

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

UMATILLA COUNTY

IN THE MATTER OF CORRECTING THE)
WATER RIGHT EVIDENCED BY CERTIFICATE) FINAL O R D E R
31522 IN THE NAME OF SAMUEL CUMMINGS)

Findings of Fact

1. On July 7, 1986, the Department issued an order diminishing from irrigation to supplemental irrigation the right to use 0.10 cubic foot per second from a well appurtenant to 8.32 acres under Water Right Certificate 31522. The order, recorded in Special Order Volume 40, Page 206, canceled Certificate 31522 and authorized issuance of remaining right certificates for the affected lands as well as those not modified by the order.
2. The record owners of the 8.32 acres under Certificate 31522 that was diminished to supplemental had submitted a water right application to use surface water on the lands. The Department required the applicants to diminish the use of ground water to supplemental at the time of permit issuance. The Department issued Permit 49641 on June 30, 1986, and subsequently canceled Certificate 31522 on July 7, 1986.
3. Permit 49641 was not perfected and on July 9, 1990, the Department issued an order recorded in Special Order Volume 44, Page 307, canceling the permit.
4. The Department neglected to issue a remaining right certificate for the 8.32 acres either at the time it canceled Certificate 31522 or at the time it canceled Permit 49641.
5. The record owners have continuously applied the water right that was diminished to supplemental irrigation to beneficial use without injury to other water rights.

Now, therefore, it is ORDERED:

1. The water right evidenced by Certificate 31522 that was canceled and diminished to supplemental irrigation is reinstated to the status of irrigation.

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW OR RECONSIDERATION

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.

2. The Department shall issue Certificate 81147 to describe the water right.

Dated at Salem, Oregon this 24th day of January, 2005.



For Phillip C. Ward, Director