

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED PARTIAL	)	PC 94-6
CANCELLATION OF THE WATER RIGHT	)	
EVIDENCED BY CERTIFICATE 65641 IN THE	)	FINAL ORDER OF
NAME OF GARY & ETHEL ACKERMAN & JOE	)	PARTIAL CANCELLATION
KASSEL FOR IRRIGATION AND DOMESTIC USE	)	OF WATER RIGHT
FROM AN UNNAMED STREAM, TRIBUTARY TO	)	
BRIMSTONE GULCH, JOSEPHINE COUNTY,	)	
OREGON	)	

Notice was sent by certified mail on December 12, 1994, to William Gregory, the owner of record of certain real property located in Tax Lot 500 in the SE¼ SE¼ of Section 7, Township 34 South, Range 6 West, Willamette Meridian, of the proposed partial cancellation of the water right for domestic use on this real property.


The entirety of the water right under Certificate 65641 is the right evidenced and described by the certificate issued to Gary and Ethel Ackerman and Joe Kassel for irrigation of 1.6 acres and domestic use by two families from an unnamed stream, tributary to Brimstone Gulch, and recorded at page 65641, State Record of Water Right Certificates. Certificate 65641 authorizes use under priority date of September 10, 1975, for domestic use for two families on Tax Lots 500 and 502 and the irrigation of 1.6 acres within Tax lot 502, in the SE¼ SE¼ Section 7, T 34 S., R. 6 W., WM. The rate of appropriation is limited to 0.01 cubic feet per second (cfs) for domestic use and 0.02 cfs for irrigation.

Only that portion of the water right for domestic use on tax lot 500 was asserted by Marianne Moskowitz of Los Angeles, California and Jean Mountaingrove of Sunny Valley, Oregon, to have been forfeited for nonuse from August, 1988 through the present and was proposed to be cancelled. The remainder of the right for domestic and irrigation use on tax lot 502 was not at issue, no assertion of nonuse having been made against that portion of Certificate 65641. A protest was filed against the proposed partial cancellation by William Gregory on February 8, 1995. Following correspondence between the ALJ and Mr. Gregory concerning assertions in the protest, Mr. Gregory withdrew his protest via facsimile transmission on April 28, 1995.

There being no protest against the proposed partial cancellation, it is hereby ORDERED that the portion of the water right evidenced by Certificate 65641 for domestic use of water from an unnamed stream, tributary to Brimstone Gulch on Tax Lot 500 in the SE¼ SE¼ Section 7, T 34 S., R. 6 W., Josephine County, be and the same is hereby CANCELLED.

It is FURTHER ORDERED that Certificate 65641 be cancelled and that a new certificate be issued confirming the portion of the right not cancelled by this proceeding.

DATED and PLACED in the US Postal Service this 4th day of May, 1995.

  
WEISHA MIZE  
Administrative Law Judge