Decision Tree: Can Multiple Water Rights be included in a Single Transfer Application?


FOR DIV. 380 TRANSFERS: The following series of questions outlined in the flow chart below can be used to determine if separate transfer applications are required for each water right proposed for transfer.

START HERE

Is there more than one landowner of either the “From” lands or the “To” lands OR More than one water use subject to transfer?

NO

RETURN application citing all application deficiencies.

YES

Does the proposed change involve moving to a new common POD/POA for a delivery system serving multiple water rights or multiple ownerships? [OAR 690-380-3220(1)]

NO

Does the Transfer involve:
• A USE or POU change; and
• On a single parcel; and
• From all sources? [OAR 690-380-3220(2)]

NO

Is the Transfer between two parcels using water from the same source? [OAR 690-380-3220(3)]

YES

Multiple rights can be included in the same application.

NO

Are all the rights involved “layered” (i.e., primaries and supplementals)? [OAR 690-380-2250 & 8020]

YES

Finish application intake completeness review.

NO

A separate application must be submitted for each right.

Finish application intake completeness review.

ACCEPT Transfer Application, Assign T-#####, and Receipt $$$

RETURN application citing all application deficiencies.

RETURN application citing all application deficiencies.

ACCEPT Transfer Application, Assign T-#####, and Receipt $$$

NO

Is Transfer Application complete?

YES

Is Transfer Application complete?

RETURN application citing all application deficiencies.

NOTE: Only water rights that meet the criteria of a “water use subject to transfer” under ORS 540.505 may be transferred in a Div. 380 Transfer, except as otherwise noted in OAR 540.510, OAR 690-380-2240, & OAR 690-380-2250. Permit Amendments & GR Modifications are administered under ORS 537.211(4) & OAR 690-382, respectively.

“More than one landowner” does NOT mean two individuals who are married & are both a deeded owner of the parcel(s), nor a single Trust citing more than one name.

Other considerations: The claim of beneficial use for all the water rights involved in a transfer will be evaluated at one time. The Department does not allow sequential or partial perfection of the rights changed through a water right transfer. As a result, the ability of a water right holder to obtain a certificate and/or apply for a subsequent transfer, including a temporary transfer, will be limited if the first transfer includes rights held by other parties who have not completed the authorized changes.
OAR 690-380-3220
Separate Application Required for Each Water Right

For changes involving more than one landowner or water use subject to transfer, a separate transfer application is required for each water use subject to transfer from each landowner involved, except under the following circumstances:

(1) A change in point or points of diversion or appropriation to a new common point of diversion or appropriation for a delivery system serving multiple rights or multiple ownerships.

(2) A change in use or place of use of all rights on a single parcel from all sources.

(3) A change in use or place of use from as many as four land owners may be allowed within a district. Such a change must be for the same water right and not total more than 10 acres transferred.

(4) Transfers between two parcels using water from the same source.

Statutory/Other Authority: ORS 536.025 & 536.027
Statutes/Other Implemented: ORS 540.520

OAR 690-380-2250(1)
Transfer of Supplemental Water Right or Permit

(1) When an application for change of the use or place of use for a primary water right is submitted in accordance with OAR 690-380-3000, the applicant also shall indicate whether the land described in the application has an appurtenant supplemental water right or permit. If the applicant intends to transfer the supplemental water right or permit with the primary water right, the applicant shall include information on the supplemental right or permit as part of the transfer application for the primary water right as required under OAR 690-380-3000.

Statutory/Other Authority: ORS 536.025 & 536.027
Statutes/Other Implemented: ORS 540.510 - 540.530

OAR 690-380-8020(1) & (2)
Supplemental Water Rights

(1) When an application for a temporary transfer of the place of use is filed with the Department, the applicant also shall indicate whether the land described in the application has an appurtenant supplemental water right or permit. The applicant shall also indicate whether the supplemental water right or permit is intended to be temporarily transferred with the primary water right or to remain unexercised at the place of use as described in the original water right during the period of the temporary transfer.

(2) If the applicant also intends to temporarily transfer the supplemental water right or permit, the applicant shall include the information required under OAR 690-380-3000 and 690-380-8000 for the supplemental water right or permit.

Statutory/Other Authority: ORS 536.025 & 536.027
Statutes/Other Implemented: ORS 540.523