

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION OF) NOTICE OF PROPOSED
WATER RIGHT CERTIFICATE 37266, IN THE NAME OF) CANCELLATION OF WATER
KENNETH E. RIEKE, FOR USE OF WATER FROM STOFFELL) RIGHT
CREEK AND A RESERVOIR CONSTRUCTED UNDER)
APPLICATION R-41897, PERMIT R-4772, DOUGLAS)
COUNTY, OREGON)
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)
)

TO: **Legal Owner, Douglas County, Oregon tax lot 27-06W-18-00601:** Scott W Brown Living Trust dated 10/3/2022, Brown, Scott W Trustee, 560 Tanglewood Ln, Roseburg, OR 97471

Occupant, Douglas County, Oregon tax lot 27-06W-18-00601: Current Occupant, 0 Tanglewood Ln, Roseburg, OR 97471

Legal Owner, Douglas County, Oregon tax lot 27-06W-18-00702: Cory D Lee, 6855 W Clearwater Ave, STE N, Kennewick, WA 99336

Occupant, Douglas County, Oregon tax lot 27-06W-18-00702: Current Occupant, 2119 San Souci Dr, Roseburg, OR 97471

Summary: Pursuant to the provisions of Oregon Revised Statutes (ORS) 183.415 and ORS 540.631, you are hereby notified as the legal owner and/or occupant of certain real property in Section 18, Township 27 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, of the proposed cancellation of the irrigation water right evidenced by Certificate 37266, in the name of Kenneth E. Rieke, and of your right to file a protest and receive a contested case hearing on the proposed cancellation.

A. Jurisdiction and Authority

ORS 540.631 and 540.641 grant the Oregon Water Resources Commission (Commission) jurisdiction and authority to issue notices of proposed cancelation of perfected water rights, hold hearings on protests of such notices, and issue orders canceling perfected water rights that have been forfeited by nonuse. The Commission has delegated its authority with respect to cancellation of perfected water rights to the Oregon Water Resources Department (Department). OAR Chapter 690, Division 17.

B. Applicable Law

Oregon water law provides that if any portion of a water right undergoes five or more successive years of nonuse, that nonuse creates a rebuttable presumption of forfeiture. ORS 540.610; ORS 540.631.

A presumption of forfeiture may be rebutted by evidence submitted in a protest and by evidence you may submit in a contested case hearing. ORS 540.610(2); OAR 690-017-0600 and -0800. Water rights are also exempt from forfeiture under certain circumstances outlined in ORS 540.610(3), 540.610(4), and 540.612.

Other applicable law includes ORS 540.610 through ORS 540.670, OAR Chapter 690 Division 17 (governing water right cancellation), ORS Chapter 183 and OAR 137-003-0501 through -0700 (governing contested case hearings) and OAR 690-002-0000 through -0190 (governing protests, hearings, and exceptions).

C. Proposed Cancellation

Findings of Fact

Water Right Proposed to Be Canceled for Nonuse

1. The water right for which cancellation is proposed is Water Right **Certificate 37266**, in the name of Kenneth E. Rieke, authorizing use of 0.05 cubic feet per second from Stoffell Creek and a reservoir constructed under Application R-41897, Permit R-4772, tributary to the South Umpqua River, for irrigation at the following place of use:

2.6 acres in the SW ¼ SE ¼

8.2 acres in the SE ¼ SE ¼

Section 18, Township 27 South, Range 6 West, Willamette Meridian (W.M.). The place of use is further defined by the attached certificate map.

The priority date is February 18, 1966.

The entire certificate is proposed to be cancelled. A copy of said water right certificate and certificate map are attached.

The Affidavits

2. It is asserted in an affidavit filed with the Department by Michael Joseph Korn on August 11, 2025, that Certificate 37266 has been forfeited due to nonuse for irrigation from November 2017 through August 5, 2025.

3. It is asserted in an affidavit filed with the Department by Tanna Lee Korn on August 11, 2025, that Certificate 37266 has been forfeited due to nonuse for irrigation from November 2017 through August 5, 2025.

