

BEFORE THE WATER RESOURCES
DIRECTOR OF OREGON

UMATILLA COUNTY

9/15/91
1251 P333

IN THE MATTER OF AN APPLICATION IN THE)
NAME OF U.S. BUREAU OF RECLAMATION FOR) ORDER APPROVING
APPROVAL OF AN EXCHANGE OF WATER) TRANSFER 6621E

On October 9, 1991, an application for transfer was filed in the office of the Water Resources Director by the Regional Director, Pacific Northwest Region, United States of America, Bureau of Reclamation for approval of an exchange of water, pursuant to the provisions of ORS 540.533 through 540.543. Such use is to implement the Bureau of Reclamation's Umatilla Basin Project, Phase II, authorized by Congress as P.L. 100-557, Sections 201 through 213, and shall be consistent with said legislation.

On February 14, 1991, Application 71293 was filed in the name of the U.S. Bureau of Reclamation (USBOR), proposing the use of 240.0 cubic feet per second of water from the Columbia River for Umatilla River instream flow enhancement through an exchange with irrigation water from the Umatilla River.

The place of use and benefitted stream reach is for flows to be maintained in the Umatilla River from the Furnish Canal diversion at approximately River Mile 32.3 in the SW 1/4 Section 31, T 3 N, R 30 E, W.M. to its confluence with the Columbia River, located within SE 1/4 SE 1/4, Section 18, T 5 N, R 28 E, W.M. The reaches of McKay Creek and the Umatilla River from McKay Reservoir to the Furnish Canal diversion are benefitted to the extent that exchange storage releases are protected from diversion by all appropriators throughout the reach.

The point of diversion is located as follows:

COLUMBIA RIVER PUMP SITE - SE 1/4 SE 1/4, SECTION 12, T 5 N, R 29 E, W.M.

The applicant proposes the exchange of waters because it cannot economically convey Columbia River water to the points of use in the Umatilla River and water from the Columbia River is not biologically suited for anadromous fish in the Umatilla River. Waters subject to diversion under rights described by the decrees and permits, which proof of beneficial use has been approved by the director are listed below, would remain in McKay Creek and Umatilla River and be replaced by waters pumped from the Columbia River under Application 71293, Permit 51439.

The water exchange will take place between the USBOR and users of diversions and water rights as follows:

HERMISTON IRRIGATION DISTRICT

Maxwell Canal - SW 1/4, Section 28, T 4 N, R 28 E, W.M.

A right to the water from the Umatilla River for irrigation with a priority of November 14, 1894, tabulated under the name of United States of America recorded in Volume 3, Page 242, Decree of the Circuit Court for Umatilla County dated September 9, 1916.

A right to the water from the Umatilla River for irrigation with a priority of February 25, 1904, tabulated under the name of United States of America recorded in Volume 3, Page 242, Decree of the Circuit Court for Umatilla County dated September 9, 1916.

Feed Canal - SW 1/4, Section 22, T 3 N, R 29 E, W.M.

A right to the water from the Umatilla River for irrigation with a priority of September 6, 1905, tabulated under the name of United States of America recorded in Volume 3, Page 242 through 245, Decree of the Circuit Court for Umatilla County dated September 9, 1916.

STANFIELD IRRIGATION DISTRICT

Furnish Canal - SW 1/4, Section 31, T 3 N, R 30 E, W.M.

A right to the water from the Umatilla River for irrigation with a priority of March 8, 1905, tabulated under the name of Furnish Ditch Company recorded in Volume 3, Page 233, Decree of the Circuit Court for Umatilla County dated September 9, 1916.

A right to the water from the Umatilla River for irrigation with a priority of March 8, 1905, tabulated under the name of Stanfield Irrigation District recorded in Volume 15, Page 433, Supplemental Findings of Fact and Order of Determination of the State Engineer of the State of Oregon dated December 15, 1953.

Permit 41015, which proof of beneficial use has been approved by the director, to the water from the Umatilla River for irrigation with a priority of June 23, 1965.

McKay Reservoir - S 1/2, Section 34, T 2 N, R 32 E, W.M.

Permit R-584, which proof of beneficial use has been approved by the director, for the storage of water from McKay Creek for supplemental irrigation with a priority of September 9, 1920.

Permit 7400, which proof of beneficial use has been approved by the director, for the use of stored water from McKay Reservoir for supplemental irrigation with a priority of July 1, 1924.

Any additional water rights that may be granted to Bureau of Reclamation for supplemental Stanfield Irrigation District irrigation from McKay reservoir.

Notice of the application for Transfer 6621E pursuant to ORS 540.535, was published in the Hermiston Herald, a newspaper having general circulation in the area in which the water users involved in the exchange are located, for a period of three consecutive weeks in the issues of March 17, 24, and 31, 1992.

The Water Resources Commission reviewed and approved this application on March 13, 1992.

It appearing that the proposed exchange of waters may be made without injury to existing rights, the application should be approved.

NOW THEREFORE, it is hereby ORDERED that the proposed exchange of waters is approved, subject to the conditions herein, and as follows:

Such use is to implement the Bureau of Reclamation's Umatilla Basin Project, Phase II, authorized by Congress as P.L. 100-557, Sections 201 through 213, and shall be consistent with said legislation.

