



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED)	
PARTIAL CANCELLATION OF THE WATER)	FINAL ORDER
RIGHT EVIDENCED BY CERTIFICATE)	
61886 FOR USE OF WATER A WELL, IN THE)	
ROCK CREEK BASIN FOR IRRIGATION,)	
WASHINGTON COUNTY, OREGON)	

FINDINGS OF FACT

1. On November 17, 2005, Darrell Hedin, Watermaster District 18, submitted an affidavit alleging nonuse of a portion of Certificate 61886 between 2001 through 2005.
2. The subject water right is evidenced by Certificate 61886, issued to Arthur Spada and Richard Spada, dba A & R Spada Farms, the present owners' predecessors in title. The subject water right has a priority date of November 22, 1983, for use of water from a well in the Rock Creek Basin for irrigation of 1.1 acres in the NE1/4 NE1/4, 22.5 acres in the NW1/4 NE1/4, 16.2 acres in the SW1/4 NE1/4, 5.6 acres in the NE1/4 NW1/4, 27.6 acres in the SE1/4 NW1/4, Section 29, Township 2 South Range 1 West, W.M., being a total of 73.0 acres.
3. The portion of Water Right Certificate 61866 asserted to be forfeited due to non use is 1.1 acres in the NE1/4 NE1/4, 22.5 acres in the NW1/4 NE1/4, 3.9 acres in the SW1/4 NE1/4, 4.7 acres NE1/4 NW1/4, 19.2 acres in the SE1/4 NW1/4, being a total of 51.4 acres, all within Section 29, Township 2 South, Range 1 West, W.M.
4. On March 9, 2006, the Department issued a Notice of Proposed Partial Cancellation of Water Right and lawfully served the Notice on the record owners.
5. The following are record owners of Washington County tax lots and comprise the location of the portion of the water right in question: Portland General Electric Company (2S1W29A001100, 2S1W29A001600, 2S1W29B001800 and 2S1W29B001900); Home Depot USA, Inc. (2S1W29A001300 and 2S1W29A001500); Dynamic Finance

Corporation (2S1W29A001400); Retail Property Partners (2S1W29B000600); Sentinel Self Storage LLC & Storm Mart (2S1W29B000900); Clarence D. Jr. And Pamela A. Langer (2S1W29B000901); Juniper Ridge Investments LLC (2S1W29B001100); Les Schwab Tire Centers of Oregon (2S1W29B001400); and James K. Morse and Richard Morse (2S1W29B001500).

6. The record owners, Portland General Electric Company; Home Depot USA, Inc.; Dynamic Finance Corporation; Retail Property Partners; Sentinel Self Storage LLC & Storm Mart; Clarence D. Jr. And Pamela A. Langer; Juniper Ridge Investments LLC ; Les Schwab Tire Centers of Oregon; and James K. Morse and Richard Morse, did not protest the Notice of Proposed Partial Cancellation of Water Right within the 60 day time period prescribed in the notice.

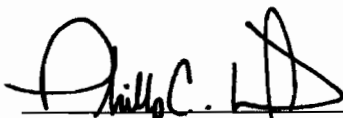
CONCLUSION OF LAW

1. A rebuttable presumption has been established that a perfected and developed water right has forfeited due to five consecutive years of non use, ORS 540.610.
2. The appropriators have the burden of rebutting the presumption of forfeiture , ORS 540.610.
3. The legal owners or occupants were provided the required notice and failed to protest the proposed cancellation within 60 days, therefore, the Water Resources Commission may enter an order canceling the water right, ORS 540.631 and 540.641.

FINAL ORDER

The portion of the water right evidenced by Certificate 61886, being 1.1 acres in the NE1/4 NE1/4, 22.5 acres in the NW1/4 NE1/4, 3.9 acres in the SW1/4 NE1/4, 4.7 acres NE1/4 NW1/4, 19.2 acres in the SE1/4 NW1/4, being a total of 51.4 acres, all within Section 29, Township 2 South, Range 1 West, W.M., is canceled.

This Final Order issued this 31st day of May, 2006.



Phillip C. Ward, Director
Water Resources Department

Appeal Rights

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 of this Order. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was *mailed*. Judicial review, pursuant to the provisions of ORS 536.075, is to the Oregon Court of Appeals. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.