

Criteria for Reviewing an Application For a Point of Diversion Change to Reflect Historical Use

Any individual who holds a water right certificate or decree may request a change in point of diversion (POD) to reflect a historical use of water at a point of diversion other than that described in the water right certificate or decree. The standards and procedures used by the Water Resources Department in evaluating an application for a POD change to reflect historical use are described in Oregon Revised Statute (ORS) 540.532 (<http://www.leg.state.or.us/ors/>) and in Oregon Administrative Rules Chapter 690, Division 380 (<http://www.wrd.state.or.us/OWRD/LAW/oar.shtml>).

This is a summary, prepared by the Water Resources Department, of criteria and procedures that are generally applicable to applications for a point of diversion change to reflect historical use. 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 applications for POD changes to reflect historical use under ORS 540.532, the Department will consider the following criteria:

- Submission of complete application [OAR 690-380-3000] including a transfer map meeting the requirements of OAR 690-380-2120(2)(b)
- Actual current POD in use for more than 10yrs [OAR 690-380-2120(2)(a)]
- No prior claims of injury as a result of the use of water from the current POD [OAR 690-380-2120(2)(c)]
- Consultation with the Oregon Department of Fish and Wildlife (ODFW) regarding installation of fish screening or by-pass device [OAR 690-380-5060]

Processing and Reviewing an Application For a Point of Diversion Change to Reflect Historical Use

The Water Resources Department processes an application for POD changes to reflect historical use using the following procedure:

1. The applicant submits a complete application for transfer, transfer map, and required fees to the Department.
2. Upon receipt of the application, the Department provides notice of the request in the weekly notice published by the Department.
3. When filing the application with the Department, the applicant requests a list of the affected water rights.
4. The applicant mails or hand delivers notice of the requested change to all holders of affected water rights and provides to the Department written proof of service upon the affected water right holders.
5. Following consultation with ODFW regarding the necessity of fish screening or by-pass devices, the Department may condition the transfer order to require a proper fish screen at the new point of diversion.
6. If the application satisfies the criteria for review, the Director issues an order approving the transfer. If a certificate had previously been issued, the order will cancel the certificate. The Director issues a new certificate confirming the change in POD and preserving all other conditions of the water right.