

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CLACKAMAS COUNTY

IN THE MATTER OF CLARIFYING THE WATER)
RIGHT EVIDENCED BY WATER RIGHT)
CERTIFICATE 72473 ISSUED TO WEYERHAUSER) FINAL ORDER
COMPANY (AURORA FOREST NURSERY) AND)
CANCELING WATER RIGHT CERTIFICATE 72471)

STATEMENT OF FACTS

1. Pursuant to ORS 537.705, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, the Water Resources Director signed an order approving T-6341 for three additional points of appropriation. The order was signed on January 4, 1991, and recorded in Special Order Volume 45, at page 4.
2. The right subject to transfer under T-6341, and modified by the order approving the transfer, was perfected *by performance* under Permit G-10570 with a date of priority of July 29, 1985. Perfected by performance means the Director had received satisfactory proof that the right had been perfected in accordance with the permit, but a water right certificate had not been issued.
3. On August 19, 1996, The Department issued Certificate 72471 for the perfection of the right developed under Permit G-10570. Certificate 72471 confirms the right to use two wells for irrigation and frost control on 20.5 acres.
4. On the same date, August 19, 1996, the Department issued Certificate 72473 confirming the three additional points of appropriation under T-6341. This certificate duplicates Certificate 72471 for irrigation and frost control of 20.5 acres, but confirms the use of five wells and contains conditions upon the use of water imposed by the order approving T-6341.
5. The Department erred by issuing Certificate 72471. The right confirmed by Certificate 72471, evidenced by the perfection of Permit G-10570, had previously been modified by the order approving T-6341. Thus, Certificate 72471 should not have been issued. Regardless,

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a final 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.

the issuance of Certificate 72473 confirming the changes authorized by T-6341 supersedes Certificate 72471.

6. Consistent with ORS 540.530(2)(a), and so as to clarify the water right record for the right developed under Permit G-10570, Certificate 72471 should be canceled and the records updated to reflect that Certificate 72473 supersedes Certificate 72471.

CONCLUSIONS OF LAW

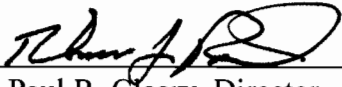
Pursuant to ORS 540.530(2)(a), if a certificate covering the water right has been previously issued, upon proper completion of the authorized changes under the transfer, the Director shall cancel the previous certificate and issue a new certificate.

ORDER

IT IS ORDERED:

1. Water Right Certificate 72471 is hereby canceled.
2. The Department shall clarify the water right record to show that Certificate 72473 supersedes Certificate 72471.

Dated APR 01 2003.



Paul R. Cleary, Director