

## **ASSIGNMENT FOR A WATER RIGHT PERMIT SPLIT AND REQUEST FOR ISSUANCE OF REPLACEMENT PERMITS**

### **690-325-0010**

#### **Purpose**

The rules in OAR chapter 690, division 325 establish requirements and procedures to implement assignments under ORS 537.225 to 537.227. Except for OAR 690-325-0100, these rules shall apply to applications for assignments submitted on or after April 1, 2026. Applications for assignments submitted before this date shall be subject to the rules in effect at the time of submittal. The applicability of OAR 690-325-0100 is subject to and governed by OAR chapter 690, division 2. These rules shall be used by the Department to evaluate an application by a landowner of record – holding a water right permit for irrigation, nursery, temperature control, stock watering or agricultural water use – to assign all or part of the water right permit and to issue a replacement water right permit to reflect an assignment from the current water right permit holder to one or more additional water right permit holders. These rules do not replace OAR chapter 690-320-0060, which governs assignments under ORS 537.220 and 537.635.

### **690-325-0020**

#### **Applicability**

(1) Pursuant to ORS 537.225, the Department can only accept an application for an assignment for a water right permit split and request for issuance of replacement water right permits to reflect the assignment if:

- (a) The original water right permit is issued for the purpose of irrigation, nursery, temperature control, stock watering or agricultural water use; and
- (b) The time specified in the water right permit or, if applicable, the last approved extension of time to perfect the water right is not expired.

(2) The Department may not accept an application for assignment and request for issuance of replacement water right permits under the rules in OAR chapter 690, division 325 for municipal water right permits, quasi-municipal water right permits, or water right permits held by a unit of local government, including but not limited to water right permits held by a port, water authority, or a district.

### **690-325-0030**

#### **Definitions**

The definitions in this rule, along with the definitions in OAR 690-300-0010 (Definitions) and OAR 690-380-0100 (Water Right Transfers), apply to the rules in OAR chapter 690, division 325. Where a term is defined in more than one rule, the definition in this rule applies.

(1) “Enlargement” means an expansion of a water right permit and includes, but is not limited to:

- (a) Using a greater rate or duty of water per acre than currently allowed under a water right permit; or

(b) Increasing the acreage irrigated under a water right permit.

(2) "District" means an irrigation district formed under ORS Chapter 545, a drainage district formed under Chapter 547, a water improvement district formed under Chapter 552, a water control district formed under Chapter 553 or a corporation organized under Chapter 554.

(3) "Injury" or "Injury to an existing water right" means a water right transaction that would result in another, existing water right not receiving previously available water to which it is legally entitled.

(4) "Unit of local government" includes a county, city, district or other public corporation, commission, authority or entity organized and existing under statute or city or county charter.

## **690-325-0040**

### **Application Requirements**

Each application shall be prepared in ink or typewritten on forms provided by the Department. The application shall contain the following information concerning the subject water right permit and assignment:

(1) The name, mailing address, e-mail address (if available), and telephone number of each applicant. Each applicant's name shall have an assigned alphabet letter or number that corresponds with the application map as required under OAR 690-325-0050(2)(e).

(2) Name(s) of the ~~original~~ water right permit holder(s).

(3) Water right permit number.

(4) Water right permit use. Must be one or more of the following uses approved for assignment under OAR 690-325-0010: irrigation, nursery, temperature control, stock watering or agricultural water use.

(5) A map meeting the criteria set forth in OAR 690-325-0050.

(6) A copy of the recorded deed showing the applicant is an owner of the land to which the water right permit is appurtenant.

(7) An affidavit signed by the applicant certifying that the water right permit has not been conveyed or withheld and remains appurtenant to the applicant's land, and also certifying that the applicant has read the water right permit.

(8) A statement by the applicant that the most recent water use under the applicant's portion of the water right permit, if any, has been exercised within relevant terms and conditions of the water right permit.

(9) Agreements to the assignment and to the request of replacement water right permits submitted jointly or individually by all owners of the land to which the water right is appurtenant; or an assignment of interest and request for the issuance of replacement water right permits by one or more of the owners of land to which the water right permit is appurtenant and

information identifying other landowners not participating in the assignment and request for issuance of replacement water right permit. Such information for each landowner shall include:

- (a) Landowner's name;
- (b) Mailing address;
- (c) Description of the property by public land survey and tax lot number;
- (d) Number of acres, water right permit rate, and any applicable acre-feet allowance held by the landowner.

(10) A listing of the names and mailing addresses of any district within which the water right permit is located.

(11) The Department may require the applicant to provide any additional information the Department deems appropriate in determining whether or not to approve the application.

