

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON  
JOSEPHINE COUNTY

IN THE MATTER OF CANCELLATION OF A )  
PORTION OF A PERFECTED AND DEVELOPED ) ORDER  
WATER RIGHT IN THE NAME OF D. VINYARD )

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 June 20, 2000, the Department received a notarized affidavit from Andreas M. and Susan Clayton Goldner, stating they are the owner of lands and the water right appurtenant as evidenced by a portion of Certificate 61171, State Record of Water Right Certificates. 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. Deed records indicate Andreas and Susan Goldner are the record owner of land to which a portion of Certificate 61171 is appurtenant.

Certificate 61171 allows for the use of 0.833 cubic feet per second (cfs) from Munger Creek, tributary to the West Fork of Williams Creek, for domestic and stock use and irrigation of 49.8 acres, with a date of priority of February 1877.

The portion of Certificate 61171 which has been abandoned is for the use of 0.181 cfs for domestic and stock use and irrigation purposes on the following lands:

SE¼ SE¼ 10.8 ACRES  
SECTION 6  
TOWNSHIP 39 SOUTH, RANGE 5 WEST, 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.

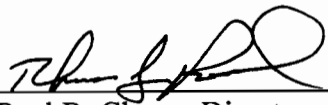
The Director of the Water Resources Department concludes that a portion of Certificate 61171 has been abandoned in accordance with the provisions of ORS 540.621 and shall be canceled.

## ORDER

IT IS ORDERED that the portion of the water right described by Certificate 61171 for the use of 0.181 cfs from Munger Creek, tributary to the West Fork of Williams Creek, for domestic and stock use and irrigation of 10.8 acres located in the SE¼ SE¼, Section 6, 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 61171 is hereby canceled. The Department shall issue Certificate 76667, 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.

  
\_\_\_\_\_  
Paul R. Cleary, Director  
Oregon Water Resources Department

STATE OF OREGON  
COUNTY OF JOSEPHINE  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

D. VINYARD

WILLIAMS, OR 97544

confirms the right to use the waters of MUNGER CREEK, a tributary of the WEST FORK OF WILLIAMS CREEK, for the purpose of IRRIGATION of 39.0 ACRES, DOMESTIC AND STOCK USE.

The right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County. The decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 4, at page 1. The date of priority is FEBRUARY 1877.

The right is limited to not more than 0.652 CUBIC FOOT PER SECOND.

The point of diversion is located as follows:

NW¼ SE¼, Section 6, Township 39 South, Range 5 West, W. M.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

SW¼ SW¼ 27.0 ACRES  
SECTION 5

SE¼ SE¼ 12.0 ACRES  
SECTION 6

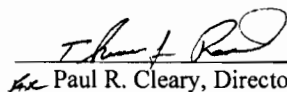
TOWNSHIP 39 SOUTH, RANGE 5 WEST, W. M.

This certificate describes that portion of the water right confirmed by Certificate 61171, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on December 7, 2000, at Special Order Volume 54, Pages 870 - 871, canceling a portion of said water right.

The issuance of this superseding certificate does not confirm the status of the water right in regards to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described and shall be subject to all other conditions and limitations contained in said decree..

