

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

Order of Certification in the Matter of)
Cancellation of Permit S-53072)

FINAL ORDER

Findings of Fact

1. Application S-70477, in the name of Larry and Cheryl Dutton, was received July 13, 1990. Permit S-53072 was issued February 5, 1997, approving the application. The permit was subsequently assigned to Maria's Chance Delford LLC on March 20, 2000.
2. Permit S-53072 allowed the use of water from Yamhill River, a tributary of Willamette River, for irrigation and frost protection. The date for the complete application of water was set for October 1, 2000.
3. The Department received a Claim of Beneficial Use on August 16, 1999.
4. The permit contained the following condition that was not complied with:

Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or other suitable measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
5. The Department's records only contain water use reporting from years 2001-2002, and 2002-2003. According to Permit S-53072, the Department should have received a Water Use Report before complete application of water to a beneficial use was submitted, and annually thereafter.

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 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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.

Conclusions of Law

Satisfactory proof of beneficial use was not received. The use allowed by Permit S-53072 is lost. The permit should be cancelled.

Under the provisions of OAR 690-320-0020, when it appears from an onsite examination by the Water Resources Department that no appropriation has been made under the terms of the permit, or that use once made has undergone a period of five successive years of nonuse, a certified letter of intent to cancel the permit shall be sent to the permittee, allowing 60 days from the date of the letter for response. Failure to respond during the 60-day period shall result in cancellation of the permit.

Now, therefore, it is ORDERED:

Permit S-53072 is cancelled and is of no further force or effect.

Issued APR 07 2015.



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department