

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION OF A)
PORTION OF A PERFECTED AND)
DEVELOPED WATER RIGHT IN THE NAME) FINAL O R D E R
OF GRANTS PASS IRRIGATION DISTRICT -)
CERTIFICATE 80971)

ORS 540.621 directs the Commission to enter an order canceling a water right whenever the owner of a perfected and developed water right certifies under oath to the Commission that the water right has been abandoned and the owner desires to cancel the right.

Findings of Fact

1. On November 1, 2004, the Department received affidavits from Marilyn Flanagan and Gerald Schulte, stating they are the owner of lands and the water right appurtenant as evidenced by Certificate 80971, State Record of Water Right Certificates. The affidavits further state a portion of the water right appurtenant to their property has been abandoned and request the certificate be canceled.
2. Pursuant to OAR 690-017-002(a), the Department has determined that Marilyn Flanagan and Gerald Schulte are the record owners, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 80971 is appurtenant.
3. Certificate 80971 allows for the use of up to 112.722 cubic feet per second (cfs) of water from the Rogue River and specified tributaries. The maximum allowable diversion from the Rogue River is 112.722 cfs; being 73.268 cfs under a September 29, 1916, priority date and 39.454 under an August 21, 1987, priority date. The right also allows the use of 4.53 cfs from Jones Creek, 3.78 cfs from Fruitdale Creek, 3.78 cfs from Gilbert Creek, 4.53 cfs from Sand Creek, and 2.26 cfs from Sparrowhawk Creek, with the total diversion not to exceed 112.722 cfs from all sources.
4. The portion of Certificate 80971 which has been abandoned is for the use of 0.021 cfs for irrigation of 1.09 acres described as follows:

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW OR RECONSIDERATION

This is a final order in other than 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 either 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.

TWP	RNG	MER	SEC	¼	¼	DLC	LOT	TAX LOT	ACRES	
36	S	5	W	WM	16	NE	SW	3	505	0.10
36	S	5	W	WM	16	NE	SW	3	507	0.10
36	S	5	W	WM	16	NE	SW	3	508	0.24
36	S	5	W	WM	19	NE	NW	2	1901	0.50
36	S	5	W	WM	19	NE	NW	2	2100/2190	0.15
										1.09

Conclusions of Law

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 80971 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. The water rights appurtenant to the lands described in Finding of Fact #4 are canceled and the Department's records shall be modified accordingly.
2. The Department shall issue a new water right certificate on a determination that it is necessary to produce a certificate describing the water right.

Dated at Salem, Oregon this 22nd day of February, 2005.



For Phillip C. Ward, Director