

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF)
THE CANCELATION)
OF A WATER RIGHT)

O R D E R

On May 23, 1972, George W. Johnston and Eva L. Durham submitted separate affidavits that they are the owners of the south half and the north half respectively, of the following described land:

Commencing at the Northwest corner of Section 21, Township 1 South, Range 32; thence South 0° 16' East along the West line of said Section 21, a distance of 2239.83 feet; thence North 89° 24' East a distance of 30 feet to the East right of way line of County road No. 842-1/2, said point also being the Northwest corner of that tract conveyed to James W. Douthit, et ux, by Deed recorded in Book 245, Page 38, Deed Records, Umatilla County, Oregon, and the point of beginning of this description; thence North 89° 24' East along the North line of said Douthit tract 1303.55 feet to the East line of the West Half of the Northwest Quarter of said Section 21; thence Northerly along the East line of said subdivision 463 feet; thence South 89° 24' West and parallel with the North line of said Douthit tract 1304.26 feet to the East line of County Road No. 842-1/2; thence South 0° 16' East along the said East line 463 feet to the point of beginning.

All being East of the Willamette Meridian, in the County of Umatilla and State of Oregon;

and the water right appurtenant thereto; that they have abandoned any and all interest in and to the said water right and request the same to be canceled.

The water right in question is part of that evidenced by the certificate recorded at Volume 3, page 2627, State Record of Water Right Certificates, and is for the appropriation of not to exceed 0.04 cubic foot per second of water from East Birch Creek with a priority date of 1895 for irrigation of 3.3 acres in the SW¼ NW¼, Section 21, Township 1 South, Range 32 East, W.M., as established by Decree of the Circuit Court for Umatilla County entered September 9, 1916 in the name of A. J. Sturtevant.

That part of the water right evidenced by said certificate for the appropriation of not to exceed 1.45 cubic feet per second of water from East

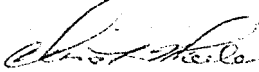
Birch Creek for irrigation of 115.7 acres, domestic and stock, with a priority date of 1873 for irrigation of 20 acres, 1882 for irrigation of 50 acres, and 1895 for irrigation of 45.7 acres, being 31 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 35 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16; 1.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 10 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17; 18.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 7.7 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21; 2 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 8.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 9, Township 1 South, Range 32 East, W.M., is not in question in this proceeding.

ORS 540.621 provides that: "Whenever the owner of a perfected and developed water right certifies under oath to the State Engineer that the water right has been abandoned by him and that he desires cancelation thereof, the State Engineer shall enter an order canceling the water right."

NOW, THEREFORE, it hereby is ORDERED that the water right for the use of 0.04 cubic foot per second of water from East Birch Creek with a date of priority of 1895, for irrigation of 3.3 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 1 South, Range 32 East, W.M., is canceled.

It is FURTHER ORDERED that the certificate of water right recorded at Volume 3, page 2627 is canceled and in lieu thereof a new certificate be issued to A. J. Sturtevant covering that part of the water right not in question which is for the appropriation of not to exceed 1.45 cubic feet per second of water from East Birch Creek for irrigation of 115.7 acres, domestic and stock, with a priority date of 1873 for irrigation of 20 acres, 1882 for irrigation of 50 acres, and 1895 for irrigation of 45.7 acres, being 31 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 35 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16; 1.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 10 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and 1.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17; 18.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 7.7 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21; 2 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 8.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 9, Township 1 South, Range 32 East, W.M.

Dated at Salem, Oregon this 3rd day of June, 1975.


CHRIS L. WHEELER
State Engineer