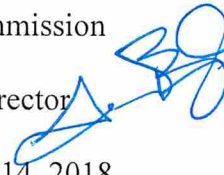




**MEMORANDUM**

**TO:** Water Resources Commission  
**FROM:** Thomas M. Byler, Director   
**DATE:** Agenda Item D, June 14, 2018  
Water Resources Commission Meeting

**Review of Final Certificate for Permit 51439 and T-6621E –  
Umatilla River Exchange**

**I. Introduction**

During this agenda item, staff will request that the Commission make a determination that proof to the satisfaction under Permit S-51439 and T-6621E (Umatilla River Exchange – Phase II) has been accomplished and authorize the Director to issue the confirming certificate.

**II. Background**

*Exchanges:* An approved exchange allows a person with an existing water right to use water from another source in exchange for supplying replacement water in an equal amount to satisfy prior appropriations from the other source. The exchange process is outlined in ORS 540.533 through ORS 540.543 and OAR 690-380-2260.

*Claim of Beneficial Use and Certificate Issuance:* In order to document the extent of beneficial use developed under a permit or transfer, the holder is required to submit a Claim of Beneficial Use (Claim), which consists of both a report and a map prepared by a Certified Water Right Examiner (CWRE). The Claim is required to describe the extent of beneficial use developed under the permit. In addition, the Claim is a request for the issuance of a certificate. In order to establish beneficial use, one must use the water while complying with conditions.

Once the Department receives a Claim, it is reviewed to determine whether the appropriation has been perfected to the satisfaction of the Department in accordance with the provisions of the Water Rights Act (ORS 537.250(1)). If the Department determines that use has been perfected, the Department issues a certificate. The certificate confirms that beneficial use was accomplished and establishes the extent of the developed use. The certificate cannot exceed the upper limits of the permit or order.

*Overview of Umatilla River Exchange – Phase II:* On March 13, 1992, the Commission approved Permit 51439 and Special Order Volume 46, Page 197 (Transfer 6621E). Copies of the permit and order are included as Attachment 1 and 2. The permit and the transfer authorized the use of up to 240 cubic feet per second (cfs) from the Columbia River to be exchanged with the waters that would otherwise be diverted from the Umatilla River for the Hermiston and Stanfield Irrigation Districts. In short, the project would provide water from the Columbia River for irrigators in exchange for water to remain in the channel of the Umatilla River for fish.

For additional information about the application history for this exchange, see the staff report for Agenda Item M from the March 16, 2018, Commission Meeting.

Permit 51439 contained a condition stating:

*“The final certification of this water right shall be reviewed by the Water Resources Commission. The public shall at that time have the right to provide factual information about water use under the permit to the Water Resources Commission.”*

Transfer 6621E contained a condition stating:

*“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.”*

On November 12, 2004, the Bureau of Reclamation (BOR) submitted a Claim describing the extent of use developed under both the permit and the exchange final order. A copy of the Claim is included in Attachment 3.

### **III. Discussion**

Department Staff have reviewed the Claim submitted by the BOR and found the Claim to be complete, the conditions contained in both the permit and the order met, and the full rate of water authorized under the permit (240 cfs) put to beneficial use. A copy of a memo from Department discussing compliance with conditions and extent of use is included as Attachment 4. The Department has prepared a certificate documenting the extent of appropriation, and including conditions from both the permit and order, for the Commission to review and consider. A copy of the Certificate is attached as Attachment 5.

Following the Commission meeting on March 16, 2018, the Department provided notice of the opportunity for the public to provide factual information about water use under the permit to the Water Resources Commission. The notice was published in the Department’s weekly Public Notice with a public comment period open from March 20 to April 19.

The Department received one comment on April 20, 2018, submitted by the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The CTUIR concurs with the Department’s findings that full development has been made and supports the issuance of the certificate for the permit. A copy of this comment is included as Attachment 6.

#### **IV. Summary**

The permit requires the Commission to review the final certification and for the public to have the opportunity to provide the Water Resources Commission factual information about water use under the permit. The transfer order requires the Commission to determine that proof to the satisfaction has been received and issue the certificate.

Department staff has reviewed the Claim submitted by the BOR and found the Claim to be complete, the conditions contained in both the permit and the order met, and the full rate of water authorized under the permit (240 cfs) put to beneficial use. A certificate has been prepared to describe that the full extent of beneficial use has been developed.

Department staff believe that proof to the satisfaction has been received, and recommends that the Commission concur with that determination.

