

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON
POLK COUNTY

IN THE MATTER OF CANCELLATION OF A)
 PORTION OF A PERFECTED AND DEVELOPED) FINAL O R D E R
 WATER RIGHT IN THE NAME OF ROBERT J. &)
 BETTY M. KELLY – CERTIFICATE 82435)

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 July 14, 2008, the Department received an affidavit from Robert Kelly, authorized agent for Kelly Eleven, LLC, 3545 Salem Dallas Highway, Salem, Oregon, stating Kelly Eleven, LLC is the owner of lands and the water right appurtenant as evidenced by Certificate 82435, 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.
2. Pursuant to OAR 690-017-002(a), the Department has determined that Kelly Eleven, LLC is the record owner of land described by Partition Plat No. 2007-0066, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 82435 is appurtenant.
3. Certificate 82435 allows for the use of 0.12 cubic foot per second (cfs) from a spring and unnamed stream and reservoir constructed under Permit R-8659, all tributary to Willamette River; being 0.03 cfs from a spring, and 0.09 cfs from unnamed stream and reservoir for irrigation of 9.4 acres. The date of priority is May 19, 1983.
4. The portion of Certificate 82435 which has been abandoned is for the use of 0.058 cfs for irrigation of 4.6 acres; being 0.048 cfs from an unnamed stream and reservoir constructed under Permit R-8659 for irrigation of 3.8 acres in Parcel 2 and 0.01 cfs from the spring for irrigation of 0.8 acr in Parcel 1, both parcels described by Partition Plat No. 2007-0066, located as follows:

SOURCE	PARCEL	TWP	RNG	MER	SEC	Q-Q	GLOT	DLC	ACRES
STREAM & RESERVOIR	2	7 S	3 W	WM	30	SW NE			3.8
SPRING	1	7 S	3 W	WM	30	NW SE	2		0.8

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.

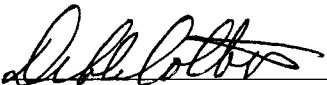
Conclusions of Law

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 82435 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. Certificate 82435 is canceled.
2. The Department shall issue Certificate 84555, a new and superseding certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated at Salem, Oregon this 6th day of August, 2008.



PW Phillip C. Ward, Director

Date Mailed: **AUG 13 2008**