

*BEFORE THE WATER RESOURCES
DIRECTOR OF OREGON*

UMATILLA COUNTY

IN THE MATTER OF THE APPLICATION OF) ORDER
U.S. A. BUREAU OF RECLAMATION, BY) APPROVING
JOHN W. KEYES, III, REGIONAL DIRECTOR,) TRANSFER 6085 E
FOR APPROVAL OF AN EXCHANGE OF WATER)

On March 23, 1988, an application was filed in the office of the Water Resources Director by John W Keyes, III, 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 to 540.543.

On October 4, 1989, Permit 50748 (Application 69635) was issued to the U. S. Bureau of Reclamation, allowing use of 150 cfs from the Columbia River with a date of priority of June 3, 1988, to increase flows of the Umatilla River to enhance migration of anadromous fish from U.S.A. Feed Canal diversion at River Mile 28.2 (SE 1/4 SW 1/4, Section 22, T. 3 N., R. 29 E., W.M.) to the confluence with the Columbia River (SE 1/4 NE 1/4 of Section 18, T. 5 N., R. 28 E., W.M.).

Water is to be diverted from a point located within NW1/4 SE1/4 of Section 10, T. 5 N., R. 28 E., W.M. (McNary Dam).

In addition, water can be diverted from four alternate points, being:

- 1) Within Lot 7 (NE1/4 NW1/4) of Section 2, T. 4 N., R. 25 E., W.M, (Eastern Oregon Farming Company pumps).
- 2) Within NW1/4 SW1/4 of Section 17, T. 5 N., R. 28 E., W.M, (West Extension Irrigation pumps).
- 3) Within SW1/4 NW1/4 of Section 8, T. 5 N., R. 30 E., W.M, (Mikami Farms pumps).
- 4) Within Lot 5 (SE 1/4 NW 1/4) of Section 23, T. 5 N, R. 26 E., WM, (Western Empire Pumps).

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 as anadromous fish passage water in the Umatilla River. Waters subject to diversion under rights described by the certificates and decrees listed below would remain in the Umatilla River and be replaced by waters pumped from the Columbia River under Permit 50748 (Application 69635 for Columbia River diversions).

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

1) A Circuit Court Decree dated September 9, 1916, describing a right to the water from the Umatilla River for stock, domestic and irrigation with a date of priority April 14, 1893, tabulated under the name of Oregon Land and Water Company, (now the West Extension Irrigation District) as recorded in Volume 3, page 213, Order Record of the Water Resources Director.

A Circuit Court Decree dated December 15, 1953, describing a right to the water from the Umatilla River for irrigation with a date of priority of 1906, tabulated under the name of West Extension Irrigation District as recorded in Volume 15, page 436, Order Record of the Water Resources Director.

A Certificate of Water Right recorded at page 10142, Volume 9, State Record of Water Right Certificates in the name of United States Reclamation Service describing a right to the use of water from the Umatilla River for the irrigation of certain acreage with a date of priority of March 28, 1909.

A Certificate of Water Right recorded at page 53086, Volume 48, State Record of Water Right Certificates in the name of West Extension Irrigation District, describing a right to the use of water from the Umatilla River for the irrigation of certain acreage with a date of priority of September 12, 1968.

Water for these rights is diverted by means of the Threemile Falls Diversion Dam at a point located within the SW1/4 SW1/4 of Section 28, T. 5 N., R. 28 E, W.M. and conveyed to acreage in the West Extension Irrigation District.

2) A Circuit Court Decree dated September 9, 1916, describing a right to the water from the Umatilla River for stock, domestic and irrigation with dates of November 8, 1893 and 1902, tabulated under the name of Brownell Ditch Company as recorded in Volume 3, page 227, Order Record of the Water Resources Director.

A Circuit Court Supplemental Decree dated December 15, 1953, describing a right for the use of water from the Umatilla River for irrigation with a date of priority of 1903, tabulated under the name of Brownell Ditch Company, recorded in Volume 15 at page 425, Order Record of the Water Resources Director.

Water for these rights is diverted by means of the Brownell Ditch (now known as the Terminal Ditch) at a point within the SW1/4 NW1/4 of Section 21, T. 5 N., R. 28 E., W.M. and conveyed to acreage served by the Terminal Ditch Company.

3) A Circuit Court Decree dated September 9, 1916, described a right for the diversion of up to 350 cfs from the Umatilla River by means of the U.S.A. Feed Canal tabulated under the name of United States of America as recorded in Volume 3, pages 242-245, Order Record of the Water Resources Director, under date of priority of September 6, 1905, for providing storage of 50,000 acre-feet in Cold Springs Reservoir for use within Hermiston Irrigation District.