#### **V. Alternatives**

The Commission may consider the following alternatives:

1. Determine that proof to the satisfaction of the Commission has occurred and authorize the Water Resources Director to issue the water right certificate.
2. Not authorize the Director to issue the certificate and request the Department to further evaluate the water use.

#### **VI. Recommendation**

The Director recommends Alternative 1.

#### **Attachments:**

1. Permit 51439
2. Special Order Volume 46, Page 197 (T-6621E)
3. Claim of Beneficial Use Report and Map
4. Memo - Determination of Proof for Permit 51439 and Transfer T-6612E
5. Draft Certificate
6. Public Comment from the Confederated Tribes of the Umatilla Indian Reservation

Dwight French  
503-986-0819

Mike Ladd  
541-278-5456

Gerry Clark  
503-986-0811

STATE OF OREGON

COUNTY OF UMATILLA

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BUREAU OF RECLAMATION  
U.S.A., PACIFIC NW REGION  
BOX 043-550, WEST FORT STREET  
BOISE, IDAHO 83724-0043

208-334-1165

to use the waters of COLUMBIA RIVER, a tributary of PACIFIC OCEAN, for UMATILLA RIVER INSTREAM FLOW ENHANCEMENT THROUGH AN EXCHANGE WITH IRRIGATION WATER FROM THE UMATILLA RIVER. 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.

This permit is issued approving Application 71293. The date of priority is FEBRUARY 14, 1991. The use is limited to not more than 240.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

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.

Divert water at the Columbia River Pump Site, convey and release the waters in Cold Springs Reservoir for use in the Hermiston Irrigation District; convey and release the waters into the Stanfield Irrigation District system.

The applicant shall install, operate and maintain fish screening devices to the specifications of the National Marine Fisheries Service prior to the diversion of water for beneficial use.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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 in the 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.

Actual construction work shall begin on or before April 21, 1993, and shall be completed on or before October 1, 1996. Complete application of the water to the use shall be made on or before October 1, 1996.

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 537.230.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

PAGE TWO

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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 Oregon water rights.

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 equal to its legal historical average supply of Umatilla River and McKay Reservoir water. This amount shall not be greater than 34,700 acre-feet and shall be consistent with the legal limits of State of Oregon water rights.

To the extent permitted by federal law, the permittee shall comply with the requirements of the Oregon Conservation Plan for the Umatilla River Basin as it is developed; and, to the extent that said plan prescribes compliance schedules to achieve conservation standards, the permittee shall comply with said schedules.

The right to use water under this permit is contingent upon the establishment and continued operation of a system to monitor and regulate all project related water supplies, as prescribed in Section 203 of P.L. 100-557.

The final certification of this water right shall be reviewed by the Water Resources Commission. The public shall at that time have the right to provide factual information about water use under the permit to the Water Resources Commission.

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

Issued this date, April 21, 1992.

/s/ WILLIAM H. YOUNG

Water Resources Department  
William H. Young  
Director

Ext BCO1

Application 71293  
Basin 7  
71293.SPA

Water Resources Department  
Volume 3A Columbia River & Misc.

PERMIT 51439  
District 5

BEFORE THE WATER RESOURCES  
DIRECTOR OF OREGON

UMATILLA COUNTY

7/11/91  
VSI 7333

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

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William H. Young  
Director  
Water Resources Department

**ESTES  
SURVEYS<sub>LLC</sub>**

**SURVEYS  
CONSULTING**

**LAND & WATER RIGHTS**

**Bruce A. Estes, PLS, CWRE**

60382 Arnold Mkt. Rd.  
Bend, OR 97702  
(541) 382-7391  
FAX 382-7391

PO Box 17519  
Salem, OR 97305-7519  
(503) 585-7593  
FAX 585-7593

**CLAIM OF BENEFICIAL USE SITE REPORT**

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**NOV 12 2004**  
WATER RESOURCES DEPT  
SALEM, OREGON

**I. General Information**

1. Application number: S - 71293
2. Permit number: 51439 & T-6621 E
3. County: Umatilla
4. Tax Lot Information: Tax map number 5 29 12. Tax lot number 100
5. Date of Site Inspection: August 12 and 13, 2004.
6. Persons interviewed: Bureau - Chet Sater, Acting Manager and Jim Henry, Pumping Plant Operator. Ray Kopacz, manager, Stanfield Irrigation District. Chuck Wilcox, manager, Hermiston Irrigation District.
7. Permittee: U. S. Bureau of Reclamation U.S. Bureau of Reclamation  
Pacific Northwest Region Umatilla Field Office  
1150 N. Curtis Rd. 32871 Diagonal Road  
Boise, ID 83706-1234 Hermiston, OR 97838
8. Property owner: NA
9. If any property described in the permit or transfer final order is not included in this report, identify the owner of record for that property (ORS 537.230(3)): Project was developed as planned. All sites were included.

