

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

In the Matter of Transfer Application)
T-11408, Umatilla County)
)
) FINAL ORDER APPROVING A
) DISTRICT PERMANENT TRANSFER
) AND CANCELLING THE ENTIRETY OF
) A WATER RIGHT

Authority

ORS 540.580 establishes the process in which a district may submit a request to 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

WESTLAND IRRIGATION DISTRICT
P. O. BOX 944
HERMISTON, OR 97838

Findings of Fact

Background

1. On April 20, 2012, Westland Irrigation District filed a district transfer application to permanently change the place of use under Certificates 76717, 76799 and 79439. The Department assigned the application number T-11408.
2. Notice of the application for transfer was published on May 1, 2012, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The portion of the FIRST right to be transferred is as follows:

Certificate: 76717 in the name of WESTLAND IRRIGATION DISTRICT
(confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County, Volume 3 at Pages 247-249, Volume 15, at Pages 439-441 and Volume 16, at Pages 459-460) and Transfer Application T-9311 (Determination of Satisfactory Proof; recorded at Special Order Volume 70, Pages 698 - 700)

Use: IRRIGATION of 80.3 ACRES

<p>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 60 days following the date the petition was filed, the petition shall be deemed denied.</p>

Rate: Limited to a diversion on 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

Priority Date: JULY 1907

Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
3 N	29 E	WM	21	SW NE	POD #1: North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	32	NE SE	2.7	1404	WADEKAMPER
5 N	28 E	W.M.	32	NW SE	15.7	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	24.6	6300	WADEKAMPER
5 N	28 E	W.M.	32	SE SE	13.7	6001/6300	WADEKAMPER
4 N	28 E	W.M.	5	NE NE	18.2	2200	WADEKAMPER
4 N	28 E	W.M.	5	SE NE	5.4	2200	WADEKAMPER
TOTAL:					80.3		

4. Transfer Application T-11408 proposes to change the place of use of the above described rights to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER
5 N	28 E	W.M.	32	NW SE	7.3	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	24.6	6300	WADEKAMPER
5 N	28 E	W.M.	32	SE SE	2.3	6300	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	19.1	2100	WADEKAMPER
4 N	28 E	W.M.	5	NE NE	21.6	2200	WADEKAMPER
4 N	28 E	W.M.	5	SE NE	5.4	2200	WADEKAMPER
TOTAL:					80.3		

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

Certificate: 76717 in the name of WESTLAND IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County, Volume 3 at Pages 247-249, Volume 15, at Pages 439-441 and Volume 16, at Pages 459-460) and Transfer Application T-9311 (Determination of Satisfactory Proof; recorded at Special Order Volume 70, Pages 698 - 700)

Use: IRRIGATION of 128.3 ACRES

Rate: Limited to a diversion on 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

Priority Date: JULY 1907

Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
3 N	29 E	WM	21	SW NE	POD #1: North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	33	SE SW	15.0	1500	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	29.7	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NE	15.8	1800	WADEKAMPER
4 N	28 E	W.M.	4	NE NW	25.3	2100	WADEKAMPER
4 N	28 E	W.M.	4	NW NW	22.0	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NW	12.1	1901/2000	WADEKAMPER
4 N	28 E	W.M.	4	SE NW	8.4	1800	WADEKAMPER
TOTAL:					128.3		

6. Transfer Application T-11408 proposes to change the place of use of the above described rights to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	33	SE SW	15.0	1500	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	17.4	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NE	16.0	1800	WADEKAMPER
4 N	28 E	W.M.	4	NE NW	26.3	2100	WADEKAMPER
4 N	28 E	W.M.	4	NW NW	33.0	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NW	12.1	1901/2000	WADEKAMPER
4 N	28 E	W.M.	4	SE NW	8.5	1800	WADEKAMPER
TOTAL:					128.3		

7. The portion of the THIRD right to be transferred is as follows:

Certificate: 76799 issued in the name of WESTLAND IRRIGATION DISTRICT (perfected under Permit S-27583) and Transfer Application T-9311 (Determination of Satisfactory Proof; recorded at Special Order Volume 70, Pages 698 - 700)

Use: IRRIGATION of 13.0 ACRES

Priority Date: APRIL 12, 1961

Rate & Duty: ONE-FORTIETH of one cubic foot per second from direct flow, and 4.5 acree-feet for each acre irrigated during the irrigation season of each year from direct flow and storage

Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER and 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 re-diverted at Westland Irrigation District Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
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 West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER
5 N	28 E	W.M.	32	NW SE	6.7	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	2.9	6300	WADEKAMPER
4 N	28 E	W.M.	5	NE NE	3.4	220	WADEKAMPER
TOTAL:					13.0		

8. Transfer Application T-11408 proposes to change the place of use of the above described rights to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER
5 N	28 E	W.M.	32	NW SE	13.0	1404	WADEKAMPER

9. The portion of the FOURTH right to be transferred is as follows:

Certificate: 76799 issued in the name of WESTLAND IRRIGATION DISTRICT (perfected under Permit S-27583)

Use: IRRIGATION of 37.6 ACRES

Priority Date: APRIL 12, 1961

Rate & Duty: ONE-FORTIETH of one cubic foot per second from direct flow, and 4.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage

Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER and 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 re-diverted at Westland Irrigation District Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
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 West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	32	SE SE	7.3	6001	WADEKAMPER
5 N	28 E	W.M.	33	NE SW	10.2	400	WADEKAMPER
5 N	28 E	W.M.	33	NW SW	0.4	400	WADEKAMPER
4 N	28 E	W.M.	4	NWNE	6.6	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NE	0.4	1800	WADEKAMPER
4 N	28 E	W.M.	4	NE NW	1.1	2100	WADEKAMPER
4 N	28 E	W.M.	4	NW NW	11.4	2100	WADEKAMPER
4 N	28 E	W.M.	4	SE NW	0.2	1800	WADEKAMPER
TOTAL:					37.6		

