

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

In the Matter of Cancellation of a Portion of Perfected)
and Developed Water Rights:)
Water Right Certificate 1377, in the name of)
Geo. H. Whitaker;) **SUPERSEDING AND**
Water Right Certificate 74151, in the name of) **CORRECTING FINAL ORDER**
Successors to Squaw Creek Irrigation Company; and)
Water Right Certificate 87100, in the name of Squaw)
Creek Irrigation Company;)
Deschutes County)

Authority

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 Water Resources Commission that the water right has been abandoned and the owner desires to cancel the right.

OAR Chapter 690, Division 17 implements the statutes and provides the Department's procedures and criteria for canceling perfected and developed water rights.

Findings of Fact

1. On January 24, 2013, the Department received three affidavits from Ron and Trisa Lindsay, 8484 SW 82nd Street, Redmond, Oregon, 97756, stating they are the owners of land and the water rights appurtenant as evidenced by Water Right Certificates 1377, 74151 and 87100. The affidavits request a portion of each certificate be canceled.
2. Pursuant to OAR 690-017-0100(2)(a), the Department has determined Ron and Trisa Lindsay are the recorded owners, as established by county deed records, of a portion of the water rights evidenced by Certificates 1377, 74151 and 87100.
3. Certificate 1377 allows for the use of 0.55 cubic foot per second (cfs) of water from Whychus Creek (formerly Squaw Creek), tributary to the Deschutes River, for irrigation of 44.0 acres. The date of priority is September 13, 1913.
4. The abandoned portion of Certificate 1377 is for the use of 0.25 cfs of water for irrigation of 20.0 acres located as follows:

TWP	RNG	MER	SEC	Q-Q	TAX LOT	ACRES
15 S	11 E	W.M.	33	NE SE	200	10.0
15 S	11 E	W.M.	33	NW SE	200	10.0
TOTAL:						20.0

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 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.

5. Certificate 87100 allows for the use of 12.98 cfs of water from Whychus Creek (formerly Squaw Creek), tributary to the Deschutes River, for irrigation of 648.8 acres and domestic use. The date of priority is November, 1904.
6. The abandoned portion of Certificate 87100 is for the use of 0.55 cfs of water for irrigation of 27.5 acres and domestic use located as follows:

TWP	RNG	MER	SEC	Q-Q	TAX LOT	ACRES
15 S	11 E	W.M.	33	NW SE	200	27.5

7. On February 13, 2013, the Department issued a Final Order canceling Certificates 1377, 87100 and 74151. The order was recorded in Special Order Volume 89, at Pages 10 to 11. Concurrent with that order, the Department issued superseding Certificates 87928, 87930 and 87929 respectively, to describe the remaining portions of the perfected and developed water rights NOT canceled by the provisions of the order.
8. The February 13, 2013, order recorded at Special Order Volume 89, Pages 10 to 11, contained a scrivener's error by misidentifying the place of use for a portion of the right abandoned under Certificate 74151.
9. Certificate 74151 allows for the use of 2.88 cfs of water from Whychus Creek (formerly Squaw Creek), tributary to the Deschutes River, for irrigation of 144.0 acres and domestic use. The date of priority is November, 1904.
10. The scrivener's error misidentified the place of use for 0.25 cfs of water for irrigation of 12.5 acres and domestic use under Certificate 74151 as follows:

TWP	RNG	MER	SEC	Q-Q	TAX LOT	ACRES
15 S	11 E	W.M.	33	NE NE	200	10.0
15 S	11 E	W.M.	33	NW SE	200	2.5
TOTAL:						12.5

11. The correct location of the abandoned portion of Certificate 74151 for 0.25 cfs of water for irrigation of 12.5 acres and domestic use is as follows:

TWP	RNG	MER	SEC	Q-Q	TAX LOT	ACRES
15 S	11 E	W.M.	33	NE SE	200	10.0
15 S	11 E	W.M.	33	NW SE	200	2.5
TOTAL:						12.5

12. Because of this scrivener error, Certificate 87929 erroneously described the remaining portions of the water rights under Certificate 74151 not canceled by the order. The Department shall issue Certificate 87943 to correctly list the remainder of the right.
13. Certificates 87929 and 87930 also contained a scrivener's error in the description of the authorized point of diversion location for the Plainview Ditch.

Conclusions of Law

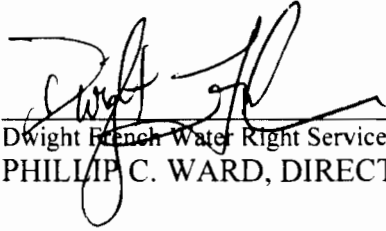
The Director of the Water Resources Department concludes that a portion of the rights evidenced by water right Certificates 1377, 74151 and 87100 have been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. Water right Certificates 1377, 74151 and 87100 are canceled.

2. This order corrects the scrivener's error for the portion of the abandoned water rights under Certificate 74151 and supersedes the previous order recorded at Special Order Volume 89, Pages 10 to 11.
3. In addition, superseding Certificates 87929 and 87930 are canceled.
4. The Department shall issue Certificates 87943 and 87944 to correct scrivener's errors and supersede Certificates 87929 and 87930 respectively.

Dated at Salem, Oregon this 6TH day of MARCH, 2013.



Dwight French Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing date: **MAR 13 2013**