**II. Points of Diversion/Appropriation and Place of Use**

1. Point of Diversion: Columbia River Pumping Plant
2. Source: Columbia River (Lake Wallula).
3. Point of diversion located: SE 1/4 SE 1/4, Section 12, T 5 N, R 29 E, W.M. - 280' North & 460' West from the SE corner of Section 12.
4. Use: Umatilla River Instream Flow Enhancement through an exchange with irrigation water from the Umatilla River. **Total Quantity of Water: 240 cfs**
5. Place of use for the point of diversion: HERMISTON IRRIGATION DISTRICT and STANFIELD IRRIGATION DISTRICT.

**System Information:**

1. & 2. Pump and Motor information:

Columbia River Pumping Plant: Six Kato electric verticle shaft motors running turbine pumps in the stilling basin. C-1 2500 HP, serial # 10356-04; C-2 2500HP, serial# missing; C-3 2500 HP, serial # 10356-3; C-4 1000 HP, serial # 10355-02; C-5 1000 HP, serial # 10355-01; and C-6 2500 HP, serial # 10356-2. The four 2500 HP pumps have 36" steel discharge pipes and the two 1000 HP pumps have 24" steel discharge pipes all into collection manifold to the 66" pipe to the Columbia - Cold

Springs Canal. According to the engineering drawings this station has a total dynamic head (TDH) of 335'. Therefore the 2500 HP pumps should be capable of  $7.04 \times 2500 / 335 = 52.5$  cfs open discharge. The 1000 HP pumps should be  $7.04 \times 1000 / 335 = 21.0$  cfs.

Cold Springs Pumping Plant: Six US Electric 250 HP verticle shaft motors on turbine pumps with 24" intake and discharge pipes manifolded into a 60" steel pipe to the Furnish Canal. This station has a TDH of 62.5'.

Stanfield Relift Pumping Plant: Two 250 HP and two 125 HP pumps into 42" HDPE pipe to Furnish Canal. This station has a TDH of 61'.

Echo Pump: A 50 HP pump with a TDH of 122' to the cistern.

3. Meter information: Class A gaging station at head of Columbia - Cold Springs Canal

4. Measurement device description: Continuous recording gaging station.

5. Measured pump capacity: The gaging station recorded 238 cfs on August 14 and 15, 1998. That is well within the tolerance of error to use as 240 cfs.

6. Theoretical pump capacity: Columbia River Pumping Plant - 252 cfs

7. Hydraulic calculations:

Columbia River Pumping Plant: The 2500 HP pumps should be capable of  $7.04 \times 2500 / 335 = 52.5$  cfs open discharge. The 1000 HP pumps should be capable of  $7.04 \times 1000 / 335 = 21.0$  cfs.  $4 \times 52.5 + 2 \times 21 = 252$  cfs. It is probably only capable of this in June when the backwater curve from McNary Dam is the highest.

Columbia - Cold Springs Canal: Concrete lined canal with 6' bottom, 1 1/2 : 1 side slopes, 7.2' deep on a 0.03% slope. With an n value of 0.013 in Manning's formula the canal should be capable of  $1.486 / 0.013 \times 67.5 \times 1.9914 \times 0.0173 = 265$  cfs at 5' deep.

Cold Springs Pumping Plant: The pumps should be capable of  $7.04 \times 250 / 62.5 = 28.2$  cfs each or 169 cfs total (design 150 cfs).

Stanfield Relift Pumping Plant:  $7.04 \times 250 / 61 = 28.9$  cfs.  $7.04 \times 125 / 61 = 14.4$  cfs. Total  $2 \times 28.9 + 2 \times 14.4 = 86.6$  cfs (design 75 cfs).

Echo Pump:  $7.04 \times 50 / 122 = 2.89$  cfs (part of usage is before the cistern)

8. Mainline information: NA

9. Handline information: NA

10. Sprinkler information: NA

11. Additional notes or comments related to the system:

Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation determine the necessary flows for the Umatilla River. Hermiston I. D. and Stanfield I. D. forgo using Umatilla River water and are provided water from the phase II system whenever needed for the fish flows.

