

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

In the Matter of Transfer Application            ) FINAL ORDER APPROVING A  
T-11057, 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  
P. O. BOX 944  
HERMISTON, OR 97838

**Findings of Fact**

1. On April 5, 2010, Westland Irrigation District filed a district transfer application to temporarily change the place of use within the boundaries of the irrigation district under Certificates 76050, 75127 and 81815. The Department assigned the application number T-11057.
2. Notice of the application for temporary transfer was published April 13, 2010, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
3. The portion of the FIRST primary right and its layered supplemental right to be transferred is as follows:

**Certificate:** 76050, issued in the name of Teel Irrigation District (perfected under Permit S-25920)

**Use:** Irrigation (IR) of 504.9 acres

**Priority Date:** April 22, 1955

**Quantity:** 6.04 cubic foot per second (cfs)

**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

**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 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

**Certificate:** 75127, issued in the name of Chester and Rosalie Prior (perfected under Permit G-6069)

**Use:** Supplemental Irrigation (IS) of 504.9 acres

**Priority Date:** September 5, 1974

**Quantity:** 6.31 cubic feet per second (cfs), being 1.83 cfs from each of Wells #7 and #8 and 2.65 cfs from Well #4

**Rate & Duty:** ONE-EIGHTIETH of one cfs (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	Measured Distances
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 248.9 acres

**Priority Date:** August 3, 1981

**Rate & Duty:** The use may be allowed anytime between November 15 and June 15 of each year that water can be put to beneficial use by irrigation, either for immediate crop growth or for forecast requirements to raise the soil moisture to field capacity in the soil profile to be utilized by plant growth in the subsequent growing season. The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cfs (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	Measured Distances
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
						76050 (IR)	75127(IS)	81815 (IS)	
2 N	28 E	WM	1	NE NW	200	32.2	32.2	32.2	CHESTER PRIOR
2 N	28 E	WM	1	NW NW	200	1.9	1.9	1.9	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	600	35.2	35.2	35.2	CHESTER PRIOR
2 N	28 E	WM	2	SE SE	600	22.8	22.8	22.8	CHESTER PRIOR
<b>TOTALS:</b>						<b>504.9</b>	<b>504.9</b>	<b>504.9</b>	

4. Pursuant to 690-385-3130, the applicant requested that the portion of water right Certificate 76050(IR) in the above described table be diminished to supplemental irrigation on the "TO" lands to the existing District water right Certificate 76050 during the 2010 irrigation season and is described in Findings of Fact #5.

5. Transfer Application T-10844 proposes to transfer the above described rights as follows:  
**Proposed Places of Use:**

SUPPLEMENTAL IRRIGATION (IS)									
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	CERTIFICATE (ACRES)			User
						76050 (IS)*	75127 (IS)	81815 (IS)	
3 N	28 E	WM	16	NE SE	4600	31.1	31.1	31.1	CHESTER PRIOR
3 N	28 E	WM	16	NW SE	4700	30.9	30.9	30.9	CHESTER PRIOR
3 N	28 E	WM	16	SW SE	4700	32.2	32.2	32.2	CHESTER PRIOR
3 N	28 E	WM	16	SE SE	4600	30.0	30.0	30.0	CHESTER PRIOR
3 N	28 E	WM	20	NE NE	6700	31.8	31.8	31.8	CHESTER PRIOR
3 N	28 E	WM	20	NW NE	6700	31.4	31.4	31.4	CHESTER PRIOR
3 N	28 E	WM	20	SW NE	6700	33.9	33.9	33.9	CHESTER PRIOR
3 N	28 E	WM	20	SE NE	6700	32.8	32.8	32.8	CHESTER PRIOR
3 N	28 E	WM	21	NE NE	6800	30.6	30.6	30.6	CHESTER PRIOR
3 N	28 E	WM	21	NW NE	6800	30.3	30.3	30.3	CHESTER PRIOR
3 N	28 E	WM	21	SW NE	6900	31.9	31.9	31.9	CHESTER PRIOR
3 N	28 E	WM	21	SE NE	6800	31.1	31.1	31.1	CHESTER PRIOR
3 N	28 E	WM	21	NE NW	6800	31.4	31.4	31.4	CHESTER PRIOR
3 N	28 E	WM	21	NW NW	6800	31.5	31.5	31.5	CHESTER PRIOR

SUPPLEMENTAL IRRIGATION (IS)									
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	CERTIFICATE (ACRES)			User
						76050 (IS)*	75127 (IS)	81815 (IS)	
3 N	28 E	WM	21	SW NW	6800	32.6	32.6	32.6	CHESTER PRIOR
3 N	28 E	WM	21	SE NW	6800	31.4	31.4	31.4	CHESTER PRIOR
<b>TOTALS:</b>						<b>504.9</b>	<b>504.9</b>	<b>504.9</b>	

\* NOTE: The applicant has requested to diminish to supplemental irrigation the above described Certificate 76050 at the new proposed place of use during the 2010 irrigation season.

6. Transfer Application T-11057 also proposes to TEMPORARILY change the point of appropriation from Prior Well #7 under Certificate 75127 (1.83 cfs to be used in any combination) on the proposed "TO" lands to two wells located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
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

7. The Department has determined that the new proposed points of appropriation (described above) will develop the same source of water as the authorized existing well described in Certificate 75127.
8. Notice of the application for temporary transfer was published April 13, 2010, pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
9. The district temporary transfer application satisfies the criteria of OAR 690-385-3000, contains the information required under OAR 690-385-3200, and includes a map meeting the requirements of OAR 690-385-3300.
10. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
11. The proposed changes in place of use would not result in enlargement of the rights.
12. The proposed changes would not result in injury to other water rights.

### Conclusions of Law

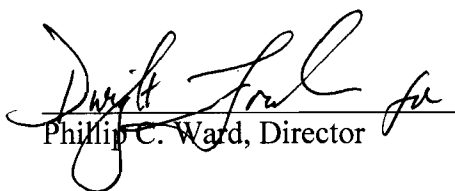
The temporary change in place of use proposed in Transfer Application T-11057 satisfies the requirements of ORS 540.574(3) and 540.570.

### Now, therefore, it is ORDERED:

- The temporary changes proposed in Transfer Application T-11057 are approved.
- The former places of use **shall not** be irrigated as part of these water rights during the 2010 irrigation season.
- The use shall revert to the authorized places of use at the end of the 2010 irrigation season. The authorization to use the additional points of appropriation shall be terminated concurrently.

4. Pursuant to OAR 690-385-3130, the use of water for supplemental irrigation at the proposed place of use under Certificates 76050, 75127 and 81815 as described in Findings of Fact #5, is restricted to the total rate and duty described by Certificate 76050 and may be used only to make up a deficiency of supply.
5. The right to the use of the water at the temporary place of use authorized by this transfer shall be in accordance with the conditions and limitations contained in Certificates 76050, 75127 and 81815 and any related decree.
6. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #7).
7. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
8. 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.
9. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
10. 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.
11. A subsequent application for permanent transfer of Certificates 76050, 75127 and 81815 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Divisions 380 and 385. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
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 76050, 75127 and 81815.
13. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
14. The use of the remaining water rights described by Certificates 76050, 75127 and 81815 shall continue to be in accordance with the terms and conditions of Certificates 76050, 75127 and 81815.

Dated at Salem, Oregon this 9 day of June, 2010.

  
Phillip C. Ward, Director

Mailing date JUN 14 2010