

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

POLK RIVER COUNTY

IN THE MATTER OF CANCELLATION OF A)
PERFECTED AND DEVELOPED)
WATER RIGHT EVIDENCED BY) FINAL ORDER
CERTIFICATE 85349 IN THE NAME OF)
MARVIN DERA EVE – POLK COUNTY)

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 April 19, 2010, the Department received an affidavit from Jerry and Kristen Domes, 8380 Bethel Road, Rickreall, OR, 97371, stating they are the owner of lands and the water right appurtenant as evidenced by Certificate 85349, State Record of Water Right Certificates. The affidavit further states a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled.
2. Pursuant to OAR 690-017-0100, the Department has determined that Jerry and Kristen Domes are the recorded owners, as established by county deed records, of property to which a portion of the water right evidenced by Certificate 85349 is appurtenant.
4. Certificate 85349 allows for the use of 19.0 ACRE FEET (af) stored water only for supplemental irrigation or fish culture and 0.30 cubic foot per second of water for maintenance for fish culture from the period of November 1 through April 30 of each year from an unnamed reservoir constructed under Permit R-10482 and enlarged under Permit R-11459, tributary of Ash Swale. The date of priority is May 10, 1991.
5. The portion of the water right evidenced by Certificate 85349 which has been abandoned is for the use of stored water for supplemental irrigation located as follows:

TWP	RNG	MER	SEC	Q-Q	DLC	ACRES
6 S	4 W	W.M.	16	SW NW	37	1.8
6 S	4 W	W.M.	16	NW SW	37	16.6
6 S	4 W	W.M.	16	SW SW	37	15.6
6 S	4 W	W.M.	17	SE NE	37	2.4

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.

TWP	RNG	MER	SEC	Q-Q	DLC	ACRES
6 S	4 W	W.M.	17	NE SE	37	24.2
6 S	4 W	W.M.	17	SE SE	37	19.1
TOTAL:						79.7

Conclusions of Law

The Director of the Water Resources Department concludes a portion of the right evidenced by Water Right Certificate 85349 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

Now, therefore, it is ORDERED:

1. Certificate 85349 is cancelled.
2. The Department shall issue Certificate 86440, 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 11th day of AUGUST, 2010.

E. Timothy Ward for

Phillip C. Ward, Director

Mailing Date: AUG 11 2010