#### **690-325-0050**

#### **Map Requirements**

(1) A map shall be included with the application required under OAR 690-325-0040. The map shall meet the standards in OAR chapter 690, division 305 as well as the following criteria:

- (a) The map shall be prepared by a certified water right examiner as defined in OAR 690-014-0020.
- (b) The map shall be based upon the original water right application map or permit amendment map.
- (c) The map shall not include:

(A) Any unauthorized change to the location of the authorized place of use outside of its original perimeters as exhibited on the original water right application map or approved permit amendment application map.

(B) Any unauthorized change to the location of the point(s) of diversion/appropriation as exhibited on the original water right application map or approved permit amendment application map.

(d) Horizontal field accuracy shall be consistent with standard surveying practices for the purpose of locating and quantifying water rights.

(2) The map shall include the following information:

- (a) The certified water rights examiner's stamp and signature. A digital stamp or seal and signature are acceptable, provided the requirements under OAR 690-014-0050 are satisfied.
- (b) The place of use of each applicant's portion of the water right permit shall be clearly defined by outline and shaded or hachured and shall show the number of acres for each portion in each quarter-quarter section, government lot, or quarter-quarter section as projected within

government lots, donation land claims, or other recognized public land survey subdivisions. If the water right permit has multiple priority dates or uses, the lands to be served by each priority date and on which each use is authorized, must be separately identified.

(c) The place of use of any part of the water right permit not being assigned shall be clearly defined by outline and shaded or hachured and shall show the number of acres in each quarter-quarter section, government lot, or quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If the portion of the water right permit not being assigned has multiple priority dates or uses, the lands to be served by each priority date and on which each use is authorized, must be separately identified.

(d) Each applicant's portion of the water right permit shall be referenced, by either alphabet letter or number, to each assignee listed in the application form under OAR 690-325-0040(2).

(e) The rate and any applicable acre-feet allowance of water use under the water right permit for each applicant's portion of the water right permit shall be clearly labeled on the map.

(f) The location of each authorized point of diversion or appropriation.

(g) The location of tax lot lines for all properties upon which the water right permit is located.

### **690-325-0060**

#### **Receipt of Application; Fees**

(1) The applicant is required to pay the Water Resources Department the full cost to the Department of processing the application.

(2) Within 15 days upon receipt of an application containing all the requirements described under OAR 690-325-0040 and 690-325-0050, the Department shall estimate the actual cost of work involved in processing the application.

(3) The Department shall notify the applicant of the estimate of the actual cost of work and provide a time period of:

(a) 30 days for the applicant to submit the appropriate fees covering the estimated actual cost of work, or

(b) Upon a written or e-mailed request from the applicant, a reasonable time period greater than 30 days to submit the appropriate fees.

(4) If the Department does not receive the appropriate fees after the expiration of the appropriate time period described in OAR 690-325-0060(3), the Department will send notice to the applicant that if the fees are not received by the Department within 10 days of the mailing of this notice, the Department will consider the application incomplete and will notify the applicant that the application is not properly filed and that the application will be of no further force or effect.

(5) All required fees must be received before the final assignment is made and replacement water right permits reflecting the assignment are issued. Excess fees will be returned after the final order is issued.

**690-325-0070****Initial Review and Issuance of Draft Documents**

(1) The Department's evaluation of the application shall include:

- (a) Verification of the mailing address of each owner of the authorized place of use identified on the map contained in the application;
- (b) Verification that the deed(s) supplied with the application matches the properties proposed for the assignments;
- (c) Verification that the most recent water use under the water right permit, if any, has been exercised within relevant terms and conditions of the water right permit; and
- (d) Assessment of whether the application will result in enlargement of the original water right permit and in injury to other, existing water rights.

(2) Once the evaluation described in OAR 690-325-0070(1) has been completed, the Department shall either:

- (a) Prepare an initial review to approve the application. The initial review shall include finding(s) that the Department has found that the proposed replacement water right permits will not result in the enlargement of the original water right permit nor injury to other, existing water rights, and that the water right permit has been exercised by the applicant in compliance with the terms and conditions of the water right permit. If an initial review to approve the application is prepared under this subsection, the Department shall also prepare drafts of the replacement water right permits; or
- (b) Prepare an initial review to deny the application. The initial review shall include finding(s) that the Department has found that the proposed replacement water right permits will result in the enlargement of the original water right permit and/or injury to other, existing water rights and/or that the water right permit has not been exercised by the applicant in compliance with the terms and conditions of the water right permit.

