

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BENTON COUNTY

IN THE MATTER OF CANCELLATION OF A) CORRECTING AND
PORTION OF A PERFECTED AND) SUPERSEDING ORDER
DEVELOPED WATER RIGHT IN THE NAME)
OF THE ESTATE OF WILLIAM H. KNUTH)

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 FACTS

1. This order corrects scrivener's errors contained in the order entered December 29, 2003, and recorded in Special Order Volume 58, page 291, canceling a portion of Water Right Certificate 38026 in the name of the Estate of William Knuth.
2. Water Right Certificate 80521, describing the remainder of the right not modified by the order of the Director canceling a portion of Certificate 38026, also contained a scrivener's error.
3. On December 16, 2003, the Department received an affidavit from Gordon Culbertson, Vice-President Resources, Swanson Group, P.O. Box 250, Glendale, Oregon, stating the Swanson Group is the owner of lands and the water right appurtenant as evidenced by Certificate 38026, State Record of Water Right Certificates. The affidavit further states a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled.
4. Pursuant to OAR 690-017-002(a), the Department has determined that the Swanson Group is the record owner, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 38026 is appurtenant.
5. Certificate 38026 allows for the use of 0.04 cubic foot per second (cfs) of water from Duffy Creek and an unnamed stream, both tributary to Beaver Creek, for irrigation of 2.4 acres and domestic use; being 0.03 cfs from Duffy Creek for irrigation of 2.4 acres and 0.01 cfs from an unnamed stream for domestic use. The date of priority is January 10, 1962.

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

6. The portion of Certificate 38026 which has been abandoned is for the use of 0.01 cfs from an unnamed stream tributary to Beaver Creek for domestic use.

CONCLUSIONS OF LAW

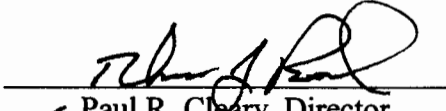
The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 38026 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED:

1. This order corrects and supersedes the order entered December 29, 2003, and recorded in Special Order Volume 58 at Page 291 canceling a portion of the right evidenced by Certificate 38026.
2. Certificate 38026 is canceled.
3. Certificate 80521 also is canceled.
2. The Department shall issue Certificate 80562, a new and superseding certificate, to correctly describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated JAN 15 2004.



Paul R. Cleary, Director