WITNESS the signature of the Water Resources Director, affixed DEC 11 2000

  
Paul R. Cleary, Director

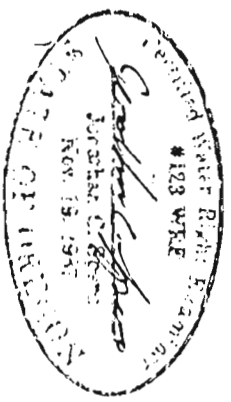
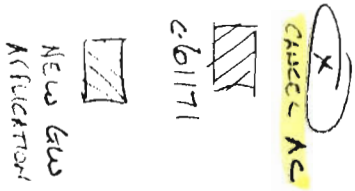
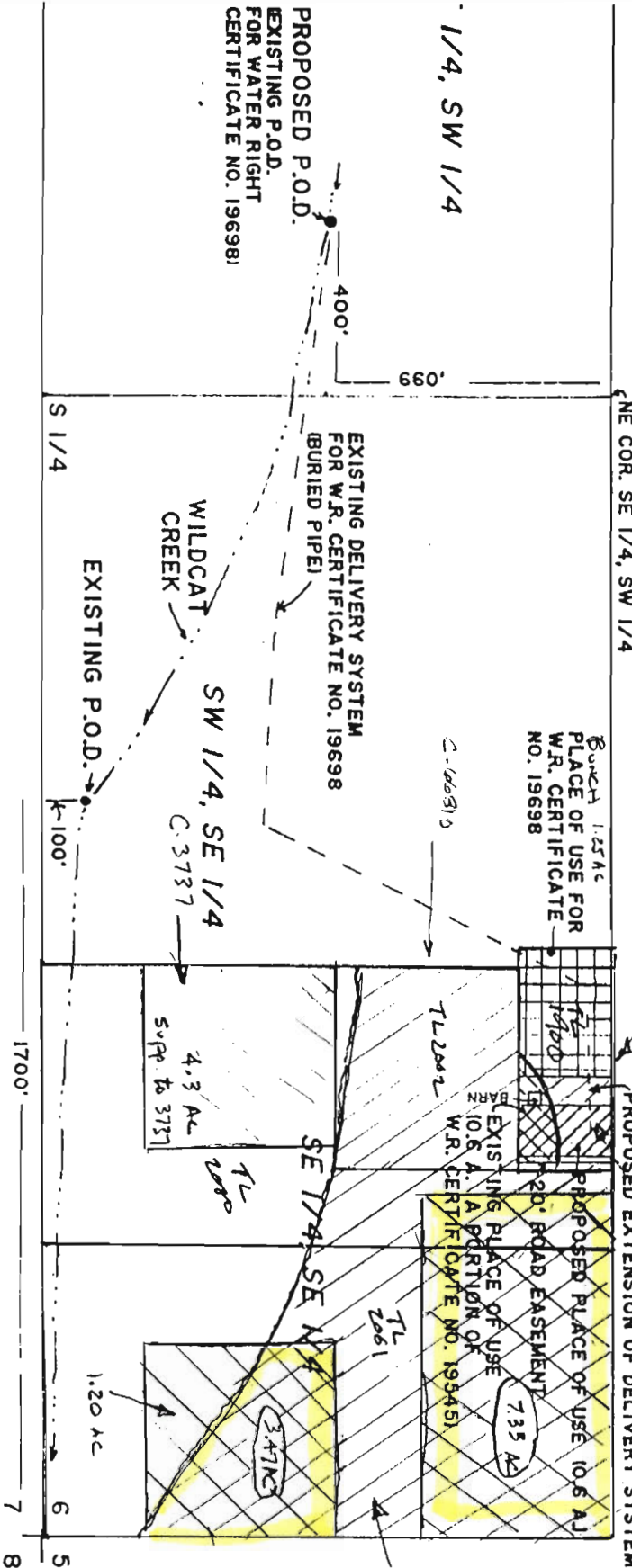
# IPANY APPLICATION FOR CHANGE IN POINT OF DIVERSION AND PLACE OF USE

N(CERTIFICATE NO. 19545)  
 1700' WEST  
 R OF SEC. 6

LOCATED IN THE SOUTH 1/2 OF SECTION 6,  
 T. 39 S. R. 5 W. W.M. JOSEPHINE COUNTY, OREGON.

ON ISAME AS CERTIFICATE NO. 19698)  
 400' WEST  
 R, SE 1/4, SW 1/4 OF SEC. 6  
 CE OF USE ARE BOTH  
 /4 OF SECTION 6.

APPLICANT: G. REX HUME  
 P.O. BOX 68, WILLIAMS, OR 97544  
 PHONE: (503) 846-6620



PREPARED BY:  
 JONATHAN C. SPERO W.R.E. 123  
 1002 KINCAID RD./P.O. BOX 16  
 WILLIAMS, OREGON 97544  
 PHONE (503) 846-6845

APPLICATION NO. \_\_\_\_\_  
 PERMIT NO. \_\_\_\_\_

CANCELLATION  
 ASSOCIATED  
 WITH  
 APP G-15173  
 Permit G-13893