Notice of the application, 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 of waters are located, for a period of three weeks in the issues of July 19, 29, and August 2, 1988.

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 maintain the water in the stream, telemetric measuring devices connected with the Bureau of Reclamation's hydromet system shall be put into operation at the following locations or gages to the satisfaction of the watermaster.

1. West Extension Irrigation District Canal
2. West Extension Pump Exchange
3. Umatilla River at Umatilla

Additionally, as the Phase I project develops and funding is available, measuring devices will be needed at the following locations:

1. Maxwell Canal (Hermiston Irrigation District)
2. Westland Main Canal near Echo
3. Dillon Canal near Stanfield
4. USA Feed Canal near Echo
5. All pumping systems from the Columbia River shall have measuring devices as required by the watermaster to measure exchanged water.

A Umatilla River gage will be needed upstream from the USA Feed Canal near Echo.

The Water Resources Commission reviewed and considered the exchange on May 26, August 18, and September 29, 1989.

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

The proposed project was approved by the Water Resources Commission on September 29, 1989.

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

1) Divert up to 150 cfs of water at the McNary Dam diversion works, convey and release the waters in the West Extension Irrigation Canal at a point within the NW1/4 NE1/4 of Section 20, T. 5 N., R. 28 E., W.M., for use in the West Extension Irrigation District and the Terminal Ditch Company. This exchange is for Umatilla River water with priorities of 1902 (Terminal Ditch) and 1893, 1906, 1909, 1962, and 1968 (West Extension Irrigation District).

2) Divert up to 28 cfs of water at the Eastern Oregon Farming Company pumps, convey and release the waters in the West Extension Irrigation Canal at a point within the NE1/4 SW1/4 of Section 7, T. 4 N., R. 26 E., W.M., for use in the West Extension Irrigation District. This exchange is for Umatilla River water with priorities of 1893, 1906, 1909, 1962, and 1968 (West Extension Irrigation District).

3) Divert up to 45 cfs of water at the Western Empire pumps, convey and release the waters in the West Extension Irrigation Canal at a point within the SE 1/4 NW 1/4 Section 2, T. 4 N., R. 26 E., W.M., for use in the West Extension Irrigation District. This exchange is for Umatilla River water with priorities of 1893, 1906, 1909, 1962, and 1968 (West Extension Irrigation District).

4) Divert up to 55 cfs of water at the West Extension pumps, convey and release the waters in the West Extension Irrigation District Canal at a point within the SE1/4 SE1/4 of Section 18, T. 5 N., R. 28 E., W.M., for use in the West Extension Irrigation District. This exchange is for Umatilla River water with priorities of 1893, 1906, 1909, 1962, and 1968 (West Extension Irrigation District), and

5) Divert up to 50 cfs of water from the Mikami Farms pumps, convey and release the water in Cold Springs Canyon at a point within SE1/4 NE1/4 of Section 31, T. 5 N., R. 30 E., W.M., for use in the area served by the Hermiston Irrigation District. This exchange is for Umatilla River water with a priority date of 1905. The exchange with Hermiston Irrigation District is further limited as follows:

This exchange may be exercised after provision by the permittee for adequate interim streamflow gages, monitoring devices, and programs to protect and evaluate this fish water exchange. This condition shall not oblige the permittee to install measuring devices on any diversion not involved in the direct exchange of waters, or in a time or manner inconsistent with that agreed to in the Northwest Power Planning Council Workplan for the Umatilla Exchange Project.

The total amounts of water that can be diverted from the five points as described above shall not exceed 150 cfs and shall reduce the appropriations under existing rights from the Umatilla River by like amounts not to exceed 150 cfs.

The construction work shall be completed and the exchange of waters made on or before October 1, 1994.

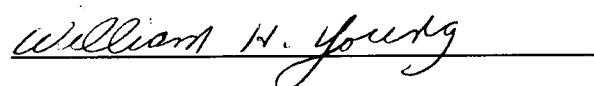
The water left in the Umatilla River for fish by the exchange shall retain the priority date of the water rights involved in the exchange and shall be protected from appropriation by all water rights having dates junior to the water rights involved in the exchange.

The project completion will be dependent upon further authorizations for funding from Congress, and thus may require extensions of the time limits imposed. Requests for such extensions will be evaluated subject to the requirements of ORS 537.230.

Prior to the exchange of water or adjustments on the exchange of water allowed under this Order, the Bureau of Reclamation shall provide reasonable notice to the watermaster, irrigation districts, ditch companies, and other parties that may be impacted.

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 50748, (Application 69635) the Water Resources Commission shall issue a confirming Certificate of Water Right.

Dated at Salem, Oregon, this 4 th day of October, 1989.



William H. Young
Director
Water Resources Department