

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

IN THE MATTER OF ISSUANCE OF A SUPERSEDING)
CERTIFICATE TO TUMALO IRRIGATION DISTRICT) FINAL ORDER
DESCRIBING MODIFICATIONS MADE TO PRIOR)
CERTIFICATE 74146)

Authority

Oregon Revised Statute (ORS) 540.530 (2)(a) allows the Commission to modify a previous certificate for an irrigation district, and, when proper proof of completion of the authorized changes have been filed with the commission, to modify the previous certificate, preserving the previously established priority of rights and covering the authorized changes.

Oregon Administrative Rule (OAR) 690-385-7600 directs the Department to issue a water right describing modifications made to the prior certificate on a determination that is necessary, taking into account, whether the district or users requested issuance of a new certificate, the number of permanent district transfers for which satisfactory proof has been determined (DSP), the frequency and trend in district transfers for which a DSP has been issued, the necessity to modify the water right record to allocate conserved water under ORS 537.470, and accomplish other administrative functions.

Oregon Revised Statute 540.505 provides definitions for certain words used in ORS 540.505 to 540.858. In 540.505 (1) "District" means an irrigation district formed under ORS Chapter 545, a drainage district formed under ORS Chapter 547, a water improvement district formed under ORS Chapter 552, a water control district formed under ORS Chapter 553 or a corporation organized under ORS Chapter 554.

Findings of Fact

1. Tumalo Irrigation District (TID) is an irrigation district formed under ORS Chapter 545, and therefore, certificates issued to TID may be modified pursuant to ORS 540.530 (2)(a).
2. On June 19, 1997, the Department issued Certificate 74146 to confirm an order of the Director which is recorded in Special Order Volume 51, Page 756, approving a petition by TID under ORS 541.329 for mapping water rights within a district.
3. Since the issuance of Certificate 74146, it has been modified by two (2) allocations of conserved water and twenty-nine (29) transfers. Determinations of satisfactory proof have

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 137-004-0080, you may 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.

been issued on twenty-four (24) of the transfers, and four (4) transfers are being confirmed in the new and superseding certificate. Change from the most recent transfer is included in the superseding certificate, but will remain in the inchoate stage until a determination of satisfactory proof can be issued. The Department and TID have agreed on the timing to issue a new water right describing these changes, which will supersede Certificate 74146.

4. On November 15, 2000, Special Order Volume 54, Pages 826-834, a DETERMINATION AND ORDER APPROVING ALLOCATION AND ASSIGNMENT OF CONSERVED WATER (CW-9) was issued involving Tumalo Irrigation District's (TID) Certificates 74146, 74148, and 76106. On April 18, 2005, Special Order Volume 64, Pages 157-158, an ORDER FINALIZING THE ALLOCATION AND ASSIGNMENT OF CONSERVED under CW-9 was issued. The conserved water under Certificate 74146 (primary irrigation) was assigned of to the place of use originally described under Certificate 76106, as discussed below.
 - a. Consistent with these orders, the applicant's share of conserved water (11.3 cfs with a priority date of September 1900) under Certificate 74146¹ was assigned to serve the 790.6 acres originally associated with Certificate 76106. Also consistent with the order, lands formerly under Certificate 76106 assigned to Certificate 74146 (790.6 acres) have a priority date of September 1900 for primary irrigation.
 - b. This new and superseding certificate will include both the place of use originally under Certificate 74146, and the place of use (790.6 acres) formerly under Certificate 76106 now assigned to Certificate 74146 for primary irrigation, as modified by any transfers, completed pursuant to ORS 540.580.
5. On December 9, 2005, Special Order Volume 67, Pages 509-517, a FINAL ORDER APPROVING ALLOCATION OF CONSERVED WATER (CW-37) was issued involving Tumalo Irrigation District's (TID) Certificates 74146 and 74148. The project was finalized in six (6) increments between 2008 and 2020. This superseding certificate accounts for the reductions in rate associated with these six prior finalizations. Upon submission of the last remaining (7th) REQUEST FOR FINALIZATION, a new certificate will be issued at that time to describe the existing uses and place of use at the reduced rate and duty.
6. On August 7, 2020, the Department, with the TID's consent, emailed a proposed certificate to TID with a 60-day notice for review to request the Department to reconsider the contents.

Conclusions of Law

1. The Director of the Water Resources Department concludes the right evidenced by Certificate 74146 has been significantly modified by allocations of conserved water, determinations of satisfactory proof, and transfers being confirmed in the new and superseding certificate, in accordance with the provisions of 540.530 (2)(a).

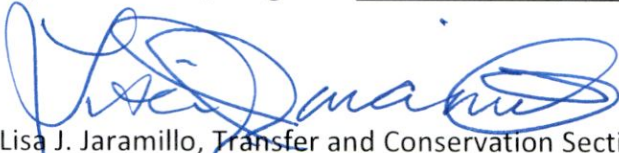
¹The State of Oregon's share of conserved water (5.82 cfs) from Certificate 74146 was finalized under Certificate 81333.

2. The Director of the Water Resources Department concludes it is the appropriate time to issue a superseding certificate in accordance with OAR 690-385-7600.

Now, therefore, it is ORDERED:

1. Certificates 74146 is cancelled.
2. The Department shall issue a new and superseding certificate to describe all authorized modifications made to Certificate 74146.

Signed at Salem, Oregon on DEC 02 2020



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: ~~DEC 03 2020~~