#### Secretary of State Certificate and Order for Filing

### PERMANENT ADMINISTRATIVE RULES

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I certify that the attached copies* a	re true, full and corre	ect copies of the PERMANENT Rule(s) adopted	on Mo., 20, 20	0.4	
		raio(a) adopted		04 by the	
Water Resources Commission			Date prior to or same as	filing date.	
Agency and Division	<u>'D</u>		690		
5 - , tvision			Administrative Rules Ch	apter Number	
Adam Sussman		-			
Rules Coordinator				(503) 986-0877	
725 Summon Start A NE G 1			Telephone		
725 Summer Street NE, Sale Address	m, OR 97301				
to become effective July 1,	2004	Rulemaking Notice was at 11 1 1 1 1			
Date upo	on filing or later	Rulemaking Notice was published in the	April 2004	Oregon Bulletin.**	
			Month and Year		
		RULEMAKING ACTION			
150	Lis	st each rule number separately, 000-000	-0000		
ADOPT:			-0000.		
Secure approval of rule numbers wi	h the Administrative	Rules Unit prior to filing.			
690-014-0090, 690-014-0110	)				
AMEND:					
690-014-0005, 690-014-0020 0220	, 690-014-0030,	690-014-0050, 690-014-0080, 690-014	-0100, 690-014-0170, 69	0-014-0190, 690-0	
REPEAL:					
790-014-0150					
690-014-0200					
Renumber: Secure approval of rule readmend and Renumber: Secure approximately approxim	numbers with the Adoval of rule numbers	ministrative Rules Unit prior to filing. with the Administrative Rules Unit prior to filing	2.		
Stat. Auth.: ORS 536.027 Other Authority:			•		
Stats. Implemented: ORS 537.797	and 537,799				

#### **RULE SUMMARY**

The Water Resources Commission adopted and amended rules under OAR Chapter 690, Division 14 regarding certification of Water Right Examiners and the criteria and standards for conducting surveys to describe the extent of beneficial use under a water appropriation. These rules have been not updated since adoption in 1988.

These rules were updated to address the following issues: general housekeeping; statutory and rule references; the addition of registered geologists to the list of individuals qualified to become a Certified Water Right Examiner as provided in ORS 537.797; definitions; information required in the Claim of Beneficial Use report; additional information in the Claim of Beneficial Use report for certain reservoirs; waivers of reporting and mapping standards; requirement that the Claim of Beneficial Use map indicate the location of fish screens, by-pass devices, and meters if required; mapping standards for municipal Claim of Beneficial Use maps.

Authorized Signer

\*Copies include a photocopy of this certificate with paper copy of each rule listed in the Rulemaking Action.

<sup>\*\*</sup>The Oregon Bulletin is published on the F of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 p.m. on the 15 day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 p.m. on the preceding workday.

# WATER RESOURCES DEPARTMENT DIVISION 14 CERTIFIED WATER RIGHT EXAMINERS

#### 690-014-0005 Introduction

- (1) The purpose of these rules is to establish the criteria for certification of Water Right Examiners. They also define the minimum standards and criteria under which Certified Water Right Examiners shall conduct surveys to describe the extent of appropriation for beneficial use of public waters. The rules also describe the information required and procedure for preparing maps to accompany [water right] transfer applications. These rules are in addition to OAR Chapter 690, Divisions [011, 015, 020, and 051.] 020, 051, 300, 310 and 380.
- (2) These rules shall not deprive or limit the Director of the Water Resources Department or the Water Resources Commission from exercising powers or duties bestowed by law. Nor shall they limit or restrict the information the Director or Commission may require from any water user or authorized agent to determine satisfactory proof.
- (3) The authority for these rules are found in ORS Chapters 183, 536, 537, and 540, and in particular ORS 537.797 to 537.799.
- (4) These rules shall apply to Claims of Beneficial Use submitted on or after July 1, 2004. Claims of Beneficial Use submitted before this date shall be subject to the rules in effect at the time of submittal.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537
Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537
Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-2004

