



Agenda Item A

**Delegation of Authority to Issue Final Orders in
Cancellation Proceedings**

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June 11, 2026

Introduction

- Proposed delegation
 - Delegate authority to Water Resources Director (Director) to consider exceptions and issue final orders in all cancellation proceedings
- Reasons for proposed delegation
 - Increase efficiency of cancellation proceedings while still providing due process
 - Request from Oregon Water Resources Commission (Commission) during 2025 rulemaking

What is cancellation?

- ORS 540.610
 - Five years of nonuse of a vested water right creates a presumption that the water right has been forfeited
- ORS 540.631
 - When it appears that a water right has been forfeited by nonuse, a proceeding to cancel the water right is initiated

Cancellation proceedings

- Governed by ORS 540.610 - 540.670 and OAR 690-017
- Steps:
 - Notice of proposed cancellation (NOPC)
 - Opportunity to protest
 - If no protest filed, NOPC becomes final
 - If protest filed, referred to Office of Administrative Hearings (OAH)
 - OAH conducts hearing and issues proposed order
 - Parties may file exceptions (i.e., objections) to proposed order
 - Commission considers record, proposed order and exceptions and issues final order

Current authority (per OAR 690-017)

Director

- Issue NOPC
- Refer protest to OAH for hearing
- Issue order recognizing NOPC has become final if protestant defaults

Commission

- If hearing held, consider record, OAH's proposed order and any exceptions and issue final order*

*Current distribution differs slightly from pre-April 1, 2026 distribution; under prior rule, Director issued final order after hearing if no exceptions filed

Proposed delegation order

- Included as Attachment 1 to Staff Report
- Gives Director authority to consider exceptions and issue final orders in all cancellation proceedings
- Requires Director to report on exercise of delegated authority at Commission's request
- Commission may rescind or modify delegation at any time by issuing another order

Commission alternatives

- Adopt proposed delegation order
- Adopt proposed delegation order as modified by Commission
- Choose not to delegate cancellation authority to Director at this time
- **NOTE:** The Commission must act if it wishes to maintain the pre-April 1, 2026 status quo

Director's recommendation

- The Director recommends that the Commission adopt the proposed delegation order included as attachment 1 to the Staff Report

OREGON



WATER RESOURCES
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Thank you!

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