

(3) A certificate issued under this section for the transferred water right shall have the evidentiary effect provided for in ORS 537.270 unless the right to appropriate water described in the certificate is forfeited after the certificate is issued. [1991 c.957 §6]

**540.580 Permanent transfer of place of use of water within district; requirements; procedure.** (1) In accordance with this section, a district may by petition request that the Water Resources Department approve the permanent transfer of the place of use of water within a district as long as the proposed transfer complies with all of the following:

(a) The rate, duty and total number of acres to which water is to be applied under the water use subject to transfer are not exceeded;

(b) The use authorized under the water use subject to transfer remains the same;

(c) The change in place of use will not result in injury to any existing water right; and

(d) The land from which the water right is removed by the transfer shall receive no water under the transferred right.

(2) A district may submit a petition for a permanent transfer prior to or subsequent to the change in place of use, but no later than the end of the calendar year in which the change occurs. The petition submitted by the district may include an unlimited number of transfers within the same petition. A petition under this section shall:

(a) Include the information required under ORS 540.574 (3), except for the statement that a notice under ORS 540.572 (2) has been given;

(b) Be accompanied by a map in a form satisfactory to the department and certified 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 each landowner affected by a permanent transfer has authorized the transfer in a writing that is on file with the district;

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

(e) Include the fee required under ORS 536.050 (1)(h) for a change in the place of use.

(3) If a district allows a change in the place of use of water before obtaining the approval of the department, the district shall:

(a) Notify each affected landowner that the change is subject to the approval of the department and that the department may reject the transfer or may require mitigation to avoid injury to other water right holders; and

(b) Notify the department in advance of the change. The notice shall include:

(A) The name of the district and the certificate number of each water right that is the subject of the change;

(B) The names of the users within the district from whose lands and to whose lands water rights are to be transferred;

(C) A general description of the users' lands by township, range, quarter quarter section and tax lot number, and of the water right, for each parcel from which and to which water rights are to be transferred; and

(D) A description of the use that is proposed to be made of the water on each parcel.

(4) Upon receipt of the notice required under subsection (3)(b) of this section, the department shall provide public notice in the weekly notice published by the department.

(5) If a district allows a change in the place of use of water before obtaining approval of the department under this section, the department may direct the district to cease delivery of water or mitigate injury where the change in place of use is causing injury to an existing water right.

(6) Within 15 days after the filing of a petition under subsection (2) of this section, the department shall include notice of the petition in the weekly notice published by the department. Within 30 days after the mailing of the department's weekly notice, any potentially affected holder of an existing water right may file, jointly or severally, with the department, a protest against approval of the petition.

(7) Subject to the provisions of subsection (8) of this section, whenever a timely protest is filed, or in the opinion of the Water Resources Director a hearing is necessary to determine whether the proposed changes as described in the petition would result in injury to existing water rights, the department may hold a hearing on the petition. Notice and conduct of the hearing shall be according to the provisions of ORS chapter 183 pertaining to contested cases, shall be scheduled within 45 days after the filing of the petition, and shall be held in the area where the rights are located unless all parties and persons who filed a protest under this subsection stipulate otherwise.

(8) If a water user within the district files a protest claiming injury to a water