#### 690-014-0020

#### **Definitions**

The definitions found in Oregon Administrative Rules Chapter 690, [Division 011,] Divisions 300 and 380, apply. The following definitions also apply:

- [(1) "Acre-Foot"](1) "Acre-Foot (AF)" means the equivalent volume of one acre covered with one foot of water [(325,900)](325,851 gallons).
- (2) "Certified Water Right Examiner" or "CWRE" means any individual certified by OSBEELS to collect and report data and conduct surveys to describe the extent of appropriation for Claims of Beneficial Use, and also to prepare maps for transfer applications.
- [(2)](3) "Claim of Beneficial Use" means documents submitted to the Department requesting a certificate of water right be issued for the authorized use or uses made. These documents shall include the report of the site inspection, calculations for the rate of flow, and the [claim map of]map illustrating the location of beneficial use made within the terms of the permit or transfer final order.
  - [(3)](4) "Commission" means the Water Resources Commission.

(4)(5) "Cubic Foot per Second (cfs)" means a rate of [flow measurement for] water flow, equal to 448.83 gallons of water per minute.

[(5)](6) "Department" means the Water Resources Department.

[(6)](7) "Director" means the Director of the Department or the Director's authorized deputies or officers.

[(7)](8) "Measuring Device" means a structure or apparatus such as a weir, meter, or flume to determine rate of flow or volume of water.

[(8)](9) "OAR" means Oregon Administrative Rules.

[(9)](10) "ORS" means Oregon Revised Statutes.

[(10) "OSBEE"](11) "OSBEELS" means Oregon State Board of Examiners for Engineering [Examiners.] and Land Surveying.

[(11)](12) "Rate and Duty of Water" means [quantity] the flow of water expressed in cfs [(rate) and the total] or gallons per minute (instantaneous rate) and the volume of water expressed in [acre feet] AF (duty) as allowed in the permit or [transfer.] transfer final order.

[(12)](13) "Spring" means a place where water naturally emerges from the ground.

[(13)] (14) "Source" means the surface or ground water body for each point of diversion or point of appropriation involved in a permit or transfer final order.

[(14) "Survey the] (15) "Survey of Appropriation" means the field inspection and document preparation performed by a [Certified Water Right Examiner] CWRE to obtain the data necessary to support the Claim of Beneficial [use.] Use.

[(15)] (16) "Water Rights Act" means the same as defined by ORS 537.010.

[(16) "Water Right Examiner" means any individual certified by OSBEE to collect and report data and conduct surveys of appropriation for claims of beneficial use, and also to prepare maps for water right applications.

(17) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-2004

#### 690-014-0030

#### Certified Water Right Examiner Required

The water user or person responsible for a [permit or transfer must hire a certified water right examiner to] permit, transfer application, or transfer final order must have a CWRE prepare:

- (1) The [application map for a permit or transfer filed after November 29, 1987.] map for a transfer application.
- (2) The [map and claim of beneficial use if the] Claim of Beneficial Use if the permit or transfer application was filed after July 9, 1987.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-

2004

#### 690-014-0050

#### Certification of Water Right Examiners

[Water right examiners] CWREs shall be certified by [the Oregon State Board of Engineering Examiners (OSBEE).] OSBEELS. In addition to these rules, OSBEELS rules found in OAR Chapter 820 apply.

- (1) [Water right examiner] <u>CWRE</u> applicants shall be registered in Oregon as [either] a professional [engineer or] engineer, professional land [surveyor.] surveyor or registered geologist.
- (2) To [be certified as a water right examiner,] become a CWRE, an applicant shall pass a written examination administered by OSBEELS and approved by the [Water Resources] Department to determine the applicant's ability to properly perform the surveying, mapping, hydraulic computations, and [information gathering] information gathering duties required by [OAR Chapter 690, Division 014] ORS 537.798.
- (3) All documents, drawings, or narratives required by [the 1987 act or] these rules shall be prepared by or under the direct supervision of a [certified water right examiner] CWRE. These items shall bear the seal and original signature of the [water right examiner] CWRE.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-

28-88; WRD 5-2004, f. & cert. ef. 7-1-2004

#### 690-014-0080

#### Revocation of Certified Water Right Examiner's Certificate

[Water right examiners] <u>CWREs</u> may be decertified by OSBEE<u>LS</u> for violation of OAR Chapter 690, Division 014[7] rules or violation of OAR Chapter 820 rules.

