

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

UMATILLA COUNTY

In the Matter of the Reconsideration of)
Certificate 84110) FINAL ORDER
)
)

Findings of Fact

1. Certificate 84110 was issued June 13, 2008. The certificate describes the water right evidenced by Certificate 46 remaining after a voluntary cancellation of a portion of the right by the water right holder.
2. The voluntary cancellation was requested by the Water Right holder to clear the way to confirm a ground water right under Transfer 9830.
3. The voluntary cancellation was approved by an order of the Water Resources Director entered June 13, 2008, at Special Order Volume 75, Page 26.
4. Hudson Bay District Improvement Company (HBDIC) submitted a petition in accordance with ORS 541.325 to 541.333 on June 30, 1993. The petition was approved by an order of the Water Resources Director entered March 26, 2008, at Special Order Volume 74, Page 455.
5. Certificate 83980 was issued March 26, 2008. The certificate describes the portion of the water right evidenced by Certificate 46 remaining after approval of the HBDIC petition.
6. Certificate 83981 was issued March 26, 2008. The certificate describes the portion of the water right evidenced by Certificate 46 diminished by the HBDIC petition.
7. The HBDIC petition approval order and certificates were withdrawn by an order of the Water Resources Director entered May 15, 2008, at Special Order Volume 74, Page 888.
8. Certificates 83980, 83981, and 84110 describe portions of the same water right differently, based on separate water right actions taken by the Department.

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 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.

9. A portion of the right described by Certificate 46 was diminished as a result of the HBDIC petition. A portion of the right was cancelled as a result of the voluntary cancellation request.
10. OAR 137-004-0080(5) provides that, "Within 60 calendar days after the date of the order, the agency may, on its own initiative, reconsider the final order. If a petition for judicial review has been filed, the agency must follow the procedures set forth in ORS 183.484(4) before taking further action on the order. The procedural and substantive effect of granting reconsideration under this subsection shall be identical to the effect of granting a party's petition for reconsideration."
11. The Department determined that the issuance of the voluntary cancellation order and Certificate 84110 should be reconsidered.
12. The Department determined the voluntary cancellation is valid and the order should remain in effect.
13. The Department determined that Certificate 84110 should be cancelled.
14. The voluntary cancellation order requires "A new certificate shall be issued describing the portion of the water not cancelled as a part of this proceeding."
15. The remaining right certificate required by the voluntary cancellation order may be incorporated in certificates issued in accordance with the approval of the HBDIC petition.

Now, therefore, it is ORDERED:

1. Certificate 84110 is cancelled and of no further force or effect.
2. The remaining right certificate required by the voluntary cancellation order shall be incorporated in the appropriate certificate issued as a result of the approval of the Hudson Bay District Improvement Company petition.

Issued: JUL 0 9 2008


Phillip C. Ward, Director