

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

COUNTY OF UMATILLA

In the Matter of a Proposed Change) ORDER APPROVING
In Place of Use of Water Within an) A DISTRICT
Irrigation District — TRANSFER 9634) TEMPORARY TRANSFER

ORS 537.705 and 540.570 to 540.574 establish the process in which a district may submit a request to temporarily transfer the place of use, point of diversion or appropriation, or character of use for stored water authorized under an existing water right.

Applicant

Westland Irrigation District
P.O. Box 944
Hermiston, Oregon 97838

Findings of Fact

1. Pursuant to ORS 540.570, Westland Irrigation District submitted an application to the Oregon Water Resources Department to temporarily change the place of use of water within the boundaries of the irrigation district. The application was received on January 23, 2004, and included the required fees.
2. The Department assigned the transfer application number T-9634.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated February 10, 2004. The application 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. Westland Irrigation District applied to modify the following right:

a.) IRRIGATION

Certificate 76051: issued in the name of Teel Irrigation District

Source: Umatilla River > Columbia R

Priority Date: June 27, 1958

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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

Rate & Duty: 1/40 of one cubic foot per second and a maximum of 4.5 acre-feet per acre per irrigation season

b.) SUPPLEMENTAL IRRIGATION

A.) Certificate 61534: issued in the name of Travelers Insurance Company Real Estate Investment Department

Source: 11 Wells > Umatilla River Basin

Priority Date: March 30, 1976

Rate & Duty: 1/80 of one cubic foot per second and a maximum of 3.0 acre-feet per acre per irrigation season

B.) Certificate 75126: issued in the name of TCDD M. Dimbat Irrevocable Trust and Kelly L. Molash Irrevocable Trust: Tony Amstad, Trustee

Source: Wells 1 & 3 > Umatilla River Basin

Priority Date: October 1, 1975

Rate & Duty: 1/80 of one cubic foot per second and a maximum of 3.0 acre-feet per acre per irrigation season

C.) Certificate 75128: issued in the name of Jeff R. Urbach Irrevocable Trust and Wayne A. Amstad Irrevocable Trust

Source: Brown Well 2 > Umatilla River Basin

Priority Date: September 26, 1974

Rate & Duty: 1/80 of one cubic foot per second and a maximum of 3.0 acre-feet per acre per irrigation season

D.) Certificate 79439: issued in the name of U.S. Bureau of Reclamation, Pacific Northwest Region

Source: McKay Reservoir > McKay Creek

Priority Date: July 1, 1924

Rate & Duty: 1/80 of one cubic foot per second and subject to the limitation of the primary irrigation right

6. Westland Irrigation District applied to temporarily change the place of use for irrigation authorized by Certificates 76051, 61534, 75126, 75128, and 79439 from the location identified in Table 1 to the location listed in Table 2.

| TABLE 1 - AUTHORIZED PLACE OF USE | | | | | | | | | | | |
|-----------------------------------|-----|-----|-----|-----|---------|-------|--------------|-------------------------|-------|-------|------|
| | | | | | | | ACRES | | | | |
| | | | | | | | CERTIFICATES | | | | |
| | | | | | | | Irrigation | Supplemental Irrigation | | | |
| TWP | RNG | SEC | 1/4 | 1/4 | TAX LOT | 76051 | 61534 | 75126 | 75128 | 79439 | |
| 3 | N | 29 | E | 20 | NW | NE | 6106 | 5.00 | 5.00 | 5.00 | |
| 3 | N | 29 | E | 20 | SW | NE | 6106 | 10.00 | 10.00 | 10.00 | |
| 3 | N | 29 | E | 20 | SE | NE | 6106 | 4.00 | 4.00 | 4.00 | 4.00 |
| 3 | N | 29 | E | 20 | SE | SW | 6103 | 11.10 | 11.10 | | |
| 3 | N | 29 | E | 20 | NE | SE | 6106 | 0.10 | 0.10 | | 0.10 |
| 3 | N | 29 | E | 20 | NW | SE | 6106 | 0.50 | 0.50 | | |
| 3 | N | 29 | E | 20 | SE | SE | 6106 | 4.50 | 4.50 | | 4.50 |
| 3 | N | 29 | E | 21 | SW | NW | 6106 | 0.30 | 0.30 | 0.30 | 0.30 |

| TABLE 1 - AUTHORIZED PLACE OF USE | | | | | | | | | | | |
|-----------------------------------|-----|-----|-----|-----|---------|-------|--------------|-------------------------|-------|-------|-------|
| | | | | | | | ACRES | | | | |
| | | | | | | | CERTIFICATES | | | | |
| | | | | | | | Irrigation | Supplemental Irrigation | | | |
| TWP | RNG | SEC | 1/4 | 1/4 | TAX LOT | 76051 | 61534 | 75126 | 75128 | 79439 | |
| 3 | N | 29 | E | 21 | NW SW | 6106 | 1.20 | 1.20 | | 1.20 | |
| 3 | N | 29 | E | 21 | SW SW | 6106 | 23.80 | 23.80 | | 23.80 | |
| 3 | N | 29 | E | 21 | SE SW | 6106 | 3.80 | 3.80 | | 3.80 | |
| 3 | N | 29 | E | 28 | NE NW | 6106 | 2.00 | 2.00 | | 2.00 | |
| 3 | N | 29 | E | 28 | NW NW | 6106 | 22.10 | 22.10 | | 22.10 | |
| 3 | N | 29 | E | 29 | NE NE | 6106 | 2.40 | 2.40 | | 2.40 | |
| 3 | N | 29 | E | 29 | NE NW | 6104 | 8.00 | 8.00 | | | |
| 3 | N | 29 | E | 29 | SW NW | 6104 | 0.60 | 0.60 | | 0.60 | |
| 3 | N | 29 | E | 29 | SW SW | 6104 | 9.60 | | 9.60 | | |
| 3 | N | 29 | E | 30 | SE SE | 6104 | 9.60 | | 9.60 | | |
| TOTAL: | | | | | | | 118.60 | 99.40 | 19.30 | 19.20 | 64.80 |

