

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Cancellation of a Portion of a)
 Perfected and Developed Water Right Certificate)
 85431, in the name of City of Sisters, et. al., and) **FINAL ORDER**
 Offset of Impact for Permit G-16794, Deschutes)
 County)

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.

OAR 690-505-0610 and OAR 690-522-0040 establishes the process in which a municipal or quasi-municipal permit holder, with an incremental development plan, may submit a request to use the cancellation of an existing groundwater right subject to transfer to offset the impact of a groundwater permit in the Deschutes Ground Water Study Area.

Findings of Fact

1. On September 19, 2011, the Department received an affidavit from Eileen Stein, City Manager, City of Sisters, 520 E. Cascade Avenue, Sisters, Oregon, 97759, stating the City owns and controls a portion of the water right evidenced by Certificate 85431, State Record of Water Right Certificates. The affidavit requests a portion of the certificate be cancelled.
2. Certificate 85431 allows for the use of not more than 0.201 cubic foot per second (cfs), from Well 2, for irrigation of 16.1 acres and 0.108 cfs for supplemental irrigation of 29.7 acres. The date of priority is August 25, 1970.
3. The portion of Certificate 85431 the City of Sisters requests be canceled is for the use of 0.162 cfs from Well 2 for irrigation of 13.0 acres located as follows:

TWP	RNG	MER	SEC	Q-Q	ACRES
15 S	10 E	WM	15	NE NE	1.9
15 S	10 E	WM	15	SE NE	11.1
TOTAL:					13.0

This is an 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 137-004-0080, 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.

Evaluation of Offset of Impact for Groundwater Permit G-16146

4. A request has been submitted to use the voluntary cancellation of a portion of Certificate 85431 to offset a portion of the impact to surface water of Groundwater Permit G-16794, held by City of Sisters, pursuant to OAR 690-505-0610 (8) under the Deschutes Ground Water Mitigation Rules, and OAR 690-522-0040 (1) under the Deschutes Basin Water Management Rules.
5. The voluntary cancellation of an existing groundwater right subject to transfer may be used to offset the impact on surface water of a groundwater permit issued under the Deschutes Basin Ground Water Mitigation Rules provided that the permit is held by a municipal or quasi-municipal permit holder and that the permit holder has an incremental development plan under OAR 690-505-0625.
6. The impact to surface water of the existing groundwater right to be cancelled must be the same or greater than the impact to surface water of the municipal or quasi-municipal permit. The amount of impact of a groundwater permit issued under the Deschutes Ground Water Mitigation Rules to surface water is the consumptive portion (mitigation obligation) of the groundwater use. Offset of the impact must occur in the same zone of impact identified by the Department in the permit.
7. The City of Sisters has an incremental development plan on file with the Department for Permit G-16794.
8. Permit G-16794 allows the appropriation of 2.0 Cubic Feet per Second (CFS) for Municipal Use and has an annual volume limit of 604.6 Acre-Feet. This permit also has a mitigation obligation of 241.8 AF in the Whychus Creek Zone of Impact.
9. Certificate 85431 allows use of water for irrigation and supplemental irrigation. The City of Sisters has requested to cancel 13.0 acres of primary irrigation as described in Finding of Fact #3.
10. The Department has determined that the use of groundwater from the well authorized under Certificate 85431 and Permit G-16794 impact surface water in the same zone of impact, being the Whychus Creek Zone of Impact.
11. The amount of offset generated by the voluntary cancellation of an existing groundwater right is the consumptive portion of the existing use. The voluntary cancellation of 13.0 acres of primary irrigation is equivalent to up to 23.4 AF of consumptive use.
12. Based upon evaluation of the request to use the voluntary cancellation of a portion of Certificate 85431 to offset a portion of the impact to surface water of Permit G-16794, the Department has determined that Certificate 85431 impacts surface water in the same zone of impact as Permit G-16794 and cancelation of 13.0 acres of primary irrigation under Certificate 85431 would offset 23.4 AF of the impact of Permit G-16794.

Conclusions of Law

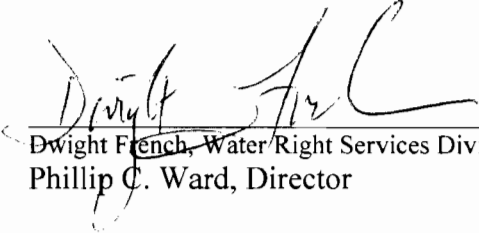
The Director of the Water Resources Department concludes that a portion of the right evidenced by Water Right Certificate 85431 shall be cancelled in accordance with the provisions of ORS 540.621.

The cancellation of a portion of Certificate 85431 results in the offset of a portion of the impact (mitigation obligation) of Permit G-16794 pursuant to OAR 690-505-0610 (8) and OAR 690-522-0040 (1).

Now, therefore, it is ORDERED:

1. Certificate 85431 is canceled.
2. The Department shall issue Certificate 87236, to describe the remaining portion of the perfected and developed water right NOT canceled by the provisions of this order.
3. The cancellation of the 13.0 acres of primary irrigation under a portion of Certificate 85431, as described herein, offsets 23.4 AF of the impact (mitigation obligation) of Permit G-16794 in the Whychus Creek Zone of Impact and this 23.4AF of offset may be included in the City of Sisters' incremental development plan for Permit G-16794.

Dated at Salem, Oregon this 6 day of December, 2011.



Dwight French, Water Right Services Division Administrator for
Phillip C. Ward, Director

Mailing date: DEC 09 2011

