BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	
T-8239, Klamath County, Oregon)	CORRECTING FINAL ORDER
)	

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Kenneth & Connie Masten 4550 Burgdorf Road Bonanza, OR 97623

Findings of Fact

- 1. The Department issued an order approving T-8239 on August 21, 2002. The order was recorded at Special Order Volume 56, Pages 858 to 861.
- 2. Application T-8239 was filed on April 9, 1999 by the Kenneth and Connie Masten. The portion of the right to have been affected by the transfer is as follows:

Certificate: 51342 in the name of Francis J. Bowne

Use: Irrigation of 168.1 acres

Priority Date: 1902 Quantity: 2.10 cfs

Source: Lost River and tributary springs, tributary to Tule Lake

Authorized Point of Diversion:

Twp	Rge	Mer	Sec	Q - Q	Tract	Survey Coordinates
39 S	11 E	W.M.	17	SE NE	I	South 31 degrees 02 minutes East, 2,754.4 feet from N 1/4 corner, Section 17
39 S	11 E	W.M.	17	SW SW	2	North 38 degrees 01 minute 30 seconds East, 1,100 feet from SW corner, Section 17

Authorized Place of Use:

Twp	Rge	Mer	Sec	Q-Q	Tract	Acres
39 S	11 E	W.M.	18	SW NW	1	30.0

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

Twp	Rge	Mer	Sec	Q-Q	Tract	Acres
39 S	11 E	W.M.	18	SE NW	1	7.6
39 S	11 E	W.M.	18	NE SW	1	36.0
39 S	11 E	W.M.	18	NW SW	1	30.0
39 S	11 E	W.M.	18	SE SW	1	16.0
39 S	11 E	W.M.	18	SW SE	1	37.0
39 S	11 E	W.M.	18	NW SE	2	11.5

- 3. The order approving the transfer inadvertently listed the lands associated with the entire water right evidenced by Certificate 51342.
- 4. The order approving the transfer erroneously authorized a change in point of diversion for lands not under the ownership of the applicants and for which a change in point of diversion was not requested in the application.
- 5. The other lands inadvertently included in the transfer order were not owned by the applicants and the other landowners had not consented to transferring their authorized points of diversion to a new location.

Now, therefore, it is ORDERED:

- 1. The order approving T-8239 as recorded Special Order Volume 56, Pages 858 to 861 is corrected and the change in point of diversion for the portion of Certificate 51342 identified in Finding of Fact 2 is approved.
- 2. All other terms and conditions of the order recorded at Special Order Volume 56, Pages 858 to 861 shall continue to apply.
- 3. A new certificate will be issued describing that portion of the right not involved in this transfer, as corrected.

Dated at Salem, Oregon this 15th day of November, 2004.

Phillip C. Word

Acting Director

Mailing date: NOV 0 3 2004