

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

COUNTY OF UMATILLA

In the Matter of a Proposed Change)	ORDER
In Place of Use of Water Within an)	APPROVING A PERMANENT
Irrigation District — TRANSFER 9311)	DISTRICT TRANSFER AND PARTIAL DIMINISHMENT OF A WATER RIGHT

FINDINGS OF FACT

1. Pursuant to ORS 540.580, WESTLAND IRRIGATION DISTRICT, P.O. Box 944, Hermiston, OR, 97838, petitioned the Oregon Water Resources Department to permanently change the place of use of water within the boundaries of the irrigation district. The petition was received on December 19, 2002, and included the required fees.
2. The Department assigned the petition transfer application number T-9311.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated January 7, 2003. The petition was noticed as a 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 per acre irrigated

Source: Umatilla River

Point of Diversion:

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.

TWP		RNG		MER	SEC	QTR-QTR		LOCATION
3	N	29	E	W.M.	21	SW	NE	North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Certificate 76717: issued in the name of Westland Irrigation District

Use: Irrigation (Primary)

Priority Date: July 1907

Rate & Duty: 1/80 cfs per acre irrigated

Source: Umatilla River

Point of Diversion:

TWP		RNG		MER	SEC	QTR-QTR		LOCATION
3	N	29	E	W.M.	21	SW	NE	North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Certificate 76799: issued in the name of Westland Irrigation District

Use: Irrigation (Primary)

Priority Date: April 12, 1961

Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated

Source: Umatilla River

Point of Diversion:

TWP		RNG		MER	SEC	QTR-QTR		LOCATION
3	N	29	E	W.M.	21	SW	NE	North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

b) SUPPLEMENTAL IRRIGATION

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

Use: Irrigation (Supplemental)

Priority Date: July 1, 1924

Rate & Duty: 1/80 cfs per acre irrigated

Source: McKay Reservoir, perfected under Permit R-7400

Point of Diversion:

TWP		RNG		MER	SEC	QTR-QTR		LOCATION
2	N	32	E	W.M.	2	NW	SE	McKay Reservoir

6. Westland Irrigation District petitioned to permanently change the place of use of primary irrigation, diverted through the Westland Canal, appurtenant to 164.60 acres under the above listed rights. The petition proposed to change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

TABLE 1.
AUTHORIZED PLACE OF USE UNDER CERTIFICATES 76715, 76717, 76799 & 79439(S)

TWP	RNG	MER	SEC	QTR-QTR	TL	USE	AC	CERT#	APPLICANT	NOT#		
3	N	27	E	W.M.	3	SW SE	3700	IR(P) IR(S)	4.40	76717 79439	PARKS	6
3	N	27	E	W.M.	3	SW SE	3800	IR(P) IR(S)	6.80	76717 79439	PARKS	6
3	N	27	E	W.M.	10	NE NE	3900	IR(P) IR(S)	2.40	76717 79439	PARKS	6
3	N	27	E	W.M.	10	NE NE	3900	IR(P)	6.80	76799	PARKS	6
3	N	28	E	W.M.	2	NW SW	2100	IR(P) IR(S)	7.10	76717 79439	PARKS	6
3	N	28	E	W.M.	2	SW SW	2200	IR(P) IR(S)	3.70	76717 79439	PARKS	6
4	N	28	E	W.M.	5	NE NE	2200	IR(P) IR(S)	20.00	76717 79439	WADEKAMPER	5
4	N	28	E	W.M.	5	NE NE	2200	IR(P)	6.50	76799	WADEKAMPER	5
4	N	28	E	W.M.	5	SE NE	2200	IR(P) IR(S)	3.60	76717 79439	WADEKAMPER	5
4	N	28	E	W.M.	5	SE NE	2200	IR(P)	3.00	76799	WADEKAMPER	5
4	N	28	E	W.M.	6	NE SE	4203	IR(P)	1.00	76799	LAMB WESTON	3
4	N	28	E	W.M.	6	NW SE	4203	IR(P)	14.60	76799	LAMB WESTON	3
4	N	28	E	W.M.	7	SW NW	202	IR(P) IR(S)	15.60	76717 79439	LAMB WESTON	2
4	N	28	E	W.M.	31	NE SW	7000	IR(P) IR(S)	10.00	76717 79439	WALKER	6
4	N	28	E	W.M.	32	NE SW	5400	IR(P) IR(S)	2.80	76715 79439	MUELLER	1
5	N	28	E	W.M.	32	NW SE	1404	IR(P) IR(S)	4.80	76715 79439	WADEKAMPER	4
5	N	28	E	W.M.	32	NW SE	1404	IR(P) IR(S)	6.90	76717 79439	WADEKAMPER	4
5	N	28	E	W.M.	32	SW SE	1404	IR(P) IR(S)	29.60	76717 79439	WADEKAMPER	5

**TABLE 1.
AUTHORIZED PLACE OF USE UNDER CERTIFICATES 76715, 76717, 76799 & 79439(S)**

TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	CERT#	APPLICANT	NOT#
5	N	28	E	W.M.	32	SW	SE	1404	IR(P)	3.50	76799	WADEKAMPER	5
5	N	28	E	W.M.	32	SE	SE	1404	IR(P) IR(S)	11.50	76717 79439	WADEKAMPER	5
										164.60			

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 contained in the decree. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

