

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

In the Matter of Withdrawing Loss of Right) **SUPERSEDING ORDER ON**
Order for Transfer Application T-7974, Baker) **RECONSIDERATION**
County

Authority

Oregon Administrative Rule 690-380-6010(2) provides that any part of a transferred water use that is not applied to beneficial use under the terms of the transfer order for change in use or place of use, or within any extension of time allowed for completion, is lost.

ORS 536.075(2) and OAR 137-003-0675 describe the process for reconsideration of an order in a contested case.

Applicant

INMAN RANCH, LLC
2109 CASCADE COURT
ANACORTES, WA 98221

Background

1. On September 28, 2021, the Department issued an order on “Reconsideration of a Final Order Recorded in Special Order Volume 120, Pages 539-545, Withdrawing a Final Order.” This order on reconsideration was recorded in Special Order Volume 121, Pages 719-720.

2. On December 7, 2021, the Department realized the order issued on September 28, 2021 had incomplete findings of fact and an incorrect conclusion of law. The conclusion of law incorrectly incorporated the final order on loss of right in Special Order Volume 120, Pages 539-545, instead of withdrawing the final order on loss of right. It was the Department’s intent to withdraw the final order on loss of right issued on May 12, 2021, and recorded at Special Order Volume 120, Pages 539-545.

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 137-004-0080, you may 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.

3. This superseding order on reconsideration is being issued to replace the Findings of Fact, Conclusions of Law and Order as stated in the final order on reconsideration recorded in Special Order Volume 121, Pages 719-720.

Findings of Fact

4. On April 3, 1998, John Inman and Roger Inman filed an application to change the place of use under Certificates 1463, 1498, 13542, 34740, 34741, 51497, 66286, 81738, and 81740. The Department assigned the application number T-7974.
5. On July 11, 2006, Transfer Application T-7974 was approved and the order is recorded in Special Order Volume 69, Page 65. Certificates 1463, 1498, 13542, 34740, 34741, 51497, 66286, 81738, and 81740 were cancelled and the rights are considered inchoate.
6. The Final Order set a date of OCTOBER 1, 2008 for the changes to be completed. The Claim of Beneficial Use was due OCTOBER 1, 2009.
7. On November 23, 2020, the Department contacted the applicant by certified mail, notifying them of an incomplete transfer, and that the rights involved with the transfer could be lost if a Claim of Beneficial Use or an Application for Extension of Time on a Transfer is not received. The Department requested a response by December 24, 2020.
8. On December 9, 2020, the Department received a signed certified mailing card, but the Department did not receive any further response to the incomplete transfer.
9. As of April 15, 2021, no Claim of Beneficial Use showing beneficial use of the inchoate water has been filed with the Department, and the Department has also not received an Application for Extension of Time on a Transfer.
10. On May 12, 2021, the Department issued a Final Order (Special Order Volume 120, Page 539), approving a loss of right due to failure to apply water to beneficial use under the terms of an order approving T-7974.
11. On July 1, 2021, Transfer T-7974 was assigned to Inman Ranch, LLC.
12. On July 6, 2021, Paul Garvin of Garvin HydroGeo, LLC, submitted a timely Request for Reconsideration in accordance with OAR 137-004-0080, Inman Ranch, LLC on the basis that good faith efforts have been made to complete the transfer, and the transfer holder of record is preparing an extension of time request and a claim of beneficial use.
13. On September 1, 2021, the Department issued a Notice of Reconsideration of Final Order on Transfer Application T-7974.

14. The Department has reconsidered the Final Order "In the Matter of a Loss of Right Due to Failure to Apply Water to Beneficial Use Under the Terms of an Order Approving T-7974" and is withdrawing this final order. Good faith efforts have been made to apply water to beneficial use under the terms and conditions of the final order approving the transfer. All work had been completed as of October 1, 2008, except for the installation of two meters, which were installed May 15, 2021. The transfer holder of record will be submitting an extension of time application followed by a claim of beneficial use.

Conclusions of Law

There is no loss of right under Transfer T-7974 for failure to submit a Claim of Beneficial Use or an Extension of Time.

Now, therefore, it is ORDERED:

1. This final order supersedes the order on "Reconsideration of a Final Order Recorded in Special Order Volume 120, Pages 539-545, Withdrawing a Final Order," recorded at Special Order Volume 121, Pages 719-720.
2. The final order on loss of right recorded at Special Order Volume 120, Pages 539 to 545 is hereby withdrawn, and is of no further force or effect.

Dated in Salem, Oregon on JAN 26 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

JAN 27 2022

Mailing date: _____