

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
UMATILLA COUNTY

IN THE MATTER OF CANCELLATION OF A)
AN ENTIRE PERFECTED AND DEVELOPED) FINAL O R D E R
WATER RIGHT IN THE NAME OF WILLIAM)
ELLENBERGER - CERTIFICATE 81002)

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 Fact

1. On February 18, 2005, the Department received an affidavit from William and Paralee Weinke, stating they are the owner of lands and the water right appurtenant as evidenced by Certificate 81002, State Record of Water Right Certificates. The affidavit further states that the entire water right appurtenant to their property has been abandoned and requests the certificate be canceled.
2. Pursuant to OAR 690-017-002(a), the Department has determined that William and Paralee Weinke are the record owners, as established by county deed records, of property to which the water right evidenced by Certificate 81002 is appurtenant.
3. Certificate 81002 allows for the use of not more than 0.06 cubic foot per second (cfs) of water from Birch Creek, tributary to the Umatilla River, for the irrigation of 3.35 acres located in the NE¼ NE¼ and NW¼ NE¼ of Section 9, Township 1 South, Range 32 East, W.M. The priority date is May 27, 1937.

Conclusions of Law

The Director of the Water Resources Department concludes that the entire right evidenced by Water Right Certificate 81002 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW OR RECONSIDERATION

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 137-004-0080 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.

Now, therefore, it is ORDERED:

Certificate 81002 is canceled.

Dated at Salem, Oregon this 9th day of March, 2005.



PCW Phillip C. Ward, Director