

# Permanent District Transfer Guidelines (aka 385 transfers)

## Eligibility/Criteria (OAR 690-385-4000 AND ORS 540.580(1)(a-d))

- **Lands are subject to transfer** [690-385-0100(17)]
- **Lands are not subject to forfeiture under 540.610** [OAR 690-385-2000(m)]
- **TO and FROM lands are within boundaries of the district.**
- **No change in character of use**
- **No enlargement**
- **No injury**
- **District submits a permanent district transfer application (fees per Fees ORS 536.050(1) for change in POU)** [OAR 690-385-4000(5)]
  - **Before change is allowed, or** [OAR 690-385-4000(5)(a)]
  - **By Dec 31 of the year in which the change occurred**
    - **Requires a notification of the change in accordance with 690-385-4100 OAR 690-385-4000(5)(b)**
- **From lands are dried up**

## Process

### **(1) District obtains Landowner Authorization**

- **District has on file written authorization from each landowner affected** [540.580(2)(c) and OAR 690-385-2000(1)(n)]
- **District notifies each affected user that the change is subject to OWRD approval** [540.580(3)(a)]
  - **OWRD may direct district to cease delivery, or** ORS 540.580(5)
  - **Require mitigation to avoid injury to other rights** ORS 540.580(5)

### **(2) District Notifies OWRD** [540.580(3)(b) and 690-385-4100] **(on OWRD forms)**

- **Send to Watermaster (notice and map meeting standard requirements)** [OAR 690-385-4100(3)]; **Send to Salem office (notice only)**
- **Upon receipt OWRD places notice on PN for 30-day comment period –** [ORS 540.580(4) and OAR 690-385-4100(4)]
- **District must submit notice to OWRD prior to using water as proposed, but can use water as provided in the notice prior to approval** [OAR 690-385-4100(1)(a)]

### **(3) District submits a petition (Application) by Dec 31 of year in which change occurs (retrospective with District Notice**[OAR 690-385-4100(1)(b)], **or prospective without District Notice)** [540.580(2)]

- **Include map (standard requirements) certified by the district (CWRE not required)** [540.580(2)(b) and OAR 690-385-2200 and 4300]
- **Include statement that each landowner authorized the transfer in writing (on file with District)** [540.580(2)(c) and OAR 690-385-2000(1)(n)]
- **Include fee for POU change** [540.580(2)(e) and OAR 690-385-2000(1)(q)]

**(4) OWRD processes petition/Application**

- **Publicly Noticed within 15 days of receipt** [ORS 540.580(6) and OAR 690-385-4400(3)(b)]
  - **30-day comment period** –OAR 690-385-4400(4)
  - **30-day protest period for filing a protest against approval – filed by any potentially affected holder of an existing water right**–ORS 540.580(6) and OAR 690-385-4600 **NOTE: Protests filed by user within the district are resolved between the District and Patron** ORS 540.580(8) and OAR 690-385-4600(5)(a)
- **Original right is terminated by order (can no longer legally apply water on “from” lands)** [OAR 690-385-4580]
- **Final Order issued approving (or denying) transfer application within 90 days of petition filed if there is no hearing.** [ORS 540.580(9)]
  - **Subject to judicial review w/in 60 days** ORS 536.075 and OAR 137.003-0675
  - **District or protestant can file exception with the commission w/in 20 days -** ORS 540.580(10)

**(5) Time for Completion** [OAR 690-385-7000]

- **1 year + time to next Oct 1, or request an extension.**
- **Proof of use**
  - **District submits Final Proof map certified by the district.**
  - **District submits CBU certified by the district.**
  - **OWRD makes a determination of satisfactory proof (DSP)**
    - **OWRD issues an updated cert (when it is “time”)**