

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

COUNTY OF UMATILLA

In the Matter of a Proposed Change)	ORDER APPROVING A
In Place of Use of Water Within an)	TEMPORARY DISTRICT
Irrigation District — TRANSFER 9653)	TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.570, WESTLAND IRRIGATION DISTRICT, PO Box 944, Hermiston, OR, 97838, petitioned the Oregon Water Resources Department to temporarily change the place of use of water within the boundaries of the irrigation district. The petition was originally received on February 19, 2004, and included the required fees.
2. The Department assigned the petition transfer application number T-9653.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated March 30, 2004. The petition was noticed as a temporary transfer within irrigation district boundaries.
4. No comments or timely protests were received in response to the published notice.
5. The following rights are proposed to be modified:
 - a) PRIMARY IRRIGATION
Certificate 76715: issued in the name of Westland Irrigation District
Use: Irrigation (Primary)
Priority Date: March 14, 1903
Rate & Duty: 1/80 cfs and Limitations of paragraph 32 of Umatilla River Decree
Source: Umatilla River
Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West ¼ Corner of Section 21.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

b) SUPPLEMENTAL IRRIGATION

Certificate 79439: issued in the name U.S. Bureau of Reclamation

Use: Irrigation (Supplemental)

Priority Date: July 1, 1924

Rate : 1/80 cfs per acre irrigated

Source: stored waters of McKay Reservoir (under Permit 7400)

Point of Diversion: McKay Dam - NW¼ SE¼, Section 34, T 2 N, R 32 E, W.M.; Water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal

6. Westland Irrigation District petitioned to TEMPORARILY CHANGE THE PLACE OF USE from the locations identified in Table 1 to the locations listed in Table 2.

TABLE 1 - "FROM" LANDS						
					Water Right Certificates	
					Primary (acres)	Supplemental Irrigation
TWP	RNG	SEC	¼ ¼	Tax Lot	76050	79439
4N	28E	32	SW NE	5500	8.70	8.70
4N	28E	32	SE SW	5400	5.50	5.50
TOTALS					14.20	14.20

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations described by permit or certificate. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

TABLE 2 - "TO" LANDS						
					Water Right Certificates	
					Primary (acres)	Supplemental Irrigation
TWP	RNG	SEC	¼ ¼	Tax Lot	76050	79439
4N	28E	20	NE SW	100	14.20	14.20
TOTALS					14.20	14.20

7. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the petition submitted by Westland Irrigation District, the Department has determined the following:

- a) The petition contains the information required under ORS 540.574(3).
- b) The petition meets the requirements of ORS 540.570.

- c) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.
- d) The petition includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
- e) The rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to transfer.
- f) The use authorized by the water right subject to transfer will not change; and
- g) The proposed change in place of use will not result in injury to other water rights.

CONCLUSIONS OF LAW

- 1. The petition submitted by Westland Irrigation District proposing temporary changes in place of use within district boundaries includes the information, and satisfies the criteria, required by ORS 540.574(3).
- 2. The proposed transfer complies with the requirements of ORS 540.570.
- 3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury to other water rights.


ORDER

It is hereby ORDERED :

- 1. The proposed temporary changes to the water rights evidenced by Water Right Certificates 76715 and 79439 may be made for the 2004 irrigation season provided the following conditions are met by the water user:
 - a) The FROM lands shall receive no water under the rights involved with this transfer for the 2004 irrigation season.
 - b) The "FROM" lands will receive no water under any other rights appurtenant to these lands for the 2004 irrigation season, unless water rights are transferred to the "FROM" lands. In no case shall a temporary transfer allow the enlargement of the water right.
 - c) All restrictions and limitations contained in the subject rights and Umatilla River Decree shall apply to the TO lands.

- d) Pursuant to 540.570 (5), the Department may further condition or revoke this temporary transfer, to the extent necessary to avoid injury, at any time the department finds the transfer is causing injury to an existing water right.
 - e) Certificate 79893 is diminished to supplemental irrigation during the 2004 irrigation season.
2. Pursuant to 540.570 (6), upon expiration of the 2004 irrigation season, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication proceeding under ORS chapter 539 as evidenced by a court decree.

WITNESS the signature of the Water Resources Director affixed MAY 18, 2004.



For Paul R. Cleary