

Criteria for District NON-USE Transfer Applications

The standards and procedures used by the Water Resources Department in evaluating district transfer applications are described in Oregon Revised Statute (ORS) Chapter 540 (https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx), and in Oregon Administrative Rules (OAR) Chapter 690, Division 385 (http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_690/690_tofc.html). These criteria and procedures apply to district transfer applications for:

District Permanent Transfers of Water Right for Non-use: Permanently changing the place of use of a water right subject to forfeiture prior to five consecutive years of nonuse.

District transfers are limited to an irrigation district formed under ORS Chapter 545, a drainage district formed under ORS Chapter 547, a water improvement district formed under ORS Chapter 522, a water control district formed under ORS Chapter 553, or a corporation formed under ORS Chapter 554.

This is a summary, prepared by the Water Resources Department, of criteria and procedures that are generally applicable to district transfer applications. The summary is necessarily general, and may not specifically address every applicant's fact situation. The summary is intended as general guidance for applicants, and not as a substitute for reference to applicable statutes and rules.

In reviewing district transfer applications under ORS 540.570 to 540.580, the Department will consider the following criteria:

- The applicant qualifies as a district as defined in ORS 540.505
- The lands involved in the transfer are within the boundaries of the district
- The district has a FULL-TIME manager who oversees operation of the district
- District must be implementing an approved Water Management and Conversation (WMCP) Plan
- The water right is not subject to forfeiture due to five consecutive years of nonuse
- The water right proposed for transfer is a water right subject to transfer
- The transfer will not result in injury to existing water rights
- The transfer will not result in enlargement of the water right
- The land from which the water right is transferred will receive no water under the transferred right

Processing and Reviewing District NON-USE Transfer Applications

District Permanent Transfers of Water Right for Nonuse

The Water Resources Department processes a district permanent transfer of water right for nonuse applications using the following procedure:

1. The district provides notice of intent to submit a district permanent transfer to the user and any security interest holder of record of the land whose right of record would be transferred as described in OAR 690-385-5100.

2. If the district receives an objection from the user within 30 days after the mailing of the notice, the district attempts to resolve the matter with the user.
3. If the objections cannot be resolved, a hearing is held before the board of directors to determine whether to proceed with the transfer.
4. Following resolution of the objection, a hearing, or if no objection is received by the district, the district submits a permanent transfer application containing the information required under OAR 690-385-2000. If a hearing was held by the board of directors to resolve objections, the application must include a copy of any findings, determinations, or conclusions resulting from the hearing
5. After filing a district permanent transfer of water right for nonuse application with the Department, the district sends a copy of the petition, map indicating the transfer location, and a notice to the users of the district whose right of record is to be transferred and who are to receive the transferred right that identifies an opportunity to file a protest with the Department.
6. Upon receipt of a complete application, the Department files the application. Within 15 days of receiving the application, the Department places a summary of the application in the Department's weekly notice and requests public comments.
7. The Department accepts comments on the proposed transfer for a 30-day period following publication of the weekly notice.
8. Any user of affected lands may file a protest against the application within 60 days after the mailing of the notice to the users of the district's submittal of the transfer application to the Department. The protest must be filed in accordance with OAR Chapter 690, Division 002, and include the required fees.
9. Following the conclusion of the 60 day protest period, the Department will issue a final order. The Department considers comments relating to the potential for injury to existing water rights or the enlargement of the water use subject to transfer in determining whether to approve or reject a temporary transfer application. The Department also evaluates whether the district submitted the application no later than the end of the calendar year of the fifth year of nonuse under OSR 540.610(1).
10. In response to a protest or if in the opinion of the Department a hearing is necessary, the Department may hold a contested case hearing in the area of the state where the rights are located.