

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12662, Umatilla) A DISTRICT PERMANENT TRANSFER
) FOR PLACE OF USE

Authority

ORS 540.570 to 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.

Applicant

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

Findings of Fact

1. On May 8, 2017, Westland Irrigation District (WID) filed a district transfer application to permanently change the place of use under Certificates 76715, 76799, 79439, 76727, 76737, and 76752. The Department assigned the application number T-12662.
2. Notice of the District Permanent Transfer Application was published on May 16, 2017, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notice.
3. The US Bureau of Reclamation was notified of the transfer application on May 16, 2017; no comments were received within 60 days of the notification.
4. On June 15, 2017, WID submitted additional information pertaining to Certificate 76737 to include in the application.
5. On December 12, 2017, WID submitted corrections/amendments to their application and maps.

This is an 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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

6. The portion of the first right to be transferred is as follows:

Certificate: 76715 in the name of WESTLAND IRRIGATION DISTRICT (confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County)

Use: IRRIGATION AND STOCK WATER of 350.6 acres

Priority Dates: MARCH 14, 1903

Limit/Duty: 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-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.

Source: The UMATILLA RIVER, tributary to the COLUMBIA RIVER

Authorized Points 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 Place of Use:

IRRIGATION and STOCKWATER								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW NE	2	7.5	400	ELH, LLC
3 N	28 E	WM	5	SW NE		38.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE		5.1	400	ELH, LLC
3 N	28 E	WM	5	SW NW		5.5	400	ELH, LLC
3 N	28 E	WM	5	SE NW		22.1	400	ELH, LLC
3 N	28 E	WM	5	NE SW		21.3	2304	ELH, LLC
3 N	28 E	WM	5	NW SW		22.7	2304	ELH, LLC
3 N	28 E	WM	5	SW SW		37.1	900	ELH, LLC
3 N	28 E	WM	5	SE SW		25.2	900	ELH, LLC
3 N	28 E	WM	5	NE SE		2.4	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		33.9	2304	ELH, LLC
3 N	28 E	WM	5	SW SE		36.2	900	ELH, LLC
3 N	28 E	WM	6	NE NE	1	20.8	2401	ELH, LLC
3 N	28 E	WM	6	NW NE	2	36.0	2401	ELH, LLC
3 N	28 E	WM	6	SW NE		22.7	2401	ELH, LLC
3 N	28 E	WM	6	SE NE		11.5	2401	ELH, LLC
3 N	28 E	WM	6	NE SE		1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE	2	1.3	2304	ELH, LLC
Total						350.6		

7. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE NE	1	4.4	400	ELH, LLC
3 N	28 E	WM	5	NW NE	2	21.8	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	SW NE		40.0	400	ELH, LLC

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	SE NE		14.4	400	ELH, LLC
3 N	28 E	WM	5	NE NW	3	36.4	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	NW NW	4	39.3	300, 400	ELH, LLC
3 N	28 E	WM	5	SW NW		38.9	400	ELH, LLC
3 N	28 E	WM	5	SE NW		30.1	400	ELH, LLC
3 N	28 E	WM	5	NE SW		16.8	2304	ELH, LLC
3 N	28 E	WM	5	NW SW		32.2	2304	ELH, LLC
3 N	28 E	WM	5	SW SW		37.1	900	ELH, LLC
3 N	28 E	WM	5	SE SW		11.2	900	ELH, LLC
3 N	28 E	WM	5	NE SE		2.2	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		8.5	2304	ELH, LLC
3 N	28 E	WM	6	NE NE	1	8.0	2400, 2401	ELH, LLC
3 N	28 E	WM	6	SE NE		6.7	2400, 2401	ELH, LLC
3 N	28 E	WM	6	NE SE		1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE		1.3	2304	ELH, LLC
Total:						350.6		

8. The portion of the second right to be transferred is as follows:

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

Use: IRRIGATION of 170.0 acres

Priority Dates: APRIL 12, 1961

Limit/Duty: 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 cubic foot per second (or its equivalent) 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 to the COLUMBIA RIVER and MCKAY RESERVOIR (constructed under Permit R-564), a tributary of MCKAY CREEK.