Certificate 37266's Place of Use

4. Certificate 37266's place of use is located within Douglas County, Oregon tax lots 27-06W-18-00601 and 27-06W-18-00702.
5. Records of the Douglas County Assessor indicate that Scott W Brown Living Trust dated 10/3/2022, Brown, Scott W Trustee, is the owner of Douglas County, Oregon tax lot 27-06W-18-00601. Scott W Brown Living Trust dated 10/3/2022, Brown, Scott W Trustee's last address of record with the Douglas County Assessor is 560 Tanglewood Ln, Roseburg, OR 97471. Records of the Douglas County Assessor indicate that the physical address of Douglas County, Oregon tax lot 27-06W-18-00601 is 0 Tanglewood Ln, Roseburg, OR 97471.
6. Records of the Douglas County Assessor indicate that Cory D Lee is the owner of Douglas County, Oregon tax lot 27-06W-18-00702. Cory D Lee's last address of record with the Douglas County Assessor is 6855 W Clearwater Ave, STE N, Kennewick, WA 99336. Records of the Douglas County Assessor indicate that the physical address of Douglas County, Oregon tax lot 27-06W-18-00702 is 2119 San Souci Dr, Roseburg, OR 97471.

Conclusion of Law

1. The information before the Department creates a rebuttable presumption that Certificate 37266 has been forfeited by nonuse. ORS 540.631; Oregon Administrative Rules (OAR) 690-017-0400.
2. Based on the information currently before the Department, it does not appear that the presumption of forfeiture would be rebutted under ORS 540.610(2) and OAR 690-017-0800(2).

Proposed Cancellation

The Department proposes to issue an order cancelling Certificate 37266.

D. Notice of Right to Request a Contested Case Hearing by Protesting the Proposed Cancellation and Right to File a Request for Party Status

The following sections explain how to: (1) file a protest in opposition to this Notice of Proposed Cancellation to request a contested case hearing on this Notice of Proposed Cancellation; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Notice of Proposed Cancellation.

Protests

As the owner or occupant of land to which the water right proposed to be cancelled is appurtenant, you have the right to a contested case hearing on the matters asserted in this Notice of Proposed Cancellation. To request a contested case hearing, you must file a written protest setting forth the reasons why the water right specified in this Notice should not be cancelled. **If you do not file a protest by the deadline specified below, your right to request a hearing shall be considered waived, and the Department may issue a final order cancelling the water right.**

The information before the Department, if not countered by other evidence, establishes at least five successive years of nonuse of the water right proposed to be cancelled. In your protest and at a hearing you may attempt to show either that water use has occurred during the asserted period of nonuse or that one or more statutorily established reasons excusing nonuse stated in ORS 540.610(2) and further defined in OAR 690-017-0800 or an exemption from forfeiture stated in ORS 540.610(3), 540.610(4), or 540.612 apply.

Protests must be mailed or hand delivered to the Oregon Water Resources Department at the following address: **725 Summer Street NE, Suite A, Salem, OR 97301**. If you wish to submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline specified. Protests must be received by the Water Resources Department no later than **April 3, 2026**.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, and telephone number;
- Include a description of the protestant's interest in the Notice of Proposed Cancellation, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Notice of Proposed Cancellation would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Notice of Proposed Cancellation's recommended findings of fact and/or conclusions of law the protestant objects to;
- Include a written statement citing the reasons the protestant believes the water right has not been forfeited by nonuse;
- Where the protestant intends to rebut the presumption of forfeiture by claiming one or more of the grounds for rebuttal established in ORS 540.610(2) and further defined in OAR 690-017-0800, or an exemption from forfeiture established by ORS 540.610(3),

540.610(4) or 540.612, include a statement of the grounds claimed for rebuttal or exemption;

- Where applicable, include documentary evidence in support of the rebuttal as described in OAR 690-017-0800(3);
- Raise all reasonably ascertainable issues and include all reasonable available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;
- Explain how the issues raised in the protest are within the Department's jurisdiction; and
- Include a protest fee of \$1,425 required by ORS 536.050.

If you file a protest, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing.

