

February 1, 2012

**OREGON ADMINISTRATIVE RULES
WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 330
WATER RIGHT CERTIFICATES**

690-330-0010

Proof of Appropriation

(1) ORS 537.250(1) and 537.630(3) prescribe that the Director shall issue a certificate of water right upon satisfactory proof of appropriation. Satisfactory proof shall be following:

(a) A determination by the Department that appropriation of water to beneficial use under the terms of the permit has been accomplished to the extent authorized;

(b) A determination by the Department that appropriation of water to a beneficial use under the terms of the permit was accomplished to an extent less than authorized shall constitute proof for that portion of the appropriation.

(2) If the Department determines that proof has been made to an extent different from or less than that granted by the permit, a proposed certificate of water right shall be prepared. The proposed certificate shall describe the right determined completed under the provisions of the permit. The proposed certificate shall be sent by first class mail to the permittee at the last known address, or with the consent of the recipient, by electronic means together with notice that the permittee or landowner has a period of 60 days from the date the proposed certificate was sent within which to request the Department reconsider the contents of the proposed certificate of water right. If no request for reconsideration is received within the 60-day period, the Director shall issue a water right certificate to the permittee pursuant to ORS 537.250(1) or 537.630 (4).

(3) If the Department determines that proof has been made on the full extent granted by the permit, a certificate may be issued without the necessity of a proposed certificate.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 536.220, ORS 536.300, ORS 536.310, ORS 537.250, ORS 537.338, ORS 537.356 - ORS 537.358, ORS 537.630 & ORS 540 & ORS 543

Hist.: WRD 6-1987, f. & ef. 6-11-87; WRD 16-1990, f. & cert. ef. 8-23-90; WRD 9-1992, f. & cert. ef. 7-1-92, Renumbered from 690-11-110; WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0225; WRD 1-2012, f. & cert. ef. 2-1-2012

690-330-0020

Request for Reconsideration of the Contents of a Proposed Certificate

(1) A request for reconsideration of the contents of a proposed certificate may be prepared by the permittee or landowner and submitted to the Department. The requests shall describe any disagreement with the contents of the proposed certificate.

Note: These rules were filed with the Secretary of State and took effect on February 1, 2012. The rules are subject to non-substantive modifications such as renumbering and correction of typographical errors pursuant to ORS 183.360 (2)(a) when published by the Secretary of State.

(2) The request for reconsideration may be in the form of a phone call or personal contact, unless the disagreement proposes a change to any of the following:

- (a) The source of water;
- (b) The purpose for which the water is used;
- (c) The quantity of water;
- (d) The location of the points of diversion;
- (e) The location of the use;
- (f) The extent of the use; and
- (g) Any conditions imposed upon the use.

(3) If the disagreement results in a change to any item listed in subsections (2)(a) through (g) of this rule, the request for reconsideration shall be completed in writing. The request shall set forth the changes to the proposed certificate or the final proof map, and shall include any facts which support the request. Maps, photographs, affidavits, receipts or other such evidence may be included to support the request.

(4) The Director may allow reasonable time beyond the time limit set under OAR 690-330-0010(2) for a permittee or landowner to complete and submit a written request for reconsideration.

(5) Upon receipt of a request for reconsideration, the Director shall:

(a) Approve the request without verification and issue a certificate with the changes included;

(b) Schedule field verification of the requested changes; or

(c) Deny the request by letter from Department staff to the requesting party.

(6) If field verification is scheduled, a new proposed certificate shall be prepared and sent as prescribed by OAR 690-330-0010.

(7) A request for reconsideration resulting from section (6) of this rule shall be approved or denied. If denied, the denial shall be in the form of an Order of the Director. The order shall provide for either issuance of a certificate of water right in conformance with the Director's findings, or for the scheduling of a contested case hearing as provided under OAR Chapter 690, Division 2.

Stat. Auth.: ORS 536.025, 536.027

Statutes Implemented: ORS 536.220, 536.300, 536.310, 537.250, 537.338, 537.356 - 537.358, 537.630 & Ch. 540 & 543

Hist: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 9-1992, f. & cert. ef. 7-1-92; Renumbered from 690-011-0120; WRD 1-1996, f. & cert. ef. 1-31-96 Renumbered from OAR 690-011-0230

690-330-0030

Temperature Control

Where a permit has been issued for use of water for temperature control (either heat or cold), a report detailing the amount of water used, the times of application and conditions requiring the use of water for temperature control shall be required annually. These shall be

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required as an element of proof of appropriation to the satisfaction of the Department prior to issuance of a confirming water right certificate.

Statutory Authority: ORS 536.027

Statutes Implemented: ORS 537.170, 537.250, 537.525 and 537.630

Hist: WRD 1-1996, f. & cert. ef. 1-31-96

690-330-0040

Primary and Supplemental Rights

(1) Cancellation of primary rights:

(a) A notice given pursuant to ORS 540.631 for the proposed cancellation of a primary water right for irrigation of certain lands shall include notice of the proposed cancellation of any supplemental water right for irrigation of the same lands;

(b) If the primary right is determined to have been forfeited by non-use and the supplemental right is not determined also to have been forfeited by non-use, the owner of the land to which the right is appurtenant may apply to transfer the supplemental right, without loss of priority, to become the primary right.

(2) Diminution of a water right: A primary right may, at the request of the owner of the right, be diminished to a supplemental status to allow for a new primary right application from a more dependable source of water.

(3) Supplemental rights: Where more than one right exists, water shall be used from the primary source so long as there is sufficient quantity to satisfy the terms of the permit or certificate. Nevertheless, if requested by the applicant, a permit may be issued which describes a surface water source as supplemental to a groundwater right and shall provide that, in the interest of conserving the groundwater supplies, the supplemental right may be exercised at time when water is available from the surface water supply.

Statutory Authority: ORS 536.025

Statutes Implemented: ORS 540.610 to 540.650

Hist: WRD 1-1996, f. & cert. ef. 1-31-96

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