

**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 74148)

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 74148 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 74148, it has been modified by two (2) allocations of conserved water and thirty-one (31) 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-six (26) 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 74148.

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.
 - a. Consistent with these orders, Certificate 76106 was cancelled with the issuance of confirming water right Certificate 81332 for the use of the waters of Tumalo Creek for instream use with priority date December 8, 1961, and the issuance of diminishment remaining right Certificate 88894 for use of the water of Upper Tumalo Reservoir for supplemental uses. Certificate 81332 was issued to the State of Oregon in exchange for TID receiving the State of Oregon's portion of conserved water under Certificate 74148. Thus, as confirmed in these orders, the entirety of the conserved water under Certificate 74148 (3,746 ac-ft) was assigned as supplemental irrigation for the place of use under Certificate 76106 (790.6 acres) with the April 7, 1911 priority date.
 - b. This superseding certificate for supplemental irrigation includes both the place of use originally under Certificate 74148, and the place of use for the 790.6 acres as had been described in Certificate 76106, 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

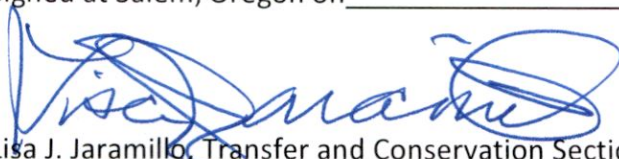
1. The Director of the Water Resources Department concludes the right evidenced by Certificate 74148 has been significantly modified by allocations of conserved water, determinations of satisfactory proof, and transfers being confirmed in the new and superseding certificate, in accordance with the provisions of 540.530 (2)(a).

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 74148 is cancelled.
2. The Department shall issue a new and superseding certificate to describe all authorized modifications made to Certificate 74148.

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

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