

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION)
OF A WATER RIGHT IN THE NAMES)
OF JAMES G. & CLARA DICK FOR)
USE OF WATERS OF SUCKER CREEK)
- - - - -

STATEMENT AND
ORDER DISMISSING
PROCEEDING

STATEMENT

This proceeding was initiated by the Water Resources Director under the provisions of ORS 540.610 to 540.650 for the cancellation of a certain water right.

The water right in question is for the appropriation of not to exceed 0.10 cubic foot per second of water from Sucker Creek under a priority date of 1857 for irrigation of a certain 5.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, Township 39 South, Range 8 West, W.M., allowed in the name of William M. Bunch by decree of the court in the matter of the Determination of the Relative Rights to the Waters of Sucker Creek, and described by the certificate recorded at page 30549, Volume 22, State Record of Water Right Certificates, in the names of James G. Dick and Clara Dick.

Notice dated September 1, 1977, of initiation of the proceeding for cancellation of the subject water right was given pursuant to ORS 540.631 to James G. Dick and Clara A. Dick, as owners of record, and to Dorothy E. Kreiss Robbins, as contract purchaser and occupant of the real property to which the said water right is appurtenant.

On September 15, 1977, a protest against cancellation of the subject water right was filed in the office of the Water Resources Director by Dorothy E. Kreiss Robbins through her attorney Mr. Michael S. Killoran, Attorney at Law, Grants Pass, Oregon.

On October 12, 1977, a protest against cancellation of the subject water right also was filed in the office of the Water Resources Director by James G. Dick and

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Clara A. Dick.

Pursuant to notice of hearing dated February 23, 1978, the matter was brought to hearing before James W. Carver, Jr., Water Resources Department, in Cave Junction, Oregon on April 4, 1978. The proponents of cancellation were represented by Mr. Gene L. Brown, Attorney at Law, Grants Pass, Oregon. The protestants were represented by Mr. Michael S. Killoran, Attorney at Law, Grants Pass, Oregon.

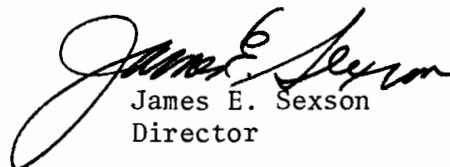
At the hearing, the record of testimony was being made by magnetic tape recording. During the presentation of the proponents' case, the tape recorded malfunctioned so that a substantial portion of the testimony was not recorded onto the magnetic tape. During a recess of the hearing, counsel reached agreement that they would try to prepare and submit, subsequent to the close of the hearing, stipulated testimony for that portion of the record of testimony lost by malfunction of the tape recorder.

On March 23, 1979, Mr. Gene L. Brown and Mr. Michael S. Killoran jointly submitted a stipulation dated March 14, 1979, as follows:

"The parties hereto by and through their attorneys of record do hereby agree and stipulate that the above entitled proceeding may be dismissed without prejudice and without costs to either party."

NOW, THEREFORE, it is ORDERED that this proceeding for cancellation of the water right in question, described herein, be, and the same hereby is, DISMISSED WITHOUT PREJUDICE.

Dated at Salem, Oregon this 30th day of March, 1979.


James E. Sexson
Director