

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE AND PARTIAL CANCELLATION OF A WATER RIGHT

Pursuant to ORS 540.570, after notice was given and no objections were filed, and finding no injury to existing water rights, this order approves, as conditioned or limited herein, WEST EXTENSION IRRIGATION DISTRICT TEMPORARY TRANSFER 9133, a petition submitted by:

WEST EXTENSION IRRIGATION DISTRICT (Hellberg)
P.O. BOX 100
IRRIGON, OREGON 97844

The right to be modified is as follows:

Certificate 58870; Permit G-8356: Irrigation; Priority Date - October 5, 1978; Authorized Source - A well

Authorized Point of Appropriation

SE 1/4 NW 1/4, Section 26, Township 5 North, Range 26 East, W.M.; 1610 Feet South and 70 Feet West from the N 1/4 Corner, Section 26

The District requests to TEMPORARILY move the right listed in Table A to locations listed in Table B. The authorized place of use is located as follows:

Table with 9 columns: CERTIFICATE, USE, TWP, RNG, SEC, QTR/QTR, TAX LOT, PRIORITY, ACRES. Rows include three entries for certificate 58870 and an IRR TOTAL row.

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.

The proposed place of use is located as follows:

TABLE B - Inventory of "TO LANDS"								
CERTIFICATE	USE	TWP	RNG	SEC	QTR/QTR	TAX LOT	PRIORITY	ACRES
58870	IRR	5N	26E	26	NWNE	203	10/5/1978	14.30
58870	IRR	5N	26E	26	SWNE	203	10/5/1978	2.00
58870	IRR	5N	26E	26	NWSE	400	10/5/1978	4.00
<b>IRR TOTAL</b>								<b>20.30</b>

### CANCELLATION OF A PORTION OF WATER RIGHT CERTIFICATE 58870

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter and order canceling the water right."

On July 18, 2002, the Department received an affidavit from Max & Marilyn Hellberg, owners of lands to which the right evidenced by Certificate 58870 is appurtenant. The affidavit asserts a portion of the right has been abandoned and requests it to be canceled.

The portion of Certificate 58870 which has been abandoned is for the use of 0.036 cubic foot per second from a well within the Columbia River basin for irrigation of 2.89 acres. The right was perfected under Permit G-8356 with a date of priority of October 5, 1978. The abandoned portion of the right is located as follows:

(TAX LOT 203) NE ¼ NW ¼ 0.57 ACRE (Hellberg)

(TAX LOT 203) SE ¼ NW ¼ 2.32 ACRES (Hellberg)

SECTION 26

TOWNSHIP 5 NORTH, RANGE 26 EAST, W.M.

### ORDER

THE PROPOSED TEMPORARY CHANGES TO THE EXISTING DISTRICT WATER RIGHTS FOR THE 2002 IRRIGATION SEASON MAY BE MADE SUBJECT TO THE FOLLOWING CONDITIONS:

1. Pursuant to 540.570(1) the applicant may transfer the place of use of water within the district for one irrigation season provided the land from which the water use is being transferred does not receive any water under the right subject to transfer during the

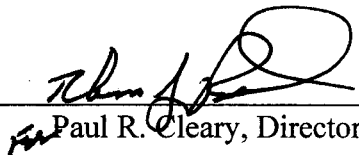
irrigation season in which the change is made; there is no enlargement in rate, duty and acres irrigated of the right subject to transfer; and the type of use subject to transfer remains the same.

2. Use of water on both the transfer "FROM" lands and transfer "TO" lands during the same irrigation season or calendar year is prohibited and may subject the district and landowner to civil penalties.
3. All restrictions and limitations contained in the decree or permit of the subject rights will apply to the "TO" lands.
4. Pursuant to 540.570 (5), the Department may further condition, reject or revoke a temporary transfer at any time to the extent necessary to avoid injury if the department finds the transfer is causing injury to an existing water right.
6. Pursuant to 540.570 (6), upon expiration of the temporary transfer period, 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 an adjudication proceeding under ORS chapter 539 as evidenced by a court decree.

IT IS ALSO ORDERED:

7. The portion of the water right evidenced by Certificate 58870, identified by an affidavit submitted by the landowner as having been abandoned, is hereby canceled. The Department shall issue a new and superseding certificate to confirm the remaining portion of the right NOT canceled by this order.

WITNESS the signature of the Water Resources Director, affixed August 21, 2002.

  
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Paul R. Cleary, Director