

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION)
OR PARTIAL CANCELLATION OF THE WATER RIGHTS)
EVIDENCED BY CERTIFICATES 2061, 2750, 4028, 4231, 4264,) FINAL ORDER
4590, 4592,4611, 4649, 4665, 10203, 14128, 23035, 23417, 28855,) Case No. PC97-1
33891 and 44243 FOR THE USE OF WATER FROM EAGLE)
CREEK, POWDER RIVER, SQUAW GULCH, DALY CREEK,)
AND LITTLE EAGLE CREEK, BAKER COUNTY, OREGON)

Notice of the proposed cancellation or partial cancellation of the water rights described below was served on Idaho Power Company, PO Box 70, Boise, ID 83707, the owner of record of certain real property to which these rights are appurtenant, on February 14, 1997.

The proposal to cancel all or part of the right in question was based on information received from Vernon Church, Thomas Rudolph, Kent Searles, Steve Shold, and Tim Heater, alledging that right, or the portion of the water right, as described below, had been forfeited by failure to make beneficial use of the water under the terms of the water right for a period of five or more consecutive years, from 1989 through May 1996.

No protest having been filed within the 60 days allowed by law, this FINAL ORDER is now entered.

NOW, THEREFORE, IT IS ORDERED that the portion of certificate 2061, and the water right evidenced thereby, for irrigation of 2.3 acres in the SE¼ NE¼ Section 30, T9S R46E, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for irrigation under a priority of June 10, 1912 of 6.94 acres SE¼ NE¼, Section 30, 28.67 acres NE¼ NW¼ and 7.24 acres NW¼ NE¼, Section 29, T9S R46E not cancelled in this proceeding.

It is further ORDERED that the portion of certificate 2750, and the water right evidenced thereby, for supplemental irrigation of the following lands, all in Section 30, T9S, R46E:
40 acres NE¼ SW¼, 28.0 acres NW¼ SW¼, 39.3 acres SW¼ SW¼,
21.4 acres SE¼ SW¼, 33.6 acres NW¼ SE¼, 6.6 acres SW¼ SE¼
be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for supplemental irrigation under a priority of April 21, 1915 for the following lands in T9S, R46E, WM:
18.6 acres SE¼ SW¼ 5.4 acres NW¼ SE¼ 9.0 acres NW¼ NE¼
0.7 acres SW¼ SW¼ 24.9 acres SW¼ SE¼ Section 31
 Section 30
evidencing the portion of the right **not** cancelled in this proceeding.

It is further ORDERED that Certificate 4028 is for irrigation on the following lands in Section 30, T9S R46E, WM:

38.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1876;

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1907

and the water right evidenced by same, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4231 and that portion of the right evidenced by Certificate 4231 for irrigation of the following lands in Township 9 South, Range 45 East, WM, be and the same is hereby CANCELLED:

37.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 25

6.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 36

under priority August 1863

30.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 25, under priority May 20, 1909

3.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$

14.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 36

under priority 1890

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

17.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ under priority August 1863, 10.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, 16.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 16.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$, under priority 1890, all in Section 36, T9S, R45E, W.M.

It is further ORDERED that Certificate 4264 for irrigation on 38.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S, R45E, W.M., under priority dates of 1902 and 1904, and the water right evidence by said certificate, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4590, and the portion of the right evidenced thereby, for primary irrigation of 26.3 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and supplemental irrigation of 1.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

Primary irrigation 40.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 25, T9S, R45E, W.M., from Eagle Creek under a priority of 1885, and supplemental irrigation of 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T9S, R45E, WM from Powder River, Augustus or Jeffords Ditch under priority 1880.

