

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

In the Matter of the Order Approving) F I N A L O R D E R
Transfer Application T-6085E for an)
Exchange of Water, Umatilla County) Clarifying and Correcting Order

Findings

1. On October 4, 1989, the Water Resources Director issued a final order approving Transfer Application T-6085E for an exchange of water pursuant to ORS 540.533 to 540.543. The final order is recorded in Special Order Volume 43, at page 399.
2. The final order approving Transfer Application T-6805E listed and described the water rights subject to the exchange.
3. On November 22, 2004, the Water Resources Director approved a petition by West Extension Irrigation District to map water rights pursuant to ORS 541.329.
4. The final order approving the ORS 541.329 petition by West Extension Irrigation District resulted in the Water Resources Department issuing new water right certificates.
5. The new water right certificates resulting from the ORS 541.329 petition reflect the contemporary identification of the decreed and permitted water rights and respective priority dates subject to the exchange for use within the boundaries of the West Extension Irrigation District.
6. As a result of approving the West Extension Irrigation District ORS 541.329 petition the Department issued Certificate 79930, a new water right certificate confirming water rights developed under Permit 33883 with a priority date of February 26, 1969. The final order approving T-6805E identified water use developed under Permit 33883 (certificate 53086) as subject to the exchange, but omitted reference to the February 26, 1969, priority date described by the permit. The record indicates this omission was an oversight at the time the Department issued the final order approving T-6805E because the use of water under the February 26, 1969, had yet to be perfected.
7. Given the issuance of new water right certificates reflecting the West Extension Irrigation District ORS 541.329 petition, and in recognition that succeeding water right certificates and final orders may unintentionally limit which water rights are subject to the exchange, the Department has identified the need to clarify the final order approving T-6805E.

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 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

8. This order clarifies the water rights subject to the exchange by identifying the initial appropriation and subsequent water right certificates and final orders derived from that appropriation.
9. This order also corrects a scrivener's error in the description of the diversion point for the Brownell Ditch (now known as the Terminal Ditch).

Now, therefore, it is ORDERED:

1. The following clarifies the water rights subject to the exchange as described on Page two (Special Order Volume 43, Page 400). Paragraph five, of the final order approving Transfer Application T-6085E:

The water right certificate(s) confirming the use of water under Permit 33883 and related final order(s) in the name of West Extension Irrigation District, that describe a right to the use of water from the Umatilla River for irrigation with a date of priority of September 12, 1968 and February 26, 1969.

2. The following clarifies the water rights subject to the exchange as described on Page two (Special Order Volume 43, Page 400). Paragraph nine, of the final order approving Transfer Application T-6085E:

Water for these rights is diverted by means of the Brownell Ditch (now known as the Terminal Ditch) at a point within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, T. 5 N., R. 28 E., W.M. and conveyed to acreage served by the Terminal Ditch Company.

3. All other terms and conditions of the final order approving Transfer Application T-6085E, entered October 4, 1989, and recorded in Special Order Volume 43, at Page 399, remain in effect.

Dated at Salem, Oregon, this 6th day of December, 2005.

For 
Phillip C. Ward, Director

Mailing Date: DEC 13 2005