

CERTIFICATE AND ORDER  
FOR FILING  
**PERMANENT**  
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

RECEIVED

JAN 11 3 15 PM '90

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on January 5, 1990

SECRETARY OF STATE

by the Water Resources Commission  
(Department) Division)

to become effective January 8, 1990  
(Date)

The within matter having come before the Water Resources Commission  
(Department) (Division) after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

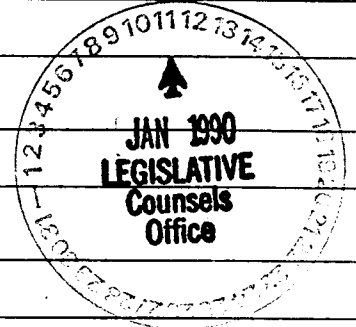
Notice of Intended Action published in Secretary of State's Bulletin: NO  YES  Date Published: December 1, 1989

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted: (New Total Rules) Chapter 690, Division 13

Amended: (Existing Rules)

Repealed: (Total Rules Only)



as Administrative Rules of the Water Resources Department (Department) Field Operations Division (Division)

DATED this 8th day of January, 19 90

By: John E. Barber, Deputy Dir  
(Authorized Signer) WHY

Title: Director, Water Resources Department

Statutory Authority: ORS \_\_\_\_\_ or

Chapter(s) 1000, Oregon Laws 19 89 or

House Bill(s) HB 3111, 19 89 Legislature; or Senate Bill(s) \_\_\_\_\_, 19 \_\_\_\_\_ Legislature

Subject Matter: These rules establish the criteria for filing petitions to adjust the water right record to match the actual use of the water within districts. They also define the standards for petitions and maps submitted by districts and for individual applications.

For Further Information Contact: Bruce Estes (Rule Coordinator) Phone: 378-3739

1-1-10

OREGON ADMINISTRATIVE RULES  
WATER RESOURCES DEPARTMENT  
CHAPTER 690, DIVISION 13  
PETITION TO CHANGE DEPARTMENT RECORDS WITHIN WATER DISTRICTS

**INTRODUCTION**

690-13-005

The purpose of these rules is to establish the criteria for filing petitions to adjust the water right record to match the actual use of the water within districts. Such petitions were authorized by Chapter 1000, Oregon Laws 1989 codified at ORS 541.325 - 541.333, 536.050 and 540.520. This process cannot enlarge the original right. The rules also define the standards for petitions and maps submitted by districts and for individual applications.

These rules will be applied to district petitions and individual transfer applications received on or before July 1, 1992. Applications for transfer submitted on or after July 2, 1992 shall be subject to Division 15 rules and ORS 540.510 to 540.530.

**DEFINITIONS**

690-13-010

(1) **APPLICATION:** means a written request by individuals to change or transfer a water right. See the definition of "petition".

(2) **COMMISSION:** means the Water Resources Commission.

(3) **DEPARTMENT:** means the Water Resources Department.

(4) **DIRECTOR:** means the Director of the Department.

(5) **DISTRICT:** means any district or corporation organized under ORS chapter 545, 552, 553 or 554 or any corporation, cooperative, company or other association formed before 1917 for the purpose of distributing water for irrigation purposes.

(6) **GENERAL DESCRIPTION:** means the location of property or district by government subdivision, metes and bounds or tax lot.

(7) **OWNED or CONTROLLED:** means ownership in fee, purchase on a land sale contract, option to purchase or lease.

(8) **PERFECTED WATER RIGHT:** means a water right confirmed by a court decree, water right certificate or transfers recognized as complete by the Department.

(9) PETITION: means a written request by a district for a new water right certificate which will include changes within districts. See the definition of "application".

(10) TRANSFER: means change of use or place of use of a perfected water right.

(11) USER: means an owner of land with an appurtenant water right subject to assessment by a district and which right would be altered by the petition and map filed by a district.

#### ELIGIBILITY TO PETITION

690-13-030

(1) The following are eligible to petition:

(a) A perfected water right which has been assessed by a district in at least one of the last five years. It is not necessary for the water right to be in the name of the district.

(b) Transfers which have been assessed by a district in at least one of the last five years but are not recognized as complete by the Department.

(c) A permit for supplemental supply which moves with the perfected primary right.

(2) The following are not eligible to petition:

(a) A permit which is a primary supply of water.

(b) A request for point of diversion change.

#### INDIVIDUAL APPLICATIONS

690-13-050

(1) A district that has not filed or notified the Department of its intent to file a petition by July 1, 1991, is presumed to have refused or failed to be a petitioner. This presumption does not deny the district opportunity to petition later.

