

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

In the Matter of Transfer Application) **F I N A L O R D E R**
T-10579, Umatilla County) APPROVING A DISTRICT
) TEMPORARY TRANSFER AND
) PARTIAL DIMINISHMENT

Authority

ORS 540.570 establishes the process in which a district may submit a request to temporarily 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 March 27, 2008 Westland Irrigation District filed a district transfer application to temporarily change the place of use under Certificates 76715 and 79439. The Department assigned the application number T-10579.

2. The portion of the primary right to be transferred is as follows:
Certificate: 76715 issued in the name of Westland Irrigation District
Use: Irrigation (IR) of 7.55 acres
Priority Date: March 14, 1903
Rate & Duty: 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.
Source: Umatilla River, a tributary of the Columbia River

This is a final order in other than 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 either 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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3N	29E	WM	21	SW NE	WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East 2913.19 Feet from the W¼ Corner of Section 21

3. The portion of the supplemental right to be transferred is as follows:

Certificate: 79439, issued in the name of U.S. Bureau of Reclamation (Perfected under permit 7400)

Use: Supplemental Irrigation (IS) of 7.55 acres

Priority Date: July 1, 1924

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second 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, a tributary of McKay Creek. Water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
2N	32E	WM	34	NW SE	McKAY DAM
3N	29E	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 Places of Use:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76715 (IR)	79439 (IS)	
4N	28E	WM	28	SW SW	4300	6.05	6.05	FRANK MUELLER
4N	28E	WM	28	SE SW	4300	1.50	1.50	FRANK MUELLER

4. In transfer application T-10579, Westland Irrigation District identified a supplemental irrigation water right evidenced by Certificate 76749, as existing on the authorized place of use lands located within Section 28, T 4 N, R 28 E, W.M. Frank Muller, the landowner, submitted an affidavit stating that the right under Certificate 76749 for supplemental irrigation on the "FROM" lands will not be exercised during the 2008 Irrigation Season. The subject lands are as listed in the table below:

Supplemental Irrigation Under Certificate 76749 - Portion not to be used during 2008 Irrigation Season						
Twp	Rng	Mer	Sec	Q - Q	TL	Acres
4 N	28 E	WM	28	SW SW	4300	6.05
4 N	28 E	WM	28	SE SW	4300	1.50

5. Application T-10579 proposes to TEMPORARILY change the place of use for the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		USER
						76715 (IR)	79439 (IS)	
4N	28E	WM	17	SW NE	3700	7.55	7.55	NORMA QUICK

6. In transfer application T-10579, Westland Irrigation District identified a primary irrigation water right evidenced by Certificate 82990 as existing on the proposed place of use lands located within Section 17, T 4 N, R 28 E, W.M. Norma Quick, the landowner, submitted an affidavit to temporarily diminish the existing irrigation water right to supplemental irrigation pursuant to OAR 690-385-3130. The landowner further agreed that any rights supplemental to Certificate 82990 would not be used on the authorized lands during the 2008 irrigation season.
7. The portion of the water right to be temporarily diminished from irrigation to supplemental irrigation is as follows:

Certificate: 82990 in the name of Norma Quick (Perfected under Permit S-44614)

Use: Irrigation (IR) of 7.55 acres

Priority Date: August 23, 1979

Rate & Duty: 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.

Source: Umatilla River, a tributary of the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	SURVEY COORDINATES
4N	28E	WM	16	SW SW	660 FEET NORTH AND 10 FEET EAST FROM THE SW CORNER OF SECTION 16.

Authorized Place of Use:

IRRIGATION WATER RIGHT UNDER CERTIFICATE 82990 DIMINISHED TO SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	TL	Acres
4N	28E	WM	17	SW NE	3700	7.55

8. Notice of the application for temporary transfer was published April 8, 2008 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

9. The district temporary transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
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 changes in place of use will not result in injury to other rights.

Conclusions of Law


The proposed change in place of use in Transfer Application T-10579 satisfies the requirements of ORS 540.574(3) and 540.570.

Now, therefore, it is ORDERED:

1. The changes proposed to the water rights evidenced by Certificates 76715, 79439, 76749 and 82990 are approved.
2. The temporary transfer is effective for the 2008 irrigation season.
3. The former places of use shall not be irrigated as part of these water rights during the 2008 irrigation season.
4. The District shall not use water under Certificate 76749 during the 2008 irrigation season at the authorized place of use as described in Finding of Fact #4.
5. 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 76715, 79439 and any related decree.
6. Pursuant to OAR 690-385-3130, during the term of the temporary transfer, the use of water for supplemental irrigation at the proposed place of use under Certificate 82990, as described in Finding of Fact #7, is restricted to the total rate and duty described by Certificate 76715 and may be used only to make up a deficiency of supply.
7. 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.
8. The use of water under this temporary transfer may be conditioned 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.
9. At the end of the 2008 irrigation season all uses of water under this temporary transfer revert automatically to the terms and conditions of the original water right permit, certificate, or adjudication as evidenced by a court decree.

10. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

Dated at Salem, Oregon this 16th day of May, 2008.


Phillip C. Ward, Director

Mailing Date: MAY 23 2008