# BEFORE THE WATER RESOURCES DEPARTMENT

#### OF THE

#### STATE OF OREGON

In the Matter of Certificate 56350

- FINAL ORDER CORRECTING A
- ) SCRIVENER'S ERROR IN WATER
- ) RIGHT CERTIFICATE 56350

## Water Right Certificate Holder:

Warren S. Wiley 937 Loma Linda Drive, Klamath Falls, OR 97601

## **Findings of Fact**

- 1. Certificate 56350 was issued May 24, 2007 to describe the water right perfected under Permit S-44227.
- 2. On May 2, 1979, Wilma Boylston filed a water right permit application S-58606 and map with the Department. The application described the location of the use as Lot 6, Block S, Lake of the Woods. However, the point of diversion location is shown to be adjacent to Lot 3, Block S.
- 3. On July 13, 1980, the Department granted Permit S-44227 for the application.
- 4. On September 13, 1986, when Thompson M. Warren of the Department made a site visit, he discovered that Lot 6, Block S, Lake of the Woods was owned not by Wilma Boylston, but by another family named Lininger. Wilma Boylston owned Lot 3, Block S, three properties south, where the application map showed that the point of diversion was located.
- 5. Mr. Warren noted in his site report that the correct place of use for Wilma Boylston's Permit S-44227 was Lot 3 of Block S, not Lot 6. On February 18, 1987, he added a note to his site report, confirming the Lot 3 location, based on ownership records matching the permittee name, and indicating that when a certificate was issued, it should list the place of use as Lot 3.

This is a final 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 137-004-0080, you may 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.

- 6. Mr. Warren noted that Wilma Boylston had sold her cabin to her son-in-law Warren Wiley, and on March 10, 1987 Wilma Boylston submitted a request for assignment of Permit S-44227 to Warren S. Wiley. The Department acknowledged the assignment on March 17, 1987.
- 7. Despite the documentation in the water right file concluding the correct place of use was Lot 3, when the Department issued Certificate 56350 to Warren S. Wiley, on July 2, 1987, the certificate contained a scrivener's error by listing the place of use as Lot 6, rather than Lot 3.
- 8. The place of use in Certificate 56350, for the right perfected under Permit S-44227, contains an error that should be corrected in the water right record.

## Now, therefore, it is ORDERED:

1. Certificate 56350 is cancelled and Water Right Certificate 87665 is issued to supersede Certificate 56350, to correctly describe the place of use for the water right.

Dated at Salem, Oregon this 13 day of July, 2012.

Dwight French, Water Right Services Administrator, for

E. Timothy Wall for

PHILLIP C. WARD, DIRECTOR

Mailing date: <u>July 17,2012</u>