

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION OF A PORTION)
OF A PERFECTED AND DEVELOPED WATER) FINAL ORDER
RIGHT IN THE NAME OF C.E. PULLEN)

ORS 540.621 states that whenever the owner of a perfected and developed water right abandons a water right, the Water Resources Commission (Commission) shall enter an order canceling the right. The Water Resources Department (Department) received an affidavit from the owner of lands stating they have abandoned the water right appurtenant to their land and requesting the cancellation of the water right. The Department has reviewed the affidavit and makes the following disposition of the request:

STATEMENT OF FACTS

On January 18, 2001, the Department received an affidavit from Paul T. Weller and Carole S. Genelly, owners of certain land and the water right appurtenant to it as evidenced by a portion of Certificate 11322, State Record of Water Right Certificates. The affidavit further states that a portion of the right appurtenant to the property has been abandoned and requests that portion of the certificate be canceled.

Water Right Certificate 11322 allows for the use of 0.6 cubic foot per second (cfs) from Mulvaney Creek, a tributary of Democrat Creek, a tributary of Althouse Creek, for irrigation of 30.0 acres, with a priority date of October 20, 1933

The portion of Certificate 11322 which has been abandoned is for the use of 0.018 cfs of water from Mulvaney Creek, for irrigation of 0.9 acre, located as follows:

SE¼ NW¼ 0.9 ACRE
SECTION 6
TOWNSHIP 40 SOUTH, RANGE 7 WEST, W.M.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW
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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

CONCLUSIONS OF LAW

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.

Oregon Administrative Rule 690-017-0100 authorizes the Director of the Water Resources Department to issue an order, under authority delegated to him by the Commission, canceling a perfected and developed water right in accordance with the provisions of ORS 540.621 when so requested by notarized affidavit of the record owner of land to which a water right is appurtenant.

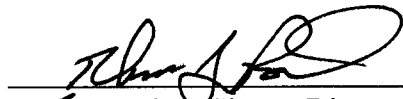
The Director of the Water Resources Department concludes that a portion of Certificate 11322 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED that the portion of the right described by Certificate 11322 for the use of 0.018 cfs of water from Mulvaney Creek, for irrigation of 0.9 acre, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 6, Township 40 South, Range 7 West, W.M., is canceled.

IT IS FURTHER ORDERED that Certificate 11322 is hereby canceled. The Department shall issue Certificate 79543, a new and superseding water right certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated JUL 02 2002.



Paul R. Cleary, Director
Oregon Water Resources Department