

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DESCHUTES COUNTY

IN THE MATTER OF CANCELLATION OF A)
PORTION OF WATER RIGHT CERTIFICATES) FINAL ORDER
83571 AND 76714)

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 July 25, 2007, and August 24, 2007, the Department received affidavits from Patrick Griffith, Water Resources Coordinator for the City of Bend on behalf of the City of Bend, PO Box 431, Bend, OR 97709, stating the City of Bend has interest in portions of the water rights evidenced by Certificates 76358 and 76714, State Record of Water Right Certificates. Certificate 76358 has been superseded by Certificate 83571. The affidavit further states a portion of the water rights appurtenant to the property have been abandoned and requests the portions of the certificates be cancelled.
2. Pursuant to OAR 690-017-0100, the Department has determined that the City of Bend holds the interest, as established by a Deed of Dedication, to portions of the water rights evidenced by Certificates 83571 and 76714.
3. The water right evidenced by Certificate 83571 allows for the use of up to 1370.377 cubic feet per second (cfs) of water from the Deschutes River, tributary of the Columbia River, under priority dates of October 31, 1900, and December 2, 1907, for irrigation. The amount of water used for irrigation is limited to a total duty not to exceed 9.91 acre-feet per acre irrigated during the irrigation season of each year as measured at the point of diversion.
4. The water right evidenced by Certificate 76714 allows for the use of up to 50,000 acre-feet of water stored in Crane Prairie Reservoir (constructed under Permit R-1687), a tributary of the Deschutes River, for supplemental irrigation. The diversion rate is not specified on the certificate and use is limited to the total volume of stored water to make up a deficiency in supply of the live flow water right appurtenant to specified lands. The date of priority is February 28, 1913.

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 137-004-0080, 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.

5. Certificate 83571 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact #3), the total rate and duty for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the points of diversion (POD), the portion of the right involved in this voluntary cancellation would be limited as described in the table below. These rates are also the quantities by which Certificate 83571, POD #1, shall be reduced upon issuance of this order.

Priority Date	Season 1 (4/1 – 4/30 & 10/1 – 10/31)	Season 2 (5/1 – 5/14 & 9/16 -9/30)	Season 3 (5/15 – 9/15)	Duty
October 31, 1900	0.014	0.019	0.026	11.45 AF
December 2, 1907			0.010	

6. The portion of Certificate 83571 which has been abandoned is for the use of the amounts of water as identified in Finding of Fact #5 (above) for irrigation of 1.16 acre located as follows:

CERTIFICATES 83571 (IRRIGATION) & 76714 (SUPPLEMENTAL IRRIGATION)						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
17 S	13 E	WM	20	SE NW	202	1.16

7. The portion of the water right evidenced by Certificate 76714 which has been abandoned is for the use of stored water for supplemental irrigation on the lands described in Finding of Fact #6. The abandoned portion of the water right no longer authorizes water to be applied at the place of described in Finding of Fact #6, but does not reduce the total quantity of water available for supplemental irrigation.

Conclusions of Law

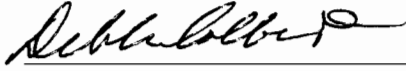
The Director of the Water Resources Department concludes that a portion of the rights evidenced by Water Right Certificates 83571 and 76714 have been abandoned in accordance with the provisions of ORS 540.621 and shall be cancelled.

Now, therefore, it is ORDERED:

1. The water rights appurtenant to the lands described in Findings of Fact #6 are canceled and the Department's records shall be modified accordingly.
2. Certificate 76714 shall be modified to reflect the cancellation of 1.16 acres, as described in Finding of Fact #6, and the corresponding reduction in the number of acres of land to which stored water may be applied for supplemental irrigation under the secondary right to use stored water. However, the total quantity of stored water that can be diverted for supplemental irrigation under the secondary right to use stored water shall remain unchanged.

3. The Department shall issue new water right certificates to supersede Certificates 83571 and 76714 on a determination that it is necessary to produce a certificate to confirm the portion of the right not involved in this cancellation.

Dated at Salem, Oregon this 26th day of December 2007.



pm Phillip C. Ward, Director

Mailing Date: JAN 1 1 2008