

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE)
CANCELANATION OF A RIGHT)
TO THE USE OF WATER FOR)
THE DEVELOPMENT OF POWER.)

ORDER

Certificate of water right issued to Milton Nursery Company and recorded at page 1445, Volume 2, State Record of Water Right Certificates, confirms a right under Permit No. 1303, to the use of water of Walla Walla River for the development of power and the irrigation of 40 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1, Township 5 North, Range 35 East, W. M., and 13 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 6 North, Range 35 East, W. M., with a date of priority of July 24, 1912.

The Milton Nursery Company has failed for a period of five successive years ending after August 20, 1957, to pay the annual license fee as required by ORS 543.710. ORS 543.730 provides that the failure of any claimant for a period of five successive years ending after August 20, 1957 to pay the annual license fee as required by ORS 543.710, shall be conclusive evidence of the abandonment by the claimant of the claim and of all right to water for power purposes in connection with such claim. Said section also provides that when a claim is abandoned under the above provisions, the State Engineer shall cancel the claim on the records of his office.

Mr. M. J. Belton, Watermaster of District No. 5, has filed a statement to the effect that the right to the use of water for the irrigation of 40 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1, Township 5 North, Range 35 East, W. M., and 13 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 6 North, Range 35 East, W. M., is still being exercised.

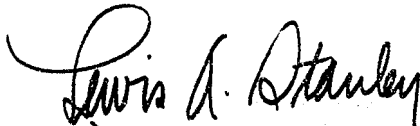
It appearing that the right to the use of water for the development of power has been abandoned and the right to the use of water for irrigation

is still being exercised, the certificate of water right heretofore issued to Milton Nursery Company and recorded at page 1445, Volume 2, State Record of Water Right Certificates, should be canceled and a new certificate of water right issued to Milton Nursery Company covering the use of water for irrigation purposes.

NOW, THEREFORE, it hereby is ORDERED that certificate of water right heretofore issued to Milton Nursery Company and recorded at page 1445, Volume 2, State Record of Water Right Certificates, be and the same is canceled and that a new certificate of water right shall be issued to Milton Nursery Company covering the use of water for the irrigation of 40 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 40 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1, Township 5 North, Range 35 East, W. M., and 13 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 6 North, Range 35 East, W. M., with a date of priority of July 24, 1912.

Dated at Salem, Oregon this 30th day of March 1959.

*Noted on Cert. # 1445
Cert. # 26675 issued
to confirm this order.*


LEWIS A. STANLEY
State Engineer

Power Claim # 253