

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12695, 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 June 15, 2017, Westland Irrigation District (WID) filed a district transfer application to permanently change the place of use under Certificates 76717 and 79439. The Department assigned the application number T-12695.
2. Notice of the District Permanent Transfer Application was published on June 27, 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 June 27, 2017; no comments were received within 60 days of the notification.

4. 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)

Use: IRRIGATION OF 2.0 AND STOCK WATER

Priority Dates: JULY 1907

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.

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).

Source: The UMATILLA RIVER, tributary to 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 Place of Use:

IRRIGATION & STOCK WATER								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
4N	28 E	WM	7	NE NE	2.0	500	REUTER	N/A

5. Transfer Application T-12695 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION & STOCK WATER								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
4 N	28 E	WM	17	SE NW	2.0	1900	ROYER	N/A

6. The portion of the second 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 2.0 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

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 Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
4N	28 E	WM	7	NE NE	2.0	500	REUTER	N/A

7. Transfer Application T-12695 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Water User	Notice
4 N	28 E	WM	17	SE NW	2.0	1900	ROYER	N/A

8. 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 4 through 7. Therefore, the Department finds permit condition No. 2 does not apply to the lands involved in this transfer.

9. 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.

10. The water rights are subject to transfer as defined in OAR 690-385-0100(17).

11. The proposed change in place of use will not result in enlargement of the rights.

12. 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-12695 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 76717, and 79439 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 76717, and 79439 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.

6. Water right Certificates 76717 and 79439 are modified. The Department will issue superseding certificates describing the rights when it determines it is necessary for record keeping.

Signed at Salem, Oregon this 12 day of September 2017.



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

Mailing Date: ~~SEP 20 2017~~