- (1) Any violation of these rules by a [certified water right examiner] <u>CWRE</u> and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEE<u>LS</u>. A material misstatement of fact shall be referred to OSBEE<u>LS</u> for disciplinary action.
- (2) Revocation of the [water right examiner's] <u>CWRE's</u> certificate does not in itself cause forfeiture of that person's [professional land surveyor or professional engineer registration.] <u>other professional licenses or credentials.</u>

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-

2004

#### 690-014-0090

#### **Maps for Transfer Applications**

(1) Application maps for transfer shall comply with ORS Chapters 536, 537, and 540, and OAR Chapter 690, Divisions 020 and 380.

Stat. Auth.: ORS Chapters 536 & 537

<u>Stats. Implemented: ORS Chapters 536 & 537</u> <u>Hist.: WRD 5-2004, f. & cert. ef. 7-1-2004</u>

#### 690-014-0100

[Site Report and Calculations for Permits and Transfers] Minimum Requirements for Claims of Beneficial Use for Permits and Transfer Final Orders

- (1) The [water right examiner shall prepare a report which presents] CWRE shall prepare a report, using a form or format provided by the Department, which describes the status of conditions and limitations in permits and transfer[s] final orders such as:
  - (a) Type of use;
  - (b) Period of use;
  - (c) <del>[(b)]</del> Place of use:
  - (d) [(e)] Extent of use;
  - (e) [(d)] Location of point of diversion or point of appropriation;
  - (f) [(e)] Source[s] of water;
  - (g) f(f) Rate and duty:
  - (h) [(g)] Installation of measuring [devices; and] device;
  - (i) Water use reporting;
  - (i) Water level reporting;
  - (k) Fish screening;
  - (1) The date of the inspection; and
  - (m) [(h) Any] All other conditions or limitations.
- (2) [Permits may have three time limits: A substantial beginning of construction; completion of the construction; and the application of water to beneficial use. Transfers have one time limit: the date by which water is to be applied to beneficial use. The water right examiner shall complete the form provided by] The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified development time limits.
- (3) Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer <u>final order</u> being examined shall also be noted in the report but not included as part of the [elaim of beneficial use. If they appear on the map

## the] Claim of Beneficial Use. All uses shown [report must clarify.] on the map must be described in the report.

- (4) The diversion works shall be accurately described by the map and report. A general narrative description of the distribution works shall be given. This description must trace the water **system** from the point(s) of diversion [to and including] or appropriation to, and include the place of use. The description shall also include the return to public waters when required by the permit or transfer **final order**, such as fish propagation, mining and power facilities. The make, capacity, serial number and description of all [pumps, or] pumps and measuring devices shall, if available, be described in the report. If the make, capacity, serial number and description of any pumps and measuring devices are not available, the report must specify why.
- (5) Other water [rights] right permits, certificates, transfer final orders, or other conveyance systems connected to the system being examined shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump, and other related structures shall be described.
- (6) The crops raised or other beneficial use made of the water shall be identified [with considerable detail and include the period of use each year].
- (7) The diversion rate shall be determined for each use and source when more than one use or source is involved.
- (8) The maximum rate of use shall be determined by actual measurement when possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other method of measurement acceptable to the Department. The report shall describe the method used in making the measurement, the date made and a description of the location where the measurement was taken. It shall contain sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case.
- (9) Computations for the maximum capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.
- [(9) The rate and duty] (10) The amount of water shall be limited by the [Commission to the lessor] Department to the lesser of: the authorized amount, the capacity of the delivery system, or the amount [beneficially used. The certified water right examiner's report] of actual beneficial use. The Claim of Beneficial Use shall include sufficient information to make the determination.
- (11) Claims of Beneficial Use for reservoir permits, for storage of less than 9.2 acre-feet of water or with a dam less than 10 feet in height, that do not require approved as-built plans and specifications be on file with the Department, shall also include the following:
- (a) a drawing showing the cross section of the dam at maximum section showing complete details and dimensions. The drawing should be drawn at a standard scale. Normally this measurement is taken from the deepest part of the channel to the top of the embankment. Vertical accuracy is required to 0.25 feet for the purpose of this measurement;
  - (b) a description of the outlet works; and
  - (c) a description of the emergency spillway.