The total amounts of water that can be diverted from the Columbia River as described above shall not exceed 240.0 cfs and shall reduce the appropriations under existing rights from the Umatilla River and McKay Reservoir in accordance with the following:

For Hermiston Irrigation District, the total quantity diverted from the Columbia River for exchange, together with diversions of direct flow from the Umatilla River during a complete year shall be no greater than the limits of their water rights. To operate the exchange, Hermiston Irrigation District will divert from the mainstem Umatilla River only those flows in excess of the flows needed for fish. These flows will be as determined by Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation. Columbia River water would be pumped into Cold Springs Reservoir to replace foregone diversions.

For Stanfield Irrigation District, the total quantity diverted from the Columbia River during a complete year, together with diversions from direct flow from the Umatilla River shall be the lesser of 34,700 acre-feet or the legal limits of State of Oregon water rights.

To operate the exchange, Stanfield Irrigation District will forego its 38% share of storage in McKay Reservoir and divert from the mainstem Umatilla River only those flows in excess of the flows needed for fish. These flow needs will be determined by Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation.

The construction work shall be completed and the exchange of waters made on or before October 1, 1997.

Phase II project completion will be dependent upon further appropriations for funding from Congress, and thus may require extensions of the time limits imposed above. Requests for such extensions will be evaluated subject to the requirements of ORS 540.537.

In order to achieve effective water management for the exchange project and to allow the Watermaster the ability to regulate the amount of water being diverted from the Columbia River and to shepherd and monitor the exchange and maintain the water in stream, telemetric measuring devices connected with the BOR's HYDROMET system and other suitable gaging stations and water measuring devices shall be put into operation, to the satisfaction of the watermaster, prior to any diversion of water under the exchange at the following locations:

HYDROMET gaging stations identified in the FEIS and required:

1. Westland Canal Nr. Echo
2. Furnish Canal Nr. Echo
3. Feed Canal Nr. Echo
4. West Extension I.D. Canal Nr. Umatilla
5. Maxwell Canal Nr. Hermiston (if diversion continues)
6. Inflow pumped into Cold Springs Reservoir from Columbia
7. Inflow pumped into Stanfield I.D. system from Columbia
8. West Extension Exchange pumps
9. Cold Springs Reservoir elevation
10. McKay Reservoir elevation
11. Umatilla River at Pendleton
12. Umatilla River at Yoakum
13. Umatilla River above Feed Canal Nr. Echo
14. Umatilla River at Umatilla

Gaging stations, currently with HYDROMET capabilities, with continuing operation required:

1. McKay Creek at Pendleton (reservoir outflow)
2. McKay Creek Nr. Pilot Rock (reservoir inflow)

Gaging stations, to be installed with HYDROMET capabilities:

1. Dillon Canal Nr. Echo
2. Allen Canal Nr. Echo
3. "A" line canal at Cold Springs Reservoir
4. Umatilla River at Umatilla Meadows Nr. Stanfield
5. Umatilla River Nr. Cottonwood Bend
6. Birch Creek Nr. Rieth

Pump station that may need HYDROMET capabilities:

1. Brown/Prior pumping station #1

After consultation with the Oversight Committee, the watermaster may add, change, or eliminate gaging stations or water measuring devices as needed to properly administer the exchange.

In addition to the gaging stations required to record flows within the Umatilla River system, the diversion from the Columbia River shall be metered to monitor the exchange of water.

Prior to the exchange of water or adjustments on the exchange of water allowed under this order the Bureau of Reclamation shall get approval from the watermaster, and provide reasonable notice to irrigation districts, ditch companies, and other parties that may be impacted. An emergency procedure will be developed by the Watermaster, BOR, and the Oversight Committee.

The applicant is authorized to divert up to 240 cfs of water at the Columbia River Pump Site, convey and release the waters in Cold Springs Reservoir for use in the Hermiston Irrigation District, and to release the waters into the Stanfield Irrigation District system.

The exchange is for Umatilla River water with priority dates of 1894, 1904, 1905 and 1965, and for water releases from storage in McKay Reservoir under Bureau of Reclamation contracts and Oregon water rights. The exchange shall not occur until such time as the water rights from the Umatilla River and McKay Reservoir are perfected.

The amount of water under this exchange to be left in the Umatilla River from foregone diversions and McKay storage shall be determined by the Oregon Department of Fish and Wildlife (ODFW) and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The natural flows left in the Umatilla River for fish flows under the exchange shall retain the priority date and rate and duty limitations of the water rights involved in the exchange and shall be protected from appropriation by all other users. The water released from McKay Reservoir for fish flows under this exchange shall be protected by the Watermaster from appropriation by all other users at any time during the year when ODFW and CTUIR determine that flows are needed for fish purposes.

The "oversight committee" established in the FEIS shall be open to interested parties and shall assist in the following:

1. Developing operational objectives used in determining the actual operation plan for exchange of pumped and storage release waters.

2. Developing and implementing an operational model.
3. Analyzing and advising BOR of potential impacts to the project of proposed district boundary expansions or other proposed changes.
4. Identifying and securing the resources necessary for monitoring and regulating all project-related supplies and operations, including reporting and staffing requirements.
5. Other duties as is appropriate.

Upon receipt of proof satisfactory to the Water Resources Commission that water has been used under the exchange for the purpose of and within the limitations of Permit 51439 and this order, the Water Resources Commission shall issue a confirming Certificate of Water Right.

Dated at Salem, Oregon, this 21st day of April, 1992.

/s/ WILLIAM H. YOUNG

William H. Young
Director
Water Resources Department