

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

BAKER COUNTY

In the Matter of Cancellation of a Portion)
of a Perfected and Developed Water Right)
Evidenced by Certificate 83676 in the name) **FINAL ORDER**
of Blue Mountain Ditch Company)

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 May 27, 2010, the Department received an affidavit from Jay C. Smith, 53396 Hwy 26, Mt. Vernon, OR 97865, stating he is the owner of lands and the water right appurtenant as evidenced by Certificate 83676, 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 cancelled.
2. Pursuant to OAR 690-017-0100, the Department has determined that Jay C. Smith is the recorded owner, as established by county deed records, of property to which the water right evidenced by Certificate 83676 is appurtenant.
3. Certificate 83676 allows for the use of 4.59 cubic feet per second (cfs) from the John Day River, tributary to the Columbia River; for the irrigation of 367.1 acres. The date of priority is October 23, 1916.
4. The portion of Certificate 83676 which has been abandoned is for the use of 0.106 cfs for irrigation of 8.5 acres located as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
13 S	29 E	WM	28	NE NE	8.5	2401

Conclusions of Law

The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 83676 has been abandoned in accordance with the provisions of ORS 540.621 and shall be cancelled.

This is a final order in other than 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 either 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.

Now, therefore, it is ORDERED:

1. The water right appurtenant to the land described in Findings of Fact #4 is canceled and the Department's records shall be modified accordingly.
2. The Department shall issue a new water right certificate to supersede Certificates 83676 describing the right NOT affected by this cancellation.

Dated at Salem, Oregon this 31 day of ~~January~~^{August}, 2010.


Phillip C. Ward, Director

Mailing Date: SEP 02 2010