(2) If the district fails or refuses to file a petition, an owner may file an application affecting only the owner's land. The application shall be on the form provided by the Department. Division 15 transfer rules shall apply except that the applicant shall not be obliged to hire a Certified Water Right Examiner to prepare the application map and claim of beneficial use. Fees for these applications shall be as specified in ORS 536.050.

(3) Several owners within a section quarter-quarter may file as a group. The application shall comply with Division 15 rules except that the applicant shall not be obliged to hire a Certified Water Right Examiner to prepare the application map and claim of beneficial use. There are no fees required by these applications.

(4) Applications under this section will adhere to the timing and verification procedures found in OAR 690-13-300 and 690-13-350.

#### **INTERIM TRANSFERS**

690-13-070

Transfers inside districts prior to July 1, 1992 shall comply with the following:

(1) Where the change is to occur prior to the District submitting its petition which will include this change, the district may submit a notice to the Department. This notice requires no fee, but shall include:

(a) A statement that the district intends to file a petition including this change.

(b) A completed interim transfer notice on a form provided by the Department.

(2) If a more formal record of a change is desired by a user prior to the district submitting its petition, the user may submit a transfer application in compliance with Division 15 rules and ORS 536.050 and 540.510 to 540.530.

(3) For a change after a district has submitted its petition, a landowner must submit a transfer application in compliance with Division 15 rules and ORS 536.050 and 540.510 to 540.530.

#### **DISTRICT PETITIONS**

690-13-100

The district petition shall include:

(1) A listing of:

(a) All of the applicable water rights on lands within the district boundaries, or;

(b) Only the lands where water use changes have occurred. If the change involves part of a section quarter-quarter, all water rights in the quarter-quarter must be requested, or;

(c) A portion of the district to provide a clear record of the water rights. If a portion involves part of a section quarter-quarter, the entire quarter-quarter must be requested. Any part of the district that no longer matches the Department map or certificate should be included in the petition.

(2) A listing of all completed transfers appurtenant to the lands listed.

(3) A map meeting the requirements of OAR 690-13-200.

(4) A description of the land to which each water right is appurtenant, including the township, range, section, quarter-quarter and assessor's tax lot number. The water right shall be described by the number of acres within each quarter-quarter, the use and the user's name. If a tax lot covers more than one quarter-quarter, it shall be listed in each quarter-quarter.

(5) A description of the district's legal boundaries.

(6) A description of the type(s) of use made on each parcel listed in the petition.

#### SUPPLEMENTAL PERMITS

690-13-120

When supplemental permits apply to lands having perfected water rights, the supplemental permit shall be appurtenant to the land listed in the petition.

#### DISTRICT SHALL CERTIFY PETITION

690-13-150

(1) The petitioner or petitioner's authorized representative shall certify that the information contained in the petition and attached exhibits is true and accurate to the best knowledge of the petitioner.

(2) The petitioner shall certify that notice was sent by certified mail to the user of every parcel whose right of record, as evidenced by the district's records, is to be altered by the petition. The certification shall state that the notice was sent to the last known address of the user with a return receipt requested and included:

(a) The number of acres of land or its equivalent for which the user is being assessed;

(b) A general description or tax lot number of the land to which the water is assigned;

(c) A description of the use;

(d) A request that the user confirm that the information in the notice is correct.

(3) The petitioner shall certify that after submitting the petition the district will publish notice in a newspaper having general circulation in the area in which the water rights are located for a period of at least three weeks. There shall be not less than one publication each week. This notice shall include (d), (e), (f), and (g) of section (4) of this section. The dates of proposed publication shall be included.

(4) The petitioner shall certify that after submitting the petition a notice will be sent to users of the district whose right of record is to be altered by the petition. The notice

shall be sent to the last known address of the user with a return receipt requested. The notice shall include:

(a) The number of acres of land or its equivalent, for which the user is being assessed;

(b) A general description or tax lot number of the land to which the water is assigned;

(c) A description of the use;

(d) The number of acres of water right that each parcel will receive;

(e) A statement that the proposed map and petition are available for inspection at the office of the district during normal business hours for a period of 60 days from the date of first publication in the newspaper;

(f) A statement that 60 days after the date of first publication, the petition and map shall be accepted by the Commission unless a protest is filed or the petition does not meet the requirements of Chapter 1000, Oregon Laws 1989, sections (1) and (2). (ORS 541.325 and 541.327);

(g) A statement that the user has the right to protest the petition and map as described in section 4, Chapter 1000, Oregon Laws 1989. (ORS 541.331)

#### MAPPING REQUIREMENTS

690-13-200

The map submitted with a district petition or individual application shall meet the following criteria:

(1) The preferred map size is 8-1/2" X 11"; the maximum size shall be 30" X 30" unless prior approval is obtained from the Department. Standard map symbols shall be used as provided by the Department.

