

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

In the Matter of Transfer Application                                     )  
T-5591 to Change the Place of Use of Water                             )       CORRECTING ORDER  
Deschutes County, Oregon   )

**Findings of Fact**

1. Benny and Mary De Gaetano filed T-5591 to transfer the place of use for 60.0 acres under Certificate 302 to better utilize available water supply.
2. Certificate 302 reflects a water right originally granted to Alex Levering by Decree of the Circuit Court for Crook County, entered May 1, 1911, in the Matter of the Determination of the Relative Rights to the Use of the Waters of Squaw Creek and its Tributaries, and tabulated at Volume 1, Page 127. The priority date is November 1904.
3. Certificate 302 was issued in the name of Squaw Creek Irrigation Company. Squaw Creek Irrigation Company disbanded, and a portion of the lands to which the water right is appurtenant are located within the boundaries of Squaw Creek Irrigation District (now renamed Three Sisters Irrigation District)
4. The order approving T-5591 was issued March 25, 1985, and recorded in Special Order Volume 39 at Page 109.
5. Following approval of T-5591, Squaw Creek Irrigation District petitioned the Water Resources Department to approve maps and the location of water rights within and served by the district pursuant to ORS 541.329.
6. An order approving the petition by Squaw Creek Irrigation District pursuant to ORS 541.329 was issued on December 29, 1997, and recorded in Special Order Volume 51, at Page 1408.
7. The order approving Squaw Creek Irrigation District’s petition, identified T-5591 as one of the water rights modified and mapped. The order confirmed the extent of completion and perfection of the change in place of use under T-5591.
8. The land to which the right evidenced by T-5591 is appurtenant changed ownership several times between the time the transfer application was submitted and the present.

**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.

9. In May 2002, a representative of Black Diamond Ranch contacted the Department and alleged T-5591 was erroneously included in Squaw Creek Irrigation District's ORS 541.329 petition and should be reinstated. Black Diamond Ranch is the current owner of land to which the right evidenced by T-5591 is appurtenant.
10. Black Diamond Ranch claimed the lands involved in the change in place of use under T-5591, although located within the boundaries of the district, were never conveyed water by Squaw Creek Irrigation District and has never been subject to the assessments and charges of the districts as required to be eligible to be included in the district's ORS 541.329 petition.
11. On November 25, 2002, Black Diamond Ranch owner Weldon Wankier submitted a claim of beneficial use and a final proof map prepared by CWRE Bruce Estes for T-5591,
12. On August 2, 2004, the Department received a written statement from Mark Thalacker, Manager of Three Sisters Irrigation District and responsible for the ORS 541.329 petition, stating the lands involved in T-5591 have never been assessed by the district, were not mapped or modified by the petition, and were erroneously included in the order approving the District's petition.

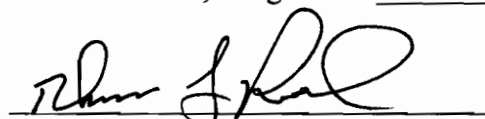
**Conclusion of Law**

Pursuant to ORS 541.325(3) and OAR 690-13-030 the water right evidenced by T-5591 was not assessed by Squaw Creek Irrigation District and ineligible to be petitioned pursuant to ORS 541.329(1).

**Now, therefore, it is ORDERED:**

1. The order approving the Squaw Creek Irrigation District ORS 541.329 petition is amended to remove reference to T-5591 in Table A of Special Order Volume 51, Page 1412, as a right to be modified by the petition.
2. The order approving the Squaw Creek Irrigation District ORS 541.329 petition is amended to remove reference to T-5591 as listed in Table B of the rights to be affected. Table B, Rights to be Affected, recorded in Special Order Volume 51 at Page 4118, identifies the right evidenced by T-5591 as 60.0 acres in Township 15, Range 10, Section 26, V. 39, P. 109.
3. T-5591 is reinstated.

Dated at Salem, Oregon this 8<sup>th</sup> day of September, 2004.

*For*   
 Phillip C. Ward  
 Acting Director