### III. CONDITIONS

1. Time Limits:

a. "A" date(April 21, 1993): Constructed five new gaging stations required by the permit May 1992 - March 1993. Actual construction of the Columbia Pumping Plant was begun in 1993. Cold Springs Reservoir and irrigation district facilities in place prior to permit.

"B" date(extended to Oct 1, 2001): Columbia River Pumping Plant was completed August 6, 1996. Cold Springs Pumping Plant was completed December 23, 1996. North Branch Furnish Canal Enlargement completed March, 1996. Upper Furnish Canal and

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WATER RESOURCES DEPT  
SALEM, OREGON

Echo area system completed fall 1999 (use was made via canal checks for Echo area in 1998). Control system was completed October, 2000.

"C" date (extended to Oct 1, 2001): All pumps ran at capacity on August 14, 15 and 16, 1998.

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SALEM, OREGON

2. **Initial Water Level Measurements:** NA.

3. **Annual Static Water Level Measurements:** NA

4. **Measurement, recording, and reporting conditions:**

- a. Does the permit or transfer final order require the installation of a meter or approved measuring device? **YES**
- b. Has a meter been installed? **YES**, there are 21 gaging stations used in the exchange system. The transfer required 22 gaging stations, but the Umatilla River nr. Cottonwood Bend station was deleted after determining it was not necessary.
- c. Provide the date the meter was installed: The gaging stations were completed in 1996.
- f. Is the water user required to report the water use to the Department? **YES**
- g. Have the reports been submitted? **YES**, the Watermaster monitors the flows daily.

5. **Fish Screening and/or By-pass Devices**

a. Are any points of diversion required to be screened and/or have a by-pass device to prevent fish from entering the point of diversion? **YES**, approved screen system was part of the Columbia River Pump Plant and has been maintained since completion.

6. **Pump Test** (typically required for ground water uses prior to issuance of a certificate, but not a requirement of permit development) NA.

7. **Other Permit Conditions:**

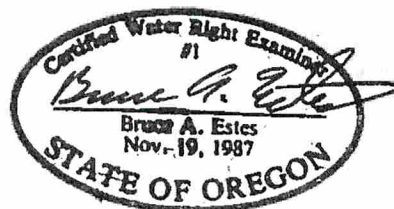
This is a very complicated and comprehensive control system. It requires coordination between ODF&W, CTUIR, WRD and USBR. To be successful the Bureau has many full time employees on the Umatilla for both phase I and II. All parties have been very cooperative. This should be considered a model for success.

#### **IV. Conclusions, Signatures**

##### **Permit and Transfer Final Order Rates and System Rates Comparisons:**

The system capacity is 252 cfs, but the authorized rate in the permit cannot be exceeded, therefore the rate must be limited to 240 cfs.

An inspection of the project developed under the terms and conditions of permit 51439 and exchange transfer T-6621E was made by me August 12 & 13, 2004, and the facts contained in this report and accompanying map are correct to the best of my knowledge.



I, Chet <sup>Sater</sup> Sager, agree with Mr Estes' findings and submit this site report and map as our claim of Beneficial Use of the water for permit 51439 and T-6621E and hereby request a water right certificate be issued.



