

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF CANCELLATION )  
OF A WATER RIGHT IN THE NAME )  
OF ELMER E. BAGLEY FOR USE OF )  
WATERS OF WARDS CREEK )  
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ORDER CANCELING  
WATER RIGHT

In the Matter of the Determination of the Relative Rights to Use of the Waters of the Rogue River and Its Tributaries, the decree of the Court allowed the following rights in the name of Elmer E. Bagley:

(a) Not to exceed 2.5 cubic feet per second from Wards Creek under a priority date of 1901, for mining in Tract No. 1, being placer mines in W $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 1, Township 36 South, Range 4 West, W.M.

(b) Not to exceed 2.5 cubic feet per second from Wards Creek under a priority date of 1901, for mining in Tract No. 2, being placer mines in W $\frac{1}{2}$  SE $\frac{1}{4}$  and W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 1, Township 36 South, Range 4 West, W.M.

(c) Not to exceed 0.42 cubic foot per second from Wards Creek under a priority date of 1889, for irrigation in Tract No. 3, being 4 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 18 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 12, Township 36 South, Range 4 West, W.M.

all as described by the certificate issued to Elmer E. Bagley and recorded at page 16171, Volume 13, State Record of Water Right Certificates.

Only that portion of the above described right for appropriation of not to exceed 0.06 cubic foot per second of water from Wards Creek under a priority date of 1889 for irrigation of a certain 0.2 acre in NE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3.4 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 12, Township 36 South, Range 4 West, W.M., is not in question in this proceeding.

On December 12, 1979, notice pursuant to the provisions of ORS 540.631 was given to Annebelle & C.H. Greathouse, Jr., Donald D. & Frances L. Erickson, and Ray F. & Donna M. Vallier, c/o John A. Duke Trust; to Annebelle & C.H. Greathouse, Jr., and Frances L. Erickson, c/o Donald D. Frederick and Valerie J. Frederick; to Annabelle & C.H. Greathouse, Jr., and Frances L. Erickson, c/o John & Pauline Dunlap; and to District Manager, U.S. Department of the Interior, Bureau of Land Management, Medford, Oregon, as owners of record, contract purchasers and/or occupants of the real property to which the water rights described in paragraphs (a) and (b) are appurtenant, of the proposed cancellation of said water rights.

None of the said parties given notice on December 12, 1979 has filed a protest against the proposed cancellation.

With reference to the right described by paragraph (c) above, affidavits have been received from Olen and Cora Boring, Dale L. and Ada H. Winder, Delbert L. and Joanna L. Schultz, Melvin W. and Luzena E. Lewis, Mary J. Sutter, George and Mary Ann Shefcheck, Edward J. and Patsy L. Parker, Frank M. Straus, and Earlston B. and Esther V. Burnham, as owners of record or contract purchasers of real property to which portions of the said water right are appurtenant, that they have abandoned any and all interest they may have in said water right and authorize the Water Resources Director to cancel the said right as it may apply to their property.

Also with reference to the water right described by paragraph (c) above, on December 6, 1979 and on March 27, 1980, notice pursuant to the provisions of ORS 540.631 was given to Henry and Laura Hall, to E. and Wathagene Bailey, and to Evan H. and Bette Joyce White, as owners of record of real property to which the balance of the said water right in question is appurtenant, of the proposed cancellation of the said water right as it applies to their properties.

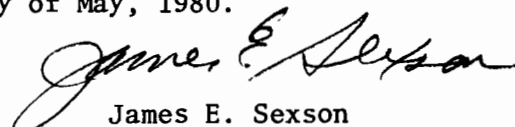
None of said parties has filed a protest against the proposed cancellation of the subject water right.

Pursuant to the provisions of ORS 540.621 and 540.641(1), the water right in question should be canceled.

NOW, THEREFORE, it is ORDERED that the rights described by paragraphs (a) and (b) above, and that portion of the right described in paragraph (c) above, for appropriation of not to exceed 0.36 cubic foot per second from Wards Creek under a priority date of 1889, for irrigation of a certain 3.8 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 14.6 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3.0 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 12, Township 36 South, Range 4 West, W.M., be and the same hereby is canceled.

It is FURTHER ORDERED that the certificate issued in the name of Elmer E. Bagley and recorded at page 16171, Volume 13, State Record of Water Right Certificates, is canceled, and that a new certificate be issued to Wesley G. and Catherine L. Templin, to describe the remaining right for the appropriation of not to exceed 0.06 cubic foot per second from Wards Creek under a priority date of 1889, from a point of diversion located 1345 feet North and 1805 feet East from the Southwest Corner of Section 12, being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 12, Township 36 South, Range 4 West, W.M. for irrigation of a certain 0.2 acre in NE $\frac{1}{4}$  SW $\frac{1}{4}$  and 3.4 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 12.

Dated at Salem, Oregon this 29th day of May, 1980.

  
James E. Sexson  
Director *swe*