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 W ¹ / ₄ CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW NE	2	14.3	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	SW NE		2.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE		7.8	400	ELH, LLC
3 N	28 E	WM	5	NE NW	3	38.2	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	NW NW	4	39.3	300, 400	ELH, LLC
3 N	28 E	WM	5	SW NW		33.4	400	ELH, LLC
3 N	28 E	WM	5	SE NW		8.0	400	ELH, LLC

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE SW		1.1	2304	ELH, LLC
3 N	28 E	WM	5	NW SW		9.5	2304	ELH, LLC
3 N	28 E	WM	5	NE SE		1.5	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		0.3	2304	ELH, LLC
3 N	28 E	WM	6	NE NE	1	8.0	2400, 2401	ELH, LLC
3 N	28 E	WM	6	SE NE		6.7	2400, 2401	ELH, LLC
Total						170.1		

9. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE SW		7.4	2304	ELH, LLC
3 N	28 E	WM	5	SE SW		14.0	900	ELH, LLC
3 N	28 E	WM	5	NE SE		0.9	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		24.6	2304	ELH, LLC
3 N	28 E	WM	5	SW SE		36.2	900	ELH, LLC
3 N	28 E	WM	6	NE NE	1	19.8	2401	ELH, LLC
3 N	28 E	WM	6	NW NE	2	35.0	2401	ELH, LLC
3 N	28 E	WM	6	SW NE		21.7	2401	ELH, LLC
3 N	28 E	WM	6	SE NE		10.5	2401	ELH, LLC
Total:						170.1		

10. 2401 The portion of the third right to be transferred is as follows:

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

Use: SUPPLEMENTAL IRRIGATION of 350.6 acres

Priority Date: JULY 1, 1924

Limit/Duty: 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-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

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	[Re-diversion*] WESTLAND CANAL: NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST, 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21

*Water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at the Westland Irrigation District Canal

Authorized Place of Use:

IRRIGATION and STOCKWATER								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW NE	2	7.5	400	ELH, LLC
3 N	28 E	WM	5	SW NE		38.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE		5.1	400	ELH, LLC
3 N	28 E	WM	5	SW NW		5.5	400	ELH, LLC
3 N	28 E	WM	5	SE NW		22.1	400	ELH, LLC
3 N	28 E	WM	5	NE SW		21.3	2304	ELH, LLC
3 N	28 E	WM	5	NW SW		22.7	2304	ELH, LLC
3 N	28 E	WM	5	SW SW		37.1	900	ELH, LLC
3 N	28 E	WM	5	SE SW		25.2	900	ELH, LLC
3 N	28 E	WM	5	NE SE		2.4	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		33.9	2304	ELH, LLC
3 N	28 E	WM	5	SW SE		36.2	900	ELH, LLC
3 N	28 E	WM	6	NE NE	1	20.8	2401	ELH, LLC
3 N	28 E	WM	6	NW NE	2	36.0	2401	ELH, LLC
3 N	28 E	WM	6	SW NE		22.7	2401	ELH, LLC
3 N	28 E	WM	6	SE NE		11.5	2401	ELH, LLC
3 N	28 E	WM	6	NE SE		1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE	2	1.3	2304	ELH, LLC
Total						350.6		

11. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE NE	1	4.4	400	ELH, LLC
3 N	28 E	WM	5	NW NE	2	21.8	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	SW NE		40.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE		14.4	400	ELH, LLC
3 N	28 E	WM	5	NE NW	3	36.4	200, 300, 400	ELH, LLC
3 N	28 E	WM	5	NW NW	4	39.3	300, 400	ELH, LLC
3 N	28 E	WM	5	SW NW		38.9	400	ELH, LLC
3 N	28 E	WM	5	SE NW		30.1	400	ELH, LLC
3 N	28 E	WM	5	NE SW		16.8	2304	ELH, LLC
3 N	28 E	WM	5	NW SW		32.2	2304	ELH, LLC
3 N	28 E	WM	5	SW SW		37.1	900	ELH, LLC
3 N	28 E	WM	5	SE SW		11.2	900	ELH, LLC
3 N	28 E	WM	5	NE SE		2.2	2304	ELH, LLC
3 N	28 E	WM	5	NW SE		8.5	2304	ELH, LLC
3 N	28 E	WM	6	NE NE	1	8.0	2400, 2401	ELH, LLC
3 N	28 E	WM	6	SE NE		6.7	2400, 2401	ELH, LLC
3 N	28 E	WM	6	NE SE		1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE		1.3	2304	ELH, LLC
Total:						350.6		

12. The portion of the fourth right to be transferred is as follows:

Certificate: 76727 in the name of STONE MACHINERY COMPANY (perfected under Permit G-3530)

Use: SUPPLEMENTAL IRRIGATION of 71.9 acres

Priority Date: MAY 24, 1967

Rate: 0.65 CUBIC FOOT PER SECOND from Well 2

Limit/Duty: 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-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 herein. The right allowed herein shall not authorize appropriation from the aquifer supplying those wells described in the State Engineer's Ground Water Report No. 11 as "Deep Wells in Basalt" unless the appropriations are permitted in the Umatilla Basin Program, OAR 690-507-610 to 690-507-700 declaring the aquifer a critical groundwater area.

Source: WELL 2 in the UMATILLA RIVER BASIN

Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	28 E	WM	6	SW SE	WELL 2: 80 FEET NORTH AND 350 FEET EAST FROM THE S¼ CORNER OF SECTION 6

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW SW	32.2	2304	ELH, LLC
3 N	28 E	WM	5	SW SW	37.1	900	ELH, LLC
3 N	28 E	WM	6	NE SE	1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE	1.3	2304	ELH, LLC
Total:					71.9		

13. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW NE	2	7.5	200,300	ELH, LLC
3 N	28 E	WM	5	SW NE		40.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE		5.1	400	ELH, LLC
3 N	28 E	WM	5	NE NW	3	0.2	400	ELH, LLC
3 N	28 E	WM	5	SE NW		9.2	400	ELH, LLC
3 N	28 E	WM	5	NW SE		8.8	2304	ELH, LLC
3 N	28 E	WM	5	NE SW		1.1	2304	ELH, LLC
Total:						71.9		

14. The portion of the fifth right to be transferred is as follows:

Certificate: 76737 in the name of OREGON HEREFORD RANCH (BENNETT) (confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County)

Use: SUPPLEMENTAL IRRIGATION of 66.5 acres and STOCKWATER

Priority Date: 1870

Rate: 1.1 CUBIC FEET PER SECOND

Limit/Duty: 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 4.0 acre-feet for each acre irrigated during the irrigation season of each year, from January 1 to September 1, 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: BUTTER CREEK, a tributary to the UMATILLA RIVER

Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	28 E	WM	8	NE NW	80 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 8

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION and STOCKWATER							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE SW	5.0	2304	ELH, LLC
3 N	28 E	WM	5	SE SW	14.0	900	ELH, LLC
3 N	28 E	WM	5	NW SE	21.2	2304	ELH, LLC
3 N	28 E	WM	5	SW SE	26.3	900	ELH, LLC
Total:					66.5		

15. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION and STOCKWATER							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NE SW	4.0	2304	ELH, LLC
3 N	28 E	WM	5	NW SW	29.5	2304	ELH, LLC
3 N	28 E	WM	5	SW SW	25.3	900	ELH, LLC
3 N	28 E	WM	5	SE SW	5.1	900	ELH, LLC
3 N	28 E	WM	6	NE SE	1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE	1.3	2304	ELH, LLC
Total:					66.5		

