

BEFORE THE STATE ENGINEER OF OREGON

IN THE MATTER OF THE)
CANCELANION OF A WATER)
RIGHT IN THE NAMES OF)
R. C. AND C. F. HEAD)

ORDER DISMISSING
PROCEEDINGS

On July 8, 1970, notice was given under the provisions of ORS 540.631 to R. C. and Decelia F. Head, owners of record, and to L. E. and Ines Elena Traweek, contract purchasers of real property to which a certain water right is appurtenant, of the initiation of a proceedings for cancelation of the said certain water right.

The water right in question is for the use of not to exceed 0.375 cubic foot per second of water from the waters of Cow Creek, a tributary of the South Umpqua River, for irrigation of 8.6 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 9.4 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28 and 11.9 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 33, Township 31 South, Range 4 West, W.M., with a priority date of July 28, 1950, evidenced by the certificate of water right recorded at page 20184, Volume 14, State Record of Water Right Certificates, in the names of R. C. and C. F. Head.

On July 21, 1970, a copy of the above described notice was given by regular mail to Mr. Forrest J. Bethel, reported contract purchaser of the real property from L. E. and Ines Elena Traweek.

On August 6, 1970, a protest in the name of Forrest J. Bethel was filed in the office of the State Engineer by Warren A. Woodruff of the firm of Luoma, Kelley and Woodruff, Attorneys at Law, Roseburg, Oregon, against the proposed cancelation of the water right in question.

On September 29, 1970, notice was given to Forrest J. Bethel and to the firm of Luoma, Kelley and Woodruff of a hearing before the State Engineer of Oregon on the protest of Forrest J. Bethel against the proposed cancelation of the water right in question, to be held in Roseburg, Oregon, on December 2, 1970.

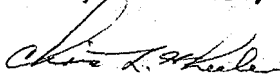
Due to inability of witnesses to appear at the time and place fixed for hearing, notice was given to Forrest J. Bethel and to the firm of Luoma, Kelley and Woodruff on November 23, 1970, that the scheduled hearing had been canceled.

A principal witness for cancelation no longer being available to testify at a hearing before the State Engineer, an investigation in the field was made by an employee of the State Engineer on July 20, 1971. An irrigation system capable of irrigating the lands under the water right in question was in existence on the date of the said inspection and on that date water was being applied to a portion of the said land.

Based on discussions with proponents of cancelation, interviews with residents of the neighborhood, and the July 20, 1971, inspection, it appears there is not sufficient evidence to meet burden of proof to justify taking the matter to hearing and, therefore, the matter should be dismissed without prejudice.

NOW, THEREFORE, it hereby is ORDERED that in the matter of the proposed cancelation of the water right for appropriation of not to exceed 0.375 cubic foot per second of water from Cow Creek, with a priority date of July 28, 1950, for irrigation of 8.6 acres in the NE¼ SW¼, 9.4 acres in the SE¼ SW¼, Section 28 and 11.9 acres in the NW¼ NE¼, Section 33, Township 31 South, Range 4 West, W.M., evidenced by the certificate recorded at page 20184, Volume 14, State Record of Water Right Certificates, in the names of R. C. and C. F. Head, the proceedings be and the same is hereby dismissed without prejudice.

Dated at Salem, Oregon, this 5th day of October, 1971.


CHRIS L. WHEELER
State Engineer