

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

UMATILLA COUNTY**

In the Matter of Cancellation of a Portion)
of a Perfected and Developed Water Right)
In the Name of Margery W. Overacker and) FINAL ORDER
the Estate of Horace Overacker –)
Certificate 44391)

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 December 26, 2006, the Department received an affidavit from Debra Weber and David Overacker, 2432 City View, Eugene, Oregon, 97405, trustees of the Margery W. Overacker Revocable Trust, stating they are the owner of lands and the water right appurtenant as evidenced by Certificate 44391, 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 Debra Weber and David Overacker, as trustees of the Margery W. Overacker Revocable Trust, are the record owners of property to which a portion of the water right evidenced by Certificate 44391 is appurtenant.
4. Certificate 44391 allows for the use of 0.22 cubic foot per second (cfs) from an unnamed stream and reservoir constructed under Permit R-5450, a tributary of Williams Creek, for irrigation of 10.4 acres and supplemental irrigation of 7.0 acres. The date of priority is March 14, 1969.
5. The portion of Certificate 44391 which has been abandoned is for the use of 0.025 cfs from an unnamed stream and reservoir constructed under Permit R-5450 for irrigation of 1.1 acres and supplemental irrigation of 0.9 acre located as follows:

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.

CERTIFICATE 44391								
IRRIGATION								
TWP	RNG	MER	SEC	1/4 - 1/4	DLC	LOT	TAX LOT	ACRES
39 S	5 W	W.M.	3	NW SW			1401	1.1
SUPPLEMENTAL IRRIGATION								
39 S	5 W	W.M.	3	NW SW			1400	0.9

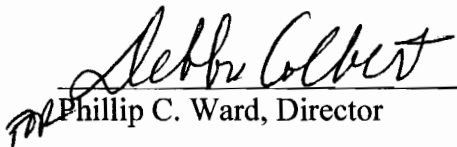
Conclusions of Law

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 44391 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. Certificate 44391 is canceled.
2. The Department shall issue Certificate 83087, 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 16th day of January, 2007.


 Phillip C. Ward, Director

Mailing Date JAN 18 2007