 76717, 76050, 76723, and 76799 on these "TO" lands is limited to an appropriation of no more than the allowable rate and duty per each acre as described within these certificates during the 2008 season.
- This transfer order modifies certificate 75127 to include the break-down of water per each well, totaling 6.29 cfs (pro-rated) for 503.5 acres as now proposed in the application, being 1.82 cfs from each of Wells #7 & #8, and 2.65 cfs from Well #4, or its equivalent in case of rotation, measured at the wells. The Department authorizes the applicant's proposal to transfer the amount of 1.82 cfs from Well#7 to the other two existing Wells

#4 & #8, and to be used in any combination between the two, totaling 6.29 cfs. Therefore, the proposed change would not result in enlargement of the right.

9. 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.
10. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
11. The proposed change in place of use would not result in enlargement of the rights.
12. The proposed change in place of use would not result in injury to other rights.

### **Conclusions of Law**

The proposed change in place of use in Transfer Application T-10597 satisfies the requirements of ORS 540.574(3) and 540.570.

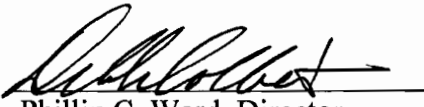
The use of water under a portion of Certificate 76050 will be diminished to supplemental irrigation during the 2008 irrigation season and is restricted to the limitations contained in the certificate, as described in Finding of Fact #3.

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

1. The proposed TEMPORARY changes to the water rights evidenced by Certificates 76050, 75127 and 81815 are approved. The new proposed TEMPORARY change in point of appropriation to the other two existing wells (points of appropriation) under Certificate 75127 described in Findings of Fact #5 is approved. In addition, the use of Wells #4 & #8 are limited to 6.29 cfs, and may be used in any combination for the 2008 irrigation season, as described in Finding of Fact #5.
2. The temporary transfer is effective for the 2008 irrigation season.
3. The former place of use shall not be irrigated as part of these water rights during the 2008 irrigation season.
4. 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.
5. Certificate 76050 is diminished to supplemental irrigation for the 2008 irrigation season, as described in Finding of Fact #4, and may be used only to make up a deficiency of supply for Certificates 76715, 76717, 76050, 76723, and 76799.
6. 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.

7. 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.
8. At the end of the 2008 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.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The District shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 18<sup>th</sup> day of August, 2008.

  
Phillip C. Ward, Director

Mailing Date: AUG 22 2008