Date 10/7/04

Chet <sup>Sater</sup> Sager, Acting Manager, Umatilla Project

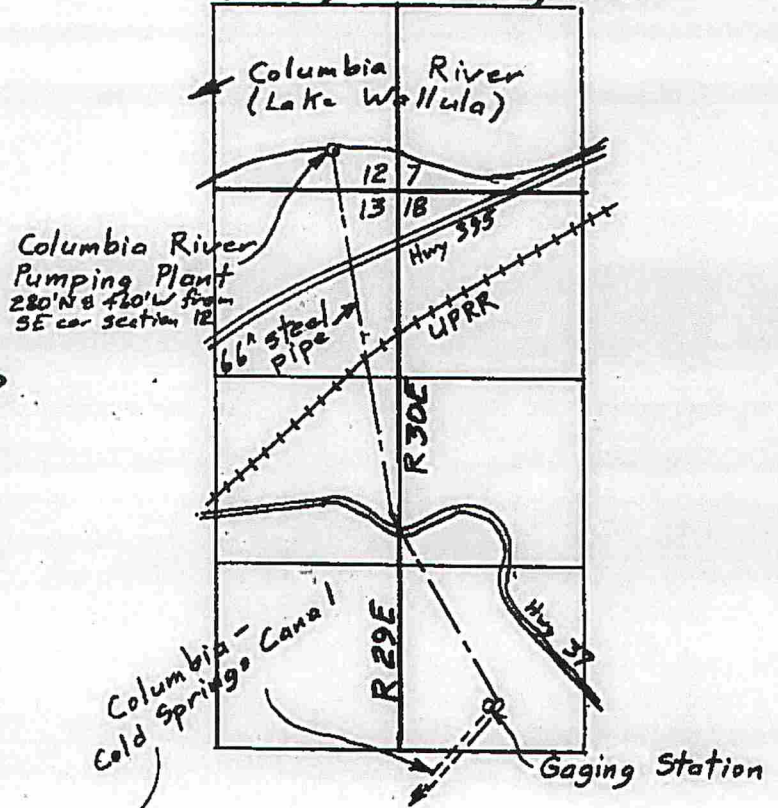
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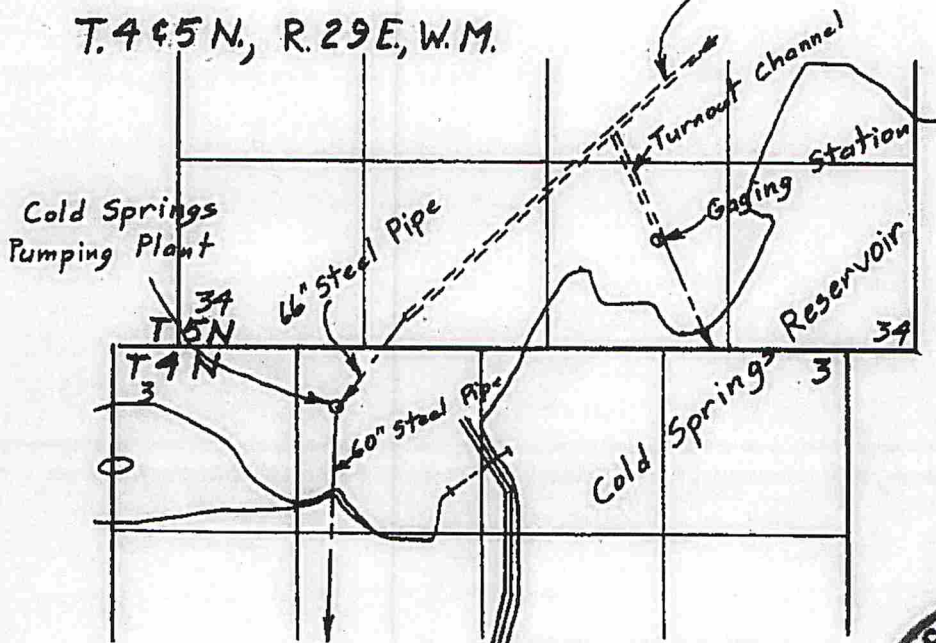
**WATER RESOURCES DEPT  
SALEM, OREGON**

Claim of Beneficial Use Map  
for  
U.S. Bureau of Reclamation  
Umatilla Project  
Phase II

T.5 N., R.29 & 30 E., W.M.



T.4 & 5 N., R.29 E., W.M.



Scale 1" = 1320'  
(4" = 1 mile)



