

**BEFORE THE WATER RESOURCES DIRECTOR OF OREGON  
WALLOWA COUNTY**

In the Matter of Cancellation of a Portion of a            )  
 Perfected and Developed Water Right in the            )        **FINAL ORDER**  
 Name of the Chamberlain Ditch Company                )

ORS 540.621 directs the Commission to enter an order canceling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

**Findings of Fact**

1. On July 23, 2003, the Department received an affidavit from James Smejkal, 42142 NW Palace Drive, Banks, Oregon, stating he is the owner of lands and the water right appurtenant as evidenced by Certificate 53087, State Record of Water Right Certificates. The affidavit further states a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled.
2. Pursuant to OAR 690-017-002(a), the Department has determined that James Smejkal is the record owner, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 53087 is appurtenant.
3. Certificate 53087 allows for the use of 38.09 cubic foot per second (cfs) of water and supplemental irrigation of 1409.3 acres. The date of priority is August 18, 1971.
4. The portion of Certificate 53087 which has been abandoned is for the use of 0.02 cfs from the Wallowa River, tributary to the Grande Ronde River, for supplemental irrigation of 0.9 acres located as follows:

TWP		RNG		MER	SEC	1/4	1/4	DLC	LOT	ACRES
1	N	42	E	W.M.	8	NE	NE			0.9

**Conclusions of Law**

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 53087 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

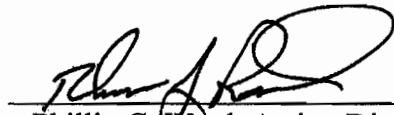
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

**Now, it is therefore ORDERED:**

1. Certificate 53087 is canceled.
2. The Department shall issue Certificate 80877, a new and superseding certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated at Salem, Oregon this 9<sup>th</sup> day of August, 2004.

  
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For Phillip C. Ward, Acting Director