

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

**UNION COUNTY**

In the Matter of Cancellation of a Portion     )  
of a Perfected and Developed Water Right     )     **FINAL ORDER**  
In the name of August Zaugg – Certificate     )  
12036     )

**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 June 14, 1999, the Department received an affidavit, as part of instream transfer T-8058, from Michael Becker stating he is the water right holder for a portion of the supplemental water right appurtenant to the lands described in the affidavit as evidenced by Certificate 12036, State Record of Water Right Certificates. The affidavit further states upon approval of instream transfer, which proposed to transfer primary irrigation right, Certificate 81172, to instream use, that the portion of Certificate 12036 overlying Certificate 81172 be canceled.
2. A Final Order approving instream transfer application T-8058 was issued by the Department on January 27, 2006, as evidenced by Special Order Volume 67, Page 790.
3. Pursuant to OAR 690-380-2250, supplemental water rights are to be included in the transfer application and transferred with the primary right or may be cancelled by the Department if not included in the transfer application. Certificate 12036 was not included in the transfer application and the cancellation of a portion of Certificate 12036 was not included as part of that Final Order approving transfer T-8058.
4. The original affidavit of cancellation included portions of Certificate 12036 that were not affected by transfer T-8058. On May 29, 2007, Michael Becker submitted a revised affidavit requesting to cancel only that portion of Certificate 12036 that was affected by transfer T-8058.
5. Water rights may also be cancelled by the owner of a water right pursuant ORS 540.621.
6. The property to which the portion of Certificate 12036 is requested for cancellation has since been sold. However, Michael Becker retained interest in the water rights appurtenant to those lands as part of the Warranty Deeds conveying the property to new landowners.

4. Certificate 12036 allows for the use of 0.06 cubic foot per second (cfs) from Catherine Creek, tributary to the Grande Ronde River, for supplemental irrigation of 4.85 acres. The date of priority is August 13, 1936.

5. The portion of Certificate 12036 which has been abandoned is as follows:

Township		Range		Meridian	Sec	¼ ¼		Tax Lot	Acres
4	S	39	E	W.M.	12	SW	SE	1005	2.42
4	S	39	E	W.M.	13	NW	NE	1005	2.43
<b>Total:</b>									<b>4.85</b>

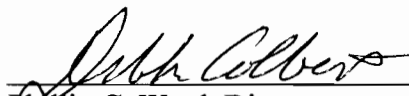
**Conclusions of Law**

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 12036 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

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

1. Certificate 12036 is canceled.
2. The Department shall issue Certificate 83437, a new and superseding certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated at Salem, Oregon this 13<sup>th</sup> day of July, 2007.

  
 Phillip C. Ward, Director

Mailing Date JUL 19 2007