Surveyed Aug 12 & 13, 2004

Application 71293  
Permit 51439  
& Transfer 6621E

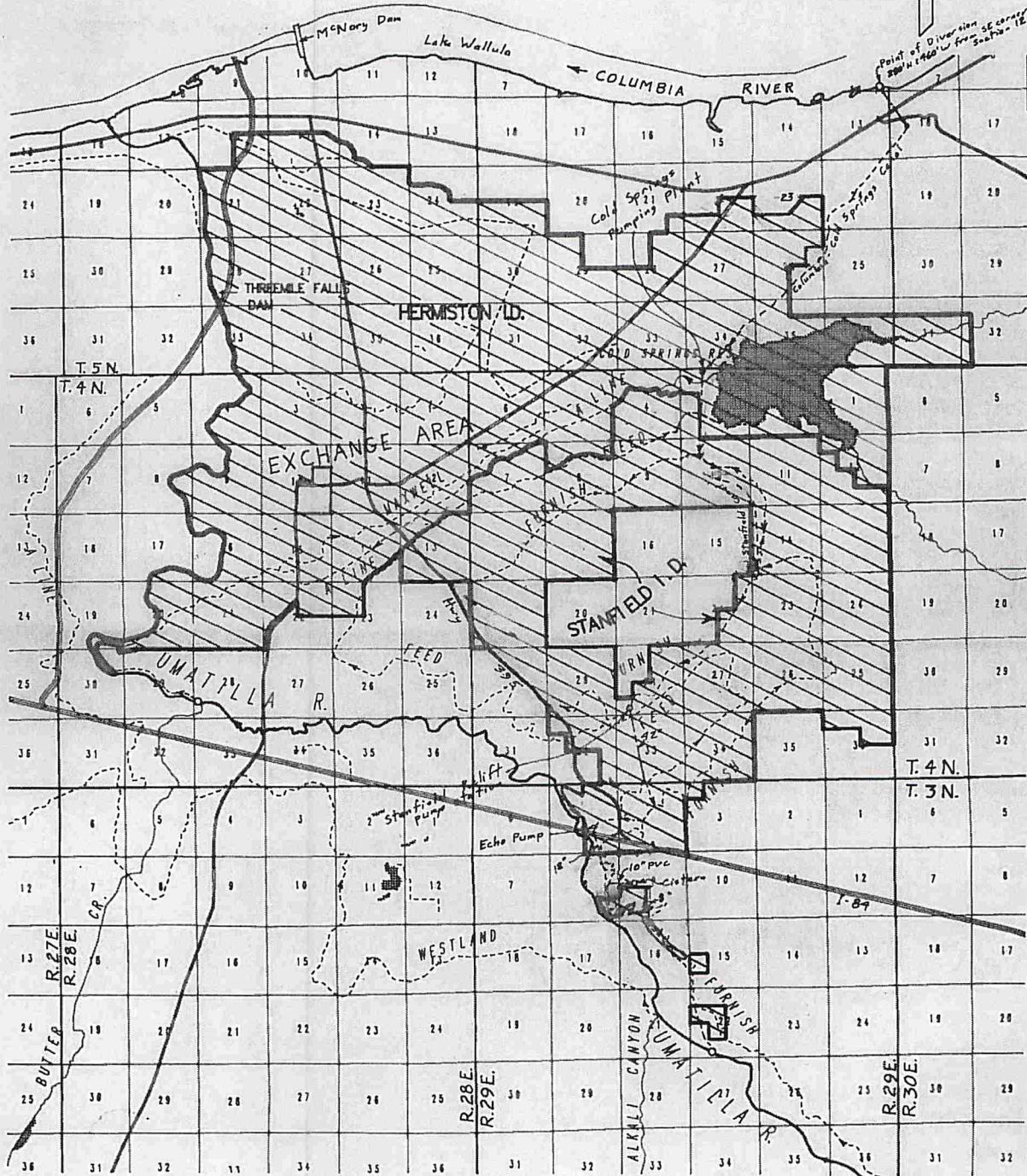


This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.

**ESTES SURVEYS**  
 PO Box 17519      50582 Arnold Rd  
 Salem, OR 97306-7519      Bend, OR 97702  
 (503) 865-7553      (541) 382-7391

# TOWNSHIPS 3,4 & 5 NORTH, RANGES 28,29 & 30 EAST, W. M.

Scale 1" = 8,000'



Surveyed Aug 12 & 13, 2004

Exchange benefits Umatilla River from SW 1/4 Sec 31, T.3N, R.30E, W.M. to the mouth.

**Claim of Beneficial Use Map**  
for  
**U.S. BUREAU OF RECLAMATION**  
**UMATILLA PROJECT**  
Phase II

Application 71293 Permit **51439**  
and Transfer T-6621E

This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.



**ESTES SURVEYS, L.C.**  
PO Box 17519 60382 Arnold Rd  
Salem, OR 97305-7519 Bend, OR 97702  
(503) 585-7593 (541) 382-7391



## Oregon Water Resources Department

### Memo

**To:** Files S-71293 and T-6621E  
**From:** Gerry Clark  
**Date:** January 25, 2018  
**Re:** Determination of Proof for Permit 51439 and Transfer T-6612E

---

The purpose of this memo is to document the Department's review of the Claim of Beneficial Use (CBU) for both Permit 51439 and Transfer T-6612E. Specifically, this memo documents compliance with conditions and the extent of use made under the permit and the transfer.

#### **Determination of Proof Under Permit 51439:**

##### 1. Compliance with Conditions

###### Time Limits

Begin Construction - The permit set the date by which the beginning of construction ("A" Date) must begin as April 21, 1993.

Per the CBU, construction of new gauging stations was completed between May 1992 and March 1993. Portions of the facilities were in place prior to the permit being issued. The construction of the Columbia River Pumping Plant began in 1993.

Complete Construction - The permit set the date by which the construction was required to be completed by ("B" Date) as October 1, 1996. This date was extended by order to October 1, 2001.

