

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON  
CROOK COUNTY

IN THE MATTER OF DIMINUTION OF )  
 A PERFECTED AND DEVELOPED WATER )  
 RIGHT EVIDENCED BY CERTIFICATE ) FINAL ORDER  
 35823 IN THE NAME OF GALE MERWIN )  
 AND KATHRYN M. MERWIN )

**Findings of Fact**

1. On May 7, 2009, the Department received an affidavit from Tim McIsaac, Executive Vice President of Agricultural Industries, Inc., 3002 Beacon Boulevard, West Sacramento, California, 95691, in his capacity as the authorized representative of Gutierrez Cattle Company, the owner of lands and the water right appurtenant as evidenced by Water Right Certificate 35823. The affiant requests that a portion of the water right evidenced by Certificate 35823 be diminished from a right for irrigation (primary ) to a right for supplemental irrigation.
2. Water Right Certificate 35823 allows the use of not more than 2.45 cubic feet per second (cfs); being 1.30 cfs from Watson Creek and Rabbit Valley Reservoir, 0.86 cfs from east unnamed stream and 0.29 cfs from west unnamed stream, tributaries of the Crooked River, for irrigation of 98.0 acres. The priority date is February 27, 1961.
3. The affidavit requests the following lands be diminished from irrigation to supplemental irrigation:

TWP	RNG	MER	SEC	Q-Q	ACRES
16 S	22 E	W.M.	22	SW NE	1.0
16 S	22 E	W.M.	22	NE SE	26.0
16 S	22 E	W.M.	22	NW SE	17.8
<b>Total:</b>					<b>44.8</b>

**Now, therefore, it is ORDERED:**

1. Certificate 35823 is cancelled.
2. The water right for irrigation of 44.8 acres as described by Certificate 35823 is diminished from a right for irrigation (primary ) to a right for supplemental irrigation.

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 137-004-0080, you may 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.

3. The Department shall issue Water Right Certificate 86219, a new and superseding certificate, to describe the diminution of the right to supplemental irrigation.
4. The Department shall issue Water Right Certificate 86220, a new and superseding certificate, to describe the remainder of the irrigation water right.

Dated at Salem, Oregon this 27<sup>th</sup> day of July, 2010.

E. Timothy Ward for  
Phillip C. Ward, Director

Mailing date: JUL 27 2010