Requests for Party Status

Under the provisions of Oregon Laws 2025, chapter 575, section 23(2) and section 3a(2), if this Notice of Proposed Cancellation is protested, any person who supports this Notice of Proposed Cancellation may file a request for party status to request to participate in any contested case proceeding on this Notice of Proposed Cancellation or for judicial review of a final order resulting from this Notice of Proposed Cancellation. Requests for party status must be mailed or hand delivered to the Oregon Water Resources Department at the following address: **725 Summer Street NE, Suite A, Salem, OR 97301**. If you wish to submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline specified. Requests for party status must be received by the Water Resources Department no later than **May 4, 2026**. The individuals who filed the affidavits asserting nonuse of the water right upon which this Notice of Proposed Cancellation is based will be parties to any contested case proceeding on this Notice of Proposed Cancellation without the need to file requests for party status.

Requests for party status must be in writing and include the following:

- Names and addresses of the requester and any organization the requester represents;
- Name and address of the requester's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requester seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requester's

interest, economic or otherwise, and how such interest may be affected by the results of the hearing;

- If the requester seeks to represent a public interest in the results of any contested case hearing on the Proposed Final Order, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requester's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requester seeks to represent; and
- The request for party status fee of \$1,425 required by Oregon Laws 2025, chapter 575, section 3a(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 137-003-0535.

E. Additional Notices

Notice of Right to Request Voluntary Cancellation: Holders of a water right *may also voluntarily relinquish* their water right by filing a notarized authorization to cancel with the Water Resources Department. ORS 540.621. If you decide to authorize voluntary cancellation of the water right or portion thereof appurtenant to your land, you do not need to file a protest. You should contact the Department or your local watermaster for the proper Affidavit of Voluntary Cancellation or Diminution of a Water Right Certificate form.

Notice of the Circumstances Under Which the Department May File a Final Order by Default: If you do not request a hearing by filing a protest within 60 days of the date of the mailing of this Notice, or if you withdraw your protest, notify the Department or the Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, the Department may issue a final order by default canceling the water right. ORS 540.641(1); OAR 137-003-0670. If the Department issues a final order by default, it designates its file on this matter, including any materials submitted by you that relate to this matter, as the record for the purpose of proving a prima facie case.

Notice of Right to be Represented by an Attorney: You may be represented by an attorney at any contested case hearing on this Notice of Proposed Cancellation. Parties are sometimes, but not always, represented by attorneys in cancellation hearings, and the Department may be represented by an attorney. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations must be represented by an attorney. OAR 137-003-0550. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision or public or private organization if the

Department determines that the appearance of a person by an authorized representative will not hinder the orderly and timely development of the record.

Notice to Active Duty Servicemembers: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-453-1175, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

DATED February 2, 2026



Katherine Ratcliffe, Administrator
Water Right Services Division
for Ivan Gall, Director
Oregon Water Resources Department

CERTIFICATE OF MAILING/SERVICE

I certify that on February 2, 2026, I served this Notice of Proposed Cancellation of Water Right, with enclosures of copies of the affidavits and copies of ORS 540.610 - 540.670 and OAR Chapter 690, Division 17, by certified mail, return receipt requested, regular mail, postage prepaid, and email upon the persons listed below:

Certified mail, article #: 7022 3330 0000 2824 8651

Scott W Brown Living Trust dated 10/3/2022
Brown, Scott W Trustee
560 Tanglewood Ln
Roseburg, OR 97471

Copy by regular mail:

Scott W Brown Living Trust dated 10/3/2022
Brown, Scott W Trustee
560 Tanglewood Ln
Roseburg, OR 97471

Certified mail, article #: 7022 3330 0000 2824 8682

Current Occupant
0 Tanglewood Ln
Roseburg, OR 97471

Copy by regular mail:

Current Occupant
0 Tanglewood Ln
Roseburg, OR 97471

Certified mail, article #: 7022 3330 0000 2824 8712

Cory D Lee
6855 W Clearwater Ave, STE N
Kennewick, WA 99336

Copy by regular mail:

Cory D Lee
6855 W Clearwater Ave, STE N
Kennewick, WA 99336

Certified mail, article #: 7022 3330 0000 2824 8743

Current Occupant
2119 San Souci Dr
Roseburg, OR 97471

Copy by regular mail:

Current Occupant
2119 San Souci Dr
Roseburg, OR 97471

Copy by email:

Michael Joseph Korn and Tanna Lee Korn
mkorn1882@gmail.com

/s/ Will Davidson _____
Will Davidson
Oregon Water Resources Department