(2) The map shall be drawn in ink on permanent quality tracing linen or 0.003-inch mylar with sufficient clarity so as to be easily reproduced. It shall be drawn to one of the following scales:

(a) One inch equals 1320 feet; or,

(b) One inch equals 400 feet; or,

(c) The assessor's scale if larger than one inch equals 1320 feet; or,

(d) A combination of these scales if using map inserts.

(3) The map shall show the following for parcels of more than 5 acres:

(a) The location of diversions, canals, ditches, pipelines or flumes.

(b) The location of the place where water is used. If for irrigation, the area irrigated in each section quarter-quarter shall be indicated by shading or hachuring and the number of acres in each section quarter-quarter indicated.

(c) The scale to which the map is drawn, the section number, township, range, a north directional symbol and property boundaries.

(4) When the water right is on a tract of land of five acres or less, a notation of the acres of water right on the assessor's tax map shall be sufficient for the identification of the place of use and the extent of use. A portion of a tax map may be included as part of the map submitted.

(5) More than one water right or type of use may be entered on the same map if clearly identified by different hachuring.

#### PROCESSING OF PETITION

690-13-300

(1) Within 60 days of receiving a petition and map, the Director shall notify the petitioner if the map and petition are accepted. If the petition and map are not acceptable, the Director shall notify the petitioner and identify the deficiencies.

(2) The petitioner shall have at least 60 days, or such other time as the Director may allow, to cure the deficiencies. Failure to cure the deficiencies within the time allowed may result in a denial of the petition.

(3) Within 30 days after accepting the petition and map, the Director shall schedule a field examination. The petitioner shall be notified when the field examination is to occur.

(4) Within 60 days after the field examination is complete, the Director shall order certification of the water rights adjusted by the petition and map, or identify deficiencies. The petitioner shall have at least 60 days, or such other time as the Director may allow, to cure the deficiencies. Failure to cure deficiencies within the allotted time shall result in denial of the petition and map.

(5) If a petition or map is amended and a user's water right is changed, the affected user shall be notified of such change by the district. Notice shall be sent describing the change to the last known address with return receipt requested. The user may file a protest with the Commission, within 60 days after the date of said notice.

(6) When a petition is accepted the Director shall provide notice of that acceptance by inclusion in the Departments' periodic notice of water right applications.

## FIELD VERIFICATION OF THE PETITION AND MAP

690-13-350

(1) The Director shall examine the petition and maps that are filed. The examination may include a site inspection to verify the accuracy of the petition, maps and addenda; to verify whether the application of water is to an allowed beneficial use; or to determine whether an existing water right may be injured. The Director may use statistical sampling methods in lieu of examining the entire acreage in the petition.

(2) The examination shall consider the following requirements:

- (a) Evidence of a method to control and deliver the water;
- (b) Evidence of cultivation of the lands described under the petition, if for irrigation; and
- (c) Evidence of beneficial use of the water.

## FINAL ORDER

690-13-400

If the Director finds that the petition and map met the field examination requirements, the Director shall issue an order providing for a new water right certificate. The order may describe transfers that have been included or are to be excluded from the new certificate. If the petition was for a portion of a perfected water right, the order shall provide for issuance of a new certificate confirming the petition and a certificate for the remainder of the right. The remaining right certificate shall include a statement that the right is not confirmed but is still subject to cancellation procedures defined by ORS 540.610.

## PENALTY FOR KNOWINGLY MISREPRESENTING INFORMATION

690-13-500

The Director may assess penalties of up to \$1000.00 for knowingly misrepresenting information within a petition or map. The following factors shall be considered when prescribing a penalty:

- (1) Whether the petitioner made a material misstatement or omission of fact;
- (2) The amount of land and/or volume of water in evidence in the misrepresentation in relation to the amount of land or volume of water in the whole petition;
- (3) Whether the petitioner has cooperated in correcting the misrepresentation or omission in a timely fashion;
- (4) The cost to the Department after the initial field examination, including travel costs to obtain and verify corrections to the petition; and,
- (5) Any other relevant factors.