- [(10)] (12) The rate of flow shall be determined [in cfs] to three significant figures with reporting necessary only to thousandths. Examples are: 4,560 cfs; 456 cfs; 456 cfs; 456 cfs; 0.046 cfs; and 0.005 cfs.
- [(11)] (13) When computing the storage capacity of reservoirs, the [Y]volume of water [measurements] shall be determined[in acre-feet] to three significant figures with [accuracy] reporting, for the purpose of the Claim of Beneficial Use, necessary only to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.
- (14) The following statement, signed by the CWRE, shall appear at the end of the Claim of Beneficial Use: "The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge."
- (15) The following statement, signed or acknowledged by the permittee or transferee, shall appear at the end of the Claim of Beneficial Use: "The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate."
- (16) A CWRE may make a written request to the Director for a waiver of one or more of the Claim of Beneficial Use standards. Waivers cannot be requested for elements relating to conditions or other limitations of the permit or transfer final order. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-

28-88; WRD 5-2004, f. & cert. ef. 7-1-2004

#### [<del>690-014-0150</del>

**Maps for Permit or Transfer Applications** 

- (1) Applications for permit or transfer shall comply with ORS Chapters 536, 537, and 540, and OAR Chapter 690, Divisions 011, 015, and 020.
- (2) Application maps shall comply with the provisions of OAR Chapter 690, Division 011 rules.

#### 690-014-0110

Claim of Beneficial Use: General Standards

The Claim of Beneficial Use shall be prepared by a CWRE and submitted by the holder of the permit or transfer final order or by an authorized agent.

- (1) In addition to the rules of professional conduct found in OAR Chapter 820, CWREs should be aware of the public interest regarding Examiners' investigations of water use. Uses not authorized or not completed within the terms of the permit or transfer final order, or water not beneficially used, shall not be included in the Claim of Beneficial Use. Claims of Beneficial Use shall not violate any of the provisions of the Water Rights Act or these rules.
- (2) All Claims of Beneficial Use shall be made to match with existing water rights of record, unless an error in the original location is identified. If an error in an existing water right record is found, then evidence of the correct location as it

### pertains to the current claim shall be submitted to the Department as part of the Claim of Beneficial Use.

- (3) The Director may refuse to accept Claims of Beneficial Use which do not conform to these rules and regulations.
- (4) The form or format provided by the Department for Claim of Beneficial Use shall question whether beneficial use was made. If the permittee or transferee claims that beneficial use was made, the claim must be supported with a sufficient description of the use prepared by the CWRE to enable the Department to decide if beneficial use was made under the terms and conditions of a permit or transfer final order.
  - (5) Follow up inspections may be made by the Department.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 5-2004, f. & cert. ef. 7-1-2004

