

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JACKSON COUNTY

IN THE MATTER OF CANCELLATION OF )  
PORTIONS OF PERFECTED AND DEVELOPED ) FINAL O R D E R  
WATER RIGHTS IN THE NAME OF GRANTS )  
PASS IRRIGATION DISTRICT – CERTIFICATES )  
80971 AND 80972 )

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

**Findings of Fact**

1. On March 7, 2008, the Department received an affidavit from George J. and Sandra P. Pergin, 95 Lloyelen Dr., Rogue River, OR 97537, stating they are the owners of lands and the water rights appurtenant as evidenced by Certificates 80971 and 80972, State Record of Water Right Certificates. The affidavit further states a portion of the water rights appurtenant to the property have been abandoned and requests the certificates be canceled.
2. Pursuant to OAR 690-017-002(a), the Department has determined that George J. and Sandra P. Pergin are the record owners, as established by county deed records, of property to which a portion of the water rights evidenced by Certificates 80971 and 80972 are appurtenant.
3. Certificate 80971 allows for the use of up to 112.722 cubic feet per second (cfs) of water from the Rogue River and specified tributaries. The maximum allowable diversion from the Rogue River is 112.722 cfs; being 73.268 cfs under a September 29, 1916, priority date and 39.454 under an August 21, 1987, priority date. The right also allows the use of 4.53 cfs from Jones Creek, 3.78 cfs from Fruitdale Creek, 3.78 cfs from Gilbert Creek, 4.53 cfs from Sand Creek, and 2.26 cfs from Sparrowhawk Creek, with the total diversion not to exceed 112.722 cfs from all sources.
4. Certificate 80972 allows for the use of up to 36.168 cfs of water from the Rogue River and specified tributaries. The maximum allowable diversion from the Rogue River is 36.168 cfs being 23.512 cfs under the September 29, 1916 priority date and 12.656 cfs under the August 21, 1987 priority date. The right also allows the use of 1.46 cfs from Jones Creek, 1.20 cfs from

This is a final 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.

Fruitdale Creek, 1.20 cfs from Gilbert Creek, 1.46 cfs from Sand Creek, and 01.72 cfs from Sparrowhawk Creek, or the equivalent in case of rotation.

5. The portion of Certificates 80971 and 80972 which has been abandoned is for the use of 0.03 cfs for irrigation of 1.55 acres described as follows:

IRRIGATION						
TWP	RNG	MER	SEC	¼ - ¼	TAX LOT	ACRE
36 S	4 W	WM	16	NE NE	1601	1.55

**Conclusions of Law**

The Director of the Water Resources Department concludes that a portion of the rights evidenced by Water Right Certificates 80971 and 80972 have been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

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

1. The water rights appurtenant to the lands described in Finding of Fact #5 are canceled.
2. Certificates 80971 and 80972 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.

Dated at Salem, Oregon this 7<sup>th</sup> day of August, 2008.

  
Phillip C. Ward, Director

Mailing Date: AUG 13 2008