It is further ORDERED that Certificate 4611, and the portion of the right evidenced thereby, for irrigation use on 21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 30, T9S R46E W.M. under priority July 12, 1900, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

10.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 13 T9S R45E W.M.
0.2 acre in Lots 7 and 8, Duffey's
North Addition to Richland, Oregon
under priority 1881

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
3.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30 T9S R46E W.M.
under priority July 12, 1900

It is further ORDERED that Certificate 4649, and the portion of the right evidenced thereby, for irrigation of 24.4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1881 and 2.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1886, all in Section 30 T9S R46E, W.M., be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

0.3 acres in Lot 5 and the S $\frac{1}{2}$ of Lot 3, Block 3, Town of Richland, Oregon
15.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
under priority 1881
37.9 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, under priority 1886

It is further ORDERED that Certificate 4665, and the portion of the right evidenced thereby, for irrigation of 0.2 acre located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 8.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 30, under priority of 1909, all in T9S, R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

under priority 1897, 3.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30;
under priority 1901 (12.0 acres) and under priority 1909 (24.3 acres):
1.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
7.5 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 29
3.8 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30

It is further ORDERED that Certificate 10203, and the right evidenced thereby, for irrigation of 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, T9S R46E, W.M., under a priority of July 5, 1933, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 14128, and the portion of the right evidenced thereby, for supplemental irrigation of the following lands under a priority date of October 29, 1936, be and the same is hereby CANCELLED:

0.2 acre SW $\frac{1}{4}$ SE $\frac{1}{4}$
26.9 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 25, T9S R45E

22.6 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
12.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
5.9 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 36, T9S R45E

9.6 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 31, T9S R46E

28.8 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
9.3 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$
16.3 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$

38.6 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
16.9 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
1.7 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 30 T9S R46E

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 4.1 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T9S R45E and 0.3 acre in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T9S R46E, W.M. **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23035, and the portion of the right for supplemental irrigation of 2.6 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ 14.8 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25 and 0.95 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, all in T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for supplemental irrigation under a priority date of June 22, 1951 on 11.4 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, 16.2 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$, and 23.05 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$, all in Section 26, T9S R45E WM, which are **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23417, and the portion of the right appurtenant to 21.4 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, 22.6 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 5.7 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, all in T9S R45E WM, under priority May 3, 1947, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

11 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ 14.9 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
7.8 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ 10.2 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 36 T9S R45E WM

It is further ORDERED that Certificate 28855, and that portion of the right for primary irrigation under primary irrigation under priority 1882 and supplemental supply from Eagle Creek under priority of 1901 through the Howell Ditch for 39.3 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding, all located in T9S R46E, WM:

*28.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$	*0.7 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
*18.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$	Section 30, Priority 1882
10.5 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ (*1 ac. supp)	
4.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$	
Section 31, Priority 1862	

*Lands marked with an asterisk also have a supplemental supply from Eagle Creek under priority 1901 via the Howell ditch.

It is further ORDERED that Certificate 33891, and that portion of the right evidenced thereby, for irrigation of 21.7 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$, 11.1 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 0.1 acre NW $\frac{1}{4}$ NW $\frac{1}{4}$ all in Section 30, T9S R46E, WM, under a priority of 1881, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

under priority 1868	under priority 1886
5.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$	18.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 26 T9S R45E	Section 19 T9S R46E

under priorities 1886 (12.0 acres) and 1881 (8.0 acres):

7.4 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$	12.6 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 19 T9S R46E	

under priority 1881	
32.0 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.0 acre NW $\frac{1}{4}$ SE $\frac{1}{4}$
39.9 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$	Section 23 T9S R45E
18.3 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$	0.25 acre in Lot 9, Block 4, in the
28.9 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$	town of Richland T9S R45E WM
Section 30 T9S R46E	

It is further ORDERED that Certificate 44243, and the portion of the right evidenced thereby, for irrigation under a priority of 1885 of 0.5 acre in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

under priority date 1879	under priority date 1885
22.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 23	39.5 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
	Section 25

under priority date 1879
11.0 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
38.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 26

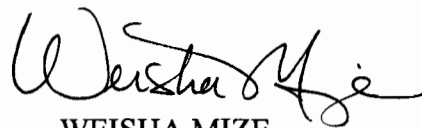
under priority 1888
10.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 10

all in T9S R46E, WM.

It is further ORDERED that Certificate 4592, and the right evidenced thereby, for irrigation of 40.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, and 40.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S R45E WM, under priority 1901 from Powder River, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 40.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ in Section 25, T9S R45E WM, under priority 1878 from Eagle Creek **not** cancelled in this proceeding.

DATED and PLACED in the US Postal Service this 6th day of May, 1997



WEISHA MIZE
Administrative Law Judge

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.