Per the CBU, the Columbia River Pumping Plant was completed August 6, 1996; the Cold Springs Pumping Plant was completed December 23, 1996; North Branch Furnish Canal Enlargement completed March 1996; Upper Furnish Canal and Echo system were completed fall of 1999; and the control system was completed October 2000.

Complete Application of Water - The permit set the date by which the complete application of water to beneficial use must be made ("C" Date) as October 1, 1996. This date was extended to October 1, 2001. All pumps ran at capacity on August 14, 15, and 16, 1998. The Claim states that the theoretical capacity of the system is 252 cfs.

Conclusion - Time limits met.

### Fish Screening

The permit stated, "The permit holder shall install, operate, and maintain fish screening devices to the specifications of the National Marine Fisheries Service prior to the diversion of water for beneficial use."

The CBU received November 12, 2004, indicated "...approved fish screen system was part of the Columbia River Pump Plant and has been maintained since completion."

Conclusion - This condition was met.

### 2. Established Rate

The CBU describes a total of 6 pumps at the pump station; four 2500 horsepower (hp) pumps, and two 1000 hp pumps. The total theoretical capacity of the pump station is listed as 252 cubic feet per second (cfs): 210 cfs from the four 2500 hp pumps and 42 cfs from the two 1000 hp pumps. The use of theoretical capacities to determine the rate of use for proof has been accepted by the Department.

Conclusion - The CBU demonstrates that the Columbia River Pumping Plant has the theoretical capacity to produce 252 cfs. The permit authorized a total of 240 cfs. The certificate should be issued for the full rate of the permit which is 240 cfs.

### **Determination of Proof Under Transfer T-6621E:**

#### 1. Compliance with conditions

##### Time Limits

The construction work and the exchange of waters were to be completed on or before October 1, 1997. The completion date was extended to October 1, 2001. All pumps ran at capacity on August 14, 15, and 16, 1998. The Claim states that the theoretical capacity of the system is 252 cfs.

Conclusion - Time limit met.

##### Gaging Stations and Oversight Committee Conditions

The Water Resources Department Watermaster, Greg Silbernagel, confirmed by memo dated October 20, 2017, that the following conditions have been met:

1. 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.

2. 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.
3. Prior to the exchange of water or adjustments on the exchange of water allowed under right, the BOR shall get approval from the Watermaster, and provide reasonable notice to the irrigation districts, ditch companies, and other parties that may be impacted. An emergency procedure will be developed by the Watermaster, BOR, and Oversight Committee.
4. The "Oversight Committee" established in the Final Environment Impact Statement (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 the 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.

The order contained a condition related to the perfection of water rights for the Umatilla River and McKay Reservoir storage releases:

Conclusion - Staff has reviewed the record and determined that the rights in question have been perfected.

#### Ultimate Conclusion for Permit 51439 and T-6621E

Water was used within the limitations of both the permit and the exchange (transfer). A certificate should be issued to confirm the use. A draft certificate is attached to the Commission Report as Attachment 5.

STATE OF OREGON  
 COUNTY OF UMATILLA  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF RECLAMATION  
 1150 N CURTIS RD SUITE 100  
 BOISE ID 83706-1234

confirms the right to the use of water perfected under the terms of Permit S-51439 and Exchange T-6621E. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBERS: S-71293 and T-6621E

SOURCE OF WATER: COLUMBIA RIVER, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE or USE: UMATILLA RIVER INSTREAM FLOW ENHANCEMENT THROUGH AN EXCHANGE WITH IRRIGATION WATER FROM THE UMATILLA RIVER. Such use is to implement the Bureau of Reclamation's (BOR) Umatilla Basin Project, Phase II, authorized by Congress as P.L. 100-557, Section 201 through 213, and shall be consistent with said legislation.

MAXIMUM RATE: 240.0 CUBIC FEET PER SECOND (CFS)

DATE OF PRIORITY: FEBRUARY 14, 1991

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	29 E	WM	12	SE SE	COLUMBIA RIVER PUMP SITE – 280 FEET NORTH AND 460 FEET WEST FROM SE CORNER, SECTION 12
Divert water at the Columbia River Pump Site, convey and release the waters in the Cold Springs Reservoir for use in the Hermiston Irrigation District; convey and release the waters into the Stanfield Irrigation District system.					

The water user shall operate and maintain fish screening devices to the specifications of the National Marine Fisheries Service.

