

537.250 Water right certificate; issuance; inclusion of land not described in permit; recordation; duration of rights.

(1) After the Water Resources Department has received a request for issuance of a water right certificate accompanied by the survey required under ORS 537.230 that shows, to the satisfaction of the department, that an appropriation has been perfected in accordance with the provisions of the Water Rights Act, except as provided in subsection (4) of this section, the department shall issue to the applicant a certificate of the same character as that described in ORS 539.140. The certificate shall be recorded and transmitted to the applicant as provided in that section.

(2) When issuing a water right certificate under this section in the name of a district as defined in ORS 540.505, or in the name of a government agency for a district, the department may issue the water right certificate for land not described in the permit in accordance with ORS 537.252.

(3) Rights to the use of water acquired under the provisions of the Water Rights Act, as set forth in a certificate issued under this section, shall continue in the owner thereof so long as the water shall be applied to a beneficial use under and in accordance with the terms of the certificate, subject only to loss:

(a) By nonuse as specified and provided in ORS 540.610; or

(b) As provided in ORS 537.297.

(4) The department may not issue a water right certificate for municipal use under this section if:

(a) An extension of time is required; and

(b) The order approving the extension of time has not become final by operation of law or on appeal. [Amended by 1985 c.392 §11; 1985 c.673 §191; 1987 c.542 §6; 1989 c.509 §6; 1995 c.218 §3; 1995 c.365 §5; 1995 c.416 §21a; 2005 c.410 §3; 2017 c.704 §2]

537.252 Certificate issued for land not described in permit; notice. (1) When issuing a water right certificate under ORS 537.250 to a district, or to a government agency for a district, the Water Resources Department may issue the water right certificate for land not described in the permit if:

(a) Water furnished by the district under the permit has been applied beneficially to the land;

(b) The land not described in the permit that is proposed to be included in the certificate is included within the legally established boundaries of the district and is subject to the charges, assessments and liens of the district;

(c) The certificate does not authorize a greater rate, duty or acreage than is authorized by the terms of the permit, and all other conditions of the permit are satisfied;

(d) The inclusion of land not described in the permit will not result in injury to other existing water rights or in enlargement of the right authorized under the permit; and

(e) The impact to the water source of including land not described in the permit will not differ significantly from the impact expected at the time the permit was issued for the lands described in the permit.

(2) If a district proposes to use water on lands not described in the permit, the Water Resources Department may issue a certificate that includes such additional lands if all of the conditions of subsection (1) of this section are satisfied and if, no later than 60 days before the district actually applies the water to the lands not described in the permit, the district provides written notice to the department. The notice shall include a copy of the original permit map modified to show the lands to be added and lands to be removed from the description of the place of use of the water. Upon receipt of the notice from the district, the department shall provide public notice of the proposed change by means of publication in the department's weekly notice and by publication once each week for two successive weeks in a newspaper having general circulation in the county or counties in which the affected lands are located. The cost of publication shall be paid by the district.

(3) If a district has issued an order of inclusion or exclusion, the boundaries of the irrigation district shall be deemed to have been legally changed in the absence of approval of the Secretary of the Interior.

(4) As used in this section:

(a) "District" has the meaning given in ORS 540.505.

(b) "Legally established boundaries" means the boundaries of a district as established at the time of creation of the district and as the boundaries may have changed after creation of the district by an inclusion, exclusion or merger proceeding according to state law. [1995 c.218 §2; 1995 c.416 §21b; 2003 c.14 §343; 2011 c.52 §4]

537.260 Cancellation of permit for failure of proof of completion of appropriation; issuance of limited certificate; contest of issuance of certificate; exception for municipalities. (1) Except as provided under subsection (4) of this section for a permit issued to a municipality, whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or