

feet of water or its equivalent, for which the user is being assessed, a general description or tax lot of the land to which the water is assigned, a description of the use and a request for confirmation that the information in the notice is correct. Thirty days after the notice is mailed, the district shall prepare a petition and map as described in subsections (1) and (2) of this section. Payment for water by the user or the user's predecessor for a period of five years before the petition shall create a rebuttable presumption that the number of acres billed and paid by the user or the user's predecessor is equal to the user's water right.

(5) Within 30 days after the commission issues a proposed order regarding the petition, the district shall send notice to the users of the district whose right of record is to be altered by the proposed order. This notice shall be sent to the last-known address of the user with a return receipt requested. The notice shall include the number of acres of land, or its equivalent, for which the user is being assessed, a general description or tax lot number of the land to which the water is assigned and a description of the use. In addition to the notice of the proposed order that the district sends to the users, the district shall publish at the same time notice in a newspaper having general circulation in the area in which the water rights are located for a period of at least two weeks. Not less than one publication in each week shall be made. The notice shall state:

(a) The number of acres of water right that each parcel shall receive and the associated priority dates;

(b) That the proposed map and order 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;

(c) That not less than 60 days after the date of first publication, the commission shall approve the petition and map and issue a final order unless a protest is filed or the petition does not meet the requirements of subsections (1) and (2) of this section; and

(d) That the user has the right to protest the proposed order and map as described in ORS 541.331.

(6) If the commission returns a petition or map to a district for correction, the commission may prescribe a deadline for the petitioner to provide additional information or correct the petition or map. If the petitioner fails to meet the deadline prescribed by the commission, the commission may deny the petition. [1989 c.1000 §3; 1991 c.957 §13; 1993 c.818 §3; 2003 c.691 §2; 2011 c.52 §8]

Note: See note under 541.325.

541.331 Protest against approval of petition; hearing; issuance of water right certificate; land subject to inclusion.

(1) Any user may file with the Water Resources Department, within 60 days after the date of first publication, under ORS 541.329, a protest against a proposed order approving the petition. Whenever a timely protest is filed or in the opinion of the Water Resources Director a hearing is necessary to determine whether the district has met the requirements of ORS 541.325 to 541.333 or the proposed changes described in the proposed order would result in injury to existing water rights, the department shall hold a hearing on the matter. The hearing shall be conducted according to the provisions of ORS chapter 183 applicable to contested cases. The hearing shall be held in the area where the rights are located unless the parties and the persons who filed the protest under this section stipulate otherwise.

(2) If after examination or hearing, the department finds that the district has met the requirements of ORS 541.325 to 541.331 and that the changes described in the proposed order would not result in injury to existing water rights, the department shall issue a final order approving the petition and map as described in the proposed order. If a water right certificate for the water right has been issued previously, the department shall cancel the previous certificate and issue a new certificate that conforms to the final order and map and retains the original priority date.

(3) A certificate issued under this section shall have the evidentiary effect provided for in ORS 537.270 except when the right to appropriate water described in the certificate is abandoned after the certificate is amended or issued.

(4) The department may approve for inclusion in a new certificate under ORS 541.329 and this section only land which, on July 1, 1993, or, if a district notifies the department under ORS 541.327 (4), on December 31, 2003, is:

(a) Land within the legal boundaries of the district as those boundaries were originally described or as they may have been changed by legally prescribed inclusion or exclusion proceedings.

(b) Land for which inclusion in the district has been requested previously as prescribed by law.

(c) Land on which a previously perfected water right has been applied beneficially and for which the user has been charged or assessed by the district in at least one of the last five years and for which the user is currently being charged or assessed. [1989