#### 690-014-0170

### <u>Minimum Requirements for Maps for Permit or Transfer Final Order Claims of Beneficial Use</u>

- (1) Maps submitted as part of the [claim of beneficial use] Claim of Beneficial Use shall be drawn in ink on [permanent-quality linen or] at least 0.003-inch [mylar] polyester film and otherwise conform to all the requirements for application maps as noted in OAR [690-011-0070(5).] 690-310-0050. If for irrigation, the area cross-hatchured shall not exceed the total acreage authorized in the permit or transfer final order involved. More than one permit or transfer may be entered on the same map if clearly identified by different cross-hatchuring. The map scale shall be 1" = 1320', 1" = 400', or the original full-size scale of the county assessor map for the location. 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 symbols shall be used as indicated in Department handouts.
- (2) Horizontal accuracy is required only to ten feet for the purpose of locating and quantifying water rights. Maps shall be developed from any standard survey [method or drawn from aerial photos at 1" = 1320' scale or better.] method. Traverse closures are not required.
- (3) Maps shall clearly designate the place of use and point of diversion <u>or</u> <u>appropriation</u> for each source and [<u>use when more than one is involved.</u>] <u>use. Maps for permits or transfer final orders involving surface water must illustrate the source.</u>
- (4) The map shall indicate by description, in relation to the point of diversion or appropriation, the location of any fish screens, by-pass devices, and measuring devices required by the permit or transfer final order.
- [(4) A] (5) The following statement shall be placed on [each map that the map is for the purpose of identifying the location of the water right only and] the map: "This map is not intended to provide legal dimensions or locations of property ownership [lines."
- (6) Maps depicting municipal place of use need only show the township, range, section, and quarter-quarter sections where use has occurred under the

<u>subject permit.</u> The scale for a municipal place of use map should be sufficient to identify the quarter-quarters involved in the place of use.

(7) A CWRE may make a written request to the Director for a waiver of one or more mapping standards. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-

2004

#### 690-014-0190

#### Time Limit for Filing Claim of Beneficial Use

The [elaim of beneficial use] <u>Claim of Beneficial Use</u> shall be submitted to the Department within one year after the use was reported to the Department as being complete or the beneficial use date allowed in the permit or transfer <u>final order</u>, whichever occurs first. Failure to comply with this section shall cause the Director to initiate permit cancel <u>lation</u> proceedings as provided by ORS 537.260.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-

2004

#### [<del>690-014-0200</del>

#### Claim of Beneficial Use

The claim of beneficial use shall be prepared by a Certified Water Right examiner and submitted by the holder of the permit or transfer or by an authorized agent.

- (1) In addition to the rules of professional conduct found in OAR Chapter 820, certified water right examiners must be aware of the public interest regarding examiner investigations about water use. Uses not authorized or not completed within the terms of the permit or transfer, or water not beneficially used shall not be included in the claim of beneficial use. Claims of beneficial use shall not violate any of the provisions of the water rights act or these rules.
- (2) All claims of beneficial use shall be made to match with existing valid water rights, unless an error in the original location is identified. If an error in an existing water right record is found, then evidence of the correction location as it pertains to the current claim shall be submitted to the Department.
- (3) The Director may refuse to accept claims of beneficial use which do not conform to these rules and regulations.
- (4) The form provided by the Department for claim of beneficial use shall question whether beneficial use was made. If the permittee or transferee claims that beneficial use was made, the claim must be supported with a sufficient description of the use prepared by the Certified Water Right Examiner to enable the Department to decide the issue. Where there is a questionable beneficial use, the permittee, transferee, or water

right examiner shall contact the Department for a determination. The Director may request a final decision from the Commission.

(5) On site inspections of claims may be made by the Department.

Stat. Auth.: ORS 536 & ORS 542

Stats. Implemented: ORS 536 & ORS 542

Hist.: WRD 9-1987(Temp), f. & ef. 9-1-87; WRD-3-1988, f. 2-26-88, cert. ef. 2-20-201

<del>28-88</del>]

#### 690-014-0220

#### Time Limit to Cure Defects in a Claim of Beneficial Use

A [claim of beneficial use] Claim of Beneficial Use which needs corrections or additions shall be returned to the [certified water right examiner] CWRE to correct the deficiencies. The corrected claim shall be returned to the Department within the written time limit allowed. The time allowed will be determined by the Director, but shall not be less than 30 days. Any claims not returned within the specified time [shall cause] may result in the Director [to submit] submitting the name and certificate number of the [water right examiner] CWRE involved to OSBEELS for disciplinary action.

Stat. Auth.: ORS [536 & ORS 542] Chapters 536 & 537

Stats. Implemented: [ORS 536 & ORS 542] ORS Chapters 536 & 537

Hist.: WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-2004, f. & cert. ef. 7-1-

2004