

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of a Partial Cancellation of Water)
Right Certificate 40469, in the name of Ralph and) **FINAL ORDER**
Opal Kester, Polk County)

Authority

ORS 540.621 directs the Commission to enter an order cancelling a water right whenever the owner of a perfected and developed water right certifies that the water right has been abandoned by the owner and the owner desires to cancel the right or portion thereof.

Findings of Fact

1. On August 11, 2014, the Department received an affidavit from Roger Olsen, on behalf of Jenks Olsen Land Co., 8930 Suver Road, Monmouth, OR 97361, stating they are the owners of the land and the appurtenant water right evidenced by Certificate 40469.
2. Pursuant to OAR 690-017-0100(2)(a), the Department has determined Jenks Olsem Land Co. is the recorded owner, as established by county deed records, of the water right evidenced by Certificate 40469.
3. Certificate 40469 allows for the use of not more than 0.10 cubic foot per second (cfs) from Berry Creek for fish culture and recreation, and 6.0 acre feet (AF) stored water from the reservoir constructed under Permit R-5715 for supplemental irrigation of 3.9 acres. The date of priority is August 17, 1970.
4. The affidavit requests cancellation of 6.0 AF from the reservoir for supplemental irrigation of 3.9 acres at the location identified in the table below:

Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	5 W	WM	2	NE SW	3.9

Conclusions of Law

The Director of the Water Resources Department concludes the portion of the right evidenced by Certificate 40469 has been abandoned in accordance with the provisions of ORS 540.621 and shall be cancelled.

Now, therefore, it is ORDERED:

1. Certificate 40469 is cancelled.

This is a final 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 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

2. The Department shall issue a new and superseding certificate to describe the remaining portion of the water right NOT cancelled by the provisions of this order.

Dated at Salem, Oregon this 12th day of September, 2014.



E. Timothy Wallin, Water Right Program Manager for
DIRECTOR, Oregon Water Resources Department

Mailing date: SEP 12 2014