

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

COUNTY OF MALHEUR

IN THE MATTER OF THE CORRECTION OF)
A CLERICAL ERROR IN PERMITS 50178, 50179,)
50180, AND 50181, IN THE NAMES OF Y1 FARMS,) ORDER
INC., WARNER MAAG, EMIL MAAG, AND ROBERT)
MAAG)

On July 14, 1977, Applications 56198, 56199, 56200, and 56201 were filed by the above applicants requesting permits to use water from Willow Creek beyond the normal irrigation season.

All lands involved in the requests enjoyed earlier water rights from Willow Creek, as well as through the Vale, Oregon Irrigation District. These rights are limited in use to the normal irrigation season, which ends on September 1 of each year. Changes in cropping patterns to include sugar beets made it necessary to water these crops between September 2 and October 15 of most years.

The applications requested permits which would allow the use of up to 1.0 acre feet per acre of water from Willow Creek during this additional 45 day period. Under Item 4 of each of the applications, the applicants had the following statement: "...and would not exceed 3 acre feet annually" (from Willow Creek).

After a review of the requests, staff agreed that a limitation of 3 acre feet per acre per year from Willow Creek was appropriate. The permits were approved with this limitation, and a paragraph was incorporated in the permit to attempt to describe the parameters of the intended use. The limitation reads, in part, "... provided further that the right allowed herein, together with the amount secured under any other right existing for the same land shall not exceed 3.0 acre-feet for each acre irrigated in any one year."

It is clear from the information on the application and from the staff recommendations that the intent of the request and of the resulting permits was to allow use of up to 1.0 acre-foot of water from Willow Creek between September 1 and October 15, not to exceed a total of 3.0 acre-feet in any one year from Willow Creek. The language of the limitation as noted above, however, incorrectly limits the use to 3.0 acre-feet from all sources combined. The lands involved are also covered in part by water rights through the Vale, Oregon project permits from the Malheur River. Those permits allow an annual duty of 4.5 acre-feet. In any case, it is clear that no lands in the area be allowed to exceed the 4.5 acre-feet in any one year from all sources.

NOW, THEREFORE, it is hereby ORDERED that the limitation paragraph in Permits 50178, 50179, 50180, and 50181 be AMENDED TO READ AS FOLLOWS:

"The AMOUNT OF WATER used for irrigation, together with the amount secured under any other right existing for the same lands shall be limited to 1/80 of one cubic foot per second per acre, and shall be further limited to a diversion of not to exceed 1.0 acre-foot per acre for each acre irrigated during the period September 2 through October 15, provided further that the right allowed herein, together with the amount secured under any other right existing for the same land shall not exceed 3.0 acre feet from Willow Creek or 4.5 acre-feet from all sources for each acre irrigated in any one year. Sufficient flow shall be left in Willow Creek to provide stockwater and domestic water throughout its course during the period of use allowed herein."

Dated at Salem, Oregon, this 28th day of November, 1989.

William H. Young
William H. Young,
Director