(3) Within 30 days after the appropriate fees specified in OAR 690-325-0060 have been received, the Department shall send by electronic means, or if requested by the applicant, by regular mail, copies of the application, map, existing water right permit, initial review, and, if the criteria in OAR 690-325-0070(2)(a) are met, draft replacement water right permits, to each owner of land upon which the water right permit is appurtenant.

**690-325-0080****Public Notice and Request for Comments**

(1) Within ten days of proceeding with the application under OAR 690-325-0070(3), the Department shall give notice of the application in the weekly public notice published by the Department. The notice shall include a request for comments on the application, the date by which the comments must be received by the Department, information about how an interested person may view or obtain future notices about the application and a copy of the proposed final

order when issued, and information about how an interested person may review the application or obtain a copy of the application.

(2) The public notice shall include the following information about the application:

- (a) County of water use;
- (b) Water right permit number;
- (c) Authorized use and associated rate and/or duty;
- (d) The time specified in the water right permit, or the last approved extension of time, to perfect the water right;
- (e) Applicant name(s);
- (f) Number of acres, rate (or applicable acre-feet allowances), allowed under the existing water right permit;
- (g) Source(s) of water; and
- (h) Location of the point(s) of diversion/appropriation by quarter-quarter, section, township and range.

(3) Within 30 days after the public notice under OAR 690-325-0080(1), any record landowner, applicant, assignee, affected water right permit holder, or other person interested in the application may submit written comments or request copies of the documents described in OAR 690-325-0070(3). All comments and requests for copies must be received by the Department on or before 5 p.m. on the last day of the 30-day comment period.

### **Proposed Final Order; Public Notice**

(1) Within 30 days after the comment period closes under OAR 690-325-0080(3), the Department shall issue a proposed final order either approving or denying the application, taking into account comments received in response to the public notice under 690-325-0080. If the proposed final order is to approve the application, the Department shall also issue draft replacement permits.

(2) The Department shall send copies of the proposed final order and, if applicable, draft replacement permits, to each owner of land described in OAR 690-325-0070(3) by registered or certified mail. The Department shall also send copies of the proposed final order and, if applicable, draft replacement permits to each person who submitted comments under 690-325-0080(3) by electronic means, or if requested by that person, by regular mail.

(3) Within seven days of issuance of the proposed final order, the Department shall publish notice of the proposed final order by publication in the weekly public notice published by the Department. The public notice shall give the date that protests must be received by the Department, being 45 days after the date the weekly public notice is published.

**690-325-0100****Protests**

(1) Protests of and contested case proceedings concerning proposed final orders are governed by Or Laws 2025, ch 575 and OAR chapter 690, division 002, except that the issues raised in the protest must directly pertain to whether the proposed replacement water right permits are authorized under and in conformance with ORS 537.225. Proposed final orders and draft replacement permits shall become final if no protest is filed or by default as provided in OAR 690-002-0235. In addition to any other authority the Water Resources Department may have, if a protest is properly filed, the Department may work with the applicant and the person filing the protest to determine whether the issues raised by the protest can be resolved informally.

(2) Notwithstanding ORS 183.310, Or Laws 2025, ch 575 sections 2 and 3, and OAR 690-002, the parties to a contested case hearing held under this section are limited to:

(a) The applicant for the water right permit assignment; and

(b) Persons that timely filed a protest against the proposed final order under OAR 690-325-0090(3) and OAR 690-002.

**690-325-0110****Criteria for Approval and Replacement Water Right Permits**

(1) An application for an assignment for a water right permit split and issuance of replacement water right permits shall be approved regardless of whether the time specified in the permit or, if applicable, the last approved extension of time to perfect the water right is expired, provided that the Department determines:

(a) The assignments and issuance of replacement water right permits do not enlarge the water right permit as defined in OAR 690-325-0030(1);

(b) The assignments and issuance of replacement water right permits do not injure other, existing water rights as defined in OAR 690-325-0030(3); and

(c) All other requirements for assignments and issuance of replacement water right permits are met.

(2) The replacement water right permits shall:

(a) Include the same conditions as the replaced water right permit, including, but not limited to priority date, source of water, and type of use;

(b) Identify the land to which the replacement water right permit is appurtenant and the owner(s) of that land;

(c) Apportion the rate and, if applicable, the duty, or, if applicable, the acre-foot allowance in proportion to the amount of land to which the replacement water right permits are appurtenant.

(3) The replacement water right permits shall not:

- (a) Authorize any change to the authorized point(s) of diversion or appropriation, including the addition of a point of diversion or appropriation; nor
- (b) Authorize any change to the authorized place of use outside of its original perimeters as exhibited on the original water right application map or approved permit amendment application map.

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