**TABLE 2.
PROPOSED CHANGE IN PLACE OF USE**

TWP		RNG		MER	SEC	QTR-QTR		TL	USE	AC	CERT#	RECIPIENT	NOT#
3	N	27	E	W.M.	2	SW	SW	2200	IR(P)	3.70	76799	WADEKAMPER	6
3	N	27	E	W.M.	3	SE	SE	3800	IR(P)	0.70	76799	PARKS	6
3	N	27	E	W.M.	10	NE	NE	3900	IR(P) IR(S)	7.60	76717 79439	PARKS	6
3	N	27	E	W.M.	10	NE	NE	3900	IR(P)	2.40	76799	PARKS	6
3	N	27	E	W.M.	10	SE	NE	4400	IR(P) IR(S)	26.80	76717 79439	PARKS	6
4	N	28	E	W.M.	5	NE	NE	2200	IR(P) IR(S)	18.20	76717 79439	WADEKAMPER	5
4	N	28	E	W.M.	5	NE	NE	2200	IR(P)	3.40	76799	WADEKAMPER	5
4	N	28	E	W.M.	5	SE	NE	2200	IR(P) IR(S)	5.40	76717 79439	WADEKAMPER	5
4	N	28	E	W.M.	7	SW	NW	202	IR(P)	15.60	76799	LAMB WESTON	3
4	N	28	E	W.M.	17	NW	NW	800	IR(P) IR(S)	2.80	76715 79439	KLUKKERT	1
4	N	28	E	W.M.	20	NE	SW	100	IR(P)	4.80	76715 79439	NEWMAN	4
4	N	28	E	W.M.	20	NE	SW	100	IR(P) IR(S)	6.90	76717 79439	NEWMAN	4
5	N	28	E	W.M.	32	NE	SE	1404	IR(P) IR(S)	2.70	76717 79439	WADEKAMPER	5
5	N	28	E	W.M.	32	NW	SE	1404	IR(P) IR(S)	15.60	76717 79439	WADEKAMPER	2

**TABLE 2.
PROPOSED CHANGE IN PLACE OF USE**

TWP	RNG	MER	SEC	QTR-QTR	TL	USE	AC	CERT#	RECIPIENT	NOT#		
5	N	28	E	W.M.	32	NW SE	1404	IR(P) IR(S)	0.10	76717 79439	WADEKAMPER	5
5	N	28	E	W.M.	32	NW SE	1404	IR(P)	6.70	76799	WADEKAMPER	5
5	N	28	E	W.M.	32	SW SE	1404	IR(P) IR(S)	24.60	76717 79439	WADEKAMPER	5
5	N	28	E	W.M.	32	SW SE	1404	IR(P)	2.90	76799	WADEKAMPER	5
5	N	28	E	W.M.	32	SE SE	1404	IR(P) IR(S)	13.70	76717 79439	WADEKAMPER	5
									164.60			

7. On December 19, 2002, the Department received an affidavit from Mary Newman, the owner of lands to which a water right evidenced by Certificate 54736 is appurtenant, requesting a portion of the right be diminished from primary to supplemental irrigation.

The portion of Certificate 54736, perfected under Permit G-6785, requested to be diminished is for the use of 0.15 cubic foot per second from the Ben Newman well for the primary irrigation of 11.7 acres. The date of priority is November 29, 1972. The portion requested to be diminished is described as follows:

**TABLE 3.
THE PORTION OF CERTIFICATE 54736 DIMINISHED FROM PRIMARY TO SUPPLEMENTAL**

TWP	RNG	SEC	QTR-QTR	MER	TL	USE	AC	CERT#	LANDOWNER		
4	N	28	E	20	NE SW	W.M.	100	IR	11.70	54736	NEWMAN

The transfer application proposes making the rights evidenced by Certificates 76715 and 76717 primary for the lands described by the portion of Certificate 54736 requested to be diminished. The proposed transfer of primary rights is described in Table 2, Notice #4.

8. Pursuant to ORS 540.574 and ORS 540.580, 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 540.580.

- 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 lands from which the water right would be moved by the proposed transfer will not continue to receive water under the water right.
 - g) 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.
9. The petition was filed prior to the end of the calendar year or prior to any delivery of water as required under ORS 540.580(2).

CONCLUSIONS OF LAW

- 1. The petition submitted by Westland Irrigation District proposing permanent changes in place of use within district boundaries included the information, and satisfied the criteria, required by ORS 540.574(3).
- 2. The proposed transfer complies with the requirements of ORS 540.580.
- 3. The Director should approve the transfer because the petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.580 resulting in no injury to other water rights.

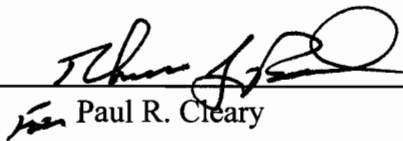
ORDER

It is hereby ORDERED:

- 1. The proposed changes to the water right certificates 76715, 76717, 76799 & 79439 may be made provided the following conditions are met by the water user:
 - a. The proposed changes shall be completed on or before October 1, 2005.
 - b. The former places of use shall no longer be irrigated as a part of this water right.

- c. Proof, to the satisfaction of the Director, that the changes approved by this order have been completed must be submitted by Westland Irrigation District, on or before October 1, 2006.
2. Except as modified herein, all other conditions and limitations of the Umatilla River Decree remain in effect.
3. When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm that portion of the right not modified by this or any other order.
4. The portion of the water right evidenced by Certificate 54736 as described in *Finding of Fact #7* is diminished from primary to supplemental irrigation.
5. Certificate 54736 is canceled. The Department shall issue a new certificate to confirm that portion of the right NOT involved in this transfer, and the diminution of that portion of the right described in *Finding of Fact #7*.

WITNESS the signature of the Water Resources Director affixed FEB 18 2003.



Paul R. Cleary