

Criteria for District TEMPORARY 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).

District Temporary Transfers: Temporarily changing the place of use, type of use in a right to store water, point of diversion to facilitate a change in place of use, the point of diversion to a ground water appropriation, or the type of use of a primary water right to a supplemental water right;

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 TEMPORARY 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 manager who oversees operation of the district
- 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

The Department may condition, reject, or revoke a district temporary transfer at any time to the extent necessary to avoid injury to existing water rights.

Processing and Reviewing TEMPORARY District Transfer Applications

District Temporary Transfers

The Water Resources Department processes temporary transfer applications using the following procedure:

1. The district submits a complete application for a temporary transfer and the appropriate fees to the Department prior to making the proposed change.
2. The change proposed by the transfer application may be made upon submitting the application. Given this, the Department may condition, reject, or revoke a temporary transfer at any time to avoid injury to existing water rights.
3. Water shall not be used on both the land from which the water right is transferred, and the land to which the water right is transferred during the same irrigation season. Use of water on both locations during the irrigation season may subject both the district and user to civil penalties.
4. The Department examines the application for completeness to make sure it includes:
 - a. The standard information required under OAR 690-385-2000;
 - b. A map, certified by the district, meeting the standards of OAR 690-385-3300;
 - c. A statement that each user affected by the transfer has authorized the transfer in writing;
 - d. A statement certifying that the district notified each affected user that the Department may condition or revoke the temporary transfer at any time upon determining the transfer results in injury to an existing water right; and
 - e. If the transfer involves more than a change in place of use, the applicable information required under OAR 690-385-3200(3).

(NOTE: Incomplete applications are returned, along with any fees, to the district.)

5. 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.
6. The Department accepts comments on the proposed transfer for a 30-day period following publication of the weekly notice.
7. Following the conclusion of the comment 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.
8. A final order may be appealed by petitioning for judicial review or petitioning the Department for reconsideration of the final order.
9. Upon expiration of the temporary transfer period, all uses of water automatically revert to the terms and conditions of the original water right.