10. Transfer Application T-11408 proposes to change the place of use of the above described rights to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	32	NE SE	12.5	1404	WADEKAMPER
5 N	28 E	W.M.	32	NW SE	5.6	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	1.2	6300	WADEKAMPER
5 N	28 E	W.M.	32	SE SE	11.0	6001/6300	WADEKAMPER
4 N	28 E	W.M.	4	SE SE	7.3	2100	WADEKAMPER
TOTAL:					37.6		

11. The portion of the FIFTH right to be transferred is as follows:

Certificate: 79439 issued in the name of U. S. BUREAU OF RECLAMATION (perfected under Permit S-7400) and Transfer Application T-9311 (Determination of Satisfactory Proof; recorded at Special Order Volume 70, Pages 698 - 700)

Use: SUPPLEMENTAL IRRIGATION of 80.3 ACRES

Priority Date: JULY 1, 1924

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) 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 re-diverted at Westland Irrigation District Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
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 West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	32	NE SE	2.7	1404	WADEKAMPER
5 N	28 E	W.M.	32	NW SE	15.7	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	24.6	6300	WADEKAMPER
5 N	28 E	W.M.	32	SE SE	13.7	6001/6300	WADEKAMPER
4 N	28 E	W.M.	5	NE NE	18.2	2100	WADEKAMPER
4 N	28 E	W.M.	5	SE NE	5.4	2200	WADEKAMPER
TOTAL:					80.3		

12. Transfer Application T-11408 proposes to change the place of use of the above described right to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	32	NW SE	7.3	1404	WADEKAMPER
5 N	28 E	W.M.	32	SW SE	24.6	6300	WADEKAMPER
5 N	28 E	W.M.	32	SE SE	2.3	6300	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	19.1	2100	WADEKAMPER
4 N	28 E	W.M.	5	NE NE	21.6	2200	WADEKAMPER
4 N	28 E	W.M.	5	SE NE	5.4	2200	WADEKAMPER
TOTAL:					80.3		

13. The portion of the SIXTH right to be transferred is as follows:

Certificate: 79439 issued in the name of U. S. BUREAU OF RECLAMATION (perfected under Permit S-7400)

Use: SUPPLEMENTAL IRRIGATION of 128.3 ACRES

Priority Date: JULY 1, 1924

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) 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 re-diverted at Westland Irrigation District Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
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 West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	33	SE SW	15.0	1500	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	29.7	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NE	15.8	1800	WADEKAMPER
4 N	28 E	W.M.	4	NE NW	25.3	2100	WADEKAMPER
4 N	28 E	W.M.	4	NW NW	22.0	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NW	12.1	1901/2000	WADEKAMPER
4 N	28 E	W.M.	4	SE NW	8.4	1800	WADEKAMPER
TOTAL:					128.3		

14. Transfer Application T-11408 proposes to change the place of use of the above described right to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	TAX LOT	USER
5 N	28 E	W.M.	33	SE SW	15.0	1500	WADEKAMPER
4 N	28 E	W.M.	4	NW NE	17.4	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NE	16.0	1800	WADEKAMPER
4 N	28 E	W.M.	4	NE NW	26.3	2100	WADEKAMPER
4 N	28 E	W.M.	4	NW NW	33.0	2100	WADEKAMPER
4 N	28 E	W.M.	4	SW NW	12.1	1901/2000	WADEKAMPER
4 N	28 E	W.M.	4	SE NW	8.5	1800	WADEKAMPER
TOTAL:					128.3		

15. The District permanent transfer application satisfies the criteria of OAR 690-385-4000 and contains the information required under OAR 690-385-2000.
16. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
17. The proposed changes in place of use would not result in enlargement of the rights.
18. The proposed changes in place of use will not result in injury to other water rights.

Cancellation of a Perfected and Developed Water Right

19. On March 7, 2012, Lon G, Wadekamper, owner of certain lands to which water right Certificate 76733 is appurtenant, submitted an affidavit to cancel the entirety of the water right described as follows:

Certificate: 76733 (perfected under Permit S-26114) in the name of LON WADEKAMPER
Use: SUPPLEMENTAL IRRIGATION of 3.8 ACRES
Priority Date: JANUARY 26, 1959
Rate: 0.095 cubic foot per second
Duty: ONE-FORTIETH of one cubic foot per second per acre (or its equivalent) and 4.5 acre-feet for each acre irrigated during the irrigation season of each year to make-up any deficiency in available supply for a prior right existing for the same land.
Source: UNNAMED SPRING STREAM, a tributary of the UMATILLA RIVER

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q
4 N	28 E	WM	4	SW NW

Authorized Place of Use

TWP	RNG	MER	SEC	Q - Q	ACRES
4 N	28 E	WM	4	NW NW	3.8

Conclusions of Law

The change in place of use proposed in Transfer Application T-11408 satisfies the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The change in place of use to the water rights evidenced by Certificates 76717, 76799 and 79439 proposed in Transfer Application T-11408 is approved.
2. The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 76717, 76799, 79439, any related decree and this Final Order approving Transfer Application T-11408.
3. Water right Certificate 76733 is cancelled.
4. The former places of use shall no longer be irrigated as part of these water rights.
5. The water user shall maintain and operate the existing measurement device(s) and shall make such improvements as may be required by the Department.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2013**. A Claim of Beneficial Use shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.

7. Water right certificates 76717, 76799 and 79439 are modified. The Department will issue superseding certificates describing the District's rights when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 23 day of May, 2012.


Dwight French, Water Right Services Division Administrator for
Phillip C. Ward, Director

Mailing Date: JUN 01 2012