| TABLE 2 - PROPOSED PLACE OF USE | | | | | | | | | | | |
|---------------------------------|-----|-----|-----|-----|---------|-------|--------------|-------------------------|-------|-------|-------|
| | | | | | | | ACRES | | | | |
| | | | | | | | CERTIFICATES | | | | |
| | | | | | | | Irrigation | Supplemental Irrigation | | | |
| TWP | RNG | SEC | 1/4 | 1/4 | TAX LOT | 76051 | 61534 | 75126 | 75128 | 79439 | |
| 3 | N | 28 | E | 24 | NE NW | 7200 | 29.90 | 29.90 | | 29.90 | |
| 3 | N | 28 | E | 24 | NW NW | 7200 | 30.60 | 30.60 | | 30.60 | |
| 3 | N | 29 | E | 20 | SE SE | 6106 | 4.50 | 4.50 | | | |
| 3 | N | 29 | E | 21 | SW SW | 6106 | 9.20 | 9.20 | | | |
| 3 | N | 29 | E | 21 | SW SW | 6106 | 5.00 | 5.00 | 5.00 | | |
| 3 | N | 29 | E | 21 | SW SW | 6106 | 0.80 | | 0.80 | | |
| 3 | N | 29 | E | 21 | SW SW | 6106 | 8.50 | 8.50 | 8.50 | 2.10 | |
| 3 | N | 29 | E | 21 | SE SW | 6106 | 0.20 | 0.20 | 0.20 | 0.20 | |
| 3 | N | 29 | E | 21 | SE SW | 6106 | 3.60 | 3.60 | 3.60 | | |
| 3 | N | 29 | E | 28 | NE NW | 6106 | 1.20 | 1.20 | 1.20 | 1.20 | |
| 3 | N | 29 | E | 28 | NE NW | 6106 | 0.80 | | 0.80 | | |
| 3 | N | 29 | E | 28 | NW NW | 6106 | 17.60 | | 17.60 | | |
| 3 | N | 29 | E | 28 | NW NW | 6106 | 0.80 | 0.80 | 0.80 | 0.80 | |
| 3 | N | 29 | E | 28 | NW NW | 6106 | 3.50 | 3.50 | | | |
| 3 | N | 29 | E | 29 | NE NE | 6106 | 2.40 | 2.40 | | | |
| TOTAL: | | | | | | | 118.60 | 99.40 | 19.30 | 19.20 | 64.80 |

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 permit. The use shall conform to any reasonable rotation system ordered by the proper state officer.

7. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the application submitted by East Fork Irrigation District, the Department has determined the following:
 - a) The application contains the information required under ORS 540.574(3).
 - b) The application meets the requirements of ORS 540.570.

- c) The application contains maps which are satisfactory to the Department and which the District certified as being accurate.
- d) The application 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 District notified each affected landowner that the Department may at any time, to the extent necessary to avoid injury to an existing water right:
 - A) Condition the temporary transfer to mitigate injury; or
 - B) Reject or revoke the temporary 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
- h) The proposed change in place of use will not result in injury or enlargement to an existing water right.

Conclusions of Law

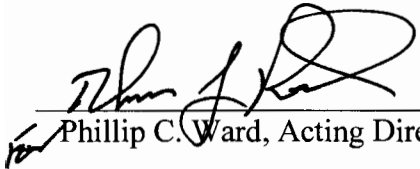
- 1. The application submitted by Westland Irrigation District proposing a temporary change in place of use within district boundaries included the information, and satisfied the criteria, required by ORS 540.574(3).
- 2. The proposed transfer complies with the requirements of ORS 540.570.
- 3. The petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury or enlargement to existing water rights.

Now, therefore, it is ORDERED:

- 1. District Temporary Transfer Application T-9634, for a change in place of use, is approved.
- 2. The temporary transfer is effective for the 2004 irrigation season.
- 3. At the end of the 2004 irrigation season, all uses of water under the temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.
- 4. The approval of this temporary transfer may be conditioned, rejected or revoked at any time to the extent necessary to avoid injury if the Department finds the transfer causes injury to any existing water right.
- 5. The former place of use shall no longer be irrigated as a part of this water right. The use of water on the lands from which the water right is transferred and at the new temporary place of use during the same irrigation season or calendar year is prohibited, and may subject the district and landowner to civil penalties.
- 6. The water user shall install and maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water in the pipeline to Westland Canal when Permit G-7078 is diverted to the Westland Canal for use in section 24 (Correa).

7. The water user shall install a flow meter at the Correa diversion from the Westland Canal. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
8. Except as modified herein, all other conditions and limitations of the water rights remain in effect.

Dated at Salem, Oregon this 2nd day of August, 2004.


Phillip C. Ward, Acting Director