

right delivery by the district, no contested case hearing shall be required, but the district shall resolve the matter directly with the water user.

(9) After examination or hearing, the department shall issue an order approving the transfer if the proposed change can be effected without injury to existing water rights. If no hearing is scheduled under subsection (7) of this section, the order of the department shall be issued within 90 days after the date of the filing of the petition. If the proposed change cannot be effected without injury to existing water rights, the department may condition approval, including requiring mitigation of the effects on other water rights, to the extent necessary to avoid injury. If a hearing is scheduled, the department shall issue a final order within 120 days after scheduling the hearing.

(10) Within 20 days after the director issues a final order under this section, the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions.

(11) If a certificate covering the water right has been previously issued, the department may amend the certificate or may cancel the certificate and issue a new certificate preserving the previously established priority of rights and covering the authorized changes. If only a portion of the water right covered by the previous certificate is affected by the changes, a separate new certificate may be issued to cover the unaffected portion of the water right. A certificate as amended or issued under this section has the evidentiary effect provided for in ORS 537.270 as to the new lands except when the right to appropriate water described in the certificate is abandoned after the certificate is amended or issued.

(12) Notwithstanding the provisions of subsection (2) of this section, a petition filed on or before December 31, 1996, may include all changes in place of use allowed by a district after July 1, 1992, and before November 30, 1996. [1995 c.554 §2; 1997 c.587 §13; 1999 c.804 §2; 2001 c.788 §§5,11]

540.585 Temporary transfers within Deschutes River Basin; procedure; fee. (1) In accordance with the provisions of this section, a person may request that the Water Resources Department approve the temporary transfer of the place of use and type of use and temporarily change the point of diversion if necessary to convey water to the new temporary place of use, of all or a portion of a water right, for a period not to exceed 25 years if:

(a) The person holds a water use subject to transfer;

(b) The type of use specified in the original water use subject to transfer is irrigation;

(c) The person to whom the right is transferred is:

(A) Located within the Deschutes River Basin; and

(B) A city, a quasi-municipal corporation, a domestic water supply district formed under ORS chapter 264, a water supplier as defined in ORS 448.115 or a water authority formed under ORS chapter 450;

(d) The proposed use is municipal use; and

(e) The proposed temporary transfer will not result in injury to any existing water right.

(2) An application for a temporary transfer under this section shall:

(a) Be submitted in writing to the Water Resources Department;

(b) Be accompanied by the appropriate fee for a change in the place of use and type of use as set forth in ORS 536.050;

(c) Include the information required under ORS 540.520 (2); and

(d) Include any other information the Water Resources Commission by rule may require.

(3)(a) Any portion of the use of a water right that is not temporarily transferred under this section may be used on the designated part of the lands described in the original water right permit, certificate or adjudication under ORS chapter 539 as evidenced by a court decree, if the use does not encompass more than the remaining portion of the lands, enlarge the water right or increase the rate, duty, total acreage benefited or season of use.

(b) The Water Resources Department shall designate the lands on which water may be applied under this subsection and shall prescribe mapping, measurement and recording requirements under this subsection.

(4) Upon expiration of a 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.

(5) 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.