

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

LAKE COUNTY

IN THE MATTER OF CANCELLATION OF A )  
PORTION OF A PERFECTED AND DEVELOPED ) ORDER  
WATER RIGHT IN THE NAME OF JESS ROBERTS )

ORS 540.621 states that whenever the owner of a perfected and developed water right abandons a water right, the Water Resources Commission (Commission) shall enter an order canceling the right. The Water Resources Department (Department) received an affidavit from the owner of lands stating they have abandoned the water right appurtenant to their land and requesting the cancellation of the water right. The Department has reviewed the affidavit and makes the following disposition of the request:

STATEMENT OF FACTS

On December 4, 2000, the Department received a notarized affidavit from Richard L. and Margaret Theall, stating they are the owner of lands and the water right appurtenant as evidenced by a portion of Certificate 60333, State Record of Water Right Certificates. Deed records indicate Richard and Margaret Theall are the record owner of land to which a portion of Certificate 60333 is appurtenant. The affidavit further states that the right appurtenant to the property has been abandoned and requests cancellation of that portion of the perfected water right.

Certificate 60333 allows for the use of not more than 3.68 cubic feet per second (cfs) from a well in the Antelope Creek Basin for primary irrigation of 97.62 acres and supplemental irrigation of 197.0 acres, with a date of priority of July 21, 1977.

The portion of Certificate 60333 which has been abandoned is for the use of 0.50 cfs for the primary irrigation of 18.3 acres and the supplemental irrigation of 22.0 acres on the following lands:

|   | <u>PRIMARY</u> | <u>SUPPLEMENTAL</u> |
|---|----------------|---------------------|
| NW¼ SW¼                                 | 2.3 ACRES      |                     |
| SW¼ SW¼                                 | 16.0 ACRES     | 22.0 ACRES          |
| SECTION 4                               |                |                     |
| TOWNSHIP 40 SOUTH, RANGE 19 EAST, W. M. |                |                     |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is a final 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.

## 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.

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.

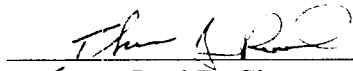
The Director of the Water Resources Department concludes that a portion of Certificate 60333 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

## ORDER

IT IS ORDERED that the portion of the water right described by Certificate 60333 for the use of 0.50 cfs from a well in the Antelope Creek Basin for primary irrigation of 16.0 acres and supplemental irrigation of 22.0 acres located in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , and primary irrigation of 2.3 acres located in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 4 Township 39 South, Range 5 West, W. M. is canceled. The Department shall issue a remaining right certificate for the use of water on those lands not canceled by this order.

IT IS FURTHER ORDERED that Certificate 60333 is hereby canceled. The Department shall issue Certificate 76670, a new and superseding water right certificate, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.

Dated December 7, 2000.

  
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For Paul R. Cleary,  
Director Oregon Water Resources Department