

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

IN THE MATTER OF ISSUANCE OF A SUPERSEDING)
CERTIFICATE TO FARMERS IRRIGATION DISTRICT) FINAL ORDER
DESCRIBING MODIFICATIONS MADE TO PRIOR)
CERTIFICATE 85974)

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. Farmers Irrigation District (FID) is an irrigation district formed under ORS Chapter 545, and therefore certificates issued to FID may be modified pursuant to ORS 540.530 (2)(a).
2. On January 28, 2010, the Department issued Certificate 85974 to supersede Certificate 74298 which described the authorized modifications made to Certificate 74298 between the years 1997 and 2001, with the exception of a portion of Transfer T-7598 as described in the next Finding of Fact.
3. Certificate 74298 confirmed an order of the Director which is recorded in Special Order Volume 51, Page 860, approving a petition by FID under ORS 541.329 for mapping water

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.

rights within a district. Certificate 74298 together with Transfer T-7598 superseded Certificate 46954 (see Certificate 74298). Transfer T-7598 involved changes in points of diversion and place of use for 20.0 acres of irrigation under Certificate 46954. Certificate 85974 states that it confirmed the changes approved in Transfer T-7598. The points of diversion changes were included in Certificate 85974, but the 20.0 acres of irrigation were inadvertently omitted from Certificate 85974. The new superseding certificate includes the 20.0 acres of irrigation from T-7598, and thus totals 20.0 more acres than listed on Certificate 85974. This is not enlargement of the water right; it is merely including in the acreage confirmed in T-7598 which was inadvertently omitted from Certificate 85974.

4. Since the issuance of Certificate 85974, it has been modified by seven (7) determinations of satisfactory proof, including one for Transfer T-7598 (mentioned above in Finding of Fact #3). Changes from the most recent transfer are included in the superseding certificate, but will remain in the inchoate stage until a determination of satisfactory proof can be issued. The Department and FID have agreed on the timing to issue a new water right describing these modifications, which will supersede Certificate 85974.
5. On November 13, 2020, the Department e-mailed a proposed certificate to FID 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 85974 has been significantly modified by determinations of satisfactory proof 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. Certificate 85974 is cancelled.
2. The Department shall issue a new and superseding certificate to describe all authorized modifications made to Certificate 85974.

Signed at Salem, Oregon on JAN 27 2021


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

Mailing Date: JAN 28 2021