

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

In the Matter of Cancellation of a Portion of a)
Perfected and Developed Water Right Certificate)
75223, in the name of Pacific Power and Light)
Company, and Offset of Impact for Permit)
G-16146, Crook County)
FINAL ORDER

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.

OAR 690-505-0610 and OAR 690-522-0040 establishes the process in which a municipal or quasi-municipal permit holder, with an incremental development plan, may submit a request to use the cancellation of an existing groundwater right subject to transfer to offset the impact of a groundwater permit in the Deschutes Ground Water Study Area.

Findings of Fact

1. On September 10, 2010, the Department received an affidavit from Steve Forrester, City Manager, City of Prineville, 387 NE Third Street, Prineville, Oregon, 97754, stating the City owns and controls the water right evidenced by Certificate 75223, State Record of Water Right Certificates. The affidavit requests a portion of the certificate be cancelled.
2. In 1985, Pacific Power and Light Company sold and conveyed its interest in the water right to the City of Prineville. Pursuant to OAR 690-017-0100(2)(a), the Department has determined the City of Prineville is the owner of the water right evidenced by Certificate 75223.
3. Certificate 75223 allows for the use of not more than 1.2 cubic feet per second (cfs), from a well identified as Ochoco Heights Well No. 1, for municipal use. The date of priority is May 20, 1942.
4. The portion of Certificate 75223 the City of Prineville requests be canceled is for the use of 0.4 cfs (200 Gallons per Minute (GPM)) from the Ochoco Heights Well No. 1 for municipal use with no reduction or change in the place of use authorized by the water right.

<p>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 137-004-0080, 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.</p>

Evaluation of Offset of Impact for Groundwater Permit G-16146

5. A request has been submitted to use the voluntary cancellation of a portion of Certificate 75223 to offset a portion of the impact to surface water of Groundwater Permit G-16146, held by City of Prineville, pursuant to OAR 690-505-0610 (8) under the Deschutes Ground Water Mitigation Rules, and OAR 690-522-0040 (1) under the Deschutes Basin Water Management Rules.
6. The voluntary cancellation of an existing groundwater right subject to transfer may be used to offset the impact on surface water of a groundwater permit issued under the Deschutes Basin Ground Water Mitigation Rules provided that the permit is held by a municipal or quasi-municipal permit holder and that the permit holder has an incremental development plan under OAR 690-505-0625.
7. The impact to surface water of the existing groundwater right to be cancelled must be the same or greater than the impact to surface water of the municipal or quasi-municipal permit. The amount of impact of a groundwater permit issued under the Deschutes Ground Water Mitigation Rules to surface water is the consumptive portion (mitigation obligation) of the groundwater use. Offset of the impact must occur in the same zone of impact identified by the Department in the permit.
8. The City of Prineville has an incremental development plan on file with the Department for Permit G-16146.
9. Permit G-16146 allows the appropriation of 1.715 Cubic Feet per Second (CFS) for Municipal Use and has an annual volume limit of 1242.0 Acre-Feet. This permit also has a mitigation obligation of 496.8 AF in the Crooked River Zone of Impact.
10. Certificate 75223 allows the diversion of up to 1.2 CFS from a well for municipal use. This right does not have an annual volume limit. The City of Prineville has requested to cancel 200 Gallons per Minute (GPM), which is approximately 0.4 CFS.
11. The Department has determined that the use of groundwater from the wells authorized under Certificate 75223 and Permit G-16146 impact surface water in the same zone of impact, being the Crooked River Zone of Impact.
12. The voluntary cancellation of 0.4 CFS is equivalent to a maximum of 322.6 AF annually. The amount of offset generated by the voluntary cancellation of an existing groundwater right is the consumptive portion of the existing use. The consumptive portion of 322.6 AF for Permit G-16146 is 129.0 AF.
13. Based upon evaluation of the request to use the voluntary cancellation of a portion of Certificate 75223 to offset a portion of the impact to surface water of Permit G-16146, the Department has determined that Certificate 75223 impacts surface water in the same zone of impact as Permit G-16146 and cancelation of a 200 GPM (0.4 CFS) portion of Certificate 75223 would offset 129.0 AF of the impact of Permit G-16146.

Conclusions of Law

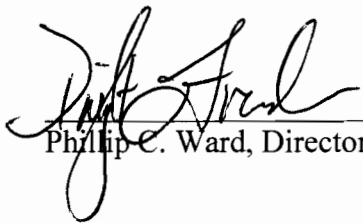
The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 75223 shall be cancelled in accordance with the provisions of ORS 540.621.

The cancellation of a portion of Certificate 75223 results in the offset of a portion of the impact (mitigation obligation) of Permit G-16146 pursuant to OAR 690-505-0610 (8) and OAR 690-522-0040 (1).

Now, therefore, it is ORDERED:

1. Certificate 75223 is canceled.
2. The Department shall issue Certificate 86558, to describe the remaining 0.8 CFS portion of the perfected and developed water right NOT canceled by the provisions of this order.
3. The cancellation of a 200 GPM (0.4 CFS) portion of Certificate 75223, as described herein, offsets 129.0 AF of the impact (mitigation obligation) of Permit G-16146 in the Crooked River Zone of Impact and this 129.0 AF of offset may be included in the City of Prineville's incremental develop plan for Permit G-16146.

Dated at Salem, Oregon this 14 day of September, 2010.



Phillip C. Ward, Director

Mailing date: SEP 16 2010