

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-10951, Umatilla County) 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

WEST EXTENSION IRRIGATION DISTRICT
P.O. BOX 100
IRRIGON, OR 97844

Findings of Fact

Background

1. On September 8, 2009, WEST EXTENSION IRRIGATION DISTRICT filed an application to temporarily change the place of use under Certificates 79924, 79927, 79928, 79929 and 79930 for a period of one year. The Department assigned the application number T-10951.

2. The portion of the FIRST water right to be transferred is as follows:
Certificate: 79924 in the name of WEST EXTENSION IRRIGATION DISTRICT
(confirmed by the Umatilla River Decree)
Use: IRRIGATION of 1.7 ACRES
Priority Date: APRIL 14, 1893
Rate: 0.02 CUBIC FOOT PER SECOND (cfs), subject to the provisions of Paragraph 33 of the Umatilla River Decree, or its equivalent in case of rotation
Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER
Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	28	SW SW	1100 FEET NORTH AND 520 FEET EAST FROM THE SW CORNER OF SECTION 28

This is a final 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 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 60days following the date the petition was filed, the petition shall be deemed denied.

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User
5 N	27 E	WM	13	SW SW	1700	0.4	Picard
5 N	27 E	WM	13	SW SW	1800	0.5	Schultz
5 N	27 E	WM	13	SW SW	1900	0.3	Englehart
5 N	27 E	WM	13	SW SW	2000	0.2	Coombs
5 N	27 E	WM	13	SW SW	2100	0.3	Darden
TOTAL:						1.7	

3. Transfer Application T-10951 proposes to temporarily change the place of use of the right to:

IRRIGATION (IR)							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User
4 N	24 E	WM	14	SE NW	100	1.7	C. Finley
TOTAL:						1.7	

4. The portion of the SECOND primary right and its layered supplemental water right to be transferred are as follows:

Certificate: 79927, issued in the name of WEST EXTENSION IRRIGATION DISTRICT
(perfected under Permit S-27941)

Use: IRRIGATION OF 1.0 ACRE

Priority Date: MARCH 6, 1962

Rate & Duty: 0.025 cfs, limited to ONE-FORTIETH of one cfs per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion on not to exceed 4.5 ACRE-FEET per acre 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
5 N	28 E	WM	28	SW SW	1100 FEET NORTH AND 520 FEET EAST FROM THE SW CORNER OF SECTION 28

Certificate: 79929 in the name of WEST EXTENSION IRRIGATION DISTRICT
(perfected under Permit 33883)

Use: SUPPLEMENTAL IRRIGATION of 1.0 ACRE

Priority Date: SEPTEMBER 12, 1968

Rate/Duty: 0.01 cfs, limited to ONE-FORTIETH of one cfs per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion on not to exceed 4.5 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	17	NW SW	1900 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 17
5 N	28 E	WM	10	NW SE	2150 FEET NORTH AND 3500 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Places of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	ACRES		User
						Certificate 79927 (IR)	Certificate 79929 (IS)	
4 N	25 E	WM	14	SE SE	1900	1.0	1.0	G. Neal
TOTAL:						1.0	1.0	

5. Transfer Application T-10951 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	ACRES		User
						Certificate 79927 (IR)	Certificate 79929 (IS)	
4 N	24 E	WM	14	SE NW	100	1.0	1.0	C. Finley
TOTAL:						1.0	1.0	

6. The portion of the THIRD primary right and its layered supplemental water right to be transferred are as follows:

Certificate: 79928, issued in the name of WEST EXTENSION IRRIGATION DISTRICT
(perfected under Permit S-33883)

Use: IRRIGATION of 3.8 ACRES

Priority Date: September 12, 1968

Rate & Duty: 0.10 cfs, limited to ONE-FORTIETH of one cfs and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: UMATILLA RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	28	SW SW	1100 FEET NORTH AND 520 FEET EAST FROM THE SW CORNER OF SECTION 28

Certificate: 79929 in the name of WEST EXTENSION IRRIGATION DISTRICT
(perfected under Permit 33883)

Use: SUPPLEMENTAL IRRIGATION of 3.8 ACRES

Priority Date: SEPTEMBER 12, 1968

Rate/Duty: 0.04 cfs, limited to ONE-FORTIETH of one cfs per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion on not to exceed 4.5 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	17	NW SW	1900 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 17
5 N	28 E	WM	10	NW SE	2150 FEET NORTH AND 3500 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Places of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	ACRES		User
						Certificate 79928 (IR)	Certificate 79929 (IS)	
5 N	27 E	WM	20	SW SW	1001	3.8	3.8	City of Irrigon
TOTAL:						3.8	3.8	

