

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

In the Matter of Transfer Application            ) FINAL ORDER APPROVING A  
T-11393, 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  
PO BOX 944  
HERMISTON, OR 97838

**Findings of Fact**

1. On April 6, 2012, Stacey Wells, on behalf of Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76051, 75126, 61534, 75128 and 79439, within the boundaries of the irrigation district. The Department assigned the application number T-11393.
2. Notice of the application for temporary transfer was published April 24, 2012 pursuant to ORS 540.570 and OAR 690-385-3400. No comments were filed in response to the notice.
3. The portion of the primary irrigation right and the layered supplemental rights to be transferred are as follows:  
**Certificate:** 76051, issued in the name of Teel Irrigation District (perfected under Permit S-25924)  
**Use:** Irrigation of 119.2 acres  
**Priority Date:** June 27, 1958  
**Rate & Duty:** ONE-FORTIETH of one cubic foot per second (cfs) (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 ft. from W¼ corner, Sec. 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:** 75126, issued in the names of Todd M. Dimbat Irrevocable Trust, Kelly L. Molash Irrevocable Trust, and Tony Amstad, Trustee (perfected under Permit G-6339)

**Use:** Supplemental Irrigation of 17.4 acres

**Priority Date:** October 1, 1975

**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 herein. The diversion shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.

**Source:** Wells #1 and #3 within the Umatilla River Basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	29 E	WM	16	SE SW	Well #1 – 850 feet North and 750 feet West from the S¼ Corner of Section 16
3 N	29 E	WM	16	SE SW	Well #3 – 350 feet North and 850 feet West from the S¼ Corner of Section 16

**Certificate:** 61534, in the name of Travelers Insurance Company (perfected under Permit G-7078)

**Use:** Supplemental Irrigation of 39.5 acres

**Priority Date:** March 30, 1976

**Rate & Duty:** ONE-EIGHTIETH of one cfs and 3.0 acre-feet per acre irrigated

**Source:** Brown Wells #1, 2, 3, & 4 in the Umatilla River Basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	29 E	WM	20	SW SE	BROWN WELL #1 – 80 feet North and 2500 feet West from the SE Corner of Section 20
3 N	29 E	WM	30	SE SE	BROWN WELL #2 – 610 feet North and 50 feet West from the SE Corner of Section 30
3 N	29 E	WM	30	SE NE	BROWN WELL #3 – 1400 feet South and 1310 feet West from the NE Corner of Section 30
3 N	29 E	WM	19	SE NW	BROWN WELL #4 – 140 feet North and 490 feet West from the Center of Section 19.

**Certificate:** 75128, issued in the name of Jeff R. Urbach Irrevocable Trust and Wayne A. Amstad Irrevocable Trust (perfected under Permit G-6010)

**Use:** Supplemental Irrigation of 19.2 acres

**Priority Date:** September 26, 1974

**Rate & Duty:** ONE-EIGHTIETH of one cfs (or its equivalent) and 3.0 acre-feet per acre 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 herein.

**Source:** Well #2 in the Umatilla River Basin

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	29 E	WM	30	SE SE	WELL #2 – 610 feet North and 50 feet West from the SE Corner of Section 30

**Certificate:** 79439, issued in the name of U. S. Bureau of Reclamation (perfected under Permit S-7400)

**Use:** Supplemental Irrigation of 67.6 acres

**Priority Date:** July 1, 1924

**Rate & Duty:** ONE-EIGHTIETH of one cfs (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, a tributary of McKay Creek. Water is run down the natural channels of McKay Creek and Umatilla River and is re-diverted at Westland I. D. Canal

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
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 W¼ Corner of Section 21

**Authorized Places of Use:**

IRRIGATION AND SUPPLEMENTAL IRRIGATION											
Location information						Water Right Certificates					
						Primary Irrigation	Supplemental Irrigation				
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	76051	75126	61534	75128	79439	User
3N	29E	WM	20	NW NE	6106	5.2	5.2	5.2	--	--	AMSTAD
3N	29E	WM	20	SW NE	6106	7.6	7.6	7.6	--	--	AMSTAD
3N	29E	WM	20	SE NE	6106	4.3	4.3	4.3	--	4.3	AMSTAD
3N	29E	WM	20	SE SW	6103	11.1	--	11.1	--	--	AMSTAD
3N	29E	WM	20	NE SE	6106	0.1	--	--	--	0.1	AMSTAD
3N	29E	WM	20	NW SE	6106	0.5	--	0.5	--	--	AMSTAD
3N	29E	WM	20	SE SE	6106	4.5	--	--	--	4.5	AMSTAD
3N	29E	WM	21	SW NW	6106	0.3	0.3	0.3	--	0.3	AMSTAD
3N	29E	WM	21	NW SW	6106	1.2	--	--	--	1.2	AMSTAD
3N	29E	WM	21	SW SW	6106	23.8	--	--	--	23.8	AMSTAD
3N	29E	WM	21	SE SW	6106	6.3	--	2.5	--	6.3	AMSTAD
3N	29E	WM	28	NE NW	6106	2.0	--	--	--	2.0	AMSTAD
3N	29E	WM	28	NW NW	6106	22.1	--	--	--	22.1	AMSTAD
3N	29E	WM	29	NE NE	6106	2.4	--	--	--	2.4	AMSTAD
3N	29E	WM	29	NE NW	6104	8.0	--	8.0	--	--	AMSTAD
3N	29E	WM	29	SW NW	6104	0.6	--	--	--	0.6	AMSTAD
3N	29E	WM	29	SW SW	6104	9.6	--	--	9.6	--	AMSTAD
3N	29E	WM	30	SE SE	6104	9.6	--	--	9.6	--	AMSTAD
<b>TOTALS:</b>						<b>119.2</b>	<b>17.4</b>	<b>39.5</b>	<b>19.2</b>	<b>67.6</b>	

