



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE)	
CANCELLATION OF THE WATER RIGHT)	
EVIDENCED BY WATER RIGHT)	FINAL ORDER
CERTIFICATE 27072 FOR USE OF WATER)	
FROM WEST FORK ILLINOIS RIVER FOR)	WRD CASE No. PC 08-11
IRRIGATION OF 0.9 ACRE, JOSEPHINE)	
COUNTY, OREGON)	

FINDINGS OF FACT

1. The subject water right evidenced by Water Right Certificate 27072 is proposed to be canceled for non-use of 0.02 cubic foot per second of water from West Fork Illinois River, tributary of the Illinois River for irrigation of 0.9 acre in the SE1/4 NW1/4, Section 26, Township 40 South, Range 9 West, W.M. The priority date is March 14, 1955.
2. On November 17, 2011, Barbara A. Nelson and Judith H. Zulliger submitted affidavits alleging nonuse of water right evidenced by Certificate 27072 from April 1994 through April 1999.
3. The entirety of Water Right Certificate 27072 is proposed to be canceled for non-use of 0.02 cubic foot per second of water from West Fork Illinois River, tributary of the Illinois River for irrigation of 0.9 acre in the SE1/4 NW1/4, Section 26, Township 40 South, Range 9 West, W.M. The priority date is March 14, 1955.
4. On December 15, 2011, the Department issued a Notice of Proposed Cancellation of Water Right.
5. The Notice of Proposed Cancellation was lawfully served on Robert M. Elting and Anna C. Cornelison, the owners of record of certain real property in Section 26, Township 40 South, Range 9 West, Willamette Meridian, Tax Lot 900, in Josephine County, Oregon.
6. Robert M. Elting and Anna C. Cornelison did not contest the Notice of Proposed Cancellation, nor did they request a hearing.



7. The Department has designated its file on this matter, including the materials submitted by the Proponents or Protestants, as the record in this proceeding. The record contains evidence that persuades the Department that Water Right Certificate 27072 was not used from April 1994 through April 1999.

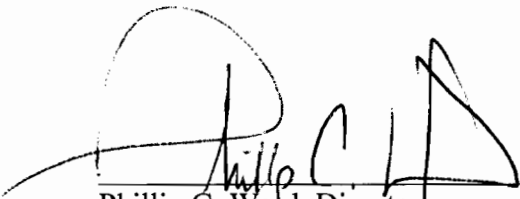
CONCLUSIONS OF LAW

1. A rebuttable presumption has been established that a perfected and developed water right has been forfeited due to five consecutive years of nonuse. ORS 540.610.
2. The presumption of forfeiture has not been rebutted. ORS 540.610.

FINAL ORDER

It is ORDERED that the water right evidenced by Water Right Certificate 27072 be cancelled in its entirety, being 0.02 cubic foot per second of water from West Fork Illinois River, tributary of the Illinois River for irrigation of 0.9 acre in the SE1/4 NW1/4, Section 26, Township 40 South, Range 9 West, W.M. The priority date is March 14, 1955.

Dated this 23rd day of February 2012.



Phillip C. Ward, Director
Oregon Water Resources Department

Appeal Rights

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this Order. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was *mailed*. Judicial review, pursuant to the provisions of ORS 536.075 and ORS 183.482 is to the Oregon Court of Appeals. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

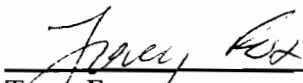
CERTIFICATE OF SERVICE

I certify that on February 23, 2012, a copy of this Final Order was served by certified mail, return receipt requested, and first class mail, postage prepaid upon the persons listed below:

Robert M. Elting & Anna C. Cornelison
1595 Lone Mountain Rd
O'Brien, OR 97534

Barbara A. Nelson
PO Box 304
O'Brien, OR 97534-0304

Judith H. Zulliger
PO Box 632
O'Brien, OR 97534-0632



Tracy Fox
Water Resources Department