

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

LINN COUNTY

IN THE MATTER OF TRANSFER        )  
APPLICATION 3405 IN THE NAME    )  
OF SIEGFRIED WARTH                )

ORDER RESCINDING  
LOSS OF RIGHT ORDER

Transfer application 3405, in the name of Siegfried Warth, proposed a change in place of use of water from Mouse Creek under a certain water right with a priority date of October 2, 1944, for domestic use for one family including irrigation of 0.1 acre. The order approving transfer application 3405, entered March 3, 1977, required beneficial use to be made at the new location by October 1, 1978.

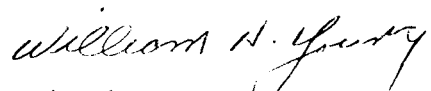
A final proof survey conducted May 4, 1979 found a house under construction at the site. A loss of right letter was sent which was unclaimed by Mr. Warth. Subsequently a Loss of Right Order was entered in Volume 32 at page 260 on June 28, 1979.

Siegfried Warth came in to the office the first week of June, 1989 to explain that he was unaware that his water right had been cancelled. He did not build a new house, but rather moved a house onto his property in 1974. This contention was supported by records identifying his purchase of the house to be moved.

A second final proof survey conducted June 8, 1989 confirmed the change in place of use of water was made within the terms of the order approving transfer application 3405. The May 4, 1979 survey incorrectly inspected a house nearby.

IT IS ORDERED that the loss of right order entered June 28, 1979, in special order record Volume 32 at page 260 is hereby rescinded.

Dated at Salem, Oregon, this 14th day of June, 1989.

  
William H. Young  
Director