16. The portion of the sixth right to be transferred is as follows:

Certificate: 76752 in the name of OREGON HEREFORD RANCH (BENNETT) (perfected under Permit S-2102)

Use: SUPPLEMENTAL IRRIGATION of 71.9 acres

Priority Date: JULY 3, 1914

Rate: 0.84 CUBIC FOOT PER SECOND

Limit/Duty: 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-EIGHTIETH of one cubic foot per second (or its equivalent) 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: BUTTER CREEK AND TRIBUTARIES, a tributary to the UMATILLA RIVER

Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	28 E	WM	8	NE NW	NORTH 81 DEGREES 25 MINUTES WEST, 1388 FEET TO THE SW¼ CORNER OF SECTION 5

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW SW	32.2	2304	ELH, LLC
3 N	28 E	WM	5	SW SW	37.1	900	ELH, LLC
3 N	28 E	WM	6	NE SE	1.3	2304	ELH, LLC
3 N	28 E	WM	6	SE SE	1.3	2304	ELH, LLC
Total:					71.9		

17. Transfer Application T-12662 proposes to change the place of use to:

Proposed Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User
3 N	28 E	WM	5	NW NE	7.5	200, 300	ELH, LLC
3 N	28 E	WM	5	SW NE	40.0	400	ELH, LLC
3 N	28 E	WM	5	SE NE	5.1	400	ELH, LLC
3 N	28 E	WM	5	NE NW	0.2	400	ELH, LLC
3 N	28 E	WM	5	SE NW	9.2	400	ELH, LLC
3 N	28 E	WM	5	NW SE	8.8	2304	ELH, LLC
3 N	28 E	WM	5	NE SW	1.1	2304	ELH, LLC
Total:					71.9		

18. All the authorized and proposed places of use in this transfer application are layered with Water Right Permit S-55061 which is for use of water from the Columbia River, tributary to the Pacific Ocean. Permit S-55061 has a condition (No. 2, page 32) that states if water authorized under the permit is used for supplemental irrigation, then the pre-existing primary rights for the same place of use cannot be transferred to another place of use or the character of use changed. As required under permit condition No. 16.A and 16.B. all irrigation activity under Permit S-55061 must be mapped by quarter-quarter and reported to the Department prior to February 15 of each irrigation season.

However, the permit holder has not provided any maps or records to indicate an intent to irrigate lands authorized under Permit S-55061 involved in this transfer as described in the above Findings of Facts 5 through 8. Therefore, the Department finds permit condition No. 2 does not apply to the lands involved in this transfer.

19. The Department finds that the district permanent transfer application satisfies the criteria of OAR 690-385-4000 and contains the information required under OAR 690-385-4200 and includes maps meeting the requirements of OAR 690-385-4300.
20. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
21. The proposed change in place of use will not result in enlargement of the rights.
22. The proposed change in place of use will not result in injury to other water rights.

Conclusions of Law


The proposed changes in place of use as proposed in Transfer Application T-12662 satisfy the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use to the water rights evidenced by Certificates 76715, 76799, 79439, 76727, 76737, and 76752 are approved.
2. 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 76715, 76799, 79439, 76727, 76737, and 76752 and any related decree.
3. The former places of use shall no longer be irrigated as part of these water rights.
4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
5. Water Right Certificates 76727, 76737, and 76752 are hereby cancelled. A new certificate will be issued describing that portion of Water Right Certificate 76727 NOT modified by this transfer.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. A Claim of Beneficial Use shall be submitted by WID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
7. Water right Certificates 76715, 76799, and 79439 are modified. The Department will issue superseding certificates describing the rights when it determines it is necessary for record keeping.

FEB 26 2018

Signed at Salem, Oregon on _____



Dwight French, Water Right Services Administrator for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing Date: FEB 27 2018