

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

In the Matter of Cancellation of Certificate )  
 80735, a Perfected and Developed Water ) RECONSIDERATION AND  
 Right Issued in the Name of Grants Pass ) MODIFICATION OF FINAL ORDER  
 Irrigation District, Josephine County, )  
 Oregon )

ORS 540.621 establishes the process by which the owner of a perfected and developed water right requests cancellation of the water right. OAR Chapter 690, Division 017 implements the statute and provides the Department's procedures for canceling the water right. OAR Chapter 137, Division 004, describes the process for reconsideration of an order in other than contested case.

**Petitioners**

Cliff and Diane Combs  
 100 Tuttle Court  
 Rogue River, OR 97537

**Findings of Fact**

1. On October 4, 2004, the Department issued an order canceling Water Right Certificate 80735 issued in the name of Grants Pass Irrigation District. The order is recorded at Special Order Volume 61, Page 602. Pursuant to ORS 540.621, the order was issued in response to 41 affidavits received from land owners requesting cancellation of the portion of the water right appurtenant to their land. The Department issued Certificate 80971 to describe the remainder of the water right not canceled by the order.
2. Petitioners Cliff and Diane Combs filed a timely petition for reconsideration of the order canceling Certificate 80735. The petition requested reconsideration of the order canceling the water right appurtenant to their land, and was received in the Office of the Water Resources Department, Salem, Oregon on November 1, 2004.
3. On September 29, 2003, Mary Ellen Smith submitted an affidavit requesting cancellation of the water right appurtenant to the land described as follows:

ADDRESS	TWP	RNG	SEC	1/4 -1/4	TAX LOT	ACRES
100 Tuttle Ct., Rogue River, OR 97537	36 S	4 W	15	NE SW	600	0.10

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

This description of the water right is listed in Table 1 of the order canceling Certificate 80735.

4. The Combs' purchased the property from Mary Ellen Smith on July 19, 2004.
5. Pursuant to OAR 690-017-0100, the record owners of land to which the water right is appurtenant are authorized to request cancellation of the water right. The Combs' were the record owners of the land on October 4, 2004, when the order canceling the appurtenant water right was entered. The Combs' requested reconsideration of the order canceling the water right appurtenant to their land because they did not authorize cancellation of the water right and desire to retain the water right.


### Conclusions of Law

1. Pursuant to ORS 183.484, the petitioner's are adversely affected by the order, and as such may petition the Director for reconsideration of the order under OAR Chapter 137, Division 004.
2. Under ORS 540.621 and OAR 690-017-0100, the record owner of land may request the Department to cancel an appurtenant, perfected and developed water right.

### Now, therefore, it is ORDERED:

1. The order canceling Certificate 80735 and entered at Special Order Volume 61, Page 602 is withdrawn and modified to delete the request to cancel the water right appurtenant to the land described in *Finding of Fact #3*.
2. All remaining portions of the order canceling Certificate 80735 are affirmed and the order, as modified, issues.
3. The record of water rights maintained by the Department shall show the water right appurtenant to the land described in *Finding of Fact #3* as a valid, non-canceled water right.
4. The Department shall issue a water right certificate, incorporating the modification made to the water right by this order, when it determines it is necessary to produce a certificate describing the water right or at such time as the district or users within the district request issuance of a certificate.

Dated at Salem, Oregon this 8<sup>th</sup> day of December, 2004.

  
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For Phillip C. Ward, Director

Mailing date: DEC 20 2004