

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CLATSOP COUNTY

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

The Water Resources Department (Department) received an affidavit from the owners 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

As part of a settlement agreement in *State of Oregon v. Bhagwati and Saradell Poddar*, Bhagwati and Saradell Poddar submitted to the Department an affidavit stating they are the owners of lands and the water right appurtenant as evidenced by Certificate 33046, State Record of Water Right Certificates. The affidavit further states the supplemental right appurtenant to the property has been abandoned and requests the certificate be canceled.

Certificate 33046 allows for the use of 0.02 cubic foot per second (cfs) of water from an Unnamed Stream (three branches), tributary to Davis Creek, for domestic use of four families and supplemental domestic use of one family within the SW¼ NE¼, SE¼ NW¼ and NE¼ SW¼, Section 11, Township 8 North, Range 7 West, W.M. The date of priority is February 7, 1961.

The portion of Certificate 33046 which has been abandoned is for supplemental domestic use of one family within the NE¼ SW¼, Section 11, Township 8 North, Range 7 West, 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.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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.

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.

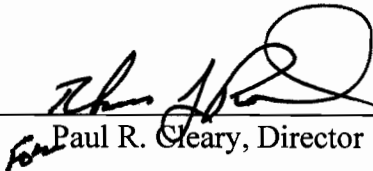
The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 33046 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

ORDER

IT IS ORDERED that the portion of the water right described by Certificate 33046 for supplemental domestic use of one family within the NE¼ SW¼, Section 11, Township 8 North, Range 7 West, W.M., with a date of priority of February 7, 1961, is canceled.

IT IS FURTHER ORDERED that Certificate 33046 is hereby canceled. The Department shall issue Certificate 79570, 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 AUG 16 2002.



For Paul R. Cleary, Director