

by the district. If the water right is on a tract of land of five acres or less, the assessor's tax map with a notation of the acres of water right shall be sufficient for identification of the tract and place of use;

(c) Include a statement that a written authorization for the transfer from each landowner affected by the particular temporary transfer is on file with the district;

(d) Include any other information required by rules of the Water Resources Commission; and

(e) Include a fee in the amount required under ORS 536.050 (1)(i).

(4) The district shall notify each affected landowner that the department may reject the transfer or may require mitigation to avoid injury to other water rights. Upon receipt of a completed petition under subsection (3) of this section, the department shall place a summary of the petition in the weekly notice published by the department. The department shall accept written public comments on the petition for 30 days following publication of the weekly notice. The department shall consider comments that pertain to the potential for injury to an existing water right or to the enlargement of the water use subject to transfer in determining whether to condition, reject or revoke a temporary transfer.

(5) Use of water on lands from which the right is transferred and in the new temporary location during the same irrigation season or calendar year is prohibited and may subject the district and the landowner to civil penalties.

(6) The department may condition, reject or revoke a temporary transfer at any time to the extent necessary to avoid injury if the department finds the transfer is causing injury to an existing water right.

(7) Upon expiration of the temporary transfer period, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication under ORS chapter 539 as evidenced by a court decree.

(8) The time during which water is used under an approved temporary transfer order does not apply toward a finding of forfeiture under ORS 540.610. [1987 c.649 §10; 1991 c.957 §9; 1995 c.554 §4; 2001 c.788 §§4,10; 2003 c.705 §§15,16; 2005 c.401 §1]

Note: Sections 22, 23 and 25, chapter 705, Oregon Laws 2003, provide:

Sec. 22. Section 23 of this 2003 Act is added to and made a part of ORS 540.505 to 540.580. [2003 c.705 §22]

Sec. 23. (1) In order to increase district water management flexibility, the Water Resources Department shall establish a pilot project in which districts

may temporarily allow, for water uses subject to transfer, the use of water on any land within the legal boundaries of the district established pursuant to ORS chapter 545, 547, 552, 553 or 554.

(2) The use of water on any land within the legal boundaries of the district may be allowed if:

(a) The rate and duty, and the total number of acres to which water will be applied under the transfer, do not exceed existing limits on the water use subject to transfer;

(b) The type of use authorized under the water use subject to transfer is for irrigation and remains the same; and

(c) The land from which the water use is being transferred does not receive any water under the right being transferred during the irrigation season in which the change is made.

(3) The department shall allow the pilot project to be implemented in the Talent Irrigation District, the Owyhee Irrigation District, the Tualatin Valley Irrigation District, the Central Oregon Irrigation District, the Swalley Irrigation District, the Westland Irrigation District, the North Unit Irrigation District, the Arnold Irrigation District, the Stanfield Irrigation District, the West Extension Irrigation District, the Hermiston Irrigation District, the Medford Irrigation District, the Sutherlin Water Control District, the Santiam Water Control District and the Ochoco Irrigation District or their successor districts. However, any district participating in the project must:

(a) Have defined state district boundaries;

(b) Have a management structure that can ensure that water is applied only where the water use is authorized;

(c) Not irrigate an area in any one irrigation season that exceeds the maximum number of acres allowed to be irrigated under the original water right;

(d) Have a full and accurate measurement of the water appropriated;

(e) Have an accurate map identifying the location of authorized use, by priority date, for review upon request and provide a copy of the map to the watermaster; and

(f) Have on file statements by any landowner affected by the water use change indicating that the landowner agrees to the change.

(4) If any of the specified districts are unable to participate in the project, the department may identify another district for the project. Before allowing another district to participate in the project for the first time, the department shall publish notice of the planned participation by publication in the weekly notice published by the department and shall allow the public at least 20 days to provide information to assist the department in determining whether the district meets the qualifications required under subsection (3) of this section.

(5) The department may require that use of water under the pilot project cease and that the use revert to the use allowed under the water right of record if the department determines that:

(a) The district does not meet the qualifications established in subsection (3) of this section;

(b) The water is being used in a manner that violates the requirements in subsection (2) of this section; or

(c) The changes made to the use of water would result in injury to existing water rights or an enlargement of the original water right.

(6) The department shall annually, prior to commencement of the irrigation season, publish notice of the districts that might intend to make use of the pilot program during the year. The notice shall identify the