

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON

SUPERSEDING ORDER IN THE MATTER)
OF THE DIMINUTION OF CITY OF HELIX)
CERTIFICATE 40935 AND CANCELLATION) ORDER
OF CERTIFICATE 76270)

Findings of Fact

1. Certificate 40935 confirmed the use of 0.25 cfs of water from two wells for municipal use for the City of Helix being 0.11 cfs from Well #1 and 0.14 cfs from Well #2.
2. On February 28, 1992, the Water Resources Department received an affidavit from the City of Helix. The affidavit stated that they were the owners of a water right which was for the appropriation of 0.14 cubic foot per second (cfs) from a well location North 82 degrees 30 minutes East 1730 feet from the SW corner of Section 2, Township 4 North, Range 33 East, W.M., for municipal use for the City of Helix, under a priority date of December 1, 1972, as evidenced by certificate number 40935. The affidavit further stated that the City had abandoned any and all interest in and to the right and requested that the right be cancelled.
3. Well #2 is the well described in the affidavit submitted on February 28, 1992. In a letter received by the Department on December 30, 1991, the City informed the Department that Well #1 would remain as an emergency supply.
4. On April 3, 1992, an order was issued, Special Order Volume 46, Page 174, which cancelled the entirety of Certificate 40935 without providing that a new certificate be issued for the portion of the right not cancelled by the order, namely the right to appropriate water from Well #1.

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 ORS 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. On October 7, 1999, the Department entered an order, Special Volume Page 53, Page 1350, which superseded the previous order and order that a certificate be issued to describe that portion of water right not cancelled by the pervious order.
6. On October 7, 1999, Certificate 76270 was issued for Well #1 in the amount of 0.25 cfs.
7. Due to inconsistencies with the City's numbering system for their wells, the wrong well was requested to be cancelled by the City. The City intended to cancel the portion of Certificate 40935 associated with Well #1. Well #1, UMAT 5454, was abandoned on October 25, 1990, prior to the submittal of the affidavit.

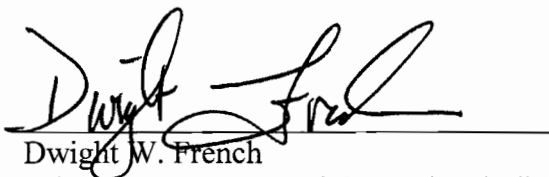
Conclusions of Law

1. Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right (ORS 540.621).

Order

1. It is ordered that the portion of the right allowing for the use of 0.11 cfs from Well #1, as evidenced by Certificate 40935 is cancelled, and Certificate 76270 is cancelled.
2. It is further ordered that a new certificate of water right be issued for the portion of the right not cancelled by the provision of this order be issued.
3. This order superseded Special Order 46, Page 174 and Special Order Volume 53, Page 1350.

Issued AUG 13 2010



Dwight W. French
Administrator Water Rights and Adjudications, for
Phillip C. Ward, Director
Water Resources Department