

Oregon Department of Water Resources

In the Matter of a Request for)
Reconsideration of Certificate of) Final Order in Other than a
Water Right No.'s 80368, 80369 and) Contested Case
80370)

On August 6, 2003, the Water Resources Department (Department) issued Final Orders in Other than a Contested Case described as Certificate of Water Right Numbers 80368, 80369 and 80370. The Certificates describe the extent use of water, to the satisfaction of the Department, was perfected under the terms of Permit Numbers 34598, R-1678 and 23218. The holder of the Permits and Certificates is Adel Water Improvement District. Within 60 calendar days after the date of the order, any party may Request Reconsideration of a Final Order in Other than a Contested Case.

On October 3, 2003, Laura A. Schroder, Attorney for Petitioners Fitzgerald Ranch Incorporated, Laird Land Company, LLC, Con Fitzgerald and Sally Fitzgerald, filed a Request for Reconsideration with the Department. The Request for Reconsideration asserts the Certificates require conditions to affect those findings and conclusions of law as established by the Circuit Court of Lake County, contained a Decree entered October 13, 1954.

FINDINGS OF FACT

1. On October 13, 1954, the Circuit Court of Lake County entered a Decree and directed the State Engineer to issue permits in approval of Application No's R-25395 and 25396, subject to conditions contained in the Decree.
2. Permit No. R-1678, was issued in approval of Application No. R-25395 allowing for the construction of Greaser Lake Reservoir and storage of 10,000 acre-feet of water on March 21, 1955.
3. Permit No. 23218, was issued in approval of Application No. 25396 allowing for the use 10,000 acre-feet of water from Greaser Lake Reservoir constructed under Permit No. R-1678 on March 21, 1955.
4. Permit No. 34598, was issued in approval of Application No. 44120 allowing for the use of 75.6 cubic feet per second of water from Deep Creek and Twenty Mile Creek on May 7, 1970.
5. Permit No.'s R-1678 and 23218 contain no reference to the October 13, 1954, Decree of the Lake County Circuit Court.
6. The use of water under Permit No. 34598, is subject to the provisions of the Decree of the Circuit Court for Lake County entered October 13, 1954, concerning passage of water into Hart Lake.

This is a final order 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.

7. Water Right Certificate No. 80368, describes a right to appropriate 73.73 cubic feet per second of water from Deep Creek and Twenty Mile Creek, for irrigation and supplemental irrigation of 2945.5 acres of land in Lake County, Oregon.
8. The use of water under Water Right Certificate No. 80368 is subject to the provision, not provisions, of a Decree of the Circuit Court for Lake County entered October 13, 1954.
9. Water Right Certificate No. 80369, describes a right to store 10,000 acre-feet of water in Greaser Lake Reservoir from Twenty Mile Creek, for irrigation, in Lake County, Oregon.
10. Water Right Certificate No. 80370, describes a right to appropriate 10,000 acre-feet cubic feet per second of water from Greaser Lake Reservoir, for irrigation and supplemental irrigation of 2495.6 acres of land in Lake County, Oregon.
11. No reference to the Decree of the Circuit Court for Lake County entered October 13, 1954, is contained in Water Right Certificates No.'s 80369 and 80370.
12. Water Right Certificate Numbers 80368, 80369 and 80370, were dated, issued and mailed to Adel Water Improvement District on August 6, 2003. Water Right Certificate Numbers 80368, 80369 and 80370 are Final Orders in Other than a Contested Case.
13. Upon the filing of a Petition for Reconsideration, the Department may, reconsider any Final Order in Other than a Contested Case.

ULTIMATE FINDINGS OF FACT

Water Right Certificate Numbers 80368, 80369 and 80370 are Final Orders in Other than a Contested Case. A Petition for Reconsideration was filed with the Department within 60 days from the date of the Final Orders.

CONCLUSIONS OF LAW

Oregon Administrative Rule 137-004-0080 allows the Department to file Requests for Reconsideration of Final Orders in Other than Contested Case and to grant reconsideration of a Final Order.

ORDER

The Department hereby reconsiders and withdraws Final Order Water Right Certificate Numbers 80368, 80369 and 80370 in the name of Adel Water Improvement District and the Final Order Certificate Numbers 80368, 80369 and 80370 are of no force or effect.

Dated this 2nd, day of December, 2003.



Paul R. Cleary, Director
Water Resources Department