



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.wrd.state.or.us

November 13, 2014

Mr. Russell Thornton
20633 Old Smokey Road
Lakeview, OR 97630

Re: Chewaucan River Decree Priority Dates

Dear Mr. Thornton,

I am writing in response to your letter received by our Department on June 16, 2014. You have asked Water Resources to correct certain priority dates in the Chewaucan River Decree, as these certain priority dates are not consistent with a November 15, 1920 stipulation and agreement (Stipulation). We appreciate your efforts to call upon the Department to investigate this matter.

In response to your statement that "the stipulation and agreement clearly shows that the Oregon State Water Board has entered several errors in the decree," the Department's position is that it does not have the authority to change or correct the Chewaucan River Decree. Only the court has the authority to correct errors it may have made in entering the decree.

In addition, it is the Department's position that the documents pertaining to this case (the decree and the Stipulation) are not sufficient evidence that the priority dates issued in the Decree were in error. To the contrary, these affected priority dates were initially determined by the Water Resources Board adjudicator in the Final Order of Determination filed with the Circuit court. These priority dates were not modified by the decree which was subsequently issued by a circuit court judge. The 1920 Stipulation provides no explanation as to why the affected priority dates were incorrect; the settlement says only that the Water Board's findings and the decree "do not state the facts correctly."



Based on the information in the Department's possession, the Department's position is that the cause of the discrepancy between the decree and the settlement agreement is not a typographical or clerical error in the decree, but rather a determination that the parties to the Stipulation did not agree with. The Department is not a party to the Stipulation and therefore cannot be compelled by other land owners to regulate according to the terms of the Stipulation unless the decree is first modified by the court to reflect the same priority dates specified in the Stipulation.

I understand your concerns about the impacts of the decreed priority dates on your property value. Unfortunately any resolution between the Stipulation parties is out the Department's hands. The Department is hopeful that the land owners involved can come to an agreement; perhaps they could agree on a rotation agreement or some other creative solution.

Sincerely,

A handwritten signature in blue ink that reads "Dwight French". The signature is fluid and cursive, with the first name "Dwight" and last name "French" clearly legible.

Dwight French

Water Right Services Division Administrator

CC: Mr. Brian Mayer, OWRD Watermaster, Region 12
Mr. Kyle Gorman, OWRD Watermaster, SC Region
Ms. Racquel Rancier, OWRD Senior Policy Coordinator
Ms. Jennifer Dresler, Policy Analyst, Senate Republican Office
Mr. Jesse Ratcliffe, Department of Justice
WRIS file for Certificates 3628 and 3633