

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BAKER COUNTY

IN THE MATTER OF CANCELLATION OF A )  
PORTION OF A PERFECTED AND ) FINAL O R D E R  
DEVELOPED WATER RIGHT IN THE NAME )  
OF THOMAS & KAREN BROCK )

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 FACTS

1. On September 5, 2002, the Department received an affidavit from Charles W. and Marcella Haines stating they are the owners of lands and the water right appurtenant as evidenced by Certificate 73622, State Record of Water Right Certificates. The affidavit further states a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled.
2. Pursuant to OAR 690- 017-002(a), the Department has determined that Charles W. and Marcella Haines are the record owners, as established by county deed records, of the property to which a portion of the water right evidenced by Certificate 73622 is appurtenant.
3. Certificate 73622 allows for the use of 11.3 cubic feet per second (cfs) of water from Rock Creek, Sand Creek, Pine Creek and Willow Creek, tributaries to the Powder River, for irrigation of 352.8 acres and supplemental irrigation of 99.1 acres in: Section 32, Township 7 South, Range 39 East, W.M.; and Sections 8, 9, and 10, Township 8 South, Range 39 East, W.M. The dates of priority are: 1874 for Sand Creek, 1865 for Rock Creek, 1897 and 1903 for Pine Creek, and 1906 for Willow Creek.
4. The portion of Certificate 73622 which has been abandoned is for the use of 0.075 cfs from Sand Creek, for irrigation of 3.0 acres located in Tax Lot 200, SE¼ NW¼, Section 32, Township 7 South, Range 39 East, W.M.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

CONCLUSIONS OF LAW


The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 73622 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED:

1. The portion of Certificate 73622 which has been abandoned and is hereby canceled is for the use of 0.075 cfs from Sand Creek, for irrigation of 3.0 acres located in Tax Lot 200, SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 32, Township 7 South, Range 39 East, W.M. The date of priority is 1874.
2. Certificate 73622 is canceled
3. The Department shall issue Certificate 78855, a new and superseding certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated     JAN 15 2003    .

  
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Paul R. Cleary, Director