

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

HOOD RIVER COUNTY

IN THE MATTER OF CANCELLATION OF A PORTION)
OF A PERFECTED AND DEVELOPED WATER RIGHT) FINAL O R D E R
IN THE NAME OF E. SHELLEY MORGAN)

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

STATEMENT OF FACTS

The Department received two affidavits requesting cancellation of a portion of Water Right Certificate 723. Certificate 723 allows for the use of 0.50 cubic foot per second (cfs) from Post Creek, tributary to Phelps Creek, for irrigation of 20.0 acres and domestic use, with a date of priority of August 7, 1909.

John and Marcia Page, residing at 4597 Westwood Drive, Hood River, Oregon submitted an affidavit stating they are the owner of lands and the water right appurtenant as evidenced by a portion of Certificate 723, State Record of Water Right Certificates. Deed records indicate they are the record owner of the lands described as tax lot 2305 to which a portion of certificate 723 is appurtenant. 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.

Bev Arthur, P.O. Box 92, Hood River, Oregon, submitted an affidavit stating she also is the record owner of the lands to which a portion of certificate 723 is appurtenant. Deed records indicate she is the record owner of the lands described as tax lot 2302 to which a portion of certificate 723 is appurtenant. 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.

The portion of Certificate 723 which has been abandoned by John and Marcia Page is for the use of 0.046 cfs of water from Post Creek, for domestic use and irrigation of 1.85 acres in the NE¼ SW¼, Section 33, Township 3 North, Range 10 East, 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.

The portion of Certificate 723 which has been abandoned by Bev Arthur is for the use of 0.046 cfs of water from Post Creek, for domestic use and irrigation of 1.85 acres in the NE¼ SW¼, Section 33, Township 3 North, Range 10 East, W.M.

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.

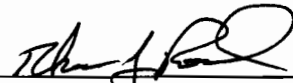
The Director of the Water Resources Department concludes a portion of Certificate 723 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED that the portion of the water right described by Certificate 723 for the use of 0.09 cfs of water from Post Creek, for domestic use and irrigation of 3.7 acres, is canceled.

IT IS FURTHER ORDERED that Certificate 723 is hereby canceled. The Department shall issue Certificate 76982, 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 JUN 20 2001.



Paul R. Cleary, Director
Oregon Water Resources Department