4. Transfer Application T-11393 proposes to transfer the above described rights as follows:

**Proposed Places of Use:**

IRRIGATION AND SUPPLEMENTAL IRRIGATION											
Location information						Water Right Certificates					
						Primary Irrigation	Supplemental Irrigation				
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	76051	75126	61534	75128	79439	User
3N	28E	WM	24	NE NW	7200	29.9	--	--	--	29.9	CORREA RANCH

IRRIGATION AND SUPPLEMENTAL IRRIGATION												
Location information						Water Right Certificates						
						Primary Irrigation	Supplemental Irrigation					
3N	28E	WM	24	NW	NW	7200	30.6	--	--	--	30.6	CORREA RANCH
3N	29E	WM	20	SE	SE	6106	4.5	--	4.5	--	--	AMSTAD
3N	29E	WM	21	SW	SW	6106	8.9	--	8.9	--	--	AMSTAD
3N	29E	WM	21	SW	SW	6106	2.8	2.8	2.8	--	--	AMSTAD
3N	29E	WM	21	SW	SW	6106	2.4	2.4	2.4	--	2.4	AMSTAD
3N	29E	WM	21	SW	SW	6106	6.4	6.4	6.4	--	--	AMSTAD
3N	29E	WM	21	SW	SW	6106	0.8	--	--	0.8	--	AMSTAD
3N	29E	WM	21	SW	SW	6106	2.5	--	2.5	--	2.5	AMSTAD
3N	29E	WM	21	SE	SW	6106	0.2	0.2	0.2	--	0.2	AMSTAD
3N	29E	WM	21	SE	SW	6106	3.6	3.6	3.6	--	--	AMSTAD
3N	29E	WM	28	NE	NW	6106	1.2	1.2	1.2	--	1.2	AMSTAD
3N	29E	WM	28	NE	NW	6106	0.8	--	--	0.8	--	AMSTAD
3N	29E	WM	28	NW	NW	6106	17.6	--	--	17.6	--	AMSTAD
3N	29E	WM	28	NW	NW	6106	0.8	0.8	0.8	--	0.8	AMSTAD
3N	29E	WM	28	NW	NW	6106	3.8	--	3.8	--	--	AMSTAD
3N	29E	WM	29	NE	NE	6106	2.4	--	2.4	--	--	AMSTAD
<b>TOTALS:</b>							<b>119.2</b>	<b>17.4</b>	<b>39.5</b>	<b>19.2</b>	<b>67.6</b>	

5. To avoid enlargement, the District has agreed to not use the supplemental right under Certificate 61534 on the following lands:

Twp	Rng	Mer	Sec	Q - Q	Tax Lot	Acres	User
3N	29E	WM	20	NE SE	6106	0.1	AMSTAD
3N	29E	WM	20	SE SE	6106	4.5	AMSTAD
3N	29E	WM	21	NW SW	6106	1.2	AMSTAD
3N	29E	WM	21	SW SW	6106	23.8	AMSTAD
3N	29E	WM	21	SE SW	6106	3.8	AMSTAD
3N	29E	WM	28	NE NW	6106	2.0	AMSTAD
3N	29E	WM	28	NW NW	6106	22.1	AMSTAD
3N	29E	WM	29	NE NE	6106	2.4	AMSTAD
3N	29E	WM	29	SW NW	6104	0.6	AMSTAD
<b>TOTAL:</b>						<b>60.5</b>	

6. 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.
7. The District shall measure the “amount in” and “amount out” in regards to the use of the supplemental water rights and shall maintain both a flow meter where the groundwater is pumped into the Westland Canal, and a meter to measure the amount of water that is pumped out of the Westland canal to the new places of use.
8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed changes in place of use would not result in enlargement of the rights.
10. The proposed changes would not result in injury to other water rights.

## **Conclusions of Law**

The temporary changes in place of use proposed in Transfer Application T-11393 satisfy the requirements of ORS 540.574(3) and 540.570.

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

1. The temporary changes proposed in Transfer Application T-11393 are approved.
2. The former places of use shall not be irrigated as part of these water rights during the 2012 irrigation season.
3. The use shall revert to the authorized places of use at the end of the 2012 irrigation season.
4. 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 76051, 75126, 61534, 75128 and 79439 and any related decree.
5. 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.
6. The use of water for supplemental irrigation at the proposed places of use under Certificate 61534, 75126 and 75128, as described in Findings of Fact #4, is restricted to the total rate and duty described by Certificate 61534, 75126 and 75128, and may be used only to make up a deficiency of supply.
7. The supplemental irrigation use of Certificate 61534 on the lands identified in Finding of Fact #5 is prohibited.
8. The applicant shall install a measurement device at the site where groundwater is pumped into the Westland Canal. The District shall also operate and maintain a measurement device at the point where the District pumps from the Westland Canal to the proposed places of use. The District shall measure and record the amount of water monthly and provide the information to the Watermaster upon request.
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 76051, 75126, 61534, 75128 and 79439 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 time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

13. The use of the remaining water rights described by Certificates 76051, 75126, 61534, 75128 and 79439 shall continue to be in accordance with the terms and conditions of Certificates 76051, 75126, 61534, 75128 and 79439.

Dated at Salem, Oregon this 1 day of June, 2012.

  
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Dwight French, Water Right Services Administrator for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: JUN 05 2012