**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 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

A description of the place of use is as follows:

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, Township 3 North, Range 30 East, W.M. to its confluence with the Columbia River, located in the SE 1/4 SE 1/4, Section 18, Township 5 North, Range 28 East, 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.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The total amounts of water that can be diverted from the Columbia River as described above shall not exceed 240.0 cfs and, when operating under the exchange, 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 Oregon 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 the Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation. Columbia River water will be pumped into Cold Springs Reservoir to replace the 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 equal to its legal historical average supply of Umatilla River and McKay Reservoir water. This amount shall not be greater than 34,700 acre-feet and shall be consistent with 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 flow needed for fish. These flow needs will be determined by the Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation.

To the extent permitted by federal law, the water user shall comply with the requirements of the Oregon Conservation Plan for the Umatilla River Basin as it is developed; and, to the extent that said plan prescribes compliance schedules to achieve conservation standards, the water users shall comply with said schedules.

The right to use water under this right is contingent upon the establishment and continued operation of a system to monitor and regulate all project related water supplies, as prescribed in Section 203 of P.L. 100-557.

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 Final Environment Impact Statement (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, installed with HYDROMET capabilities:

1. Allen Canal Nr. Echo
2. "A" line canal at Cold Springs Reservoir
3. Umatilla River at Umatilla Meadows Nr. Stanfield
4. Umatilla River Nr. Cottonwood Bend
5. 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 right, the BOR shall get approval from the Watermaster, and provide reasonable notice to the irrigation districts, ditch companies, and other parties that may be impacted. An emergency procedure will be developed by the Watermaster, BOR, and Oversight Committee.

The water right holder 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 releases from storage in McKay Reservoir under Bureau of Reclamation contracts and Oregon water rights.

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 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 the 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.

The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

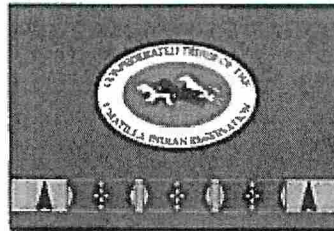
Issued \_\_\_\_\_.

---

Thomas M. Byler, Director  
Oregon Water Resources Department

**Confederated Tribes *of the*  
Umatilla Indian Reservation**

Board of Trustees



46411 Timine Way  
Pendleton, OR 97801

www.ctuir.org      email: bot@ctuir.org  
Phone 541-429-7030      Fax: 541-276-3095

April 19, 2018

Gerry Clark  
Water Right Services Division  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301

RECEIVED

APR 20 2018

OWRD

RE: Certificate for Permit 51439

Dear Mr. Clark:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) appreciates the opportunity to comment upon the certificate for permit 51439. Pursuant to our 1855 Treaty with the U.S., we retained an exclusive fishing right on rivers and streams running through and bordering our Reservation, and the right to fish at usual and accustomed fishing stations located outside our Reservation. Nonetheless, salmon runs were extirpated in the Umatilla River by damage to riparian habitat and diversions below our Reservation. As a result, by the 1920s the Umatilla Tribes' treaty reserved fishing right in the Umatilla River could not be exercised for lack of fish.

The CTUIR has worked for the past 40 years to restore Umatilla River salmon runs. We worked collaboratively with the Bureau of Reclamation, Oregon Department of Fish and Wildlife and Umatilla Basin irrigation districts for the enactment of the Umatilla Basin Project Act in 1988. Public Law 100-557, October 28, 1988, 102 Stat. 2791-2795. The Act had the purpose of "mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Extension, Westland and Stanfield Irrigation Districts." The Act authorized the Columbia River pumping plant upriver of McNary Dam and delivery infrastructure to provide water to the Hermiston and Stanfield Irrigation Districts in a bucket for bucket exchange which restored Umatilla River fish flows. Permit 51439 was issued to the Bureau of Reclamation to facilitate this exchange.

The Umatilla Basin Project Act contributed greatly to restoring Umatilla River salmon runs while improving water supply to three of the four Umatilla Basin irrigation districts. The Act resulted in the most successful salmon recovery program in the Columbia River Basin. Where we had few salmon returns in the 1980s, we now routinely experience the return of 17,000 – 18,000 salmon each year. The CTUIR concurs in the finding by the Water Resources Department that the Bureau of Reclamation has developed the full rate of 240 cfs and has met all conditions associated with permit 51439. We can also attest to the salmon restoration that occurred as a result of the beneficial use of this permit. Accordingly, the CTUIR supports the Commission's issuance of a certificate for this permit.



RECEIVED

APR 20 2018

OWRD

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Gary Burke".

Gary Burke  
Chairman, Board of Trustees