

## Executive Summary

Use of water in Oregon generally requires a water right. A water right identifies where the water will be used (place of use), what the water will be used for (the character of use), and the location where water is withdrawn from a stream, lake or well (point of diversion). If water will be used differently than how it was previously used under an existing water right, a water right holder may need to apply and receive approval from the Oregon Water Resources Department for a transfer prior to making the change.

In 2003, the Legislative Assembly authorized a pilot project allowing three irrigation districts to make annual place of use changes to water rights within their legal boundaries without making application to the Water Resources Department for a temporary transfer. The pilot project is intended to provide increased flexibility for irrigation districts to temporarily change the place of use of water rights without reducing protections for existing water users. To temporarily change the place of use of water rights under the pilot project, districts are required to satisfy standard water right transfer criteria and maintain records. This includes ensuring that there is no injury to other water rights or an expansion of the authorized irrigated acres.

Between the 2003 and 2007 legislative sessions, only a small number of transfers were completed and there was insufficient data to assess the pilot. The project was extended in 2007, providing an additional two years for the three districts to test the approach. After showing some success, in 2009, the project was extended to 2016 and expanded to include 15 districts. In 2015, Senate Bill 267 made some adjustments to the project, extended the sunset to January 2, 2022, and required a report to the Legislature by January 31, 2021.

Participating districts find value in the project and note that it provides greater water management flexibility, provides one method to protect water rights from forfeiture, allows districts to test a transfer before filing a permanent transfer, and saves the districts time and money. As outlined in the report, participating districts have shown consistent compliance with the requirements of the pilot project. In addition, since 2015, there have not been instances of injury or enlargement found due to approved pilot project transfers. Trainings conducted by Water Right Services Division staff have also been an important factor in making the project successful.

The Department's Water Right Services Division staff have seen reductions in the time it takes to process district temporary transfers. Field Services Division staff have seen a modest increase in the time it takes for them to review the pilot project transfers and Water Right Services Division staff incur some staff time to manage and oversee the pilot project. Although difficult to calculate, the Department believes that there is a net reduction in staff time spent on district temporary transfers.

To date, the pilot project has worked well for the districts and the OWRD. Recent participation has been more consistent in recent years as districts discover the utility of the pilot process for transfers. Now that participation has been more consistent, the Department would like to initiate conversations with the districts and other stakeholders about the longer-term vision for the pilot including what changes would be needed in order to allow broader participation in the project and make it permanent. To allow time for

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these discussions and to continue to obtain additional data with the more recent, consistent participation, the Department is proposing to extend the project.

In reviewing the pilot, feedback from Department staff, participating districts, and the Oregon Water Resources Congress indicate that there are further modifications to the project to explore before expanding the project or making it permanent.

Items the Department is interested in exploring before expanding the project or making it permanent include: exploring methods to make the review process more streamlined to reduce field staff time, such as requiring maps to be submitted before the irrigation season or requiring electronic georeferenced maps; making sure the Department has resources to provide services for the districts in the absence of application filing fees; discussing how many successive years a specific parcel may be temporarily transferred under the pilot before a permanent transfer is required; and exploring what qualifying factors for districts to participate would ensure district success while minimizing impacts on agency field staff workloads and minimizing the need for extensive training.

The Department understands that districts have an interest in exploring expansion of the project to include instream leases; point of diversion changes, and transfers among districts when the point of diversion is shared. These are all items that will require a more in-depth discussion with stakeholders and staff, which warrants extending the pilot project to allow for exploration of the above issues.

The Department and the districts would mutually benefit from continuing to work towards implementing a program to allow district temporary transfers through a process like the pilot project. The Department is currently proposing legislation to extend the pilot project to 2030 to further allow for evaluation of the pilot project and exploration of factors necessary to expand the project and make it permanent.

## For More Information

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