7. Transfer Application T-10951 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	ACRES		User
						Certificate 79928 (IR)	Certificate 79929 (IS)	
4 N	24 E	WM	14	SE NW	100	3.8	3.8	C. Finley
TOTAL:						3.8	3.8	

8. The portion of the FOURTH primary right and its layered supplemental water right to be transferred are as follows:

Certificate: 79930, issued in the name of WEST EXTENSION IRRIGATION DISTRICT (perfected under Permit S-33883)

Use: IRRIGATION OF 24.5 ACRES

Priority Date: FEBRUARY 26, 1969

Rate & Duty: 0.61 CUBIC FOOT PER SECOND (cfs), limited to ONE-FORTIETH of one cfs and 4.5 acre-feet for each acre irrigated during the irrigation season of each year

Source: UMATILLA RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	28	SW SW	1100 FEET NORTH AND 520 FEET EAST FROM THE SW CORNER OF SECTION 28

Certificate: 79929 in the name of WEST EXTENSION IRRIGATION DISTRICT (perfected under Permit 33883)

Use: SUPPLEMENTAL IRRIGATION of 24.5 ACRES

Priority Date: SEPTEMBER 12, 1968

Rate/Duty: 0.26 CUBIC FOOT PER SECOND (cfs), limited to ONE-FORTIETH of one cfs per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion on not to exceed 4.5 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	28 E	WM	17	NW SW	1900 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 17
5 N	28 E	WM	10	NW SE	2150 FEET NORTH AND 3500 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Places of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	ACRES		User
						Certificate 79930 (IR)	Certificate 79929 (IS)	
4 N	25 E	WM	13	SW SW	400	2.5	2.5	Bailey
4 N	25 E	WM	14	SE SE	1900	22.0	22.0	G. Neal
TOTAL:						24.5	24.5	

9. Transfer Application T-10951 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	ACRES		User
						Certificate 79930 (IR)	Certificate 79929 (IS)	
4 N	24 E	WM	14	SE NW	100	2.5	2.5	C. Finley
4 N	25 E	WM	20	NE SE	802	8.2	*8.2	K. Smith
4 N	25 E	WM	20	SE SE	802	8.2	*8.2	K. Smith
4 N	25 E	WM	21	SW NW	300	5.6	5.6	Aylett
TOTAL:						24.5	24.5	

10. As part of transfer application T-10951, West Extension Irrigation District stated that a portion of water right Certificate 44107 for primary irrigation, existing on the "TO" lands will not be used or transferred during the term of this temporary transfer. The affected right is as follows:

* Primary Irrigation Under Certificate 44107 - Portion not to be used during 2009 Irrigation Season						
Twp	Rng	Mer	Sec	Q - Q	TL	Acres
4 N	25 E	WM	20	NE SE	802	8.2
4 N	25 E	WM	20	SE SE	802	8.2

11. Notice of the application for transfer was published on September 29, 2009, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
12. Water has been used within the last five years according to the terms and conditions of the rights and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. Diversion structures, pumps, canals, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
14. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
15. The proposed changes would not result in enlargement of the rights.
16. 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.

17. 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.

Conclusions of Law

The temporary changes in place of use proposed in Transfer Application T-10951 are consistent with the requirements of ORS 540.570 and OAR 690-385-3000.

Now, therefore, it is ORDERED:

1. The proposed, temporary changes to the water rights evidenced by Certificates 79924, 79927, 79928, 79929 and 79930 are approved.
2. The temporary transfer is effective for the 2009 irrigation season.
3. The former places of use **shall not** be irrigated as part of these water rights during the 2009 irrigation season.
4. The specified water use under Permit S-44107 on the proposed "TO" lands described in Findings of Fact #10 will not be used or transferred during the course of the 2009 irrigation season.
5. At the end of the 2009 irrigation season all use of water under this temporary transfer shall automatically revert to the terms and conditions of the original water right permit, certificates or adjudication as evidenced by a court decree.
6. 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.
7. A subsequent application for permanent transfer of Certificates 79924, 79927, 79928, 79929 and 79930 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
8. 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 779924, 79927, 79928, 79929 and 79930.

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 use of the remaining water rights described by Certificates 79924, 79927, 79928, 79929 and 79930 shall continue to be in accordance with the terms and conditions of Certificates 79924, 79927, 79928, 79929 and 79930.
11. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 13th day of October, 2009.


Phillip C. Ward, Director

Mailing Date OCT 14 2009